

N. A. An abbreviation for "non allocatur," it is not allowed.

N. A. S. A. National Aeronautics and Space Administration.

N. B. An abbreviation for "nota bene," mark well, observe; also " nulla bona," no goods.

N. C. D. Neminre contra dicente. No one dissenting.

N. D. An abbreviation for "Northern District."

N. E. I. An abbreviation for "non est inventus," he is not found.

N. I. H. National Institutes of Health.

N. L. An abbreviation of "non liquet," (which see.)

N. L. R. B. National Labor Relations Board.


N. O. V. See Non Obstante Veredicto.

N. P. An abbreviation for "notary public," Rowley v. Berrian, 12 Ill. 200; also for "nisi prius," (q. v.).

N. R. An abbreviation for "New Reports;" also for "not reported," and for "nonresident."

N. S. An abbreviation for "New Series;" also for "New Style."

N.A.A.M. Sax. The attaching or taking of movable goods and chattels, called "vix" or "mort" according as the chattels were living or dead. Terms de la Ley.

NABOB. Originally the governor of a province under the Mogul government of Hindostan, whence it became a mere title of any man of high rank, upon whom it was conferred without any office being attached to it. Wills. Indian Gloss.

NAIF. L. Fr. A villein; a born slave; a bondwoman.

NAIL. A lineal measure of two inches and a quarter.

NAKED. Bare; wanting in necessary conditions; incomplete, as a naked contract, (nudum pactum,) i. e., a contract devoid of consideration, and therefore invalid; or simple, unilateral, comprising but a single element, as a naked authority, i. e., one which is not coupled with any interest in the agent, but subsists for the benefit of the principal alone.


NAM. In old English law, a distress or seizure of chattels.

As a Latin conjunction, for; because. Often used by the old writers in introducing the quotation of a Latin maxim.

NAMARE. L. Lat. In old records, to take, seize or distrain.

NAMATIO. L. Lat. In old English and Scotch law, a distraint or taking of a distress; an impounding. Spelman.


A person's "name" consists of one or more Christian or given names and one surname or family name. Blakeley v. Smith, 133 Miss. 151, 138 So. 920, 921. It is the distinctive characterization in words by which one is known and distinguished from others, and description, or abbreviation, is not the equivalent of a "name." Putnam v. Bes- som, 291 Mass. 217, 197 N.E. 147, 148. Custom gives one his father's family name, and such praenomina as his parents choose to put before it, but this is only general rule, from which individual may depart, if he choose. In re Cohen, 142 Misc. 852, 265 N.Y.S. 616, 617. As to the history of Christian names and surnames and their use and relative importance in law, see In re Snook, 2 Hilt., N.Y., 566.


NAME AND ARMS CLAUSE. The popular name in English law for the clause, sometimes inserted in a will or settlement by which property is given to a person, for the purpose of imposing on him the condition that he shall assume the surname and arms of the testator or settlor, with a direction that, if he neglects to assume or discontinues the use of them, the estate shall devolve on the next person in remainder, and a provision for preserving contingent remainders. 3 Dav.Prec.Conv. 277; Sweet.

NAMELY. A difference, in grammatical sense, in strictness exists between the words namely and including. Namely imports interpretation, i. e., indicates what is included in the previous term; but including imports addition, i. e., indicates something not included. 2 Jarm.Wills 222.
NAMJUM. L. Lat. In old English law, a taking; a distress. Spelman. Things, goods, or animals taken by way of distress. Simplex namium, a simple taking or pledge. Bract. fol. 205b.

NAMJUM VETTITUM. An unjust taking of the cattle of another and driving them to an unlawful place, pretending damage done by them. 3 Bl. Comm. 149.

NANTES, EDIT OF. A celebrated law for the security of Protestants, made by Henry IV. of France, and revoked by Louis XIV., October 2, 1685.

NANTISSEMNT. In French law, the contract of pledge; if of a movable, it is called "gage;" and if of an immovable, it is called "antichrèse." Brown.

NARR. A common abbreviation of "narratio," (q. v.). A declaration in an action. Jacob.

NARR AND COGNOVIT LAW. Law providing that judgment may be had for plaintiff on notes by confession of any attorney that amount shown on notes, together with interest and costs, constitutes legal and just claim; word "narr" being an abbreviation of Latin word "narratio," meaning complaint or petition, and word "cognovit" meaning that defendant has confessed judgment and justice of claim. Dyver v. Johnson, Tex.Civ.App., 19 S.W.2d 421, 422.

NARRATIO. Lat. One of the common law names for a plaintiff’s count or declaration, as being a narrative of the facts on which he relies.

NARRATIVE. In Scotch conveyancing, that part of a deed which describes the grantor, and person in whose favor the deed is granted, and states the cause (consideration) of granting. Bell.

NARRATOR. A counter; a pleader who draws narrs. Serviens narrator, a serjeant at law. Fleta, 1, 2, c. 37.

NARROW SEAS. Those seas which run between two coasts not far apart. The term is sometimes applied to the English channel. Wharton.

NASCITURUS. Lat. That shall hereafter be born. A term used in marriage settlements to designate the future issue of the marriage, as distinguished from “natus,” a child already born.

NATALE. The state and condition of a man acquired by birth.

NATI ET NASCITURI. Born and to be born. All heirs, near and remote.

NATIO. In old records, a native place. Cowell.

NATION. A people, or aggregation of men, existing in the form of an organized jural society, usually inhabiting a distinct portion of the earth, speaking the same language, using the same customs, possessing historic continuity, and distinguished from other like groups by their racial origin and characteristics, and generally, but not necessarily, living under the same government and sovereignty. Montoya v. U. S., 180 U.S. 261, 21 S. Ct. 358, 45 L.Ed. 521; Worcester v. Georgia, 6 Pet. 539, 8 L.Ed. 483; Republic of Honduras v. Soto, 112 N.Y. 310, 19 N.E. 845, 2 L.R.A. 642.

Besides the element of autonomy or self-government, that is, the independence of the community as a whole from the interference of any foreign power in its affairs or any subjection to such power, it is further necessary to the constitution of a nation that it should be an organized jural society, that is, both governing its own members by regular laws, and defining and protecting their rights, and respecting the rights and duties which attach to it as a constituent member of the family of nations. Such a society, says Vattel, has her affairs and her interests; she deliberates and takes resolutions in common; thus becoming a moral person, who possesses an understanding and will peculiar to herself, and is susceptible of obligations and rights. Vattel, §§ 1, 2.

The words “nation” and “people” are frequently used as synonyms, but there is a great difference between them. A nation is an aggregation of men speaking the same language, having the same customs, and endowed with certain moral qualities which distinguish them from other groups of a like nature. It would follow from this definition that a nation is destined to form only one state, and that it constitutes one indivisible whole. Nevertheless, the history of every age presents us with nations divided into several states. Thus, Italy was for centuries divided among several different governments. The people is the collection of all citizens without distinction of rank or order. All men living under the same government compose the people of the state. In relation to the state, the citizens constitute the people; in relation to the human race, they constitute the nation. A free nation is one not subjected to a foreign government, whatever be the constitution of the state: a people is free when all the citizens can participate in a certain measure in the direction and in the examination of public affairs. The collection of all citizens without distinction of rank or order, are the people. The people is the body brought into existence by community of laws, and the people may perish with these laws. The nation is the moral body, independent of national governments, but the state is constituted by inborn qualities which render it indissoluble. The state is the people organized into a political body. Lalaer, Pol. Enc. s. v.

In American constitutional law the word “state” is applied to the several members of the American Union, while the word “nation” is applied to the whole body of the people embraced within the jurisdiction of the federal government. Cooley, Const.Lim. 1; Texas v. White, 7 Wall. 720, 19 L. Ed. 227.

NATIONAL. Pertaining or relating to a nation as a whole; commonly applied in American law to institutions, laws, or affairs of the United States or its government, as opposed to those of the several states.

The term “national” as used in the phrase “national of the United States” is broader than the term “citizen”. Brassett v. Biddle, D.C.Conn., 59 F.Supp. 437, 462.

NATIONAL AGENCY. That Mexican government contributed to capital of association, and was represented on governing board and even subsidized association did not render association a “national agency” that it might claim sovereign immunity. The Uxmal, D.C.Mass., 40 F.Supp. 258, 261.

NATIONAL BANK. A bank incorporated and doing business under the laws of the United States, as distinguished from a state bank, which derives its powers from the authority of a particular state.
NATIONAL

NATIONAL CURRENCY. Notes issued by national banks, and by the United States government.

NATIONAL DEBT. The money owing by government to some of the public, the interest of which is paid out of the taxes raised by the whole of the public.

NATIONAL DEFENSE. A generic concept and refers to the military and naval establishments and the related activities of national preparedness and includes all matters directly and reasonably connected with the defense of the nation against its enemies. Gorin v. United States, Cal., 312 U.S. 19, 61 S.Ct. 429, 434, 436, 85 L.Ed. 488.

NATIONAL DOMAIN. See Domain.

NATIONAL DOMICILE. See Domicile.

NATIONAL EMERGENCY. A state of national crisis; a situation demanding immediate and extraordinary national or federal action.

Congress has made little or no distinction between a "state of national emergency" and a "state of war." Brown v. Bernstein, D.C.Fla., 49 F.Supp. 728, 732.

NATIONAL GOVERNMENT. The government of a whole nation, as distinguished from that of a local or territorial division of the nation, and also as distinguished from that of a league or confederation.

"A national government is a government of the people of a single state or nation, united as a community by what is termed the social compact, and possessing complete and perfect supremacy over persons and things, so far as they can be made the lawful objects of civil government. A federal government is distinguished from a national government, by its being the government of a community of independent and sovereign states, united by compact." Piqua Branch Bank v. Knoup, 6 Ohio St. 393.

NATIONALITY. That quality or character which arises from the fact of a person's belonging to a nation or state.

Nationality determines the political status of the individual, especially with reference to allegiance; while domicile determines his civil status. Nationality arises either by birth or by naturalization. According to Savigny, "nationality" is also used as opposed to "territoriality," for the purpose of distinguishing the case of a nation having no national territory: e.g., the Jews. 8 Sav. Syst. § 346; Westl.Priv.Int. Law, 5.

NATIONALIZATION. In Spanish and Mexican law, nationalization.

"The nationalization of property is an act which denotes that it has become that of the nation by some process of law, whereby private individuals or corporations have been for specified reasons deprived thereof." Hall, Mex. Law, § 749.

NATIONS, LAW OF. See International Law.

NATIVE. A natural-born subject or citizen; a denizen by birth; one who owes his domicile or citizenship to the fact of his birth within the country referred to. The term may also include one born abroad, if his parents were then citizens of the country, and not permanently residing in foreign parts. U.S. v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456, 42 L.Ed. 890; New Hartford v. Canaan, 54 Conn. 39, 5 A. 360; Oken v. Johnson, 160 Minn. 217, 199 N.W. 910.

The word "natives", as used in Alien Enemy Act, refers to person's place of birth, so that a person remains a native of country of his birth, though he has moved away therefrom. United States ex rel. D'Esevulta v. Uhl, C.C.A. N.Y., 137 F.2d 963, 965.

One who was born in Germany and later became a citizen of France was a "native" of Germany. Ex parte Gregoire, D.C.Cal., 61 F.Supp. 92, 93.

But a person born in Alsace which at time of his birth was part of Germany but which was restored to French sovereignty by the treaty of Versailles of 1918, was a "native" of France. United States ex rel. Umecker v. McCoy, D.C.N.D., 54 F.Supp. 673, 681, 682.

NATIVA. A niece or female villein. So called because for the most part bound by nativity. Co. Litt. 122b.

NATIVI CONVENTIONALI. Villeins or bondmen by contract or agreement.

NATIVI DE STIPITE. Villeins or bondmen by birth or stock. Cowell.

NATIVITAS. Villeinage; that state in which men were born slaves. 2 Mon. Angl. 643.

NATIVO HABENDO. A writ which lays for a lord when his villein had run away from him. It was directed to the sheriff, and commanded him to apprehend the villein, and to restore him together with his goods to the lord. Brown.

NATIVUS. Lat. In old English law, a native; specifically, one born into a condition of servitude; a born serf or villein.

NATURA APPETIT PERFECTUM; ITA ET LEX. Nature covets perfection; so does law also. Hob. 144.

NATURA BREVIUM. The name of an ancient collection of original writs, accompanied with brief comments and explanations, compiled in the time of Edward III. This is commonly called Old Natura Breviun," (or "O. N. B."), to distinguish it from Fitzherbert's Natura Brevium, a later work, cited as "F. N. B.," or "Fitzh. Nat. Brev.

NATURA FIDE JUSSIONIS SIT STRICTISSIMI JURIS ET NON DURAT VEL EXTENDATUR DE RE AD REM, DE PERSONAM, DE TEMPORE AD TEMPS. The nature of the contract of suretyship is strictissimi juris, and cannot endure nor be extended from thing to thing, from person to person, or from time to time. Burge. Sur. 40.

NATURA NON FACIT SALTUM; ITA NEC LEX. Nature makes no leap, [no sudden or irregular movement;] so neither does law. Co. Litt. 238. Applied in old practice to the regular observance of the degrees in writs of entry, which could not be passed over per saltum.

NATURA NON FACIT VACUUM, NEC LEX SUPERVACUUM. Nature makes no vacuum, the law nothing purposeless. Co. Litt. 79.
NATURÆ VIS MAXIMA; NATURA BIS MAXIMA. The force of nature is greatest; nature is doubly great. 2 Inst. 564.

NATURAL. The juristic meaning of this term does not differ from the vernacular, except in the cases where it is used in opposition to the term “legal”; and then it means proceeding from or determined by physical causes or conditions, as distinguished from positive enactments of law, or attributable to the nature of man rather than to the commands of law, or based upon moral rather than legal considerations or sanctions.


NATURAL AFFECTION. Such as naturally subsists between near relatives, as a father and child, brother and sister, husband and wife. This is regarded in law as a good consideration.

NATURAL-BORN SUBJECT. In English law, one born within the dominions, or rather within the allegiance, of the king of England.

NATURAL FLOOD CHANNEL. A channel beginning at some point on banks of stream and ending at some other point lower down stream, through which flood waters naturally flow at times of high water. C. M. Bott Furniture Co. v. City of Buffalo, 131 Misc. 624, 227 N.Y.S. 660, 665.

NATURAL FOOL. A person born without understanding; a born fool or idiot. Sometimes called, in the old books, a “natural.” In re Anderson, 132 N.C. 243, 43 S.E. 649.

NATURAL LAW. This expression, “natural law,” or jus naturale, was largely used in the philosophical speculations of the Roman jurists of the Antonine age, and was intended to denote a system of rules and principles for the guidance of human conduct which, independently of enacted law or of the systems peculiar to any one people, might be discovered by the rational intelligence of man, and would be found to grow out of and conform to his nature, meaning by that word his whole mental, moral, and physical constitution. The point of departure for this conception was the Stoic doctrine of a life ordered “according to nature,” which in its turn rested upon the purely supposititious existence, in primitive times, of a “state of nature,” that is, a condition of society in which men universally were governed solely by a rational and consistent obedience to the needs, impulses, and promptings of their true nature, such nature being as yet undefaced by dishonesty, falsehood, or indulgence of the baser passions. Maine, Anc. Law, 50, et seq.; Jus Naturale.

NATURAL LIFE. The period of a person’s existence considered as continuing until terminated by physical dissolution or death occurring in the course of nature; used in contradistinction to that juristic and artificial conception of life as an aggregate of legal rights or the possession of a legal personality, which could be terminated by “civil death,” (q. v.), that is, that extinction of personality which resulted from entering a monastery or being attainted of treason or felony. See People v. Wright, 89 Mich. 70, 50 N.W. 792.

NATURAL MARKETING AREA. A region within which milk is ordinarily sold in response to commercial demand. State v. Auclair, 110 Vt. 147, 4 A.2d 107, 116.

NATURAL MILK SHED. The milk producing area which normally produces milk for a given milk consuming area or market.

Milk producer whose milk could be preserved and transported to Connecticut in time to be usable as fresh milk was within the “natural milk shed” of Connecticut. Bryant & Chapman & Co. v. Lowell, 120 Conn. 221, 27 A.2d 637, 638.

NATURAL MONUMENT. Objects permanent in character which are found on the land as they were placed by nature, such as streams, lakes, ponds, shores, and beaches. Timme v. Squires, 199 Wis. 178, 225 N.W. 825, 828. Sometimes including highways and streets, walls, fences, trees, hedges, springs, and rocks, and the like. Farran v. Wilson, 160 Md. 604, 154 A. 449, 451.

NATURAL OBJECT OF TESTATOR’S BOUNTY. In testamentary law, term comprises whoever would take, in the absence of a will, because they are the persons whom the law has so designated, and in the ordinary case the law follows the normal condition of near relationship. Page v. Phelps, 105 Conn. 572, 143 A. 890, 893.


NATURAL PREMIUM. Actual sum necessary to meet maturing death claims each year and is necessarily exceeded by the “net premium”. Fox v. Mutual Ben. Life Ins. Co., C.C.A.Mo., 107 F.2d 715, 718.

NATURAL RESOURCE. The term includes not only timber, gas, oil, coal, minerals, lakes, and submerged lands, but also, features which supply a human need and contribute to the health, welfare, and benefit of a community, and are essential to the well-being thereof and proper enjoyment of property devoted to park and recreational purposes. Snyder v. Board of Park Comm’rs of Cleveland Metropolitan Park Dist., 125 Ohio St. 336, 181 N.E. 483, 484.

NATURALE EST QUIDLIBET DISSOLVI EOmodo quo ligatur. It is natural for a thing to be unbound in the same way in which it was bound. Jenk. Cent. 66; Broom, Max. 877.

NATURALEZA. In Spanish law, the state of a natural-born subject. White, New Recoup. b. 1, tit. 5, c. 2.
NATURALIZATION


Collective Naturalization. This takes place where a government, by treaty or cession, acquires the whole or part of the territory of a foreign nation and takes to itself the inhabitants thereof, clothing them with the rights of citizenship either by the terms of the treaty or by subsequent legislation. State v. Boyd, 31 Neb. 682, 48 N.W. 739; Opinion of Justices, 68 Me. 558.

NATURALIZE. To confer citizenship upon an alien; to make a foreigner the same, in respect to rights and privileges, as if he were a native citizen or subject.

NATURALIZED CITIZEN. One who, being an alien by birth, has received citizenship under the laws of the state or nation.

NATUS. Lat. Born, as distinguished from nasciturus, about to be born. Ante natus, one born before a particular person or event, e. g., before the death of his father, before a political revolution, etc. Post natus, one born after a particular person or event.

NAUCERUS. Lat. In the civil law, the master or owner of a merchant vessel. Calvin.

NAUFRAGE. In French maritime law, shipwreck.

"The violent agitation of the waves, the impetuous force of the winds, storm, or lightning, may swallow up the vessel, or shatter it, in such a manner that nothing remains of it but the wreck; this is called 'making shipwreck.' (faire naufrage.) The vessel may also strike or run aground upon a bank, where it remains grounded, which is called 'échouement;' it may be dashed against the coast or a rock, which is called 'bris;' an accident of any kind may sink it in the sea, where it is swallowed up, which is called 'sombrer.'" 3 Pard. Droit Comm., § 643.

NAUFRAGIUM. Lat. Shipwreck.

NAUGHT. In old practice, bad; defective. "The bar is naught." 1 Leon. 77. "The avowry is naught." 5 Mod. 73. "The plea is undoubtedly naught." 10 Mod. 329. See 11 Mod. 179.

NAULAGE. The freight of passengers in a ship. Johnson; Webster.

NAULUM. In the civil law, the freight or fare paid for the transportation of cargo or passengers over the sea in a vessel. This is a Latinized form of a Greek word.

NAUTA. Lat. In the civil and maritime law, a sailor; one who works a ship. Calvin. Any one who is on board a ship for the purpose of navigating her. The employer of a ship. Dig. 4, 9, 1, 2.

NAUTICA PECUNIA. A loan to a shipowner, to be repaid only upon the successful termination of the voyage, and therefore allowed to be made at an extraordinary rate of interest (nauticum fenus). Holland, Jurispr. 250.

NAUTICAL. Pertaining to ships or to the art of navigation or the business of carriage by sea.

NAUTICAL ASSESSORS. Experienced shipmasters, or other persons having special knowledge of navigation and nautical affairs, who are called to the assistance of a court of admiralty, in difficult cases involving questions of negligence, and who sit with the judge during the argument, and give their advice upon questions of seamanship or the weight of testimony. The Empire, D.C. Mich., 19 F. 559; The Clement, 2 Curt. 369, F.Cas.No.2,879.

NAUTICAL MILE. See Mile.

NAUCTICUM FENUS. Lat. In the civil law, nautical or maritime interest; an extraordinary rate of interest agreed to be paid for the loan of money on the hazard of a voyage; corresponding to interest on contracts of bottomry or respondentia in English and American maritime law. Mackeld. Rom. Law, § 433; 2 Bl.Comm. 458.

NAVAGIUM. In old English law, a duty on certain tenants to carry their lord's goods in a ship.

NAVAL. Appertaining to the navy, (g. v.).

NAVAL BASE. See Base.

NAVAL COURTS. Courts held abroad in certain cases to inquire into complaints by the master or seamen of a British ship, or as to the wreck or abandonment of a British ship.

A naval court consists of three, four, or five members, being officers in her majesty's navy, consular officers, masters of British merchant ships, or British merchants. It has power to supersede the master of the ship with reference to which the inquiry is held, to discharge any of the seamen, to decide questions as to wages, send home offenders for trial, or try certain offenses in a summary manner. Sweet.

NAVAL COURTS—MARTIAL. Tribunals for the trial of offenses arising in the management of public war vessels.

NAVAL LAW. The system of regulations and principles for the government of the navy.

NAVAL OFFICER. An officer in the navy. Also an important functionary in the United States custom-houses, who estimates duties, signs permits and clearances, certifies the collectors' returns, etc.

NAVARCHUS. In the civil law, the master or commander of a ship; the captain of a man-of-war.

NAVICULARIUS. In the civil law, the master or captain of a ship. Calvin.

NAVIGABLE. Capable of being navigated; that may be navigated or passed over in ships or vessels. Natcher v. City of Bowling Green, 264 Ky. 584, 95 S.W.2d 255, 259. But the term is often, particularly at common law, understood in a more restricted sense, viz., subject to the ebb and flow of the tide. Luscher v. Reynolds, 153 Or. 629, 56 P.2d 1158, 1162.

"The doctrine of the common law as to the navigability of waters has no application in this country. * * *
NAVIGABLE IN FACT. Streams or lakes are navigable in fact when they are used or are susceptible of being used in their natural and ordinary condition as highways for commerce over which trade and travel are or may be conducted in customary modes of trade and travel on water. United States v. Appalachian Electric Power Co., D.C.Va., 23 F.Supp. 83.

NAVIGABLE RIVER OR STREAM. At common law, a river or stream in which the tide ebbs and flows, or as far as the tide ebbs and flows. 3 Kent, Comm. 412, 414, 417, 418; 2 Hill, Real Prop. 90, 91. But as to the definition in American law, see Navigable, supra.

NAVIGABLE WATERS. Those waters which afford a channel for useful commerce. The Montello, 20 Wall. 430, 22 L.Ed. 391.

See, also, Navigable, supra.

In several states so long as a stream or body of water may be put to public use it is "navigable" whether it can be used for commercial navigation or not. U. S. v. Holt State Bank, C.C.A.Minn., 294 F. 161, 166; State v. Korrer, 127 Minn. 69, 148 N.W. 617, 618, L.R.A.1916C. 139; State v. Akers, 92 Kan. 168, 149 P. 637, 640, Ann.Cas.1916B. 543. Any natural waters that are usable for rowing or canoeing are "navigable," and as such open to the public for hunting or fishing, notwithstanding water is a shallow, muddy lake or marsh. Baker v. Voss, 217 Wis. 415, 259 N.W. 413. Contra: To be "navigable," waters must be navigable for some purpose useful to trade or agriculture and susceptible of use for purposes of commerce, or possess capacity for valuable flotation in transportation to market of products of country through which it runs, a mere theoretical or potential navigability, or one that is temporary, precarious, unprofitable, or which requires artificial improvement, being insufficient. St. Paul Fire & Marine Ins. Co. v. Carroll, Tex.Civ.App., 106 S.W.2d 757, 759. The test of "navigability" is whether there is in the stream capacity for use for the purpose of transportation valuable to the public. American Red Cross v. Hinson, 173 Tenn. 667, 122 S.W.2d 433, 435. Navigability is not imparted by ability to float small boats, such as skiffs or canoes. United States v. Appalachian Electric Power Co., D.C.Va., 23 F.Supp. 83. Generally, a lake that is chiefly valuable for fishing or pleasure boats of small size is not "navigable." Taylor Fishing Club & Hammett, Tex.Civ.App., 85 S.W.2d 127, 129, 130.

NAVIGABLE WATERS OF THE UNITED STATES. Waters are "navigable waters of the United States" when they form in their ordinary condition by themselves, or by uniting with other waters, a continued highway over which commerce is or may be carried on with other states or foreign countries in the customary modes in which such commerce is conducted by water. United States v. Appalachian Electric Power Co., D.C.Va., 23 F.Supp. 83.

NAVIGATE. To journey by water; to go in a vessel; to sail or manage a vessel; to use the waters as a highway for commerce or communication; ply. Hence, to direct one's course through any medium; to steer, especially to operate an airplane or airship. United States v. Monstad, C.C.A.Cal., 134 F.2d 986, 987, 988.

NAVIGATION. The act or the science or the business of traversing the sea or other waters in ships or vessels. Pollock v. Cleveland Ship Building Co., 56 Ohio St. 655, 47 N.E. 582; The Silvia, 171 U.S. 462, 19 S.Ct. 7, 43 L.Ed. 241; Laurie v. Douglass, 15 Mees. & W. 746.

Regular navigation. In this phrase, the word "regular" may be used in contradistinction to "occasional," rather than to "unlawful," and refer to vessels that, alone or with others, constitute lines, and not merely to such as are regular in the sense of being properly documented under the laws of the country to which they belong. The Steamer Smidt, 16 Op.Attys.Gen. 276.

Rules of navigation. Rules and regulations adopted by commercial nations to govern the steering and management of vessels approaching each other at sea so as to avoid the danger of collision or fouling.

NAVIGATION ACTS. Various English enactments passed for the protection of British shipping and commerce as against foreign countries. For a sketch of their history and operation, see 3 Steph. Comm. They are now repealed. See 16 & 17 Vict. c. 107, and 17 & 18 Vict. cc. 5, 120. Wharton.


NAVIGATIONAL VISIBILITY. Visibility as affecting speed with reference to distance within which boat in fog could be brought to stop, before any course of any vessel emerging from fog on either side would cross her projected course alongside the fog bank at its nearest point. The Silver Palm, C.C.A.Cal., 94 F.2d 754, 767.

NAVIRE. Fr. In French law, a ship. Emerig. Traité des Assur. c. 6, § 1.

NAVIS. Lat. A ship; a vessel.

NAVIS BONA. A good ship; one that was staunch and strong, well caulked, and stiffened to bear the sea, obedient to her helm, swift, and not unduly affected by the wind. Calvin.

NAVY. A fleet of ships; the aggregate of vessels of war belonging to an independent nation. In a broader sense, and as equivalent to "naval forces," the entire corps of officers and men enlisted in the naval service and who man the public ships of war, including in this sense, in the United States, the officers and men of the Marine Corps. Wilkes v. Dinsman, 7 How. 124, 12 L.Ed. 618; U. S. v. Dunn, 120 U.S. 249, 7 S.Ct. 507, 30 L.Ed. 667.
NAVY BILLS

NAVY BILLS. Bills drawn by officers of the English navy for their pay, etc.

NAVY DEPARTMENT. One of the executive departments of the United States, presided over by the secretary of the navy, and having in charge the defense of the country by sea, by means of ships of war and other naval appliances.

NAVY PENSION. A pecuniary allowance made in consideration of past services of some one in the navy.

NAZERANNA. A sum paid to government as an acknowledgment for a grant of lands, or any public office. Enc. Lond.

NAZIM. In Hindu law, composer, arranger, adjuster. The first officer of a province, and minister of the department of criminal justice.

NE ADMITTAS. Lat. In ecclesiastical law, the name of a prohibitory writ, directed to the bishop, at the request of the plaintiff or defendant, where a quare impedit is pending, when either party fears that the bishop will admit the other's clerk pending the suit between them. Fitzh. Nat. Brev. 37.

NE BAILA PAS. L. Fr. He did not deliver. A plea in detinue, denying the delivery to the defendant of the thing sued for.

NE DISTURBA PAS. L. Fr. (Does or did not disturb.) In English practice, the general issue or general plea in quare impedit. 3 Steph. Comm. 663.

NE DONA PAS, or NON DEDIT. The general issue in a foredom, now abolished. It denied the gift in tail to have been made in manner and form as alleged; and was therefore the proper plea, if the tenant meant to dispute the fact of the gift, but did not apply to any other case. 5 East. 289.

NE EXEAT. A writ which forbids the person to whom it is addressed to leave the country, the state, or the jurisdiction of the court; available in some cases to keep a defendant within the reach of the court's process, where the ends of justice would be frustrated if he should escape from the jurisdiction.

Sometimes a ne exeat writ is issued only to restrain a person from leaving the jurisdiction, and sometimes it is issued against a person who is removing or attempting to remove property beyond the jurisdiction. August v. August, 65 Ga. App. 883, 16 S.E.2d 784, 785.

NE EXEAT BOND. In wife's suit for divorce and alimony, “ne exeat bond” conditioned on husband's appearance on hearing of bill of complaint was in effect an appearance bond to abide the decree of the court. Muckelrath v. Chezem, 184 Miss. 511, 186 So. 621, 623.

NE EXEAT REGNO. Lat. In English practice, a writ which issues to restrain a person from leaving the kingdom. It was formerly used for political purposes, but is now only resorted to in equity when the defendant is about to leave the kingdom; it is only in cases where the intention of the party to leave can be shown that the writ is granted.

NE EXEAT REPUBLICA. Lat. In American practice, a writ similar to that of ne exeat regno, (q. v.) available to the plaintiff in a civil suit, under some circumstances, when the defendant is about to leave the state. Dean v. Smith, 23 Wis. 483, 99 Am. Dec. 188; Adams v. Whitcomb, 46 Vt. 712; Cable v. Alvord, 27 Ohio St. 664.

NE GIST PAS EN BOUCHE. L. Fr. It does not lie in the mouth. A common phrase in the old books. Yearb. M. 3 Edw. II. 50.

NE INJUSTE VEXES. Lat. In old English practice, a prohibitory writ, commanding a lord not to demand from the tenant more services than were justly due by the tenure under which his ancestors held.

NE LUMINIBUS OFFICIATUR. Lat. In the civil law, the name of a servitude which restrains the owner of a house from making such erections as obstruct the light of the adjoining house. Dig. 8, 4, 15, 17.

NE QUID IN LOCO PUBLICO VEL ITINERE. FIAT. Lat. That nothing shall be done (put or erected) in a public place or way. The title of an indictment in the Roman law. Dig. 43, 8.

NE RECIPIATUR. Lat. That it be not received. A caveat or warning given to a law officer, by a party in a cause, not to receive the next proceedings of his opponent. 1 Sel. Fr. 8.

NE RECTOR PROSTERNET ARBORES. L. Lat. The statute 55 Edw. I. § 2, prohibiting rector's, i. e., Parsons, from cutting down the trees in churchyards. In Rutland v. Green, 1 Keb. 557, it was extended to prohibit them from opening new mines and working the minerals therein. Brown.

NE RELESSA PAS. L. Fr. Did not release. Where the defendant had pleaded a release, this was the proper replication by way of traverse.

NE UNQUES ACCOUPLE. L. Fr. Never married. More fully, ne unquesaccouple en loial matrimonie, never joined in lawful marriage. The name of a plea in the action of dower unde nihil habet, by which the tenant denied that the doweress was ever rightfully married to the decedent.

NE UNQUES EXECUTOR. L. Fr. Never executor. The name of a plea by which the defendant denies that he is an executor, as he is alleged to be; or that the plaintiff is an executor, as he claims to be.

NE UNQUES SEISE QUE DOWER. L. Fr. (Never seised of a dowerable estate.) In pleading, the general issue in the action of dower unde nil habet, by which the tenant denies that the demandant's husband was ever seised of an estate of which dower might be had. Rosc. Real Act. 219, 220.

NE UNQUES SON RECEIVER. L. Fr. In pleading, the name of a plea in an action of account-
render, by which the defendant denies that he ever was receiver of the plaintiff. 12 Vin. Abr. 183.

NE VarietUM. Lat. It must not be altered. A phrase sometimes written by a notary upon a bill or note, for the purpose of establishing its identity, which, however, does not affect its negotiability. Fleckner v. Bank of United States, 8 Wheat. 333, 5 L.Ed. 631.

NEap TIDE. When the moon is in its first and third quarters, the tides do not rise as high, nor fall as low, as on the average; at such times the tides are known as “neap tides.” Borax Consolidated v. City of Los Angeles, Cal., 296 U.S. 10, 56 S.Ct. 23, 80 L.Ed. 9.

NEAR. The word as applied to space is a relative term without positive or precise meaning, depending for its signification on the subject-matter in relation to which it is used and the circumstances under which it becomes necessary to apply it to surrounding objects. Case-Fowler Lumber Co. v. Winslett, 188 Ga. 808, 143 S.E. 211, 233.

NEAT, NET. The clear weight or quantity of an article, without the bag, box, keg, or other thing in which it may be enclosed.

NEAT CATTLE. Oxen or heifers. “Beesves” may include neat stock, but all neat stock are not beesves. Castello v. State, 36 Tex. 324; Hubboter v. State, 32 Tex. 479. Straight-backed, domesticated animals of the bovine genus regardless of sex, and is not generally but may be, taken to mean calves, or animals younger than yearlings. It includes cows, bulls, and steers, but not horses, mares, geldings, colts, mules, jacks, or jennies, goats, hogs, sheep, shoats, or pigs. State v. District Court of Fifth Judicial Dist. In and for Nye County, 42 Nev. 218, 174 P. 1023, 1025; State v. Swagger, 110 Wash. 431, 188 P. 504, 506.

NEAT-LAND. Land let out to the yeomanry. Cowell.

NEATNESS. In pleading, the statement is apt and appropriate words of all the necessary facts, and no more. Lawes, Pl. 62.

NEC CURIA DEFICERE IN JUSTITIA EXHIBENDÆ. Nor should the court be deficient in showing justice. 4 Inst. 63.

NEC NON. A clause so called which was used as a fiction to give jurisdiction to the common pleas in connection with the writ of quare clausum fretit. 1 Holdsw. Hist. E. L. 89, note. See Bill of Middlesex.

NEC TEMPS NEC LOCUS OCCURRIT REGI. Jenk. Cent. 190. Neither time nor place affects the king.

NEC VENIAM EFFUSO SANGUINE CASUS HABET. Where blood is spilled, the case is unpardonable. 3 Inst. 57.

NEC VENIAM, L’ESO NUMINE, CASUS HABET. Where the Divinity is insulted the case is unpardonable. Jenk. Cent. 167.

NECATION. The act of killing.

NECESSARIES. An article which a party actually needs. State v. Earnest, Mo.App., 162 S.W. 2d 388, 341. Things indispensable, or things proper and useful, for the sustenance of human life.

The word has no hard and fast meaning, but varies with the accustomed manner of living of the parties. Senucci v. Roth Cadillac Co., 145 Pa.Super. 292, 21 A.2d 127, 130.

“Necessaries” consist of food, drink, clothing, medical attention, and a suitable place of residence, and they are regarded as necessaries in the absolute sense of the word: however, liability for necessaries is not limited to articles required to maintain or sustain life; it extends to articles which would ordinarily be necessary and suitable, in view of the party’s position, fortune, earning capacity, and mode of living of the husband or father. Caruso v. Caruso, 102 N.J.Eq. 395, 19 A. 16, 19.

Such things as are suited to wife’s and children’s conditions and station in life, their needs and wants, in so far as ability of parties will permit. Rice v. Mercantile Bank & Trust Co. of Texas, Tex.Civ.App. 89 S.W.2d 54, 56.


Whether attorney’s services are to be considered “necessaries” depends on whether there is necessity therefor. Penn v. Hart Dairy Co., 231 Mo.App. 1005, 83 S.W.2d 129, 134. But such services are usually “necessaries.” Leonard v. Alexander, 50 Cal.App.2d 385, 122 P.2d 984, 986.

What constitutes “necessaries” for which an admiralty lien will attach depends upon what is reasonably needed in the ship’s business, regard being had to the character of the voyage and the employment in which the vessel is being used. Walker Skageth Food Stores v. The Bavols, D.C. N.Y. 43 F.Supp. 109, 110, 111.

In the case of ships the term “necessaries” means such things as are fit and proper for the service in which the ship is engaged, as such, as the owner, being a prudent person, would have ordered if the ship had been his own. Baude & P. Shipp. 71, 113. The master of a ship has no power to stop to buy necessaries in port. Sweet: The Plymouth Rock 19 F.Cas. 898; Hubbard v. Roach, C.C.II., 2 F. 394; The Gustavia, 11 Fed.Cas. 126.

NECESSARIUM EST QUOD NON POTEST ALTÆR SE HABERE. That is necessary which cannot be otherwise.

NECESSARIUS. Lat. Necessary; unavoidable; indispensable; not admitting of choice or the action of the will; needful.

NECESSARY. This word must be considered in the connection in which it is used, as it is a word susceptible of various meanings. It may mean absolute physical necessity or inevitability, or it may import that which is only convenient, useful, appropriate, suitable, proper, or conducive to the end sought. It is an adjective expressing degrees, and may express mere convenience or that which is indispensable or an absolute physical necessity. It may mean something which in the accomplishment of a given object cannot be dispensed with, or it may mean something reasonably useful and proper, and of greater or lesser benefit or convenience, and its force and meaning must be determined with relation to the particular object sought. Kay County Excise Board v. Atchison, T. & S. F. R. Co., 185 Okl. 327, 91 P.2d 1067, 1098.

In eminent domain proceedings, it means land reasonably requisite and proper for accomplish-
NECESSARY

ment of end in view, not absolute necessity of particular location. State v. Whitcomb, 94 Mont. 415, 22 P.2d 823.


NECESSARY INFERENCE. One which is incapable or unavoidable from the standpoint of reason. Taylor v. Twiner, 193 Miss. 410, 9 So.2d 644, 646.

NECESSARY INJURY. Under Wrongful Death Statute the words mean pecuniary injury and include any damages whether present, prospective, or past that may be estimated according to a pecuniary standard, and the jury is not confined to precise calculation as to amount of loss to survivors of deceased, but has large discretion in determining such damages. Polk v. Krenning, Mo. App., 2 S.W.2d 107, 109.

NECESSITAS. Lat. Necessity; a force, power, or influence which compels one to act against his will. Calvin.

NECESSITAS CULPABILIS. Culpable necessity: unfortunate necessity: necessity which, while it excuses the act done under its compulsion, does not leave the doer entirely free from blame. The necessity which compels a man to kill another in self-defense is thus distinguished from that which requires the killing of a felon. See 4 Bl. Comm. 187.

NECESSITAS EST LEX TEMPORIS ET LOCII. Necessity is the law of time and of place. 1 Hale, P. C. 54.

NECESSITAS EXCUSAT AUT EXTENUAT DE- LICTUM IN CAPITALIBUS, QUOD NON OPER- ATUR IDEM IN CIVILIBUS. Necessity excuses or extenuates a delinquency in capital cases, which has not the same operation in civil cases. Bac. Max.

NECESSITAS FACIT LICITUM QUOD ALIAS NON EST LICITUM. 10 Coke, 61. Necessity makes that lawful which otherwise is not lawful.

NECESSITAS INDUCIT PRIVILEGIO QUOD JURA PRIVATA. Bac. Max. 25. Necessity gives a privilege with reference to private rights. The necessity involved in this maxim is of three kinds, viz.: (1) Necessity of self-preservation; (2) of obedience; and (3) necessity resulting from the act of God, or of a stranger. Noy. Max. 32.

NECESSITAS NON HABET LEGEM. Necessity has no law. Plowd. 183. "Necessity shall be a good excuse in our law, and in every other law." Id.

NECESSITAS PUBLICA MAJOR EST QUAM PRIVATA. Public necessity is greater than private. "Death," it has been observed, "is the last and furthest point of particular necessity, and the law imposes it upon every subject that he prefer the urgent service of his king and country before the safety of his life." Noy. Max. 34; Broom, Max. 18.

NECESSITAS QUOD COGIT, DEFENDIT. Necessity defends or justifies what it compels. 1 Hale, P. C. 54. Applied to the acts of a sheriff, or ministerial officer, in the execution of his office. Broom, Max. 14.

NECESSITAS SUB LEGE NON CONTINETUR, QUIA QUOD ALIAS NON EST LICITUM NECESSITAS FACIT LICITUM. 2 Inst. 326. Necessity is not restrained by law; since what otherwise is not lawful necessity makes lawful.

NECESSITAS VINCTA LEGEM. Necessity overrules the law. Hob. 144; Cooley, Const. Lim. 4th Ed. 747.

NECESSITAS VINCTA LEGEM; LEGUM VIN- CULA REREDIT. Hob. 144. Necessity overcomes law; it derides the fetters of laws.

NECESSITUS. Indigent or pressed by poverty. St. Cyr v. Wills, 87 N.H. 277, 178 A. 257.

NECESSITUS CIRCUMSTANCES. In the civil code of Louisiana the words are used relative to the fortune of the deceased and to the condition in which the claimant lived during the marriage. Smith v. Smith, 43 La. Anno. 1140, 10 So. 248.

Needing the necessaries of life, which cover not only primitive physical needs, things absolutely indispensable to human existence and decency, but those things, also, which are done fact necessary to the particular person left without support. State v. Waller, 90 Kan. 829, 136 P. 215, 216, 49 L.R.A., N.S., 588.

NECESSITUDO. Lat. In the civil law, an obligation; a close connection; relationship by blood. Calvin.

NECESSITY. Controlling force; irresistible compulsion; a power or impulse so great that it admits no choice of conduct.

When it is said that an act is done "under necessity," it may be, in law, either of three kinds of necessity: (1) The necessity of preserving one's own life, which will excuse a homicide; (2) the necessity of obedience, as to the laws, or the obedience of one not sui juris to his superior; (3) the necessity caused by the act of God or a stranger. See Jacob; Mozley & Whiteley.

That which makes the contrary of a thing Impossible.

The quality or state of being necessary, in its primary sense signifying that which makes an act or event unavoidable. Spreckels v. City and County of San Francisco, 76 Cal.App. 267, 244 P. 919, 922; In re Washington Ave. in Borough of Chatham, 5 N.J.Misc. 858, 130 A. 239, 240.

A constraint upon the will whereby a person is urged to do that which his judgment disapproves, and which, if it is to be presumed, his will (if left to itself) would reject. A man, therefore, is excused for those actions which are done through unavoidable force and compulsion. Wharton.

In determining what is a work of "necessity" excepted from the operation of the Sunday law, the necessity meant is not a physical or absolute necessity, but a moral fitness or propriety of the work and labor done under the circumstances of the particular case, and whether or not the act is morally fit and proper is usually a question of fact for the jury under proper instructions. Lakeside Inn Corporation v. Commonwealth, 134 Va. 666, 114 S.E. 769, 771; Natural Gas Products Co. v. Thurman, 265 Ky. 100, 265 S.W. 475, 477. The term "necessity" means an economical and moral necessity, rather than an unavoidable physical necessity. Rosenbaum v. State, 131 Ark. 251, 199 S.W. 388, 392.
NEGATIVUS. Lat. Inauspicious. Applied, in the
Roman law, to a day on which it was unlawful
open the courts or administer justice.

NEGATIO CONCLUSIO EST ERROR IN
LEGIS. Wing. 268. The denial of a conclusion is
error in law.

NEGATIO DESTRUCT NEGATIONEM, ET AM-
LEE FACIUNT AFFIRMATIONEM. A negative
destroy a negative, and both make an affirmative.
Co. Litt. 146b. Lord Coke cites this as a rule of
grammatical construction, not always applying in
law.

NEGATIO DUXPEL EST AFFIRMATIO. A dou-
ble negative is an affirmative.

NEGATIVE. A denial; a proposition by which
something is denied; a statement in the form of
denial. Two negatives do not make a good issue.
Steph. Pl. 386, 387.

As to negative "Covenant," "Easement," "Serv-

NEGATIVE AVERMENT. As opposed to the trans-
verse or simple denial of an affirmative allegation,
a negative averment is an allegation of some sub-
stantive fact, e.g., that premises are not in repair,
which, although negative in form, is really affirma-
tive in substance, and the party alleging the fact
of non-repair must prove it. Brown. An aver-
ment in some of the pleadings in a case in which
a negative is asserted. U. S. v. Eisenminger, D.C.
Del., 16 F.2d 816, 819.

NEGATIVE CONDITION. One by which it is
stipulated that a given thing shall not happen.

NEGATIVE EVIDENCE. Testimony that an al-
leged fact did not exist. K. B. Johnson & Sons v.

NEGATIVE HEAD. As used in connection with a
filtration plant it means the force that comes into
play when a partial vacuum is created either with-
in or below the filter bed. City of Harrisburg v.
New York Continental Jewell Filtration Co., C.C.
A.Pa., 217 F. 366, 368.

NEGATIVE PREGNANT. In pleading, a nega-
tive implying also an affirmative. Cowell. Such a
form of negative expression as may imply or carry
within it an affirmative. Steph. Pl. 318; Fields v.
State, 134 Ind. 46, 32 N.E. 780; Stone v. Quail, 56
Minn. 46, 29 N.W. 326.

As if a man be said to have aliened land in fee,
and he says he has not aliened in fee, this is a negative pregnant;
for, though it be true that he has not aliened in fee, yet
it may be that he has made an estate in tail. Cowell. A
"negative pregnant," is a denial in form, but is in fact an
admission, as where the denial in hæo verba includes the
time and place, which are usually immaterial. Hall &
Lyon Furniture Co. v. Torrey, 196 App.Div. 804, 188 N.Y.
S. 488, 487; Green v. Commercial Bank & Trust Co., D.C.
Wyo., 277 F. 527, 528; McIntosh Livestock Co. v. Barning-
ton, 108 Or. 358, 217 F. 635, 636.

A denial in such form as to imply or express an ad-
mission of the substantial fact which apparently is controver-
sed; or a denial which, although in the form of a traverse,
really admits the important facts contained in the allega-
tions to which it relates. Cramer v. Aiken, 63 App.D.C.
15, 68 F.2d 761, 762.
NEGGLANDARE

NEGGLANDARE. To claim kindred. Jac. L. Dict.

NEGLECT. May mean to omit, fail, or forbear to do a thing that can be done, or that is required to be done, but it may also import an absence of care or attention in the doing or omission of a given act. State v. Sheldon, 135 Okl. 278, 276 P. 468, 472; Same v. Butterfield, 138 Okl. 112, 276 P. 473.

And it may mean a designed refusal or unwillingness to perform one’s duty. In re Perkins, 234 Mo.App. 716, 117 S.W.2d 686, 692.

The term is used in the law of bailment as synonymous with “negligence.” But the latter word is the closer translation of the Latin “negligentia.”

Failure to pay money which the party is bound to pay without demand is negligence. Rowland v. Gray, 211 A. 529. An omission to do or perform some work, duty, or act. Exposito v. St. George Swimming Club, 143 Misc. 15, 235 N.Y.S. 794. Failure to perform or neglect to perform covering positive official misconduct or official misconduct as well as negligence. Commonwealth ex rel. and to Use of Allegheny County v. De Luca, 151 Pa.Super. 451, 30 A. 712, 714.

Culpable Neglect. In this phrase, the word “culpable” means not only criminal, but conducive. As he has merely lost a right of action which he might voluntarily relinquish, and has wronged nobody but himself, culpable neglect to preserve rights conveys the idea of neglect which exists where the loss can fairly be ascribed to the party’s own carelessness, improvidence, or folly. State ex rel. Fulton v. Coburn, 133 Ohio St. 192, 12 N.E.2d 471, 477.

Neglect of Affidavit. The neglect of the husband to provide for his wife the necessaries of life, he having the ability to do so; or it is the failure to do so by reason of idleness, profligacy, or dissipation. Civil Code Civ. § 105.


Negligence usually consists in the “involuntary and casual”—that is, “accidental”—doing or omission to do something which results in an injury, Root v. Topeka Ry. Co., 90 Kan. 694, 153 P. 550; and is synonymous with heedlessness, carelessness, thoughtlessness, disregard, inattention, inadvertence, remissness and oversight, Payne v. Vance, 103 Ohio St. 59, 133 N.E. 821.

“Negligence” in official conduct is ordinarily the failure to use such reasonable care and caution as would be expected of a prudent man. Hamrick v. McCutcheon, 101 W. Va. 485, 133 S.E. 277, 279.

Negligence is any culpable omission of a positive duty. It differs from heedlessness, in that heedlessness is the doing of an act in violation of a negative duty, without adhering to its possible consequences. In case there is inadvertence, and there is breach of duty. Aust. Jur. § 630.

Negligence or carelessness signifies want of care, caution, attention, diligence, or discretion in one having no positive intention to injure the person complaining thereof. The words “reckless,” “indifferent,” “careless,” and “wan-
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See Care.

Actionable Negligence. See Actionable Negligence.

Collateral Negligence. In the law relating to the responsibility of an employer or principal for the negligent acts or omissions of his employee, the term "collateral" negligence is sometimes used to describe negligence attributable to a contractor employed by the principal and for which the latter is not responsible, though he would be responsible for the same thing if done by his servant. Weber v. Railway Co., 20 App.Div. 292, 47 N.Y.S. 11.

Comparative Negligence. See Comparative Negligence.

Concurrent Negligence. Arises where the injury is approximately caused by the concurrent wrongful acts or omissions of two or more persons acting independently. Carr v. St. Louis Auto Supply Co., 293 Mo. 562, 293 S.W. 827, 525.

Contributory Negligence. The act or omission amounting to want of ordinary care on part of the complaining party, which, concurring with defendant's negligence, is proximate cause of injury. Honaker v. Crutchfield, 247 Ky. 495, 57 S.W.2d 502.

Any want of ordinary care on the part of the person injured, or on the part of another whose negligence is imputable to him, which combined and concurred with the defendant's negligence, and contributed to the injury as a proximate cause thereof, and as an element without which the injury would not have occurred. Railroad Co. v. Young, 153 Ind. 163, 54 N.E. 791; Barton v. Railroad Co., 52 Mo. 253, 14 Am.Rep. 418; McLaughlin v. Electric Light Co., 100 Ky. 173, 37 S.W. 851, 34 L.R.A. 812; 26 C.J. S. Damages; Townsend v. Missouri Pac. R. Co., 163 La. 872, 113 So. 130, 132, 54 A.L.R. 538.


"Assumption of risk" and "contributory negligence" are not synonymous. Chicago, R. I. & P. R. Co. v. Rogers, 60 Okl. 249, 159 P. 1332, 1336.


Criminal Negligence. Criminal negligence which will render killing a person manslaughter is the omission on the part of the person to do some act which an ordinarily careful and prudent man would do under like circumstances, or the doing of some act which an ordinarily careful, prudent man under like circumstances would not do by reason of which another person is endangered in life or bodily safety; the word "ordinary" being synonymous with "reasonable" in this connection. State v. Coulter, Mo.Sup., 204 S.W. 5.

Negligence of such a character, or occurring under such circumstances, as to be punishable as a crime by statute; or (at common law) such a flagrant and reckless disregard of the safety of others, or wilful indifference to the rights of others, that the defendant is liable to follow, as to convert an act otherwise lawful into a crime when it results in personal injury or death. 4 Bl. Com. 192; note; Cook v. Railroad Co., 72 Ga. 48; Rankin v. Transportation Co., 73 Ga. 229, 54 Am.Rep. 574; Railroad Co. v. Cholette, 33 Neb. 143, 49 N.W. 1114.


Degrees of Negligence. There are degrees of care, and failure to exercise proper degree of care is "negligence," but there are no degrees of negligence. Murray v. De Luxe Motor Stages of Illinois, Mo.App., 133 S.W.2d 1074, 1078.

Classification of "negligence" as "gross," "ordinary," and "slight" indicates only that under special circumstances great care and caution, or ordinary care, or slight care are required, but failure to exercise care demanded is "negligence." 38 Del.Laws, c. 26. Gallegher v. Davis, 7 W.W.Harr. 380, 183 A. 620.

Gross Negligence. The intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another; such a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness. Seelig v. First Nat. Bank, D.C.Ill., 20 F.Supp. 61, 68.


Indifference to present legal duty and utter forgetfulness of legal obligations, so far as personal rights may be affected, and a manifestly smaller amount of watchfulness and circumspection than the circumstances require of a person of ordinary prudence. Burke v. Cook, 246 Mass. 515, 141 N.E. 595, 598. Negligence bordering on recklessness. People v. Adams, 249 Ill. 539, 126 N.E. 376, 577.

"Gross negligence" is substantially higher in magnitude than simple inadvertence, but falls short of intentional wrong. Young v. City of Worcester, 253 Mass. 461,
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Hazardous Negligence. Such careless or reckless conduct as exposes one to very great danger of injury or to imminent peril. Riggs v. Standard Oil Co., C.C.Min., 130 F. 204.

Legal Negligence. See Legal Negligence.

Ordinary Negligence. The omission of that care which a man of common prudence usually takes of his own concerns. Onderkirk v. Central Nat. Bank, 119 N.Y. 263, 23 N.E. 875; Scott v. Depatsby, 1 Edw. Ch., N.Y., 543; Briggs v. Spaulding, 141 U. S. 132, 11 Sup.Ct. 924, 35 L.Ed. 662. Failure to exercise care of an ordinarily prudent person in same situation. Avery v. Thompson, 117 Me. 120, 103 A. 4, 5, L.R.A. 1930D 235. A want of that care and prudence that the great majority of mankind exercise under the same or similar circumstances. Clemens v. State, 176 Wis. 289, 185 N.W. 209, 212, 21 A.L.R. 1490. Wherever distinctions between gross, ordinary and slight negligence are observed, “ordinary negligence” is said to be the want of ordinary care. Saxe v. Terry, 250 F. 27, 28, 140 Wash. 503.

“Ordinary negligence” is based on fact that one ought to have known results of his acts, while “gross negligence” rests on assumption that one knew results of his acts, but was recklessly or wantonly indifferent to results. All negligence below that called gross by courts and text-book writers is “slight negligence” and “ordinary negligence.” People v. Campbell, 237 Mich. 412, 218 N.W. 97, 99. The distinction, between “ordinary negligence” and “gross negligence” is that former lies in the field of inadvertence and the latter in the field of actual or constructive intent to injure. Bentzon v. Brown, 191 Wis. 460, 211 N.W. 132, 133.


Slight Negligence. “A slight want of ordinary care.” 7 A. & E. Enc. Law 2d Ed. 373(2), 375(4), 377(5); Macion & Western R. Co. v. Davis, 13 Ga. 68(10). Slight negligence is not slight want of ordinary care contributing to the injury, which would defeat an action for negligence. Slight negligence is defined to be only an absence of that degree of care and vigilance which persons of extraordinary prudence and foresight are accustomed to use. Briggs v. Spaulding, 141 U.S. 132, 11 S.Ct. 924, 35 L.Ed. 662; Litchfield v. White, 7 N.Y. 438, 57 Am.Dec. 534.


Wanton Negligence. Reckless indifference to the consequences of an act or omission, where the party acting or failing to act is conscious of his conduct and, without any actual intent to injure, is aware, from his knowledge of existing circumstances and conditions, that his conduct will evitably or probably result in injury to another. Alabama G. S. R. Co. v. Hall, 105 Ala. 599, 17 So. 176.

Willful Negligence. Though rejected by some courts and writers as involving a contradiction of terms, this phrase is occasionally used to describe a higher or more aggravated form of negligence than “gross.” It then means a willful determination not to perform a known duty, or a reckless disregard of the safety or the rights of others, as manifested by the conscious and intentional omission of the care proper under the circumstances. Victor Coal Co. v. Muir, 20 Colo. 320, 38 P. 378, 26 L.R.A. 435; Holwerson v. Railway Co., 157 Mo. 216, 57 S.W. 770, 50 L.R.A. 850.

Also, the failure to exercise ordinary care after discovering a person to be in a position of peril. Cowan v. Minneapolis, St. P. & S. S. M. Ry. Co., 42 N.D. 170, 172 N.W. 322, 323. It involves deliberation and malice. Schwartz v. Johnson, 125 Tenn. 598, 280 S.W. 32, 33, 47 A.L.R. 323. “Willful negligence” implies an act intentionally done in disregard of another’s rights, or omission to do something to protect the rights of another after having had such notice of those rights as would put a prudent man on his guard to use ordinary care to avoid injury. Covert v. Rockford & I. R. Ry. Co., 209 Ill. 288, 122 N.E. 504, 505. There is no proof of what is called “willful negligence,” unless it is shown that defendant discovered plaintiff’s peril at such a time and under such circumstances as offered an opportunity, and in consequence imposed a duty on defendant, to take some step to prevent the injury. It is the failure in such a duty is willful negligence, so called. Westernberg v. Motor Truck Service Co., 138 Minn. 218, 197 N.W. 88, 89. A charge of “willful and wanton negligence” does not signify degrees of negligence, but the words have reference to the intent, which must have been to do the wrongful act, but not to inflict the resulting injury; otherwise, it would be a willful and not a negligent injury. Wiest v. Chicago, M. & St. P. Ry. Co., C.C.A.S.D., 2 F.2d 227, 229.

NEGLIGENCE, ESTOPPEL BY. An estoppel which occurs when one who is under a legal duty, either to the person injured or to the public, to act with due care, fails to do so, and such failure is the natural and proximate cause of misleading that person to alter his position. Bradford v. Ins. Co., C.C.A.Pa., 102 F. 48, 43 C.C.A. 310, 49 L.R.A. 530; Central R. Co. of New Jersey v. McCarty, 68 N.J.Law, 165, 52 Atl. 575; Brown & Co. v. Ins. Co., 42 Md. 384, 20 Am.Rep. 90; 1 C. P. D. 576; 1905, 1 K. B. 677; Bigelow, Est. 6th Ed. 711.

An estoppel arises when by acts, representations, intentionally or negligently, induces another to change his position for the worse. Smith v. Varra, 136 Misc. 500, 241 N.Y.S. 202, 209.

An estoppel arises when one by acts, representations, or admissions, or by silence when he ought to speak, intentionally or through culpable negligence, induces another to believe certain facts to exist and such other rightfully relies and acts on such belief so that he will be prejudiced if the former is permitted to deny the existence of such facts. Postal v. Home State Bank for Savings, 284 Mich. 220, 279 N.W. 488, 491. American Exchange Nat. Bank v. Winder, 198 N.C. 18, 150 S.E. 489, 491.

Estoppel may exist where a party has led another into the belief of a certain state of facts by conduct of culpable negligence, calculated to have that result, and the other party has acted
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upon such belief to his prejudice. Scott v. First Nat. Bank, 343 Mo. 77, 118 S.W.2d 929, 938.

The phrase "estoppel by negligence" has been characterized as "an expression usual but not accurate, since negligence prevents a right of action accruing, estoppel a right that has accrued from being set up"; 2 Beven, Negl. 1332. See a discussion of the doctrine, with critical examination of the English cases, in 15 L. Q. R. 384.


NEGLIGENCE PER SE. Conduct, whether of action or omission, which may be declared and treated as negligence without any argument or proof as to the particular surrounding circumstances, either because it is in violation of a statute or valid municipal ordinance, or because it is so palpably opposed to the dictates of common prudence that it can be said without hesitation or doubt that no careful person would have been guilty of it. Missouri Pac. Ry. Co. v. Lee, 70 Tex. 496, 7 S.W. 837; Murray v. Missouri Pac. R. Co., 101 Mo. 236, 13 S.W. 817, 20 Am.St.Rep. 601. As a general rule, the violation of a public duty, enjoined by law for the protection of person or property, constitutes. Chicago, R. I. & P. Ry. Co. v. Pitchford, 44 Okl. 197, 143 P. 1146, 1150; Kavanagh v. New York, O. & W. Ry. Co., 196 App.Div. 384, 187 N.Y.S. 859, 860.

NEGLIGENT. One is not "negligent" unless he fails to exercise that degree of reasonable care that would be exercised by person of ordinary prudence under all the existing circumstances in view of probable danger of injury. Pulford v. Mouw, 279 Mich. 376, 272 N.W. 713, 714.


The word is often used to include all conduct which, although not intended to invade any legally protected interest, has the element of social fault. Universal Concrete Pipe Co. v. Bassett, 130 Ohio St. 567, 209 N.E. 843, 847.

NEGLIGENT ESCAPE. Where prisoner escapes through officer's negligence. Hershey v. People, 91 Colo. 113, 12 P.2d 345, 347.

Where a party arrested or imprisoned escapes against the will of him who arrests or imprisons him, and is not freshly pursued and taken again before he has been lost sight of. State v. Wedin, 85 N.J.L. 399, 89 A. 753, 754.

NEGLIGENT OFFENSE. One which ensues from a defective discharge of a duty, which defect could have been avoided by the exercise of that care which is usual, under similar circumstances, with prudent persons of the same class. People v. Gaydica, 122 Misc.Rep. 31, 203 N.Y.S. 243, 253.

NEGLIGENT VIOLATION OF STATUTE. One occasioned by or accompanied with negligent conduct. Hamrick v. McCutcheon, 101 W.Va. 485, 133 S.E. 127, 128.

NEGIGENTIA. Lat. In the civil law, carelessness; inattention; the omission of proper care or forethought. The term is not exactly equivalent to our "negligence," inasmuch as it was not any negligentia, but only a high or gross degree of it, that amounted to culpa, (actionable or punishable fault.)

NEGIGENTIA SEMPER HABET INFORUNTUUM COMITEM. Negligence always has misfortune for a companion. Co. Litt. 246b; Shep. Touch. 476.


NEGILGENTLY DONE. The doing of an act where ordinary care required that it should not have been done at all, or that it should have been done in some other way, and where the doing of the act was not consistent with the exercise of ordinary care under the circumstances. Curtis v. Mauger, 186 Ind. 118, 114 N.E. 408, 409.

NEGOCES. Fr. Business; trade; management of affairs.

NEGOTIABILITY. In mercantile law, transferable quality. That quality of bills of exchange and promissory notes which renders them transferable from one person to another, and from possessing which they are emphatically termed "negotiable paper." 3 Kent, Comm. 74, 77, 89, et seq. Story, Bills, § 60.

NEGOTIABLE. Capable of being transferred by indorsement or delivery so as to pass to holder the right to sue in his own name and take free of equities against assignor payee. Fischbach & Moore v. Philadelphia Nat. Bank, 134 Pa. Super. 94, 3 A.2d 1011, 1012.

An instrument embodying an obligation for the payment of money is called "negotiable" when the legal title to the instrument itself and to the whole amount of money expressed upon its face, with the right to sue therefor in his own name, may be transferred from one person to another without a formal assignment, but by mere indorsement and delivery by the holder or by delivery only. 1 Daniel, Nego. Inst. § 1; Walker v. Ocean Bank, 19 Ind. 247; Robinson v. Wilkinson, 38 Mich. 299.

Quasi Negotiable. "Quasi negotiable" describes the nature of instruments which, while not negotiable, in sense of law merchant, are so trained and dealt with as frequently to convey as good title to transferee as if they were negotiable. A bill of lading is a quasi negotiable instrument. National Bank of Savannah v. Kershaw Oil Mill, C.C.A.S.C., 202 F. 90, 94.

NEGOTIABLE INSTRUMENTS. Any written securities which may be transferred by indorsement and delivery or by delivery merely, so as to vest in the indorsee the legal title, and thus enable him to sue thereon in his own name. Or, more technically, those instruments which not only carry the legal title with them by indorsement
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or delivery, but carry as well, when transferred before maturity, the right of the transferee to demand the full amounts which their faces call for. Daniel. Neg. Inst. § 1a.

A negotiable instrument is a written promise or request for the payment of a certain sum of money to order or bearer. Civ.Code Cal. § 3087.


Under the Uniform Negotiable Instruments Act, an instrument, to be negotiable, must be in writing and signed; must contain an unconditional promise or order to pay a certain sum of money on demand, or at a fixed and determinable future time; it must be payable to order or to bearer, and where it is addressed to the drawee, he must be named or otherwise indicated with reasonable certainty; its negotiability is not affected by the fact that it is not dated, or that it bears a seal, or that it does not specify the value given or that any value was given.

NEGOTIABLE WORDS. Words and phrases which impart the character of negotiability to bills, notes, checks, etc., in which they are inserted; for instance, a direction to pay to A. "or order of" or "bearer."

NEGOTIATE. To transact business, to treat with another respecting a purchase and sale, to hold intercourse, to bargain or trade, to conduct communications or conferences. It is that which passes between parties or their agents in the course of or incident to the making of a contract and is also conversation in arranging terms of contract. Werner v. Hendricks, 121 Pa.Super. 46, 182 A. 748, 749.

To discuss or arrange a sale or bargain; to arrange the preliminaries of a business transaction. Also to sell or discount negotiable paper, or assign or transfer it by indorsement and delivery. Palmer v. Ferry, 6 Gray, Mass., 428; Newport Nat. Bank v. Board of Education, 114 Ky. 57, 70 S.W. 186.


An instrument is "negotiated" when transferred from one person to another so as to constitute transferee holder thereof. Ficklin v. Nickles, 238 Ky. 591, 38 S.W.2d 456, 458.

NEGOTIATION. The deliberation, discussion, or conference upon the terms of a proposed agreement; the act of settling or arranging the terms and conditions of a bargain, sale, or other business transaction.

The act by which a bill of exchange or promissory note is put into circulation by being passed by one of the original parties to another person.

NEGOTIORUM GESTIO. Lat. In the civil law, a doing of business or businesses. A species of spontaneous agency, or an interference by one in the affairs of another, in his absence, from benevolence or friendship, and without authority. 2 Kent, Comm. 616, note; Inst. 3, 28, 1.

NEGOTIORUM GESTOR. Lat. In the civil law, a transactor or manager of business; a person voluntarily constituting himself agent for another; one who, without any mandate or authority, assumes to take charge of an affair or concern for another person, in the latter's absence, but for his interest.

One who spontaneously, and without the knowledge or consent of the owner, intermeddles with his property, as to do work on it, or to carry it to another place, etc. Story, Bailm. § 189.

NEGRO. The word "negro" means a black man, one descended from the African race, and does not commonly include a mulatto. Felix v. State, 18 Ala. 720. But the laws of the different states are not uniform in this respect, some including in the description "negro" one who has one-eighth or more of African blood.

Term "Negro" means necessarily person of color, but not every person of color is "negro." Rice v. Gong Lum, 139 Miss. 760, 104 So. 105, 109.

NEFIE, NAIF, NATIVUS. In old English law, a woman who was born a villein, or a bond-woman. 1 Steph. Comm. 133.

NEIGHBOR. One who lives in close proximity to another. In a grant relating to the use of water by neighbors, it was limited to the next adjoining farm; 1 A. C., 22 (So. Africa).


It is not synonymous with territory or district, but is a collective noun, with the suggestion of proximity, and refers to the units which make up its whole, as well as to the region which comprehends those units. A district or locality, especially when considered with relation to its inhabitants or their interests. Lindsay Irr. Co. v. Mehrten, 97 Cal. 676, 32 P. 583.

In ordinary and common usage "locality" is synonymous in meaning with "neighborhood," and neither connotes large geographical areas with widely diverse interests. Lukens Steel Co. v. Perkins, 70 App.D.C. 354, 107 F.2d 627, 631.

As used with reference to a person's reputation, "neighborhood" means in general any community or society where person is well known and has established a reputation. Craven v. State, 22 Ala.App. 39, 111 So. 767, 769.

NEITHER PARTY. An abbreviated form of docket entry, meaning that, by agreement, neither of the parties will further appear in court in that suit. Gendron v. Hovey, 98 Me. 139, 56 A. 583; White v. Beverly Bldg. Ass'n, 221 Mass. 15, 108 N.E. 921, 922.

NEMBDA. In Swedish and Gothic law, a jury. 3 Bl. Comm. 349, 359.

NEMINE CONTRADICENTE. Lat. No one dissenting; no one voting in the negative. A phrase used to indicate the unanimous consent of a court or legislative body to a judgment, resolution, vote, or motion. Commonly abbreviated "sem. con."
NEMINEM LÆDIT QUI JURE SUO UTITUR. He who stands on his own rights injures no one.

NEMINEM OPORTET ESSE SAPIENTIÆM LEGIBUS. Co. Litt. 97b. No man ought to be wiser than the laws.

NEMO. Lat. No one; no man. The initial word of many Latin phrases and maxims, among which are the following:

NEMO ADMITTENDUS EST INHABILITARE SEIPSUM. Jenk. Cent. 40. No man is to be admitted to incapacitate himself.

NEMO AGIT IN SEIPSUM. No man acts against himself. Jenk. Cent. p. 40, case 76. A man cannot be a judge and a party in his own cause. Id.; Broom, Max. 216a.

NEMO ALIENÆ REI, SINE SATISDATIONE, DEFENSOR IDONEUS INTELLIGITUR. No man is considered a competent defender of another's property, without security. A rule of the Roman law, applied in part in admiralty cases. 1 Curt. 202.

NEMO ALIENO NOMINE LEGE AGERE POTEkur. No one can sue in the name of another. Dig. 50, 17, 123.

NEMO ALIQUAM PARTEM RECTE IMPELLEGERE POTEkur, ANTE QUAM TOTUM ITERUM ATQUE ITERUM PERLEGERIT. No one can properly understand any part of a thing till he has read through the whole again and again. 3 Co. 59; Broom, Max. 593.

NEMO ALLEGANS SUAM TURPITUDINEM AUDIEN DUS EST. No one alleging his own turpitude is to be heard as a witness. 4 Inst. 279; 12 Pick., Mass., 567. This is not a rule of evidence, but applies to a party seeking to enforce a right founded on an illegal consideration; 94 U.S. 426, 24 L.Ed. 204.

NEMO BIS PUNITUR PRO EODEM DELICTO. No man is punished twice for the same offense. 4 El. Comm. 315; 2 Hawk. P. C. 377.

NEMO COGITATIONIS PGENAM PATITUR. No one suffers punishment on account of his thoughts. Tray. Lat. Max. 362.

NEMO COGITUR REM SUAM VENDERE, ETIAM JUSTO PRETIO. No man is compelled to sell his own property, even for a just price. 4 Inst. 275.

NEMO CONTRA FACTUM SUUM VENIRE POTEkur. No man can contravene or contradict his own deed. 2 Inst. 66. The principle of estoppel by deed. Best, Ev. p. 495, § 370.

NEMO DAMNUM FACIT, NISI QUI ID FECIT QUOD FACERE JUS NON HABET. No one is considered as doing damage, unless he who is doing what he has no right to do. Dig. 50, 17, 151.

NEMO DARE POTEkur QUOD NON HABET. No man can give that which he has not. Fleta, lib. 3, c. 15, 1 & 1189

NEMO DAT QUI NON HABET. He who hath not cannot give. Jenk. Cent. 250; Broom, Max. 499n; 6 C. B., N. S., 478.

NEMO DE DOMO SUA EXTRAHIT POTEST. No one can be dragged out of his own house. In other words, every man's house is his castle. Dig. 50, 17, 103.

NEMO DEBET ALIENA JACTURA LOCUPLETARI. No one ought to gain by another's loss. 2 Kent 336.

NEMO DEBET BIS PUNIRI PRO UNO DELICTO. No man ought to be punished twice for one offense. 4 Coke, 43a; 11 Coke, 59b. No man shall be placed in peril of legal penalties more than once upon the same accusation. Broom, Max. 348.

NEMO DEBET BIS VEXARI PRO EADEM CAUSA. No one should be twice harassed for the same cause. 2 Johns., N.Y., 182; 13 Johns., N.Y., 153.

NEMO DEBET BIS VEXARI [SI CONSTET CURÆ QUOD SIT] PRO UNA ET EADEM CAUSA. No man ought to be twice troubled or harassed if it appear to the court that it is) for one and the same cause. 5 Coke, 61a; 5 Pet. 61, 8 L.Ed. 25; 2 Mass. 355; 17 Mass. 425. No man can be sued a second time for the same cause of action, if once judgment has been rendered. See Broom, Max. 327, 348. No man can be held to bail a second time at the suit of the plaintiff for the same cause of action. 1 Chit. Archb. Pr. 476.

NEMO DEBET ESSE JUDEX IN PROPRIA CAUSA. No man ought to be a judge in his own cause. 12 Coke, 114a. A maxim derived from the civil law. Cod. 3, 5. Called a "fundamental rule of reason and of natural justice." Burrows, Sett. Cas. 194, 197.

NEMO DEBET IMMISCERE SE REI AD SE Nihil Pertinenti. No one should meddle with a thing that in no respect concerns him. Jenk. Cent. p. 18, case 32.

NEMO DEBET IN COMMUNIONE INVITUS TENERI. No one should be retained in a partnership against his will. Selden v. Vermilya, 2 Sand., N.Y., 568, 593; United Ins. Co. v. Scott, 1 Johns., N.Y., 106, 114.

NEMO DEBET LOCUPLETARI ALIENA JACTURA. No one ought to be enriched by another's loss. Dig. 6, 1, 48, 65; 2 Kent, Comm. 336; 1 Kames, Eq. 331.

NEMO DEBET LOCUPLETARI EX ALTERIUS INCOMMODO. No one ought to be made rich out of another's loss. Jenk. Cent. 4; Taylor v. Baldwin, 10 Barb., N.Y., 626, 633.

NEMO DEBET REM SUAM SINE FACTO AUT DEFECTU SUO AMITERE. No man ought to lose his property without his own act or default. Co. Litt. 263d.

NEMO DUOBUS UTATUR OFFICIS. 4 Inst. 100. No one should hold two offices, i. e., at the same time.
NEMO EJUSDEM

NEMO EJUSDEM TENEMENTI SIMUL POTEST ESSE HÆRES ET DOMINUS. No one can at the same time be the heir and the owner of the same tenement. See 1 Reeve, Eng. Law, 106.

NEMO ENIM ALIQUAM PARTEM RECTE INTELLEGERE POSSIT ANTEQUAM TOTUM ITERUM ATQUE ITERUM PERLEGERIT. No one is able rightly to understand one part before he has again and again read through the whole. Broom, Max. 593.

NEMO EST HÆRES VIVENTIS. No one is the heir of a living person. Co. Litt. 8a, 22b. No one can be heir during the life of his ancestor. Broom, Max. 522, 523; 99 Mass. 456; 118 Mass. 345. No person can be the actual complete heir of another till the ancestor is previously dead. 2 Bl. Comm. 208.

NEMO EST SUPRA LEGES. No one is above the law. Lofft, 142.

NEMO EX ALTERIUS FACTO PRÆGRAVARI DEBET. No man ought to be burdened in consequence of another's act. 2 Kent, Comm. 466.

NEMO EX CONSILIO OBLIGATUR. No man is bound in consequence of his advice. Mere advice will not create the obligation of a mandate. Story, Bailm. 155.

NEMO EX DOLO SUO PROPRIO RELEVETUR, AUT AUXILIUM CAPIT. Let no one be relieved or gain an advantage by his own fraud. A civil law maxim.

NEMO EX PROPRIO DOLO SEQUALITUR ACTIONEM. No one maintains an action arising out of his own wrong. Broom, Max. 297.

NEMO EX SUO DELICTO MELIOREM SUAM CONDITIONEM FACERE POTEST. No one can make his condition better by his own misdeed. Dig. 50, 17, 134, 1.

NEMO IN PROPIA CAUSA TESTIS ESSE DEBET. No one ought to be a witness in his own cause. 3 Bl. Comm. 371.

NEMO INAUDITUS CONDEMNARI DEBET SI NON SIT CONTUMAX. No man ought to be condemned without being heard unless he be contumacious. Jenk. Cent. p. 18, case 12, in marg.

NEMO JUS SIBI DICERE POTEST. No one can declare the law for himself. No one is entitled to take the law into his own hands. Tray. Lat. Max. 366.

NEMO MILITANS DEO IMPLICETUR SECULARIBUS NEGOTII. No man who is warring for (in the service of) God should be involved in secular matters. Co. Litt. 70b. A principle of the old law that men of religion were not bound to go in person with the king to war.

NEMO NASCITUR ARTIFICEX. Co. Litt. 97. No one is born an artificer.

NEMO PATRIAM IN QUA NATUS EST EXUERE, NEC LIGEANTIS DEBITUM EJURARE POSSIT. No man can renounce the country in which he was born, nor abjure the obligation of his allegiance. Co. Litt. 159a; Broom, Max. 75; Fost. Cr. Law, 194.

NEMO PLUS COMMODI HÆREDI SUO RELINQUIT QUAM IPSE HABUIT. No one leaves a greater benefit to his heir than he had himself. Dig. 50, 17, 120.

NEMO PLUS JURIS AD ALIUM TRANSFERRE POTEST QUAM IPSE HABET. No one can transfer more right to another than he has himself. Dig. 50, 17, 54; Broom, Max. 467, 469; 2 Kent 324; 5 Co. 113; 10 Pet. 161, 175, 9 L.Ed. 382.

NEMO POTEST CONTRA RECORDUM VERIFICARE PER PATRIAM. No one can verify by the country against a record. 2 Inst. 380. The issue upon matter of record cannot be to the jury. A maxim of old practice.

NEMO POTEST ESSE DOMINUS ET HÆRES. No man can be both owner and heir. Hale, Com. Law, c. 7.

NEMO POTEST ESSE SIMUL ACTOR ET JUDEX. No one can be at once suitor and judge. Broom, Max. 117.

NEMO POTEST ESSE TENENS ET DOMINUS. No man can be both tenant and lord [of the same tenement.] Gilb. Ten. 142.

NEMO POTEST EXUERE PATRIAM. No man can renounce his own country. 18 L. Q. R. 51.

NEMO POTEST FACERE PER ALIUM QUOD PER SE NON POTEST. No one can do that by another which he cannot do of himself. Jenk. Cent. p. 237, case 14. A rule said to hold in original grants, but not in descendents; as where an office descended to a woman, in which case, though she could not exercise the office in person, she might by deputy. Id.

NEMO POTEST FACERE PER OBLIQUUM QUOD NON POTEST FACERE PER DIRECTUM. No man can do that indirectly which he cannot do directly. 1 Eden, 512.

NEMO POTEST MUTARE CONSIGLII SUUM IN ALTERIUS INJURIAM. No man can change his purpose to another's injury. Dig. 50, 17, 75; Broom, Max. 34.

NEMO POTEST nisi QUOD DE JURE POTEST. No one is able to do a thing, unless he can do it lawfully. 67 Ill.App. 80.

NEMO POTEST PLUS JURIS AD ALIUM TRANSFERRE QUAM IPSE HABET. Co. Litt. 309; Wing. Max. 56. No one can transfer a greater right to another than he himself has.

NEMO POTEST SIBI DEBERE. No one can owe to himself.

NEMO PRÆSENS NISI INTELLIGAT. One is not present unless he understands.
NEPOTISM

NEPOTISM ALIENAM POSTERITATEM SECVPS PRÆTULISES. No man is presumed to have preferred another’s posterity to his own. Wing. Max. p. 283, max. 75.


NEPOTISM ESSE IMMEMOR SUÆ ÆTERNE SALUTIS ET MAXIME IN ARTICULO MORTIS. 6 Coke, 76. No one is presumed to be forgetful of his own eternal welfare, and particularly at the point of death.

NEPOTISM LUDERE IN EXTREMIS. No one is presumed to trifle at the point of death.

NEPOTISM MALUS. No one is presumed to be bad.

NEPOTISM PLURES NEGOTIATIONES SIVE ARTES EXERCERE. No one is prohibited from following several kinds of business or several arts. 11 Coke, 51a. The common law does not prohibit any person from using several arts or mysteries at his pleasure. Id.

NEPOTISM PROHIBITIBUS DEFENSIONIBUS UTI. Co. Litt. 304b. No one is prohibited from making use of several defenses.

NEPOTISM PRUDENTIS PUNITUR UT PRÆTERITA REVOCENTUR, SED UT FUTURA PREVENIANTUR. No wise man punishes in order that past things may be recalled, but that future wrongs may be prevented. 2 Bulst. 173.

NEPOTISM PRO ALIENO DELICTO. Wing. Max. 336. No one is punished for another’s wrong.

NEPOTISM SINE INJURIA, FACTO, SEU DEFAELTA. No one is punished unless for some wrong, act, or default. 2 Inst. 287.

NEPOTISM QUI CONDEMNAVIT POTEST, ABSOLVERE NON POTEST. No one who may condemn is unable to acquit. Dig. 50, 17, 37.

NEPOTISM SI SI JUDEX VEL SUIS JUS DICERE DEBET. No man ought to be his own judge, or to administer justice in cases where his relations are concerned. 12 Co. 113; Cod. 3, 5, 1; Broom, Max. 116, 124.

NEPOTISM SINE ACTIONE EXPETITUR, ET HOC NON SINE BREVE SIVE LIBELLO CONVENTIONALI. No one goes to law without an action, and no one can bring an action without a writ or bill. Bract. fol. 112.

NEPOTISM SUNT AD IMPOSSIBLE. No one is bound to an impossibility. Jenk. Cent. 7; Broom, Max. 244.

NEPOTISM ARMARE ADVERSARIUM CONTRA SE. Wing. Max. 663. No one is bound to arm his adversary against himself.

NEPOTISM DIVINARE. No man is bound to divine, or to have foreknowledge of, a future event. 10 Coke, 55a.

NEPOTISM EDERE INSTRUMENTA CONTRA SE. No man is bound to produce writings against himself. A rule of the Roman law, adhered to in criminal prosecutions, but departed from in civil questions. Bell.

NEPOTISM INFORMARE QUI NESCIT, ED QUISQUIS SCIRE QUOD INFORMAT. Branch, Princ. No one is bound to give information about things he is ignorant of, but every one is bound to know that which he gives information about.

NEPOTISM JURARE IN SUAM TURPITUDINEM. No one is bound to swear to the fact of his own criminality; no one can be forced to give his own oath in evidence of his guilt. Bell; Halk. 100.

NEPOTISM PRODERE SEIPSAM. No one is bound to betray himself. In other words, no one can be compelled to criminate himself. Broom, Max. 968.

NEPOTISM SEIPSAM ACCUSARE. Wing. Max. 486. No one is bound to accuse himself; 14 M. & W. 286; 107 Mass. 181.

NEPOTISM SEIPSAM INFORTUNIS ET PERICULIS EXPONERE. No one is bound to expose himself to misfortunes and dangers. Co. Litt. 253b.

NEPOTISM SEIPSAM PRODERE. No one is bound to betray himself. 10 N.Y. 10; 7 How. Prac, N.Y., 57, 58; Broom, Max. 968.

NEPOTISM UNQUAM JUDICET IN SE. No one can ever be a judge in his own cause.

NEPOTISM UNQUAM VIR MAGNUS FUIT, SINE ALIQUO DIVINO AFFLATU. No one was ever a great man without some divine inspiration. Cicero.

NEPOTISM VIDEI TUR FRAUDARE EOS QUI SCIUNT ET CONSENTIUNT. No one seems (is supposed) to defraud those who know and assent to his acts.] Dig. 50, 17, 145.

NEPOTISM. L. Fr. Not. Litt. § 3.

NEPHEW. In legal usage only children of brothers and sisters are called "nephews" and "nieces." Children of husband’s or wife’s brothers and sisters being so called only by courtesy. In re Lambert’s Estate, 105 Pa.Super. 348, 161 A. 596, 597.

The term, as used in wills and other documents, may include the children of half brothers and sisters and also grandnephews, if such be the apparent intention, but not the nephew of a husband or wife, and not (presumptively) a nephew who is illegitimate. Shephard v. Shephard, 57 Conn. 24, 17 A. 173; Lyon v. Lyon, 83 Me. 295, 34 A. 189; In re Logan, 131 N.Y. 456, 30 N.E. 485.

NEPOS. Lat. A grandson.

NEPOTISM. Bestowal of patronage by public officers in appointing others to positions by reason of blood or marital relationship to appointing authority. State ex rel. Robinson v. Keefe, 111 Fla. 701, 149 So. 633.
NEPTIS.  Lat.  A granddaughter; sometimes great-granddaughter.

NEPUOY.  In Scotch law, a grandson.  Skene.

NEQUE LEGES NEQUE SENATUS CONSULTA
ITA SCRIBI POSSUNT UT OMNIS CASUS QUI
QUANDOQUE IN SEDIRIUNT COMPREHEN-
DATUR; SED SUFICIT EA QUAE PLAERUM-
QUE ACCIDENT CONTINERI.  Means that nei-
ther laws nor acts of a parliament can be so writ-
ten as to include all actual or possible cases; it is
sufficient if they provide for those things which
frequently or ordinarily may happen.  State ex rel.
Dowling v. Butts, 111 Fla. 630, 149 So. 746, 757, 89
A.L.R. 946.

NERVINE.  A descriptive word meaning a nerve
tonic or a remedy for disorder of the nerves.  Rich-
mond Remedies Co. v. Dr. Miles Medical Co., C.C.
A.Mo., 16 F.2d 598, 601.

NERVOUSNESS.  A species of mental suffering.
Southern Ry. in Kentucky v. Owen, 156 Ky. 827,
162 S.W. 110, 111.

NET.  Clear of anything extraneous, with all de-
ductions, such as charges, expenses, discounts,
commissions, taxes, etc., made.  Cleveland v. Glas-

That which remains after deducting all charges
and outlay.  John Fink Agency v. Dougherty, 90

NET ASSETS.  A bookkeeping balance obtained
by subtracting company's liabilities from its gross
assets.  Commonwealth v. Union Trust Co. of

NET BALANCE.  The proceeds of sale, after de-
deducting expenses.  Evans v. Waln, 71 Pa. 69;
Mesorve v. Smith Bros., 56 Cal.App. 683, 206 P.
165.

NET EARNINGS.  See Earnings.

NET ESTATE.  Under estate tax statute the term
means that which is left of the gross estate after
the deduction of proper and lawful items in the
course of settlement.  United States Trust Co. of

NET INCOME.  Amount remaining after proper
current charges have been made against gross in-
come.  In re Matthews' Estate, 210 Wis. 109, 245
N.W. 122.

NET LEVEL ANNUAL PREMIUM.  An amount
which, if exacted from a group of policyholders
and increased by interest, will yield a sum suffi-
cient to satisfy all death claims.  The result is ge-
erally referred to as the "net" or "net level pre-
mium" of the policy.  Fox v. Mutual Ben. Life Ins.
Co., C.C.A.Mo., 107 F.2d 715, 718.

NET LOSS.  Any deficit from operations, plus any
shrinkage in value of plant investment.  War Min-
erals Relief Act March 2, 1919, § 5, 50 U.S.C.A. §
80 note; Act Feb. 13, 1929, c. 182, 45 Stat. 1166.
Ickes v. U.S. ex rel. Chestatee Pyrites & Chemi-
cal Corporation, D.C., 289 U.S. 510, 53 S.Ct. 700,
77 L.Ed. 1352.

NET PREMIUM.  In the business of life insur-
ance, this term is used to designate that portion of
the premium which is intended to meet the cost of
the insurance, both current and future; its amount
is calculated upon the basis of the mortality tables
and upon the assumption that the company will
receive a certain rate of interest upon all its as-
sets; it does not include the entire premium paid
by the assured, but does include a certain sum for
expenses.  Fuller v. Metropolitan L. Ins. Co., 70
Conn. 647, 41 A. 4.

NET PRICE.  The lowest price, after deducting
all discounts.

NET PROCEEDS.  Gross proceeds, less charges
which may be rightly deducted.  Pfueger v. United
States, 73 App.D.C. 364, 121 F.2d 732, 736.

NET PROFITS.  What remains after deducting
all liabilities, including capital stock, from present
value of all assets of corporation, or that which re-
 mains as clear gain of corporation, after deducting
from its income all expenses incurred and losses
sustained in the conduct and prosecution of its
business.  Guaranty Trust Co. of New York v.
F.Supp. 511, 517.

NET REVENUES.  Revenues remaining after pro-
ducing for the sinking fund, interest, and current
expenses of the plant.  City of Raymondville v. Mc-
Cann, Tex.Civ.App., 54 S.W.2d 1049, 1050.

NET SINGLE PREMIUM.  Aggregate of future
yearly costs of insurance, severally discounted to
age from which computation is made.  Magers v.
Northwestern Mut. Life Ins. Co., 348 Mo. 96, 152
S.W.2d 148, 152.

Premium which, if exacted from a group of pol-
icyholders and immediately invested at the as-
sumed rate of interest, will yield in the aggregate
a sum exactly sufficient to pay all death claims
as they mature providing the mortality rate is in
accord with the table used.  Fox v. Mutual Ben.

NET TONNAGE.  The cubic contents of the in-
terior of a vessel, when the spaces occupied by the
crew and by propelling machinery are deducted,
numbered in tons.  Kiessig v. San Diego County,

NET VALUE.  Accumulation of balances of past
net premiums not absorbed in carrying risk.  Fox
715, 718, 719.  Policy "reserve", Magers v. North-
western Mut. Life Ins. Co., 348 Mo. 96, 152 S.W.2d
148, 152, 153.

NET WEIGHT.  The weight of an article or col-
clection of articles, after deducting from the gross
weight the weight of the boxes, coverings, casks,
etc., containing the same.  The weight of an ani-
mal dressed for sale, after rejecting hide, offal,
etc.

NET WORTH.  Remainder after deduction of lia-
abilities from assets.  W. H. Miner, Inc. v. Peer-
less Equipment Co., C.C.A.II., 115 F.2d 650, 655.
NEITHER HOUSE OF PARLIAMENT. A name given to the English house of commons in the time of Henry VIII.

NEURASTHENIA. In medical jurisprudence, a condition of weakness or exhaustion of the general nervous system, giving rise to various forms of mental and bodily inefficiency.

NEUTRAL. In international law, indifferent; impartial; not engaged on either side; not taking an active part with either of the contending states. In an international war, the principal hostile powers are called "belligerents;" those actively co-operating with and assisting them, their "allies;" and those taking no part whatever, "neutrals."

NEUTRAL PROPERTY. Property which belongs to citizens of neutral powers, and is used, treated, and accompanied by proper insignia as such.

NEUTRALITY. The state of a nation which takes no part between two or more other nations at war. U. S. v. The Three Friends, 166 U.S. 1, 17 S.Ct. 495, 41 L.Ed. 897; O'Neill v. Central Leather Co., 87 N. J.L. 552, 94 A. 789, 790, L.R.A. 1917A. 276.

NEUTRALITY LAWS. Acts of congress which forbid the fitting out and equipping of armed vessels, or the enlisting of troops, for the aid of either of two belligerent powers with which the United States is at peace.

NEUTRALITY PROCLAMATION. A proclamation by the president of the United States, issued on the outbreak of a war between two powers with both of which the United States is at peace, announcing the neutrality of the United States and warning all citizens to refrain from any breach of the neutrality laws.

NEVER INDEBTED, PLEA OF. A species of traverse which occurs in actions of debt on simple contract, and is resorted to when the defendant means to deny in point of fact the existence of any express contract to the effect alleged in the declaration, or to deny the matters of fact from which such contract would by law be implied. Steph. Pl. 153, 156; Wharton.

NEW. As an element in numerous compound terms and phrases of the law, this word may denote novelty, the condition of being previously unknown or of recent or fresh origin, but ordinarily it is a purely relative term and is employed in contrasting the date, origin, or character of one thing with the corresponding attributes of another thing of the same kind or class.

Of New. See that title.

NEW ACQUISITION. An estate derived from any source other than descent, devise, or gift from father or mother or any relative in the paternal or maternal line. Webb v. Caldwell, 198 Ark. 331, 129 S.W.2d 691, 694, 122 A.L.R. 814.

NEW AND USEFUL. The phrase used in the patent laws to describe the two qualities of an invention or discovery which are essential to make it patentable, viz., novelty, or the condition of hav-
NEW

NEW TRIAL. See Trial.

NEW WORKS. In the civil law, a new work is understood every sort of office or other work which is newly commenced on any ground whatever. When the ancient form of work is changed, either by an addition being made to it or by some part of the ancient work being taken away, it is styled also a "new work." Civ.Code La. art. 856.

NEW YEAR'S DAY. The first day of January.

The 25th of March was the civil and legal New Year's Day, till the alteration of the style in 1752, when it was permanently fixed at the 1st of January. In Scotland the year begins by a proclamation, which bears date 27th of November, 1599, ordered thenceforth to commence in that kingdom on the 1st of January instead of the 25th of March. Enc.Lond.

NEWGATE. The name of a prison in London, said to have existed as early as 1207. For centuries the condition of the place was horrible, but it has been greatly improved since 1808.

NEWLY-DISCOVERED EVIDENCE. Evidence of a new and material fact, or new evidence in relation to a fact in issue, discovered by a party to a cause after the rendition of a verdict or judgment therein. Wynne v. Newman, 75 Va. 816; People v. Priori, 164 N.Y. 459, 58 N.E. 668. Testimony discovered after trial, not discoverable before trial by exercise of due diligence. Mode v. State, 169 Ark. 356, 275 S.W. 700, 701; State v. Blackwood, 163 Wash. 529, 175 P. 165, 169; Murphy v. Skelly, 101 N.J. Eq. 793, 138 A. 882, 884, any evidence newly discovered, whether the facts existed at the time of the trial or not. In re Wood, 140 Minn. 130, 167 N.W. 358, 359. For the requirements which such evidence must meet before a new trial will be granted, State v. Luttrell, 28 N.M. 393, 212 P. 739, 741; Sanchez v. State, 199 Ind. 235, 157 N.E. 1, 3; Gonirenki v. American Steel & Wire Co., 166 Conn. 1, 137 A. 26, 28.


Official Newspaper. One designated by a state or municipal legislative body, or agents empowered by them, in which the public acts, resolves, ordinances, and notices are required to be published. Albany County v. Chapin, 5 Wyo. 74, 37 P. 370.

NEXI. Lat. In Roman law, bound; bound persons. A term applied to such insolvent debtors as were delivered up to their creditors, by whom they might be held in bondage until their debts were discharged. Calvin.; Adams, Rom.Ant. 49.


Nearest or nearest, not in the sense of propinquity alone, as, for example, three persons on three chairs, one in the midst, those on each side of the middle one are equally near, each "next" to the middle one: but it signifies also order, or succession, or relation as well as propinquity. 37 L.J.Ch. 654; 3 Q.B. 723; Couch v. Turnpike Co., 4 Johns.Ch., N.Y., 26.

NEXT DEVISEE. Person to whom remainder is given by will. Young v. Robinson, 5 N.J.L. 689.

NEXT EVENTUAL ESTATE. Estate taking effect upon happening of the event terminating accumulation. In re Shupack's Estate, 158 Misc. 873, 287 N.Y.S. 184, 196.

NEXT FRIEND. One acting for benefit of infant, married woman, or other person not sui juris, without being regularly appointed guardian. In re Boulware's Will, 144 Misc. 235, 258 N.Y.S. 522.

"Next friend" or "prochein ami" is one admitted to court to prosecute for infant. Crawford v. Amusement Syndicate Co., Mo., 37 S.W.2d 581, 584.

NEXT OF KIN. In the law of descent and distribution, this term properly denotes the persons nearest of kindred to the decedent, that is, those who are most nearly related to him by blood; but it is sometimes construed to mean only those who are entitled to take under the statutes of distributions, and sometimes to include other persons. 2 Story, Eq.Jur. 1063; Barnett v. Egbertson, 92 N.J.Eq. 118, 11 A. 326, 327; Godfrey v. Epble, 100 Ohio St. 447, 126 N.E. 886, 11 A.L.R. 317; Close v. Benham, 97 Conn. 102, 115 A. 626, 627, 20 A.L.R. 351; Hamilton v. Erie R. Co., 219 N.Y. 343, 114 N.E. 399, 403, Ann.Cas.1918A, 928; Arnold v. O'Connor, 37 R.I. 557, 94 A. 145, L.R.A.1916C, 858; Mostenbocker v. Shawnee Gas & Electric Co., 49 Okl. 304, 135 P. 82, 83, L.R.A.1916B, 910. The words "next of kin," used simpliciter in a deed or will, mean, not nearest of kindred, but those relatives who share in the estate according to the statute of distributions, including those claiming per stirpes or by representation. Slosson v. Lynch, 43 Barb., N.Y., 147.

NEXT PRESENTATION. In the law of adownsons, the right of next presentation is the right to present to the first vacancy of a benefice.

NEXUM. Lat. In Roman law, in ancient times the nexum seems to have been a species of formal contract, involving a loan of money, and attended with peculiar consequences. Solemnisate with the "copper and balance." Later, it appears to have been used as a general term for any contract struck with those ceremonies, and hence to have included the special form of conveyance called "mancipatio." In a general sense it means the obligation or bond between contracting parties. Maine, Anc.Law, 305, et seq.; Hadl.Rom. Law, 247.

In Roman law, this word expressed the tie or obligation involved in the old conveyance by mancipatio; and came latterly to be used interchangeably with (but less frequently than) the word "obligatio" itself. Brown.

NICHILLS. In English practice, debts due to the exchequer which the sheriff could not levy, and as to which he returned nil. These sums were transcribed once a year by the clerk of the níchills, and sent to the treasurer's remembrancer's office, whence process was issued to recover the "nichill" debts. Both of these offices were abolished in 1833. Mozley & Whitley.
NICKNAME. A short name; one nicked or cut off for the sake of brevity, without conveying an idea of opprobrium, and frequently evincing the strongest affection or the most perfect familiarity. North Carolina Inst. v. Norwood, 45 N.C. 74.

NIDERLING, NIDERING, or NITHING. A vile, base person, or sluggard; chicken-hearted. Spelman.

NIECE. The daughter of one's brother or sister. Ambi. 514. Caps v. State, 87 Fla. 388, 100 So. 172, 173.

In legal usage only children of brothers and sisters are called "nephews" and "nieces;" children of husband's or wife's brothers and sisters being so called only by courtesy. In re Lambert's Estate, 100 Pa.Super. 348, 161 A. 596, 597.

NIEFEE. In old English law, a woman born in vassalage; a bondwoman.

NIENT. L. Fr. Nothing; not.

NIENT COMPRISE. Not comprised; not included. An exception taken to a petition because the thing desired is not contained in that deed or proceeding whereon the petition is founded. Tomlins.

NIENT CULPABLE. Not guilty. The name in law French of the general issue in tort or in a criminal action.

NIENT DEDIRE. To say nothing; to deny nothing; to suffer judgment by default.

NIENT LE FAIT. In pleading, not the deed; not his deed. The same as the plea of non est factum.

NIENT SEISI. In old pleading, not seised. The general plea in the writ of annuity. Crabb, Eng. Law, 424.

NIGER LIBER. See Liber Niger.

NIGHT. At common-law, that period between sunset and sunrise during which there is not daylight enough to discern a man's face. 1 Hale, P. C. 530; State v. Perkins, 342 Mo. 560, 116 S.W.2d 80, 81, 82.

The rule is often followed that "nighttime" begins thirty minutes after sunset and ends thirty minutes before sunrise. State v. Perkins, 342 Mo. 560, 116 S.W.2d 80, 82.

However, the limit of 9 p.m. to 6 a.m. has been fixed by statute, in England, as the period of night, in prosecutions for burglary and larceny. St. 24 & 25 Vict. c. 96, § 1; Brown. In American law, the common-law definition is still adhered to in some states, but in others "night" has been defined by statute. U. S. v. Lepper, D.C.N.Y., 288 F. 134, 137; Weatherred v. State, 101 Tex.Cr.R. 520, 276 S.W. 436, 437.

NIGHT MAGISTRATE. A constable of the night; the head of a watch-house.

NIGHT WALKERS. Described in the statute 5 Edw. III. c. 14, as persons who sleep by day and walk by night. Persons who prowl about at night, and are of a suspicious appearance and behavior. Persons whose habit is to be abroad at night for the purpose of committing some crime or nuisance or mischief or disturbing the peace; not now generally subject to the criminal laws except in respect to misdemeanors actually committed, or in the character of vagrants or suspicious persons. Thomas v. State, 55 Ala. 260, 261; State v. Dowers, 45 N.H. 543. In a narrower sense, a night walker is a prostitute who walks the streets at night for the purpose of soliciting men for lewd purposes. Stokes v. State, 92 Ala. 73, 9 So. 400, 25 Am.St.Rep. 22; People v. Berger, Gen.Sess., 169 N.Y.S. 319, 321.

NIGRUM NUNQUAM EXCEDERE DEBET RUBRUM. The black should never go beyond the red. [i.e., the text of a statute should never be read in a sense more comprehensive than the rubric, or title.] Tray. Lat. Max. 373.

NIHIL. Lat. Nothing. Often contracted to "nil." The word standing alone is the name of an abbreviated form of return to a writ made by a sheriff or constable, the fuller form of which would be "nihil est" or "nihil habet," according to circumstances.

NIHIL ALIUD POTEST REX QUOD QUOD DE JURE POTEST. 11 Coke, 74. The king can do nothing except what he can by law do.

NIHIL CAPIAT PER BREV. In practice, that he take nothing by his writ. The form of judgment against the plaintiff in an action, either in bar or in abatement. When the plaintiff has commenced his proceedings by bill, the judgment is nihil capiat per billam. Co.Litt. 363.

NIHIL CONSENSUI TAM CONTRARIUM EST QUAM VIS ATQUE METUS. Nothing is so opposed to consent as force and fear. Dig. 50, 17, 116.

NIHIL DAT QUI NON HABET. He gives nothing who has nothing.

NIHIL DE RE ACCRESCIT EI QUI NIHIL IN RE QUANDO JUS ACCRESCERET HABET. Co. Litt. 188. Nothing of a matter accrues to him who, when the right accrues, has nothing in that matter.

NIHIL DICIT. He says nothing.

This is the name of the judgment which may be taken as of course against a defendant who omits to plead or answer the plaintiff's declaration or complaint within the time limited. In some jurisdictions it is otherwise known as judgment "for want of a plea." Glider v. McIntyre, 29 Tex. 91; Falsen v. Housatonic R. Co., 63 Conn. 258, 27 A. 1117; Wilbur v. Maynard, 6 Colo. 482.

Judgment taken against party who withdraws his answer is judgment nihil dicit, which amounts to confession of cause of action stated, and carries with it, more strongly than judgment by default, admission of justice of plaintiff's case. Howe v. Central State Bank of Coleman, Tex. Civ.App., 297 S.W. 692, 694.

NIHIL DICUTUM QUOD NON DICTUM PRIUS. Nothing is said which was not said before. Said of a case where former arguments were repeated. Hardr. 464.
NIHIL

NIHIL EST. There is nothing. A form of return made by a sheriff when he has been unable to serve the writ.

"Although non est inventus is the more frequent return in such a case, yet it is by no means as full in answer to the command of the writ as is the return of nihil. That amounts to an averment that the defendant has nothing in the bailiwick, no dwelling-house, no family, no residence, and no personal presence to enable the officer to make the service required by the act of assembly. It is therefore a full answer to the exigency of the writ." Sherer v. Easton Bank, 33 Pa. 139.

NIHIL EST ENIM LIBERALE QUOD NON IDEM JUSTUM. For there is nothing generous which is not at the same time just. 2 Kent, Comm. 441, note a.

NIHIL MAGIS RATIONI CONSENTANEUM QUAM EODEM MODO QUODQUE DISSOLVERE QUO CONFLATUM EST. Nothing is more consonant to reason than that a thing should be dissolved or discharged in the same way in which it was created. Shep.Touch. 323.

NIHIL FACTIT ERROR NOMINIS CUM DE CORPO CONSTAT. 11 Coke, 21. An error as to a name is nothing when there is certainty as to the person.

NIHIL HABET. He has nothing. The name of a return made by a sheriff to a scire facias or other writ which he has been unable to serve on the defendant.

NIHIL HABET FORUM EX SCENA. The court has nothing to do with what is not before it. Bac.Max.

NIHIL IN LEGE INTOLERABILIS EST [QUAM] EANDEM REM DIVERSO JURE CENSERI. Nothing is more intolerable in law than that the same matter, thing, or case should be subject to different views of law. Applied to the difference of opinion entertained by different courts, as to the law of a particular case. 4 Coke 53a.

NIHIL INFRA REGNUM SUBDITOS MAGIS CONSERVAT IN TRANQUILITATE ET CONCORDIA QUAM DEBITA LEGUM ADMINISTRATIONE. Nothing preserves in tranquillity and concord those who are subjected to the same government better than a due administration of the laws. 2 Inst. 158.

NIHIL INIQUIUS QUAM AEQUITATEM NIMIS INTENDERE. Nothing is more unjust than to extend equity too far. Halk. 103.

NIHIL MAGIS JUSTUM EST QUAM QUOD NECSSARIIUM EST. Nothing is more just than that which is necessary. Dav.Ir.K.B. 12; Branch, Princ.

NIHIL NEQUAM EST PRÆSUMENDUM. Nothing wicked is to be presumed. 2 P.Wms. 583.

NIHIL PERFECTUM EST DUM ALIQUID RESSTAT AGENDUM. Nothing is perfect while anything remains to be done. 9 Coke, 9b.

NIHIL PETI POTEST ANTE ID TEMPS QU PER RERUM NATURAM PERSOLVI POSSIT. Nothing can be demanded before the time when, by the nature of things, it can be paid. Dig. 50, 17, 156.

NIHIL POSSUMUS CONTRA VERITATEM. We can do nothing against truth. Doct. & Stud. dial. 2, c. 6.

NIHIL PRÆSCRIBITUR NISI QUOD POSSIDETUR. There is no prescription for that which is not possessed. 5 Barn. & Ald. 277.

NIHIL QUOD EST CONTRA RATIONEM EST LICITUM. Nothing that is against reason is lawful. Co.Litt. 97b.

NIHIL QUOD EST INCONVENIENS EST LICI TUM. Nothing that is inconvenient is lawful. Co.Litt. 66a, 97b. A maxim very frequently quoted by Lord Coke, but to be taken in modern law with some qualification. Broom, Max. 186, 366.

NIHIL SIMUL INVENTUM EST ET PERFECTUM. Co.Litt. 230. Nothing is invented and perfected at the same moment.

NIHIL TAM CONVENIENS EST NATURALI AEQUITATI QUAM UNUMQUODQUE DISSOLVI EO LIGAMINE QUO LIGATUM EST. Nothing is so consonant to natural equity as that a thing should be dissolved by the same means by which it was bound. 2 Inst. 359; Broom, Max. 877.

NIHIL TAM CONVENIENS EST NATURALI AEQUITATI QUAM VOLUNTATEM DOMINI REM SUAM IN ALIUM TRANSFERRE RATAM HABERE. 1 Coke, 100. Nothing is so consonant to natural equity as to regard the intention of the owner in transferring his own property to another.

NIHIL TAM NATURALE EST, QUAM EO GENERE QUODQUE DISSOLVERE, QUO COLLIGATUM EST; IDEO VERBOBVM OBLIGATIO VERBIS TOLLITUR; NUDI CONSENSUS OBLIGATIO CONTRARIO CONSENSU DISSOLVITUR. Nothing is so natural as to dissolve anything in the way in which it was bound together; therefore the obligation of words is taken away by words; the obligation of mere consent is dissolved by the contrary consent. Dig. 50, 17, 35; Broom, Max. 887.

NIHIL TAM PROPRIUM IMPERIO QUAM LEGIBUS VIVERE. Nothing is so becoming to authority as to live in accordance with the laws. Fleta, lib. 1, c. 17, § 11.

NIHILIST. One advocating doctrine of nihilism. Webster. One devoted to the destruction of the present political, religious, and social institutions.

NIL. Lat. Nothing. A contracted form of "nihil," which see.

NIL AGIT EXEMPLUM LITEM QUOD LITE RESOLVIT. An example does no good which settles one question by another. Hatch v. Mann, 15 Wend. (N.Y.) 44, 49.
NIL CONSENSUI TAM CONTRARIUM EST QUAM VIS ATQUE METUS. Nothing is so opposed to consent as force and fear. Dig. 50, 17, 116.

NIL DEBET. He owes nothing. The form of the general issue in all actions of debt on simple contract.

NIL FACTIT ERROR NOMINIS CUM DE CORPORE VEL PERSONA CONSTAT. A mistake in the name does not matter when the body or person is manifest. 11 Coke, 21; Broom, Max. 634.

NIL HABUIT IN TENEMENTIS. He had nothing [no interest] in the tenements. A plea in debt on a lease indentured, by which the defendant sets up that the person claiming to be landlord had no title or interest.

NIL LIGATUM. Nothing bound; that is, no obligation has been incurred. Trey. Lat.Max.

NIL SINE PRUDENTI FECIT RATIONE VETUSTAS. Antiquity did nothing without a good reason. Co.Litt. 65.

NIL TEMERE NOVANDUM. Nothing should be rashly changed. Jenk.Cent. 163.

NIMIA CERTITUDO CERTITUDINEM IPSAM DESTRUIT. Too great certainty destroys certainty itself. Lofft, 244.

NIMIA SUBTLITAS IN JURE REPROBATORIUM. Wing.Max. 26. Too much subtlety in law is dis- countenanced.

NIMIUM ALTERCANDO VERITAS AMITTITUR. Hob. 344. By too much altercation truth is lost.

NIMMER. A thief; a pilferer.


NISI. Lat. Unless.

The word is often affixed, as a kind of elliptical expression, to the words “rule,” “order,” “decree,” “judgment,” or “confirmation,” to indicate that the adjudication spoken of is one which is to stand as valid and operative unless the party affected by it shall appear and show cause against it, or take some other appropriate step to avoid it or procure its revocation. Thus a “decree nisi” is one which will definitely conclude the defendant’s rights unless, within the prescribed time, he shows cause to set it aside or successfully appeals. The word, in this sense, is opposed to “absolute.” And when a rule nisi is finally confirmed, for the defendant’s failure to show cause against it, it is said to be “made absolute.”

NISI FECERIS. The name of a clause commonly occurring in the old manorial writs, commanding that, if the lords failed to do justice, the king’s court or officer should do it. By virtue of this clause, the king’s court usurped the jurisdiction of the private, manorial, or local courts. Stim. Law Gloss.

NISI PRIUS. The nisi prius courts are such as are held for the trial of issues of fact before a jury and one presiding judge. In America the phrase is familiarly used to denote the forum (whatever may be its statutory name) in which the cause was tried to a jury, as distinguished from the appointee court. See 3 Bl.Comm. 58.

NISI PRIUS CLAUSE. In practice, a clause entered on the record in an action at law, authorizing the trial of the cause at nisi prius in the particular county designated. It was first used by way of continuance.

NISI PRIUS ROLL. In practice, the roll or record containing the pleadings, issue, and jury process of an action, made up for use in the nisi prius court.

NISI PRIUS WRIT. The old name of the writ of venire, which originally, in pursuance of the statute of Westminster 2, contained the nisi prius clause. Reg.Jud. 28, 75. Cowell.

NIVICOLLINI BRITONES. In old English law, Welshmen, because they live near high mountains covered with snow. Du Cange.


NO AWARD. The name of a plea in an action on an award, by which the defendant traverses the allegation that an award was made.

NO BILL. This phrase, when indorsed by a grand jury on an indictment, is equivalent to “not found,” “not a true bill,” or “ignoramus.”

NO FUNDS. See Fund.

NO GOODS. This is the English equivalent of the Latin term “nulla bona,” being the form of the return made by a sheriff or constable, charged with an execution, when he has found no property of the debtor on which to levy.

NO MAN CAN HOLD THE SAME LAND IMMEDIATELY OF TWO SEVERAL LANDLORDS. Co.Litt. 152.

NO MAN IS PRESUMED TO DO ANYTHING AGAINST NATURE. 22 Vin.Abr. 154.

NO MAN MAY BE JUDGE IN HIS OWN CAUSE.

NO MAN SHALL SET UP HIS INFAMY AS A DEFENSE. 2 W.Bl. 364.


NO MAN SHALL TAKE BY DEED BUT PARTIES, UNLESS IN REMAINDER.

NO


NO RECURS. No access to; no return; no coming back upon; no assumption of any liability whatsoever; no looking to the party using the term for any reimbursement in case of loss or damage or failure of consideration in that which was the cause, the motive, the object, the undertaking or contract. Guardian Homestead Ass'n v. Mazerat, 182 La. 710, 162 So. 574.

NOBILE OFFICUM. In Scotch law, an equitable power of the court of session, to give relief when none is possible at law. Ersk.Inst. 1, 3, 22; Bell.

NOBILES MAGIS PLECTUNTUR PECUNIA; PLEBES VERO IN CORPORE. 3 Inst. 220. The higher classes are more punished in money; but the lower in person.

NOBILES SUNT, QUI ARMA GENTILITIA ANTECESSORUM SUORUM PROFERRE POSSUNT. 2 Inst. 593. The gentry are those who are able to produce armorial bearings derived by descent from their own ancestors.

NOBILIORES ET BENIGNiores PRÆSUMPTIONES IN DUBIS SUNT PRÆFERENDÆ. In cases of doubt, the more generous and more benign presumptions are to be preferred. A civil-law maxim.

NOBILITAS EST DUPLEX, SUPERIOR ET INFERIOR. 2 Inst. 583. There are two sorts of nobility, the higher and the lower.

NOBILITY. In English law, a division of the people, comprehending dukes, marquises, earls, viscounts, and barons.

These had ancienly duties annexed to their respective honors. They are created either by writ, i. e., by royal summons to attend the house of peers, or by letters patent, i. e., by royal grant of any dignity and degree of peerage; and they enjoy many privileges, exclusive of their senatorial capacity. 1 Bl.Comm. 396.


NOCTANTER. By night; an abolished writ which issued out of chancery, and returned to the queen's bench, for the prostration of inclosures, etc.

NOCTES and NOCTEM DE FIRMA. Entertainment of meat and drink for so many nights. Domesday.

NOCUMENTUM. Lat. In old English law, a nuisance. Nocumentum damnosum, a nuisance occasioning loss or damage. Nocumentum injuriuosum, an injurious nuisance. For the latter only a remedy was given. Bract. fol. 221.

NOLENS VOLENS. Lat. Whether willing or unwilling; consenting or not.


NOLLE PROSEQUI. Lat. In practice, a formal entry upon the record, by the plaintiff in a civil suit (Hewitt v. International Shoe Co., 110 Fla. 37, 148 So. 533, 536), or the prosecuting officer in a criminal action, (Commonwealth v. Shields, 89 Pa. Super. 265, 268) by which he declares that he “will no further prosecute” the case, either as to some of the counts, or some of the defendants, or altogether. State v. Primm, 61 Mo. 171; Com. v. Casey, 12 Allen, Mass., 214; Scheibler v. Steinburg, 129 Tenn. 614, 167 S.W. 866, Ann.Cas.1915D, 1162.

A nolle prosequi is in the nature of an acknowledgment or undertaking by the plaintiff in an action to forbear to proceed any further either in the action altogether, or as to some part of it, or as to some of the defendants; and is different from a non pros., by which the plaintiff is put out of court with respect to all the defendants. Brown.

NOLO CONTENDERIS. Lat. I will not contest it. The name of a plea in a criminal action, having the same legal effect as a plea of guilty, so far as regards all proceedings on the indictment, and on which the defendant may be sentenced. U. S. v. Hartwell, 3 Cliff. 221, F.Cas.No.15,318.


NOMEN. Lat. In the civil law, a name; the name, style, or designation of a person. Properly, the name showing to what genus or tribe he belonged, as distinguished from his own individual name, (the prænomen,) from his surname or family name, (cognomen,) and from any name added by way of a descriptive title, (agronymen.) The name or style of a class or genus of persons or objects. A debt or a debtor. Ainsworth; Calvin.

NOMEN COLLECTIVUM. A collective name or term; a term expressive of a class; a term including several of the same kind; a term expressive of the plural, as well as singular, number.

NOMEN EST QUASI REI NOTAMEN. A name is, as it were, the note of a thing. 11 Coke, 20.

NOMEN GENERALE. A general name; the name of a genus. Fleta, lib. 4, c. 19, § 1.

NOMEN GENERALISSIMUM. A name of the most general kind; a name or term of the most general meaning. By the name of “land,” which is nomen generalissimum, everything terrestrial will pass. 2 Bl.Comm. 19; 3 Bl.Comm. 172.

NOMEN JURIS. A name of the law; a technical legal term.

NOMEN NON SUFFICIT, SI RES NON SIT DE JURE AUT DE FACTO. A name is not sufficient if there be not a thing [or subject for it] de jure or de facto. 4 Coke, 107b.

NOMEN TRANSCRIPTITUM. See Nomina Transcriptitam.
NOMINA MUTABILIA SUNT, RES AUTEM IMMOBILES. Names are mutable, but things are immovable, [immutable.] A name may be true or false, or may change, but the thing itself always maintains its identity. 6 Coke, 66.

NOMINA SI NESCIS PERIT COGNITIO RERUM; ET NOMINA SI PERDAS, CERTE DISTINCTIO RERUM PERDITUR. Co.Litt. 86. If you know not the names of things, the knowledge of things themselves perishes; and, if you lose the names, the distinction of the things is certainly lost.

NOMINA SU T NOTÆ RERUM. 11 Coke, 20. Names are the notes of things.

NOMINA SU T SYMBO LA RERUM. Godb. Names are the symbols of things.

NOMINA TRANSCRIPTITIA. In Roman law, obligations contracted by literae (i. e., litteris obliga
tiones) were so called because they arose from a peculiar transfer (transcriptio) from the creditor's day-book (adversaria) into his ledger, (co
dex.)

NOMINA VILLARUM. In English law, an account of the names of all the villages and the pos
sessors thereof, in each county, drawn up by sev
eral sheriffs, (9 Edw. II,) and returned by them into the exchequer, where it is still preserved. Wharton.

NOMINAL. Titular; existing in name only; not real or substantial; connected with the transaction or proceeding in name only, not in interest. Park Amusement Co. v. McCaughn, D.C.Pa., 14 F.2d 553, 556; not real or actual; merely named, stated, or given, without reference to actual conditions; often with the implication that the thing named is so small, slight, or the like, in comparison to what might properly be expected, as scarcely to be entitled to the name; a nominal price. Lehman v. Talt, C.C.A.Md., 58 F.2d 20, 23.

NOMINAL CAPITAL. Very small or negligible capital, whose use in particular business is inciden
tial. Strayer's Business College v. Commissioner of Internal Revenue, C.C.A.4, 35 F.2d 426, 429. Capital in name only and which is not substantial; not real or actual; merely named, stated, or given, without reference to actual conditions. Feeders' Supply Co. v. Commissioner of Internal Revenue, C.C.A.8, 31 F.2d 274, 276.

NOMINAL CONSIDERATION. See Consideration.

NOMINAL DAMAGES. See Damages.

NOMINAL DEFENDANT. A person who is joined as defendant in an action, not because he is im
mEDIATELY liable in damages or because any specific relief is demanded against him, but because his connection with the subject-matter is such that the plaintiff's action would be defective, under the technical rules of practice, if he were not joined.

NOMINAL PARTNER. A person who appears to be a partner in a firm, or is so represented to persons dealing with the firm, or who allows his name to appear in the style of the firm or to be used in its business, in the character of a partner, but who has no actual interest in the firm or business. Story, Partn. § 80.

NOMINAL PARTY. Those who are joined as parties or defendants merely because the technical rules of pleading require their presence in the record. Yellow Cab & Baggage Co. v. Smith, Tex.Civ. App., 30 S.W.2d 687, 702. Those having no interest in immediate controversy, but having interest in subject-matter which may be conveniently settled in suit. Medico v. Employers' Liability Assur. Corporation, 132 Me. 422, 172 A. 1. 3.

NOMINAL PLAINTIFF. One who has no interest in the subject-matter of the action, having assigned the same to another, (the real plaintiff in interest, or "use plaintiff," ) but who must be joined as plaintiff, because, under technical rules of practice, the suit cannot be brought directly in the name of the assignee.

NOMINATE. To name, designate by name, or ap
point. Wilson v. Stump, 310 Mass. 614, 39 N.E.2d 416, 418; to name, designate, or propose for elec
tion or appointment. State ex rel. Pittman v. Backer, 113 Fla. 685, 152 So. 682, 683, 94 A.L.R. 1481, for an office, a privilege, a living, etc.

NOMINATE CONTRACTS. In the civil law, con
tracts having a proper or peculiar name and form, and which were divided into four kinds, expressive of the ways in which they were formed, viz.: (1) Real, which arose ex re, from something done; (2) verbal, ex verbis, from something said; (3) literal, ex litteris, from something written; and (4) consensual, ex consensus, from something agreed to. Calvin.

NOMINATIM. Lat. By name; expressed one by one.

NOMINATING AND REDUCING. A mode of ob	aining a panel of special jurors in England, from which to select the jury to try a particular action.

The proceeding takes place before the under-sheriff or secondary, and in the presence of the parties' solicitors. Numbers denoting the persons on the sheriff's list are put into a box and drawn until forty-eight unchallenged pe
rsons have been nominated. Each party strikes off twelve, and the remaining twenty-four are returned as the "pan
el." (q. v.). This practice is now only employed by order of the court or judge. (Sm.Ac. 130; Juries Act 1870, § 17.) Sweet.

NOMINATIO AUCTORIS. Lat. In Roman law, a form of plea or defense in an action for the recov
ery of real estate, by which the defendant, sued as the person apparently in possession, alleges that he holds only in the name or for the benefit of an
other, whose name he discloses by the plea, in orde
r that the plaintiff may bring his action against such other. Mackeld. Rom.Law, § 297.

NOMINATION. An appointment or designation of a person to fill an office or discharge a duty. The act of suggesting or proposing a person by name as a candidate for an office.

NOMINATION PAPER. A paper used for selec
tion of candidates by a political body which is not
NOMINATION

a political party and is not entitled to use a “nomina-

NOMINATION TO A LIVING. In English ec-
clesiastical law, the rights of nominating and of pre-
senting to a living are distinct, and may reside
in different persons. Presentation is the offering a
clerk to the bishop. Nomination is the offering a
clerk to the person who has the right of presenta-

NOMINATIVUS PENDENS. Lat. A nominative
case grammatically unconnected with the rest of
the sentence in which it stands. The opening
words in the ordinary form of a deed inter partes,
“This indenture,” etc., down to “whereas,” though
an intelligible and convenient part of the deed, are
of this kind. Wharton.

NOMINE. Lat. By name; by the name of; un-
der the name or designation of.

NOMINE PENÆ. In the name of a penalty.

In the civil law, a legacy was said to be left nomi-
nee penæ where it was left for the purpose of coercing the heir
to do or not to do something. Inst. 2, 20, 36.

The term has also been applied, in English law, to some
kinds of covenants, such as a covenant inserted in a lease
that the lessee shall forfeit a certain sum on non-payment
of rent, or on doing certain things, as plowing up ancient
meadow, and the like. 1 Crabb, Real Prop. p. 171, § 155.

NOMINEE. One who has been nominated or pro-
posed for an office.

One designated to act for another as his represen-
tative in a rather limited sense. It is used
sometimes to signify an agent or trustee. It has
no connotation, however, other than that of acting
for another, in representation of another, or as the
grantee of another. Schuyl Trading Co. v. Com-
misyoner of Internal Revenue, C.C.A.7, 95 F.2d
404, 411.

NOMOCANON. (1) A collection of canons and
imperial laws relative or conformable thereto.
The first nomocanon was made by Johannes Schol-
staticus in 554. Photius, patriarch of Constan-
tinople, in 883, compiled another nomocanon, or col-
lation of the civil laws with the canons; this is the
most celebrated. Balsamon wrote a commentary
upon it in 1180. (2) A collection of the ancient
kanons of the apostles, councils, and fathers, with-
out regard to imperial constitutions. Such is the
nomocanon by M. Cotelier. Enc. Lond.

NOMOGRAPHER. One who writes on the subject
of laws.

NOMOGRAPHY. A treatise or description of
laws.

NOMOTHEA. A lawgiver; such as Solon and
Lycurgus among the Greeks, and Cesar, Pompey,
and Sylla among the Romans. Calvin.

NON. Lat. Not. The common prefix of negation.
Geronime v. German Roman Catholic Aid Ass'n of
America, 127 Minn. 247, 149 N.W. 291, 292.

NON ACCEPTAVIT. In pleading, the name of a
plea to an action of assumpsit brought against the
drawee of a bill of exchange by which he denies
that he accepted the same.

NON ACCIPIT DEBERENT VERRA IN DEMONSTRA-
TIONEM FALSAM, QUÆ COMPETUNT IN LIMITA-
TIONEM VERAM. Words ought not to be
taken to import a false demonstration which may
have effect by way of true limitation. Bac.Max. p.
59, reg. 13; Broom, Max. 642.

NON ACCREVIT INFRA SEX ANNOS. It did
not accrue within six years. The name of a plea
by which the defendant sets up the statute of limi-
tations against a cause of action which is barred
after six years.

NON ALIUS MODO PUNIATUR ALIQUIS QUAM
SECUNDUM QUOD SE HABET CONDEPEND.
3 Inst. 217. A person may not be punished differ-
ently than according to what the sentence enjoins.

NON ALTER A SIGNIFICATIONE VERBORUM
RECEDI OPORTET QUAM CUM MANIFESTUM
EST, ALIUD SENSISSE TESTATOREM. We
must never depart from the signification of words,
unless it is evident that they are not conformable
to the will of the testator. Dig. 32, 69, pr.; Broom,
Max. 568.

NOM INE PENÆ. In the name of a penalty.

NON ASSUMPSIT. The general issue in the ac-
tion of assumpsit; being a plea by which the de-
fendant avers that “he did not undertake” or
promise as alleged. Standard Fashion Co. v. Mor-
gan, 48 Okl. 217, 149 P. 1160.

NON ASSUMPTA INFRA SEX ANNOS. He did
not undertake within six years. The name of the
plea of the statute of limitations, in the action of
assumpsit.

NON AUDITUR PERIRE VOLENS. He who is
desirous to perish is not heard. Best, Ev. 423, §
385. He who confesses himself guilty of a crime,
with the view of meeting death, will not be heard.
A maxim of the foreign law of evidence. Id.

NON BIS IN IDEM. Not twice for the same;
that is, a man shall not be twice tried for the same
crime. This maxim of the civil law (Code 9, 2, 9,
11) expresses the same principle as the familiar
rule of our law that a man shall not be twice “put
in jeopardy” for the same offense.

NON CEPI. He did not take. The general issue
in replevin, where the action is for the wrongful
taking of the property; putting in issue not only
the taking, but the place in which the taking is
stated to have been made. Steph.Pl. 137, 167.

NON COMPOS MENTIS. Lat. Not sound of
mind; insane. This is a very general term, em-
bracing all varieties of mental derangement. See
Insanity.

Coke has enumerated four different classes of persons
who are deemed in law to be non compos mentis: First,
an idiot, or fool natural; second, he who was of good and
sound mind and memory, but by the act of God has lost it;
third, a lunatic, lunaticus qui paediis intendit, who
sometimes is of good sound mind and memory, and
sometimes non compos mentis; fourth, one who is non
compos mentis by his own act, as a drunkard, Co.Litt.
247a; 4 Coke, 124.

1200
NON CONCEDANTUR CITATIONES PRIUS quam exprimatur super qua re fieri debet citatio. 12 Coke, 47. Summons should not be granted before it is expressed on what matter the summons ought to be made.

NON CONCESSIT. Lat. He did not grant. The name of a plea denying a grant, which could be made only by a stranger.

NON CONSENTIT QUI ERRAT. Bract. fol. 44. He who mistakes does not consent.

NON CONSTAT. Lat. It does not appear; it is not clear or evident. A phrase used in general to state some conclusion as not necessarily following although it may appear on its face to follow.

NON CULPABILIS. Lat. In pleading, not guilty. It is usually abbreviated "non cul."

NON DAMNIFICATUS. Lat. Not injured.
This is a plea in an action of debt on an indemnity bond, or bond conditioned "to keep the plaintiff harmless and indemnified," etc. It is in the nature of a plea of performance, being used where the defendant means to allege that the plaintiff has been kept harmless and indemnified, according to the tenor of the condition. Steph. Pl., 7th Ed., 300, 301. State Bank v. Chetwood, 8 N.J.L. 25.

NON DAT QUI NON HABET. He who has not does not give. Lofft, 258; Broom, Max. 467.

NON DEBEO MELIORIS CONDITIONIS ESSE, QUAM AUCTOR MEUS A QUO JUS IN ME TRANSIT. I ought not to be in better condition than he to whose rights I succeed. Dig. 50, 17, 175, 1.

NON DEBERAT ALIUS NOCERE QUOD INTER ALIOS ACTUM ESSET. No one ought to be injured by that which has taken place between other parties. Dig. 12, 2, 10.

NON DEBET ACTORI LICERE QUOD REO NON PERMITTITUR. A plaintiff ought not to be allowed what is not permitted to a defendant. A rule of the civil law. Dig. 50, 17, 41.

NON DEBET ADDUCI EXCEPTIO EIJUS REI CUIUS PETITUR DISSOLUTIO. A plea of the same matter the dissolution of which is sought [by the action] ought not to be brought forward. Broom, Max. 166.

NON DEBET ALIUS NOCERE, QUOD INTER ALIOS ACTUM EST. A person ought not to be prejudiced by what has been done between others. Dig. 12, 2, 10.

NON DEBET ALTERI PER ALTERUM INQUA CONDITIO INFERRIRI. A burdensome condition ought not to be brought upon one man by the act of another. Dig. 50, 17, 74.

NON DEBET CUI PLUS LICET, QUOD MINUS EST NON LICERE. He to whom the greater is lawful ought not to be debarred from the less as unlawful. Dig. 50, 17, 21; Broom, Max. 176.

NON DEBET DICERE IN PRÆJUDICIO ECCLESIASTICI LIBERATATIS QUOD PRO REGE ET REPUBLICA NECESSARIUM VIDEATUR. 2 Inst. 625. That which seems necessary for the king and the state ought not to be said to tend to the prejudice of spiritual liberty.

NON DECET HOMINES DEDEERE CAUSA NON COGNITA. It is unbecoming to surrender men when no cause is shown. In re Washburn, 4 Johns.Ch., N.Y., 106, 114, 8 Am.Dec. 548; Id., 3 Wheeler, Cr.Cas., N.Y., 473, 482.

NON DECIMANDO. See De Non Decimando.

NON DECIPITUR QUI SIT 3E DECIPIL. 5 Coke, 60. He is not deceived who knows himself to be deceived.

NON DEDIT. Lat. In pleading, he did not grant. The general issue in formedon.

NON DEFINITUR IN JURE QUID SIT CONATUS. What an attempt is, is not defined in law, 6 Co. 43. See Attempt.

NON DEMISIT. Lat. He did not demit.
A plea proper to be pleaded to an action of debt for rent, when the plaintiff declares on a parol lease. Glib. Debt 436; Bull.N.P. 177; 1 Chitty, Pl. 477. A plea in bar, in replevin, to an awarrant for arrears of rent, that the awarrant did not demit. Morris. Rep. 179. It cannot be pleaded when the demise is stated to have been by indenture. 12 Viner, Abr. 178; Com.Dig. Pleader (2 W 49).

NON DETINET. Lat. He does not detain.
The name of the general issue in the action of detinue, 1 Tidd., Pr. 645; Berlin Mach. Works v. Alabama City Furniture Co., 112 Ala. 488, 20 So. 418.
The general issue in the action of replevin, where the action is for the wrongful detention only. 2 Burrell, Pr. 14.

NON DIFFERUNT QUÆ CONCORDANT RE, TAMETSI NON IN VERBIS ISDEM. Those things do not differ which agree in substance, though not in the same words. Jenk.Cent, p. 70, case 32.

NON DIMITIT. L. Lat. He did not demit.
A plea resorted to where a plaintiff declared upon a demise without stating the indenture in an action of debt for rent. Also, a plea in bar, in replevin, to an awarrant for arrears of rent, that the awarrant did not demit.

NON DISTRINGENDO. A writ not to drain.

NON DUBITATUR, ETSI SPECIALITER VENDITOR EVICITIONEM NON PROMISERIT, RE EVICTA, EX EMPTO COMPETERE ACTIONEM. It is certain that, although the vendor has not given a special guaranty, an action ex empto lies against him, if the purchaser is evicted. Code, 8, 45, 6; Broom, Max. 763.

NON EFFICIT AFFECTUS NISI SEQUATUR EFFECTUS. The intention amounts to nothing unless the effect follow. 1 Rolle, 226.

NON ERIT ALIA LEX ROME, ALIA ATLENIS; ALIA NUNC, ALIA POSTHAC; SED ET OMNES GENTES, ET OMNI TEMPORE, UNA LEX, ET SEMPESTINA, ET IMMORTALIS CONTINEBIT. There will not be one law at Rome, another at
NON EST

Athens: one law now, another hereafter; but one eternal and immortal law shall bind together all nations throughout all time. Cíc. Frag. de Repub. lib. 3; 2 Kent, Comm. 1.

NON EST ARCTUS VINCULUM INTER HOMINES QUAM JUSTITIA. There is no closer (or firmer) bond between men than an oath. Jenk. Cent. p. 126, case 54.

NON EST CERTANDUM DE REGULIS JURIS. There is no disputing about rules of law.

NON EST CONSONUM RATIONI, QUOD COGNITIO ACCESSORII IN CURIA CHRISTIANITATIS IMPEDIATUR, UBI COGNITIO CAUSÆ PRINCIPALIS AD FORUM ECCLESIASTICUM NOSCITUR PERTINERE. 12 Coke, 65. It is unreasonable that the cognizance of an accessory matter should be impeded in an ecclesiastical court, when the cognizance of the principal cause is admitted to appertain to an ecclesiastical court.

NON EST DISPUTANDUM CONTRA PRINCIPIA NEGANTEM. Co. Litt. 34. We cannot dispute against a man who denies first principles.

NON EST FACTUM. Lat. A plea denying execution of instrument sued on, Blair v. Lockwood, 226 Ky. 412, 11 S.W.2d 107, 109.

A plea by way of traverse, which occurs in debt on bond or other specialty, and also in covenant. It denies that the deed mentioned in the declaration is the defendant’s deed. Under this, the defendant may contend at the trial that the deed was never executed in point of fact; but he cannot deny its validity in point of law. Wharton; Haggart v. Morgan, 5 N.Y. 422, 55 Am. Dec. 350; Evans v. Southern Turnpike Co., 18 Ind. 103.

The plea of non est factum is a denial of the execution of the instrument sued upon, and applies to notes or other instruments, as well as deeds, and applies only when the execution of the instrument is alleged to be the act of the party filing the plea, or adopted by him. Code Ga.1882, § 3472 (Civ. Code 1910, § 5676).

Special Non Est Factum. A form of the plea of non est factum, in debt on a specialty, by which the defendant alleges that, although he executed the deed, yet it is in law “not his deed,” because of certain special circumstances which he proceeds to set out; as, where he delivered the deed as an escrow, and it was turned over to the plaintiff prematurely or without performance of the condition.

NON EST INVENTUS. Lat. He is not found. The sheriff’s return to process requiring him to arrest the body of the defendant, when the latter is not found within his jurisdiction. It is often abbreviated, “n. e. i.,” or written, in English, “not found.” The Bremen v. Card, D.C.Wash., 38 F. 144.

NON EST JUSTUM ALIQUAM ANTEMATUM POSTERIOREM FACERE BASTARDUM QUITI TEMPORIS VITÆ SUÆ PRO LEGITIMO HABEBATUR. It is not just to make an elder-born a bastard after his death, who during his lifetime was accounted legitimate. 12 Coke, 44.

NON EST NOVUM UT PRIORES LEGES AD POSTERIORES TRAHANTUR. It is no new thing that prior statutes should give place to later ones. Dig. 1, 3, 36; Broom, Max. 28.

NON EST RECEDENDUM A COMMUNI OBSERVANTIA. There should be no departure from a common observance. 2 Co. 74.

NON EST REGULA QUIN FALLET. There is no rule but what may fail. Off. Exec. 212.

NON EST REUS NISI MENS SIT REA. One is not guilty unless his intention be guilty. Chisholm v. Chisholm, 105 Fla. 402, 141 So. 302, 303. This maxim is much criticised. See actus non reus facit; et; Mens Rea.

NON EST SINGULUS CONCEDENDUM, QUOD PER MAGISTRATUM PUBLICE POSSIT FIERI, NE OCCASIO SIT MAJORIS TUMULTUS FACIENDI. That is not to be conceded to private persons which can be publicly done by the magistrate, lest it be the occasion of greater tumults. Dig. 50, 17, 176.

NON EX OPINIONIBUS SINGULARUM, SED EX COMMUNI USI, NOMINA EXAUDIRI DEBERUNT. The names of things ought to be understood, not according to the opinions of individuals, but according to common usage. Dig. 33, 10, 7, 2.

NON EXEMPLIS SED LEGIBUS JUDICANDUM EST. Not by the facts of the case, but by the law must judgment be made. Dig. 7, 45, 13. (called by Albericus Gentilis lex aurea).

NON FACIAS MALUM, UT INDE FIAT BONUM. You are not to do evil, that good may be or result therefrom. 11 Coke, 74a; 5 Coke, 30b.

NON FECIT. Lat. He did not make it. A plea in an action of assumpsit on a promissory note. 3 Man. & G. 446.

NON FECIT VASTUM CONTRA PROHIBITIONEM. He did not commit waste against the prohibition. A plea to an action founded on a writ of estoppel for waste. 3 Bl. Comm. 226, 227.

NON HAEC IN FEDERA VENI. I did not agree to these terms.

NON IMPEDIT CLAUSULA DEROGATORIA QUO MINUS AD EADEM POTESTATE RES DISOLVANTUR A QUA CONSTITUENTUR. A derogatory clause does not impede things from being dissolved by the same power by which they are created. Broom, Max. 27.

NON IMPEDIVIT. Lat. He did not impede. The plea of the general issue in quare impedit. The Latin form of the law French “ne distura pas.”

NON INPLACANDO ALIQUAM DE LIBERO TENEMENTO SINE BREVI. A writ to prohibit bailiffs, etc., from distraining or impounding any man touching his freehold without the king’s writ. Reg. Orig. 171.

NON IN LEGENDO SED IN INTELLIGENDO LEGIS CONSISTUNT. The laws consist not in being read, but in being understood. 8 Coke, 167a.

NON INREGREIT CONVENTIONEM. Lat. He did not break the contract. The name of a plea sometimes pleaded in the action of covenant, and
intended as a general issue, but held to be a bad plea; there being, properly speaking, no general issue in that action. 1 Tidd, Pr. 356.

NON INTERFUL. I was not present. A reporter’s note. T. Jones, 10.

NON INTROMITTANT CLAUSE. In English law, a clause of a charter of a municipal borough, whereby the borough is exempted from the jurisdiction of the justices of the peace for the county.

NON INTROMITTENDO, QUANDO BREVE PRECEPE IN CAPITE SUBDOLE IMPETRATUR. A writ addressed to the justices of the bench, or in eyre, commanding them not to give one, who, under color of entitling the king to land, etc., as holding of him in capite, had deceitfully obtained the writ called “preceipe in capite,” any benefit thereof, but to put him to his writ of right. Reg. Orig. 4.

NON JURIDICUS. Not judicial; not legal. Dies non juridicus is a day on which legal proceedings cannot be had.

NON JUS EX REGULA, SED REGULA EX JURE. The law does not arise from the rule (or maxim,) but the rule from the law. Tray. Lat. Max. 384.

NON JUS, SED SEISINA, FACIT STIPITEM. Not right, but seisin, makes a stock. Fleta, lib. 6, c. 2, § 2. It is not a mere right to enter on lands, but actual seisin, which makes a person the root or stock from which all future inheritance by right of blood must be derived. 2 Bl. Comm. 205, 312. See Broom, Max. 525, 527.

NON LICET QUOD DISPENDIO LICET. That which may [done only] at a loss is not allowed [to be done.] The law does not permit or require the doing of an act which will result only in loss. The law forbids such recoveries whose ends are vain, changeable, and unprofitable. Co.Litt. 127b.

NON LIQUET. Lat. It is not clear.

In the Roman courts, when any of the judges, after the hearing of a cause, were not satisfied that the case was made clear enough for them to pronounce a verdict, they were privileged to signify this opinion by casting a ballot inscribed with the letters “N. L.,” the abbreviated form of the phrase “non liquet.”

NON MERCHANDIZA VICTUALIA. An ancient writ addressed to justices of assize, to inquire whether the magistrates of a town sold victuals in gross or by retail during the time of their being in office, which was contrary to an obsolete statute; and to punish them if they did. Reg. Orig. 184.

NON MOLESTANDO. A writ that lay for a person who was molested contrary to the king’s protection granted to him. Reg. Orig. 184.

NON NASCI, ET NATUM MORI, VARIA SUNT. Not to be born, and to be dead-born, are the same.

NON OBLIGAT LEX NISI PROMULGATA. A law is not obligatory unless it be promulgated.

NON OBSERVATA FORMA, INFERTUR AD NULLATI ACTUS. Where form is not observed, annulling of the act is inferred or follows. 12 Coke, 7.

NON OBSTANTE. Lat. Notwithstanding.

Words anciently used in public and private instruments, intended to preclude, in advance, any interpretation contrary to certain declared objects or purposes. Burrill.

A clause frequent in old English statutes and letters patent, (so termed from its initial words,) importing a license from the crown to do a thing which otherwise a person would be restrained by act of parliament from doing. Crabb, Com. Law, 570; Plowd. 501; Cowell.

A power in the crown to dispense with the laws in any particular case. This was abolished by the bill of rights at the Revolution. 1 Bl. Comm. 342.

NON OBSTANTE VEREDICTO. Notwithstanding the verdict. A judgment entered by order of court for the defendant, although there has been a verdict for the defendant, is so called. German Ins. Co. v. Frederick, Kan., 58 F. 144, 7 C.C.A. 127; Wentworth v. Wentworth, 2 Minn. 292, Gil. 235, 72 Am. Dec. 97.

Judgment non obstante veredicto, originally, at common law, was a judgment entered for plaintiff "notwithstanding the verdict" for defendant; which could be done only, after verdict and before judgment, where it appeared that defendant’s plea confused the cause of action and set up matters in avoidance which, although verified by the verdict, were insufficient to constitute a defense or bar to the action. But either by statutory enactment or because of relaxation of the early common-law rule, the generally prevailing rule now is that either plaintiff or defendant may have a judgment non obstante veredicto in proper cases. 49 C.J.S. Judgments § 60.

Judgment non obstante veredicto in its broadest sense is a judgment rendered in favor of one party notwithstanding the finding of a verdict in favor of the other party. 49 C.J.S. Judgments § 59.

NON OFFICIT CONATUS NISI SEQUATUR EFFECTUS. An attempt does not harm unless a consequence follow. 11 Coke, 98.

NON OMITTAS. A clause usually inserted in writs of execution, in England, directing the sheriff "not to omit" to execute the writ by reason of any liberty, because there are many liberties or districts in which the sheriff has no power to execute process unless he has special authority. 2 Steph. Comm. 630.

NON OMNE DAMNUM INDUCIT INJURIAM. It is not every loss that produces an injury. Bract. fol. 45b.

NON OMNE QUOD LICIT HONESTUM EST. It is not everything which is permitted that is honorable. Dig. 50, 17, 144; Howell v. Baker, 4 Johns. Ch., N.Y., 121.

NON OMNIO QUÆ A MAJORIBUS NOSTRIS CONSTITUTA SUNT RATIO REDDI POTEST. There cannot be given a reason for all the things which have been established by our ancestors. Branch, Princ.; 4 Coke, 78; Broom, Max. 157.

NON PERTINET AD JUDICEM SECULARIEM COGNOSCERE DE IIS QUÆ SUNT MERE SPIRITUALIA ANXEA. 2 Inst. 488. It belongs not to the secular judge to take cognizance of things which are merely spiritual.
NON PLEVIN

NON PLEVIN. In old English law, default in not replying land in due time, when the same was taken by the king upon a default. The consequence thereof (loss of seisin) was abrogated by St. 9 Edw. III. c. 2.


NON POSSESSORI INCUMBIT NECESSITAS PROBANDI POSSESSIONES AD SE PERTINERE. A person in possession is not bound to prove that the possessions belong to him. Broom, Max. 714.

NON POTEST ADDUCI EXCEPTIO EJUS REI CEJUS PETITUR DISSOLUTIO. An exception of the same thing whose avoidance is sought cannot be made. Broom, Max. 166.

NON POTEST PROBARI QUOD PROBATUM NON RELEVAT. 1 Exch. 91, 92. That cannot be proved which, if proved, is immaterial.

NON POTEST QVIS SINE BREVI AGERE. No one can sue without a writ. Fleta, lib. 2, c. 13, § 4. A fundamental rule of old practice.

NON POTEST REX GRATIAM FACERE CUM INJURIA ET DAMNO ALIORUM. The king cannot confer a favor on one subject which occasions injury and loss to others. 3 Inst. 236; Broom, Max. 63.

NON POTEST REX SUBDITUM RENITENTEM ONERARE IMPPOSITIONIBUS. The king cannot load a subject with imposition against his consent. 2 Inst. 61.

NON POTEST VIDERI DESISSE HABERA QUI NUNQUAM HABUIT. He cannot be considered as having ceased to have a thing who never had it D. 50, 17, 208.

NON PRÆSTAT IMPEDIMENTUM QUOD DE JURE NON SORTITUR EFFECTUM. A thing which has no effect in law is not an impediment. Jenk.Cent. 162; Wing.Max. 727.

NON PROCEDENDO AD ASSISSAM REGE IN-CUSTULO. A writ to put a stop to the trial of a cause appertaining unto one who is in the king’s service, etc., until the king’s pleasure respecting the same be known. Cowell.


NON PROSEQUIR. Lat. He does not follow up, or pursue.

If, in the proceedings in an action at law, the plaintiff neglects to take any of those steps which he ought to take within the time prescribed by the practice of the court for that purpose, the defendant may enter judgment of non pros. against him, whereby it is adjudged that the plaintiff does not follow up (non sequitur) his suit as he ought to do, and therefore the defendant ought to have judgment against him. Smith, Act. 96; Com. v. Casey, 12 Allen, Mass., 218.

NON QUIDE MOVETE. Lat. Not to disturb what is settled. A rule expressing the same principle as that of stare decisis (q. v.).

NON QUOD DICTUM EST, SED QUOD FACTUM EST INSPECTUR. Not what is said, but what is done, is regarded. Co.Litt. 36a.

NON REFERE AN QVIS ASSUMERI SUUM PRÆFERT VERBIS, AUT REBUS IPSIS ET FACTIS. 10 Coke, 52. It matters not whether a man gives his assent by his words or by his acts and deeds.

NON REFERE QUOD EX ÆQUIPOLLENTIBUS FIAT. 5 Coke, 122. It matters not which of [two] equivalents happen.

NON REFERE QUOD NOTUM SIT JUDICI, SI NOTUM NON SIT IN FORMA JUDICII. It matters not what is known to a judge, if it be not known in judicial form. 3 Buist. 115. A leading maxim of modern law and practice. Best, Ev.Introd. 31, § 33.

NON REFERE VERBIS AN FACTIS FIT REVOCATIO. Cro.Car. 49. It matters not whether a revocation is made by words or deeds.

NON RESIDENTIO PRO CLERO REGIS. A writ, addressed to a bishop, charging him not to molest a clerk employed in the royal service, by reason of his nonresidence; in which case he is to be discharged. Reg.Orig. 38.

NON RESPONDEBIT MINOR NISI IN CAUSA DOTTIS, ET HOC PRO FAVORE DOTI. 4 Coke, 71. A minor shall not answer unless in a case of dower, and this in favor of dower.

NON SANÆ MENTIS. Lat. Of unsound mind. Fleta, lib. 6, c. 40, § 1.

NON SEQUITUR. Lat. It does not follow.

NON SOLENT QUÆ ABUNDANT VITIARE SCRIPTURAS. Superfuities [things which abound] do not usually vitiate writings. Dig. 50, 17, 94.

NON SOLUM QUID LICET, SED QUID EST CONVENIENS, EST CONSIDERANDUM; QUA Nihil QUID EST INCONVENIENS EST LICITUM. Not only what is lawful, but what is proper or convenient, is to be considered; because nothing that is inconvenient is lawful. Co.Litt. 66a.

NON SOLVENDO PECUNIAM AD QUAM CLERICUS MULTATUR PRO NON-RESIDENTIA. A writ prohibiting an ordinary to take a pecuniary mulct imposed on a clerk of the sovereign for nonresidence. Reg.Writ. 59.

NON SUBMISSIT. Lat. He did not submit. A plea to an action of debt, on a bond to perform an award, to the effect that the defendant did not submit to the arbitration.
NON SUI JURIS. Lat. Not his own master. The opposite of sui juris (q. v.).

NON SUM INFORMATUS. Lat. I am not informed; I have not been instructed.

The name of a species of judgment by default, which is entered when the defendant's attorney announces that he is not informed of any answer to be given by him; usually in pursuance of a previous arrangement between the parties. Steph. Pl. 136.

NON SUNT LONGA UBI NIHL EST QUOD DE MERE POSSIB. There is no proximity where there is nothing that can be omitted. Vaugh. 138.

NON TEMERE CREDEERE EST NERVUS SAPIENTIÆ. 5 Coke, 114. Not to believe rashly is the nerve of wisdom.

NON TENENT INSIMUL. Lat. In pleading, a plea to an action in partition, by which the defendant denies that he and the plaintiff are joint tenants of the estate in question.

NON TENUIT. Lat. He did not hold. A plea in bar in replevin, by which the plaintiff alleges that he did not hold in manner and form as averred, being given in answer to an avowry for rent in arrear. Rosc. Real Act. 683.

NON USURPavit. Lat. He has not usurped. A form of traverse, in an action or proceeding against one alleged to have usurped an office or franchise, denying the usurpation charged. Com. v. Cross Cut R. Co., 53 Pa. 62.

NON VALEBIT FELONUS GENERATIO, NEC AD HEREDITATEM PATERNAM VEL MATER- NAM; SI AUTEM ANTE FELONIAM GENERATIONEM FECERIT, TALIS GENERATIO SUCCEDIT IN HEREDITATE PATRIS VEL MTRIS A QUO NON FUERIT FELONIA PERPETRATA. 3 Coke, 41. The offspring of a felon cannot succeed either to a maternal or paternal inheritance; but, if he had offspring before the felony, such offspring may succeed as to the inheritance of the father or mother by whom the felony was not committed.

NON VALENTIA AGERE. Inability to sue. 5 Bell, App.Cas. 172.

NON VALET CONFIRMATIO, NISI ILLE, QUI CONFIRMAT, SIT IN POSSESSIONE REI VEL JURIS UNDE FIERI DEBIT CONFIRMATIO; ET EODEM MODO, NISI ILLE CUI CONFIRMATIO FIT SIT IN POSSESSIONE. Co.Litt. 295. Confirmation is not valid unless he who confirms is either in possession of the thing itself or of the right of which confirmation is to be made, and, in like manner, unless he to whom confirmation is made is in possession.

NON VALET DONATIO NISI SUBSEQUATUR TRADITIO. A gift is not valid unless accompanied by possession. Bract. 396.

NON VALET EXCEPTIO EJUSDEM REI CJUS PETITUR DISSEQUITU. A plea of the same matter the dissolution of which is sought, is not valid. Called a "maxim of law and common sense." 2 Eden, 134.

NON VALET IMPEDIMENTUM QUOD DE JURE NON SORTITUR EFFECTUM. 4 Coke, 31a. An impediment which does not derive its effect from law is of no force.

NON VERBIS, SED IPSIS REBUS, LEGES IM- PONIMUS. Cod. 6, 43, 2. We impose laws, not upon words, but upon things themselves.

NON VIDENTUR QUI ERRANT CONSENTIRE. They are not considered to consent who commit a mistake. Dig. 50, 17, 116, § 2; Broom, Max. 262.

NON VIDENTUR REM AMITTERE QUIOS PROPRIA NON FUIT. They are not considered as losing a thing whose own it was not. Dig. 50, 17, 85.

NON VIDETUR CONSENSUM RETINUSSIS SI QUIS EX PRÆSCRIPTO MINANTIS ALIQUID IMMUTAVIT. He does not appear to have retained consent, who has changed anything through menaces. Broom, Max. 278.

NON VIDETUR PERFECTE CUJUSQUE ID ESSE, QUOD EX CASU AUFERRI POTEST. That does not seem to be completely one's own which can be taken from him on occasion. Dig. 50, 17, 139, 1.

NON VIDETUR QUSQUAM ID CAPERE QUOD EI NECESSAE EST ALI8 RESTITUTERE. Dig. 50, 17, 51. No one is considered entitled to recover that which he must give up to another.

NON VIDETUR VIM FACERE, QUI JURE SUO UTITUR ET ORDINARIA ACTIONE EXPERITUR. He is not deemed to use force which exercises his own right, and proceeds by ordinary action. Dig. 50, 17, 155, 1.

NON VULT CONTENDERE. Lat. He (the defendant in a criminal case) will not contest it. A plea legally equivalent to that of guilty, being a variation of the form "nolo contendere," (q. v.) and sometimes abbreviated "non vult."

NON-ABILITY. Want of ability to do an act in law, as to sue. A plea founded upon such cause. Cowell.

NON-ACCEPTANCE. The refusal to accept anything.

NON-ACCESS. Absence of opportunities for sexual intercourse between husband and wife; or the absence of such intercourse.

NON-ADMISSION. The refusal of admission.

NON-AGE. Lack of requisite legal age. The condition of a person who is under twenty-one years of age, in some cases, and under fourteen or twelve in others; minority.

NON-ANCESTRAL ESTATE. Realty coming to deceased in any way other than by descent or devise from a now dead ancestor, or by deed of actual gift from a living one, there being no other consideration than that of blood. In re Yahola's Heirship, 142 Okl. 79, 285 P. 946, 948. One acquired by purchase or by act or agreement of the par-
ties, as distinguished from one acquired by descent or by operation of law. Gray v. Chapman, 122 Okl. 130, 243 P. 522, 524.

NON-APPARENT EASEMENT. A non-continuous or discontinuous easement. Fetters v. Humphreys, 18 N.J.Eq. 262. See Easement.

NON-APPEARANCE. A failure of appearance; the omission of the defendant to appear within the time limited.

NON-ASSESSEABLE. This word, placed upon a certificate of stock, does not cancel or impair the obligation to pay the amount due upon the shares created by the acceptance and holding of such certificate. At most its legal effect is a stipulation against liability from further assessment or taxation after the entire subscription of one hundred per cent. shall have been paid. Upton v. Triblock, 91 U.S. 45, 23 L.Ed. 203; Porter v. Northern Fire & Marine Ins. Co., 36 N.D. 199, 161 N.W. 1012, 1014.

NON-BAILABLE. Not admitting of bail; not requiring bail.

NON-CANCELLABLE. The term merely limited the right of assurer to cancel after an illness or accident, so long as the premium was paid. Duggeon v. Mutual Ben. Health & Accident Ass'n, C.C. A.W.Va., 70 F.2d 49, 52.

NON-CLAIM. The omission or neglect of him who ought to claim his right within the time limited by law; as within a year and a day where a continuin claim was required, or within five years after a fire had been levied. Termes de la Ley.

Covenant of Non-Claim. See Covenant.

NON-COMBATANT. A person connected with an army or navy, but for purposes other than fighting; such as the surgeons and chaplains. Also a neutral.

NON-COMMISSIONED. A non-commissioned officer of the army or militia is a subordinate officer who holds his rank, not by commission from the executive authority of the state or nation, but by appointment by a superior officer.

NON-COMPETITIVE TRAFFIC. Traffic which originates at a point served by a single haul carrier, or which is consigned to an industry on a line whose switching charge is not absorbed by a competing line-haul carrier. Northern Pac. Ry. Co. v. United States, D.C.Minn., 41 F.Supp. 439, 441.

NON-CONFORMING USES. Uses permitted by zoning statutes or ordinances to continue notwithstanding similar uses are not permitted in area in which they are located. Beyer v. Mayor and Council of Baltimore City, 182 Md. 444, 34 A.2d 765, 766.

NON-CONFORMIST. In English law, one who refuses to comply with others; one who refuses to join in the established forms of worship.

Non-conformists are of two sorts: (1) such as absent themselves from divine worship in the Established Church through total irreligion, and attend the service of no other persuasion; (2) such as attend the religious service of another persuasion. Wharton.

NON-CONTESTABLE. A non-contestable clause secures to insured indemnity by way of short limitations by contract against belated charges of fraud and mistake and rescission therefor, when he has acted thereon to his detriment by payment of premiums and foregoing other insurance. Pacific Mut. Life Ins. Co. of California v. Strange, 226 Ala. 98, 145 So. 425, 426.

NON-CONTINUOUS EASEMENT. "Continuous easement" is one which may be enjoyed without any act by party claiming it, while "noncontinuous easement," such as right of way, is one to enjoyment of which party's act is essential. Wau-bun Beach Ass'n v. Wilson, 274 Mich. 598, 265 N. W. 474, 477, 103 A.L.R. 983. A non-apparent or discontinuous easement. Fetters v. Humphreys, 18 N.J.Eq. 262. See Easement.

NON-CUMULATIVE DIVIDENDS. "Cumulative dividends" must be paid regardless of the year in which they are earned, whereas "noncumulative dividends" paid in a year are dependent upon earnings of that year. Barclay v. Wabash Ry. Co., C.C.A.N.Y., 30 F.2d 260, 262.

NON-DELIVERY. Neglect, failure, or refusal to deliver goods, on the part of a carrier, vendor, bailee, etc.


NON-DIRECTION. Omission on the part of a judge to properly instruct the jury upon a necessary conclusion of law.

NON-DISCLOSURE. A failure to reveal facts, which may exist when there is no "concealment." State v. Watson, 145 Kan. 792, 67 P.2d 515, 517, 110 A.L.R. 988.

NON-ENUMERATED DAY. A motion day in New York on which the court hears motions classified as "non-enumerated motions." Jackson v. ___, 2 Caines (N.Y.) 259. For a collection of cases holding particular motions to be either enumerated or non-enumerated motions, see 66 C.J.S. Non. p. 603, n. 36(20).


NON-FUNCTIONAL. A feature of goods is "nonfunctional" if it does not affect their purpose, action or performance, or the facility or economy of processing, handling or using them. In effect a mere form of merchandising or a business method. J. C. Penney Co. v. H. D. Lee Mercantile Co., C.C.
NON-WAIVER

NON-INTERCOURSE. The refusal of one state or nation to have commercial dealings with another; similar to an embargo (q. v.).

The absence of access, communication, or sexual relations between husband and wife.

NON-INTERVENTION WILL. A term sometimes applied to a will which authorizes the executor to settle and distribute the estate without the intervention of the court and without giving bond. In re Macdonald's Estate, 29 Wash. 422, 69 P. 1111.

NON-ISSUABLE PLEAS. Those upon which a decision would not determine the action upon the merits, as a plea in abatement. 1 Chit. Archib. Pr. 12th Ed., 249.

NON-JOINER. See Joiner.

NON-JUDICIAL DAY. Day on which process cannot ordinarily issue or be executed or returned, and on which courts do not usually sit. Vidal v. Backs, 218 Cal. 99, 21 P.2d 952, 96 A.L.R. 1134.

NON-JURORS. In English law, persons who refuse to take the oaths, required by law, to support the government.

NON-LEVIALBLE. Not subject to be levied upon. Non-leviable assets are assets upon which an execution cannot be levied. Farmers' F. Ins. Co. v. Conrad, 102 Wis. 387, 78 N.W. 582.

NON-MAILABLE. A term applied to all letters and parcels which are by law excluded from transportation in the United States mails, whether on account of the size of the package, the nature of its contents, its obscene character, or for other reasons. U. S. v. Nathan, D.C.Iowa, 61 F. 936.


NON-MERCHANTABLE TITLE. The title to property need not be bad in fact to render it "non-merchantable", but it is sufficient, if an ordinarily prudent man with knowledge of facts and aware of legal questions involved would not accept it in ordinary course of business. Ghormley v. Kleeden, 135 Kan. 319, 124 P.2d 457, 470.

NON-NAVIGABLE. At common law, streams or bodies of water not affected by tide were "non-navigable". Luscher v. Reynolds, 153 Or. 625, 56 P.2d 1158, 1162.

NON-NEGOTIABLE. Not negotiable; not capable of passing title or property by indorsement and delivery.

NON-OCUPATIONAL. Not of or pertaining to an occupation, trade, or work. Morgan v. Equitable Life Assur. Soc. of U. S., La. App., 22 So.2d 595, 597.

NON-PERFORMANCE. Neglect, failure, or refusal to do or perform an act stipulated to be done. Failure to keep the terms of a contract or covenant, in respect to acts or doings agreed upon.

NON-PROFIT. A "non-profit" corporation is one not designed primarily to pay dividends on invested capital. Greene County Rural Electric Co-op. v. Nelson, 234 Iowa 362, 12 N.W.2d 886, 888.

NON-RESIDENCE. Residence beyond the limits of the particular jurisdiction.

In ecclesiastical law. The absence of spiritual persons from their benefices.

NON-RESIDENT. One who is not a dweller within jurisdiction in question; not an inhabitant of the state of the forum. Gardner v. Meeker, 169 Ill. 40, 48 N.E. 307; Nagel v. Loomis, 33 Neb. 499, 50 N.W. 441. For the distinction between "residence" and "domicile," see Domicile.

NON-SANE. As "sane," when applied to the mind, means whole, sound, in a healthful state. "non-sane" must mean not whole, not sound, not in a healthful state; that is, broken, impaired, shattered, infirm, weak, diseased, unable, either from nature or accident, to perform the rational functions common to man when the objects presented to it. Den v. Vancelve, 5 N.J.L. 589, 661.


NON-SUMMONS, WAGER OF LAW OF. The mode in which a tenant or defendant in a real action pleaded, when the summons which followed the original was not served within the proper time.

NON-TENURE. A plea in a real action, by which the defendant asserts, either as to the whole or as to some part of the land mentioned in the plaintiff's declaration, that he does not hold it. Pub. St. Mass. 1882, p. 1293.

NON-TERM. The vacation between two terms of a court.

NON-TERMINUS. The vacation between term and term, formerly called the time of days of the king's peace.

NON-TRADER. Person not engaged in buying and selling so as to be required to establish credit in commercial world. First Nat. Bank v. Ducros, 27 Ala. App. 193, 168 So. 704, 706.

NON-USER. Neglect to use. Neglect to use a franchise; neglect to exercise an office. 2 Bl. Comm. 153. Neglect or omission to use an easement or other right. 3 Kent, Comm. 448. A right acquired by use may be lost by non-user.

NON-WAIVER AGREEMENT. A "nonwaiver agreement" reserves to insurer every right under fire policy not previously waived, and to the insured every right which had not been forfeited. Aetna Ins. Co. of Hartford, Conn., v. Powers, 190 Okl. 116, 121 P.2d 595, 602.
NONÈ

NONÈ ET DECILÈ. Payments made to the church, by those who were tenants of church-farms. The first was a rent or duty for things belonging to a husbandry; the second was claimed in right of the church. Wharton.

NONAGIUM, or NONAGE. A ninth part of moveables which was paid to the clergy on the death of persons in their parish, and claimed on pretense of being distributed to pious uses. Blount.

NONEs. In the Roman calendar, the fifth, and, in March, May, July, and October, the seventh, day of the month. So called because, counting inclusively, they were nine days from the ides. Adams, Rom.Ant. 355, 357.

Under the word "ides" in Bouvier's Law Dict., Rawle's 3d Rev., p. 1486, will be found a complete table of the calends, nones, and ides.

NONFEASANCE. Nonperformance of some act which ought to be performed, omission to perform a required duty at all, or total neglect of duty. Brooks v. Jacobs, 139 Me. 371, 31 A.2d 414, 416.

The term is not generally used to denote a breach of contract, but rather the failure to perform a duty towards the public whereby some individual sustains special damage, as where a sheriff fails to execute a writ. Sweet. Colie v. Lines, 33 Conn. 115; Gregor v. Cady, 82 Me. 131, 19 A. 108, 17 Am.St.Rep. 466.

There is a distinction between "nonfeasance" and "misfeasance" or "malfeasance"; and this distinction is often of great importance in determining an agent's liability to third persons. "Nonfeasance" means the total omission or failure of an agent to enter upon the performance of some distinct duty or undertaking which he has agreed with his principal to do; "misfeasance" means the improper doing of an act which the agent might lawfully do, or, in other words, it is the performing of his duty to his principal in such a manner as to infringe upon the rights and privileges of third persons; and "malfeasance" is a doing of an act which he ought not to do at all. Owena v. Nichols, 139 Ga. 475, 77 S.E. 625, 636; Maddock v. Riggs, 106 Kan. 858, 190 P. 12, 14, 12 A.L.R. 216.


NONPAYMENT. The neglect, failure, or refusal of payment of a debt or evidence of debt when due.

NONSENSE. Unintelligible matter in a written agreement or will.

NONSUIT. A term broadly applied to a variety of terminations of an action which do not adjudicate issues on the merits. McCollgan v. Jones, Hubbard & Donnell, 11 Cal.2d 243, 78 P.2d 1010, 1011. Name of a judgment given against the plaintiff when he is unable to prove a case, or when he refuses or neglects to proceed to trial and leaves the issue undetermined. Carolina Transportation & Distributing Co. v. American Alliance Ins. Co., 214 N.C. 596, 200 S.E. 411, 413.

Judgment of Nonsuit is of two kinds,—voluntary and involuntary. When plaintiff abandons his case, and consents that judgment go against him for costs, it is voluntary. But when he, being called, neglects to appear, or when he has given no evidence on which a jury could find a verdict, or when his case is put out of court by some adverse ruling precluding a recovery, it is involuntary. Preem.Judgm. § 6.

A peremptory nonsuit is a compulsory or involuntary nonsuit, ordered by the court upon a total failure of the plaintiff to substantiate his claim by evidence. Jacques v. Fourthman, 137 Pa. 458, 20 A. 902.


NOOK OF LAND. In English law, twelve acres and a half.


NORMAL. According to, constituting, or not deviating from an established norm, rule, or principle; conformed to a type, standard or regular form; performing the proper functions; regular; natural. Webster; Railroad Commission v. Konowa Operating Co., Tex.Civ.App., 174 S.W.2d 605, 609.

NORMAL LAW. A term employed by modern writers on jurisprudence to denote the law as it affects persons who are in a normal condition; i.e., sui juris and sound in mind.

NORMAL MIND. One which in strength and capacity ranks reasonably well with the average of the great body of men and women who make up organized human society in general and are by common consent recognized as sane and competent to perform the ordinary duties and assume the ordinary responsibilities of life. State v. Haner, 186 Iowa, 2159, 173 N.W. 225, 226.

NORMAL SCHOOL. See School.

NORMALLY. As a rule; regularly; according to rule, general custom, etc. Palmer v. Jordan Mach. Co., C.C.N.Y., 186 F. 496, 504.

NORMAN FRENCH. The tongue in which several formal proceedings of state in England are still carried on. The language, having remained the same since the date of the Conquest, at which it was introduced into England, is very different from the French of this day, retaining all the peculiarities which at that time distinguished every province from the rest. A peculiar mode of pronunciation (considered authentic) is handed down and preserved by the officials who have, on particular occasions, to speak the tongue. Norman French was the language of English legal procedure till the 36 Edw. III. (A.D.1362). Wharton.

NORROY. In English law, the title of the third of the three kings-at-arms, or provincial heralds.


NORTHAMPTON, ASSIZE OF. An assize held in 1176; in it, the king confirmed and perfected the judicial legislation which he had begun ten years before in the Assize of Clarendon. Stephen, Cr.Proc. in 2 Essays in Anglo-American律 445; Mrs. J. R. Green in 1 td.

NORTHAMPTON TABLES. Longevity and mortality tables compiled from bills of mortality kept in All Saints parish, England, in 1735-1780.
NORTHWEST TERRITORY. A name formerly
applied to the territory northwest of the Ohio river.

NOSCITUR A SOCIIS. It is known from its as-
sociates. 1 Vent. 225. The meaning of a word is
or may be known from the accompanying words.
3 Term R. 87; Broom, Max. 588. Morecock v.
Hood, 202 N.C. 321, 162 S.E. 730, 731; Louis Pitz
Dry Goods Co. v. Fidelity & Deposit Co. of Mary-
lond, 223 Ala. 385, 136 So. 800, 801.

The doctrine means that general and specific words are
associated with and take color from each other, restricting
general words to sense analogous to less general. Dunham
v. State, 100 Fla. 754, 192 So. 324, 325, 326.

NOSCITUR EX SOCIO, QUI NON COGNOSCI-
TUR EX SE. Moore, 817. He who cannot be
known from himself may be known from his as-
sociate.

NOSOCONM. In the civil law, persons who have
the management and care of hospitals for paupers.

NOSTRUM. A quack, patent, or proprietary med-
icine recommended by its proprietor, or one the
ingredients of which are kept secret for the pur-
purpose of restricting the profits of sale to the invent-
or or proprietor. World’s Dispensary Medical

NOT EXCEEDING. Usually a term of limitation
only, denoting uncertainty of amount. Stuyves-
ant Ins. Co. v. Jacksonville Oil Mill, C.C.A.Tenn.,
10 F.2d 54, 56.

NOT FOUND. These words, indorsed on a bill
of indictment by a grand jury, have the same ef-
fect as the indorsement “Not a true bill” or “Ig-
noramus.”

See, also, Non Est Inventus.

NOT GUILTY. A plea of the general issue in the
actions of trespass and case and in criminal prose-
cussions.

The form of the verdict in criminal cases, where
the jury acquit the prisoner. 4 Bl.Comm. 361.

NOT GUILTY BY STATUTE. In English prac-
tice, a plea of the general issue by a defendant
in a civil action, when he intends to give special
matter in evidence by virtue of some act or acts
of parliament, in which case he must add the ref-
ence to such act or acts, and state whether such
acts are public or otherwise. But, if a defendant
so plead, he will not be allowed to plead any oth-
er defense, without the leave of the court or a
judge. Mozley & Whiteley.

NOT LATER THAN. “Within” or “not beyond”
259 S.W. 225, 227.

NOT LESS THAN. The words “not less than”
signify in the smallest or lowest degree, at the
lowest estimate; at least. Watson v. City of Sal-
lem, 84 Or. 668, 164 P. 567, 568; Miller v. Rodd, 285
Fa. 16, 131 A. 492, 493.

NOT POSSESSED. A special traverse used in an
action of trover, alleging that defendant was not
possessed, at the time of action brought, of the
chattels alleged to have been converted by him.

NOT PROVEN. A verdict in a Scotch criminal
trial, to the effect that the guilt of the accused is
not made out, though his innocence is not clear.

NOT SATISFIED. A return sometimes made by
sheriffs or constables to a writ of execution; but
it is not a technical formula, and is condemned by
the courts as ambiguous and insufficient. Martin
v. Martin, 50 N.C. 346; Langford v. Few, 146 Mo.

NOT TO BE PERFORMED WITHIN ONE YEAR.
The clause “not to be performed within one year”
includes any agreement which by a reasonable in-
terpretation in view of all the circumstances does
not admit of its performance, according to its lan-
guage and intention, within one year from the
time of its making. Mrs. K. Edwards & Sons v.
Farve, 110 Miss. 864, 71 So. 12, 13.

NOT TRANSFERABLE. These words, when
written across the face of a negotiable instrument,
operate to destroy its negotiability. Durr v. State,
59 Ala. 24.

NOTA. Lat. In the civil law, a mark or brand
put upon a person by the law. Mackeld. Rom.
Law, § 135.

NOTÆ. In civil and old European law, short-hand
characters or marks of contraction, in which the
emperors’ secretaries took down what they dictat-
ed. Spelman; Calvin.

NOTARIAL. Taken by a notary; performed by a
notary in his official capacity; belonging to a not-
ary and evidencing his official character, as, a
notarial seal.

NOTARIAL WILL. A will executed by the testa-
tor in the presence of a Notary Public and two wit-
nesses.

NOTARIUS. Lat.

In old English law. A scribe or scrivener who
made short draughts of writings and other in-
struments; a notary. Cowell.

In Roman law. A draughtsman; an amanuen-
sis; a shorthand writer; one who took notes of
the proceedings in the senate or a court, or of what
was dictated to him by another; one who prepared
draughts of wills, conveyances, etc.

NOTARY PUBLIC. A public officer whose func-
tion it is to administer oaths; to attest and certify,
by his hand and official seal, certain classes of doc-
cuments, in order to give them credit and authen-
ticity in foreign jurisdictions; to take acknowledg-
ments of deeds and other conveyances, and certify
the same; and to perform certain official acts,
chiefly in commercial matters, such as the protest-
ing of notes and bills, the noting of foreign drafts,
and marine protests in cases of loss or damage.
Kip v. People’s Bank & Trust Co., 110 N.J.L. 178,
164 A. 253, 254.
NOTATION

NOTATION. In English probate practice, the act of making a memorandum of some special circumstance on a probate or letters of administration.

Thus, where a grant is made for the whole personal estate of the deceased within the United Kingdom, which can only be done in the case of a person dying domiciled in England, the fact of his having been so domiciled is noted on the grant. Coote, Prob.Pr. 36; Sweet.

NOTCHELL, or NOCHELL. "Crying the wife's Notchell" seems to have been a means of preventing her running up debts against her husband. 20 Law Mag. & Rev. 250.

It is the custom in Lancashire for a man to advertise that he will not be responsible for debts contracted by his [wife] after that date. He is thus said to notchel her, and the advertisement is termed a notchel notice. N. and Q., 7th ser., VIII. 268, quoted in Cent.Dict.

NOTE, n. To make a brief written statement; to enter a memorandum; as to note an exception.

NOTE, a. A unilateral instrument containing an express and absolute promise of signer to pay to a specified person or order, or bearer, a definite sum of money at a specified time. Shawano Finance Corporation v. Julius, 214 Wis. 637, 254 N.W. 355. An abstract, a memorandum; an informal statement in writing. Road Improvement Dist. No. 4 of Cleveland County v. Southern Trust Co., 152 Ark. 422, 233 S.W. 8, 11; American Nat. Bank v. Marshall, 122 Kan. 793, 253 P. 214, 215. See Bought Note; Notes; Judgment Note; Promissory Note; Sold Note.

NOTE A BILL. When a foreign bill has been dishonored, it is usual for a notary public to present it again on the same day, and, if it be not then paid, to make a minute, consisting of his initials, the day, month, and year, and reason, if assigned, of non-payment. The making of this minute is called "noting the bill." Wharton.

NOTE OF A FINE. In old conveyancing, one of the parts of a fine of lands, being an abstract of the writ of covenant, and the concord; naming the parties, the parcels of land, and the agreement. 2 Bl.Comm. 351.

NOTE OF ALLOWANCE. In English practice, a note delivered by a master to a party to a cause, who alleged that there was error in law in the record and proceedings, allowing him to bring error.


NOTE OF PROTEST. A memorandum of the fact of protest, indorsed by the notary upon the bill, at the time, to be afterwards written out at length.


NOTES. In practice, memoranda made by a judge on a trial, as to the evidence adduced, and the points reserved, etc. A copy of the judge's notes may be obtained from his clerk.

NOTHUS. Lat. In Roman law, a natural child or a person of spurious birth.

NOTICE. Information; the result of observation, whether by the senses or the mind; knowledge of the existence of a fact or state of affairs; the means of knowledge. Abercrombie v. Virginia-Carolina Chemical Co., 206 Ala. 615, 91 So. 311, 312; Knights and Ladies of Security v. Bell, 93 Okt. 272, 220 P. 594, 597.

Knowledge of facts which would naturally lead an honest and prudent person to make inquiry constitutes "notice" of everything which such inquiry pursued in good faith would disclose. Twitchell v. Nelson, 51 Minn. 375, 55 S.W. 621, 624; German-American Nat. Bank of Lincoln v. Martin, 277 Ill. 629, 115 N.E. 721, 729.

In another sense, "notice" means information, an advice, or written warning. In more or less formal shape, intended to apprise a person of some proceeding in which his interests are involved, or informing him of some fact which it is his right to know and the duty of the notifying party to communicate.

Under the Negotiable Instrument Law "notice" of infirmity of instrument is actual knowledge or knowledge of such facts that taking notice amounts to bad faith. Glendo State Bank v. Abbott, 30 Wyo. 98, 216 P. 700, 702, 34 A.L.R. 294.

Notice is either (1) statutory, i.e., made so by legislative enactment; (2) actual, which brings the knowledge of a fact directly home to the party; or (3) constructive. Constructive notice may be subdivided into: (a) Where there exists actual notice of matter, to which equity has added constructive notice of facts, which an inquiry after such matter would have elicited; and (b) where there has been a designed abstinence from inquiry for the very purpose of escaping notice. Wharton.

Actual notice has been defined as notice expressly and actually given, and brought home to the party directly. Jordan v. Pollock, 14 Ga. 145; McCray v. Clar, 82 Pa. 457; Morey v. Milliken, 86 Me. 464, 30 A. 102. The term "actual notice," however, is generally given a wider meaning in embracing two classes, express and implied; the former includes all knowledge of a degree above that which depends upon collateral inference, or which imposes upon the party the further duty of inquiry; the latter imputes knowledge to the party because he is shown to be conscious of having the means of knowledge. In this sense actual notice is such notice as is positively proved to have been given to a party directly and personally, or such as he is presumed to have received personally because the evidence within his knowledge was sufficient to put him upon inquiry. Picklesimer v. Smith, 164 Ga. 600, 139 S.E. 72, 74; White v. Fisher, 77 Ind. 65, 40 Am. Rep. 257.

Constructive notice is information or knowledge of a fact imputed by law to a person, (although he may not actually have it), because he could have discovered the fact by proper diligence, and his situation was such as to cast upon him the duty of inquiring into it. Baltimore v. Whittington, 78 Md. 231, 27 A. 984; Acer v. Westcott, 46 N.Y. 384, 7 Am. Rep. 355.

Notice is also further classified as express or implied. Express notice embraces not only knowledge, but also that which is communicated by direct information, either written or oral, from those who are cognizant of the fact communicated. Baltimore v. Whittington, 78 Md. 231, 27 A. 984. Implied notice is one of the varieties of actual notice (not constructive) and is distinguished from constructive actual notice. It is notice inferred or imputed to a party by reason of his knowledge of facts or circumstances collateral to the main fact, of such a character as to put him upon inquiry, and which, if the inquiry were followed up with due diligence, would lead him definitely to the knowledge of the main fact. Rhodes v. Outcault, 48 Mo. 270; Baltimore v. Whittington, 78 Md. 231, 27 A. 984; Wells v. Sheerer, 78 Ala. 147.
NOTIFY

"Constructive notice" is a presumption of law, making it impossible for one to deny the matter concerning which notice is given, while "implied notice" is a presumption of fact, relating to what one can learn by reasonable inquiry, and arises from actual notice of circumstances, and not from constructive notice. Charles v. Roxana Petroleum Corporation, C.C.A.Okl., 282 F. 663, 668. Or as otherwise defined, implied notice may be said to exist where the fact in question lies open to the knowledge of the party, so that the exercise of reasonable observation and watchfulness would not fail to apprise him of it, although no one has told him of it in so many words. See City of Philadelphia v. Smith, Pa., 16 A. 433.

Averment of Notice. The statement in a pleading that notice has been given.


Judicial Notice. See Judicial Notice.

Legal Notice. See Legal Notice.

Personal Notice. Communication of notice orally or in writing (according to the circumstances) directly to the person affected or to be charged, as distinguished from constructive or implied notice, and also from notice imputed to him because given to his agent or representative. Loeb v. Huddleston, 105 Ala. 257, 16 So. 714; Pearson v. Lovejoy, 53 Barb., N.Y., 407.

Presumptive Notice. Implied actual notice. The difference between "presumptive" and "constructive" notice is that the former is an inference of fact which is capable of being explained or contradicted, while the latter is a conclusion of law which cannot be contradicted. Brown v. Baldwin, 121 Mo. 106, 26 S.W. 858; Brush v. Ware, 15 Pet. 98, 10 L.Ed. 672.


Reasonable Notice. Such notice or information of a fact as may fairly and properly be expected or required in the particular circumstances. Sterling Mfg. Co. v. Hough, 49 Neb. 618, 68 N.W. 1019; Mallory v. Leiby, 1 Kan. 102.

NOTICE IN LIEU OF SERVICE. In lieu of personally serving a writ of summons (or other legal process) in English practice, the court occasionally allows the plaintiff (or other party) to give notice in lieu of service, such notice being such as will in all probability reach the party. This notice is peculiarly appropriate in the case of a foreigner out of the jurisdiction, whom it is desired to serve with a writ of summons. Sweet.

NOTICE OF ACTION. When it is intended to sue certain particular individuals, as in the case of actions against justices of the peace, it is necessary in some jurisdictions to give them notice of the action some time before.

NOTICE OF APPEARANCE. See Appearance.

NOTICE OF DISHONOR. See Dishonor.

NOTICE OF JUDGMENT. It is required by statute in several of the states that the party for whom the verdict in an action has been given shall serve upon the other party or his attorney a written notice of the time when judgment is entered.

NOTICE OF LIS PENDENS. See Lis Pendens.

NOTICE OF MOTION. A substitute for writ and declaration in common-law actions, which notifies defendant when and where he is to appear and sets forth cause of complaint. Baldwin v. Norton Hotel, 163 Va. 76, 175 S.E. 751. A notice in writing, entitled in a cause, stating that, on a certain day designated, a motion will be made to the court for the purpose or object stated. Field v. Park, 20 Johns., N.Y., 140.

NOTICE OF PROTEST. See Protest.

NOTICE OF TRIAL. A notice given by one of the parties in an action to the other, after an issue has been reached, that he intends to bring the cause forward for trial at the next term of the court.

NOTICE TO ADMIT. In the practice of the English high court, either party to an action may call on the other party by notice to admit the existence and execution of any document, in order to save the expense of proving it at the trial; and the party refusing to admit must bear the costs of proving it unless the judge certifies that the refusal to admit was reasonable. Rules of Court, xxxii. 2; Sweet.

NOTICE TO PLEAD. This is a notice which, in the practice of some states, is prerequisite to the taking judgment by default. It proceeds from the plaintiff, and warns the defendant that he must plead to the declaration or complaint within a prescribed time.

NOTICE TO PRODUCE. In practice, a notice in writing, given in an action at law, requiring the opposite party to produce a certain described paper or document at the trial. Chit. Archb. Pr. 230; 3 Chit. Gen. Pr. 834.

NOTICE TO QUIT. A written notice given by a landlord to his tenant, stating that the former desires to repossess himself of the demised premises, and that the latter is required to quit and remove from the same at a time designated, either at the expiration of the term, if the tenant is in under a lease, or immediately, if the tenancy is at will or by sufferance. The term is also sometimes applied to a written notice given by the tenant to the landlord, to the effect that he intends to quit the demised premises and deliver possession of the same on a day named. Garner v. Hannah, 6 Duer, N.Y., 270; Oakes v. Munroe, S Cush., Mass., 257.

NOTIFY. To give notice to; to inform by words or writing, in person or by message, or by any signs which are understood; to make known; to
NOTIFY

"notify" one of a fact is to make it known to him; to inform him by notice. Fast v. Scruggs, 164 Okl. 196, 23 P.2d 383.

In legal proceedings, and in respect to public matters, this word is generally, if not universally, used as impinging a notice given by some person, whose duty it was to give it, in some manner prescribed, and to some person entitled to receive it, or be notified. Appeal of Potwin, 31 Conn. 334; Home Benefit Ass'n of Angelina County v. Jordan, Tex.Civ.App., 191 S.W. 725, 728.

NOTING. The act of a notary in minuting on a bill of exchange, that has been presented for acceptance or payment, the initials of his name, the date of the day, month, and year when such presentment was made, and the reason, if any has been assigned, for non-acceptance or non-payment, together with his charge. 4 Term 175.

NOTIO. Lat. In the civil law, the power of hearing and trying a matter of fact; the power or authority of a judge; the power of hearing causes and of pronouncing sentence, without any degree of jurisdiction. Calvin.

NOTITIA. Lat. Knowledge; information; intelligence; notice.

NOTITIA DICITUR A NOSCENDO: ET NOTITIA NON DEBT CLAUDICARE. Notice is named from a knowledge being had; and notice ought not to halt, [i.e., be imperfect.] 6 Coke, 29.

NOTORIAL. The Scotch form of "notarial," (q. v.). Bell.

NOTORIETY. The state of being notorious or universally well known.

Proof by Notority. In Scotch law, dispensing with positive testimony as to matters of common knowledge or general notoriety, the same as the "judicial notice" of English and American law. See Judicial Notice.


In the law of evidence, matters deemed notorious do not require to be proved. There does not seem to be any recognized rule as to what matters are deemed notorious. Cases have occurred in which the state of society or public feeling has been treated as notorious; e.g., during times of sedition. Best, Ev. 354; Sweet.

NOTORIOUS INSOLVENCY. A condition of insolvency which is generally known throughout the community or known to the general class of persons with whom the insolvent has business relations.

NOTORIOUS POSSESSION. Possession that is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood. Terral v. Brooks, 194 Ark. 311, 108 S.W. 2d 489, 493. Possession or character of holding in its nature having such elements of notoriety that the owner may be presumed to have notice of it and of its extent. Watrous v. Morrison, 33 Fla. 261, 14 So. 805, 39 Am.St.Rep. 139.

NOTOUR. In Scotch law, open; notorious. A notour bankrupt is a debtor who, being under diligence by horn and caption of his creditor, requires to sanctuary or absconds or defends by force, and is afterwards found insolvent by the court of session. Bell.

NOVA CONSTITUTIO FUTURIS FORMAM IMPONERE DEBIT NON PRETERITIS. A new state of the law ought to affect the future, not the past. 2 Inst. 292; Broom, Max. 54, 37.

NOVA CUSTUMA. The name of an imposition or duty. See Antiqua Custuma.

NOVA STATUTA. New statutes. An appellation sometimes given to the statutes which have been passed since the beginning of the reign of Edward III. 1 Steph.Comm. 68.

NOVE NARRATIONES. New counts. The collection called "Nove Narrationes" contains pleadings in actions during the reign of Edward III. It consists principally of declarations, as the title imports; but there are sometimes pleas and subsequent pleadings. The Articuli ad Novas Narrationes is usually subjoined to this little book, and is a small treatise on the method of pleading. It first treats of actions and courts, and then goes through each particular writ, and the declaration upon it, accompanied with directions, and illustrated by precedents. 3 Reeve, Eng. Law, 152; Wharton.

NOVALE. Land newly plowed and converted into tillage, and which has not been tilled before within the memory of man; also fallow land.

NOVALIS. In the civil law, land that rested a year after the first plowing. Dig. 50, 16, 30, 2.


The requisites of a "novation" are a previous valid obligation, an agreement of all the parties to a new contract, the extinguishment of the old obligation, and the validity of the new one. Alkire v. Acuff, 134 Okl. 43, 272 P. 405, 406; Tulsa Ice Co. v. Lilley, 157 Okl. 88, 10 P.2d 1090, 1091; Cox v. Baltimore & O. S. W. R. Co., 180 Ind. 495, 103 N.E. 387, 342, 50 L.R.A., N.S., 453.

The term was originally a technical term of the civil law, but is now in very general use in English and American Jurisprudence.
In the civil law, there are three kinds of novation: Where the debtor and creditor remain the same, but a new debt takes the place of the old one; where the debt remains the same, but a new debtor is substituted; where the debt and debtor remain, but a new creditor is substituted. Wheel-

NOVEL ASSIGNMENT. See New Assignment.

NOVEL DISSEISIN. See Assise of Novel Dessel-
sin.

NOVELIS (or NOVELIS CONSTITUTIONES.) New constitutions; generally translated in En-
lish, “Novels.” The Latin name of those constit-
tions which were issued by Justinian after the publication of his Code; most of them being originally written in Greek. After his death, a collection of 168 Novels was made, 154 of which had been issued by Justinian, and the rest by his successors. These were afterwards included in the Corpus Juris Civilis, (q. v.,) and now constitute one of its four principal divisions. Mackeld. Rom. Law, § 80; 1 Kent, Comm. 541.

NOVELIS LEONIS. The ordinances of the Em-
peror Leo, which were made from the year 887 till the year 893, are so called. These Novels changed many rules of the Justinian law. This collection contains 113 Novels, written originally in Greek, and afterwards, in 1568, translated into Latin by Agileus. Mackeld. Rom. Law, § 84.

NOVELS. The title given in English to the New Constitutions (Novellae Constitutiones) of Justinian and his successors, now forming a part of the Corpus Juris Civilis. See Novellae.

NOVELTY. In order that there may be “novelty” so as to sustain a patent, the thing must not have been known to any one before, mere novelty of form being insufficient. Seaver v. Wm. Filene’s Sons Co., D.C.Mass., 37 F.Supp. 762, 765. An ob-
jection to a patent or claim for a patent on the ground that the invention is not new or original is called an objection “for want of novelty.”

NOVERO. Lat. In the civil law, a stepmother.

NOVERINT UNIVERSI PER PRESENTES. Know all men by these present. Formal words used at the commencement of deeds of release in the Latin forms.

NOVI OPERIS NUNCIATIO. Lat. Denunciation of, or protest against, a new work.

This was a species of remedy in the civil law, available to a person who thought his rights or his property were threatened with injury by the act of his neighbor in erecting or demolishing any structure, which was called a “new work.” In such case, he might go upon the ground, while the work was in progress, and publicly protest against or forbid its completion, in the presence of the workmen or of the owner or his representative.

NOVIGILD. In Saxon law, a pecuniary satisfac-
tion for an injury, amounting to nine times the value of the thing for which it was paid. Spelman.

NOVISSIMA RECOPIACION. (Latest Compila-
tion.) The title of a collection of Spanish law compiled by order of Don Carlos IV. in 1805. 1 White, Recop. 355.

NOVITAS. Lat. Novelty; newness; a new thing.

NOVITAS NON TAM UTILITATE PRODEST QUAM NOVITATE PERUTRAB. A novelty does not benefit so much by its utility as it disturbs by its novelty. Jenk. Cent. p. 167, case 23.

NOVITUR PERVERTA, or NOVITUR AD NOT-
TITIAM PERVERTA. In ecclesiastical procedure, facts “newly come” to the knowledge of a party to a cause. Leave to plead facts noviter perversa is generally given, in a proper case, even after the pleadings are closed. Phillim. Ecc. Law, 1257; Rog. Ecc. Law, 723.

NOVODAMUS. In old Scotch law, we give anew. The name given to a charter, or clause in a charter, granting a renewal of a right. Bell.

NOVUM JUDICLUM NON DAT NOVUM JUS, SED 
DECLARAT ANTIQUUM; QUIA JUDICLUM EST 
JURIS DICTEM ET PER JUDICLUM JUS EST 
NOVITER REVELATUM QUOD DIU FUIT VE-
LATUM. A new adjudication does not make a new law, but declares the old; because adjudica-
tion is the utterance of the law, and by adjudica-
tion the law is newly revealed which was for a long time hidden. 10 Coke, 42.

NOVUM OPUS. Lat. In the civil law, a new work. See Novi Operis Nunciatio.

NOVUS HOMO. Lat. A new man. This term is applied to a man who has been pardoned of a crime, and so made, as it were, a “new man.”

NOW. At this time, or at the present moment; or at a time contemporaneous with something done. Pike v. Kennedy, 15 Or. 426, 15 P. 637. At the present time. Nutt v. U. S., 26 Ct.Cl. 15. Shub-

“Now” as used in a statute ordinarily refers to the date of its taking effect, but the word is sometimes used, not with reference to the moment of speaking but to a time contemporaneous with something done, and may mean at the time spoken of or referred to as well as at the time of speaking. State v. City of St. Lawrence, 101 Kan. 225, 163 P. 826.

Word “now” used in will refers to time of testa-
tor’s death, Tate v. Tate, 160 Ga. 449, 128 S.E. 393, 395; but, in light of context, may apply to date of will, Merrill v. Winchester, 120 Me. 203, 113 A. 261, 264.

NOXA. Lat. In the civil law, any damage or injury done to persons or property by an unlaw-
ful act committed by a man's slave or animal. An action for damages laid against the master or owner, who, however, might escape further re-
ponsibility by delivering up the offending agent to the party injured. “Noxa” was also used as the
NOXA SEQUITUR

designation of the offense committed, and of its punishment, and sometimes of the slave or animal doing the damage.

NOXA SEQUITUR CAPUT. The injury [i.e., liability to make good an injury caused 'by a slave'] follows the head or person, [i.e., attaches to his master.] Heinecc. Elem. l. 4, t. 8, § 1231.

NOXÆ DEDITIO. The surrender of a slave who has committed a misdeed. The master may elect whether he will pay the damages assessed or surrender the slave. Hunter, Rom. Law, 166.

NOXAL ACTION. An action for damage done by slaves or animals. Sandars, Just. Inst. (5th Ed.) 457.

NOXALIS ACTIO. Lat. In the civil law, an action which lay against the master of a slave, for some offense (as theft or robbery) committed or damage or injury done by the slave, which was called "noxal." Usually translated "noxious action."

NOXIA. Lat. In the civil law, an offense committed or damage done by a slave. Inst. 4, 8, 1.

NOXIOUS. Hurtful; offensive; offensive to the smell. Rex v. White, 1 Burrows, 337. The word "noxious" includes the complex idea both of insalubrity and offensiveness. Id. That which causes or tends to cause injury, especially to health or morals. Moubray v. G. & M. Improvement Co., 178 App.Div. 737, 165 N.Y.S. 842, 843.

NUBILIS. Lat. In the civil law, marriageable; one who is of a proper age to be married.

NUCES COLLEGERE. Lat. To collect nuts. This was formerly one of the works or services imposed by lords upon their inferior tenants. Paroch. Antiq. 495.

NUDA PACTIO OBLIGATIONEM NON PARIT: A naked agreement (i.e., without consideration) does not create an obligation. Dig. 2, 14, 7, 4; Broom, Max. 746.

NUDA PATIENTIA. Lat. Mere sufferance.

NUDA POSSESSIO. Lat. Bare or mere possession.

NUDA RATIO ET NUDA FACTIO NON LIGANT ALIQUEM DEBITOREM. Naked reason and naked promise do not bind any debtor. Fleta, t. 2, c. 60, § 25.

NUDE. Naked. This word is applied metaphorically to a variety of subjects to indicate that they are lacking in some essential legal requisite.

NUDE CONTRACT. One made without any consideration: upon which no action will lie, in conformity with the maxim "ex nudo pacto non oritur actio." 2 Bl.Comm. 445.

NUDE MATTER. A bare allegation of a thing done, unsupported by evidence.

NUDE PACT. One without consideration; an executory contract without a consideration; a naked promise. Oliver v. Home Service Ice Co., La.App., 161 So. 766, 770.

NUDUM PACTUM. A voluntary promise, without any other consideration than mere good will, or natural affection. Grimes v. Baker, 133 Neb. 517, 275 N.W. 860, 863.


In Roman law. Informal agreements not coming within any of the privileged classes. They could not be sued on. The term was sometimes used with a special and rather different meaning to express the rule that a contract without delivery will not pass property. Pollock, Contracts 743. Salmond, Jurisprudence 640.

NUDUM PACTUM EST UBI NULLA SUBEST CAUSA PRETER CONVENTIONEM; SED UBI SUBEST CAUSA, FIT OBLIGATIO, ET PARIT ACTIONEM. A naked contract is where there is no consideration except the agreement; but, where there is a consideration, it becomes an obligation and gives a right of action. Plowd. 309; Broom, Max. 745, 750.

NUDUM PACTUM EX QUO NON ORITUR ACTIO. Nudum pactum is that upon which no action arises. Cod. 2, 3, 10; Id. 5, 14, 1; Broom, Max. 676.

NUEVA RECOPIACION. New Compilation. The title of a code of Spanish law, promulgated in the year 1567. Schm, Civil Law, Introdc. 79-81.

NUGATORY. Futile; ineffectual; invalid; destitute of constraining force or vitality. A legislative act may be "nugatory" because unconstitutional. Avery & Co. v. Sorrell, 157 Ga. 476, 121 S. E. 828, 829.

NUISANCE. That which annoys and disturbs one in possession of his property, rendering its ordinary use or occupation physically uncomfortable to him. Yaffe v. City of Ft. Smith, 178 Ark. 406, 10 S.W.2d 886, 890, 61 A.L.R. 1388. Everything that endangers life or health, gives offense to senses, violates the laws of decency, or obstructs reasonable and comfortable use of property. Hall v. Putney, 291 Ill.App. 508, 10 N.E.2d 204, 207. Nuisance; anything which essentially interferes with enjoyment of life or property. Holton v. Northwestern Oil Co., 201 N.C. 744, 161 S.E. 391, 393. That class of wrongs which arise from the unreasonable, unwarrantable, or unlawful use by a person of his own property, either real or personal, or from his own improper, indecent, or unlawful personal conduct, working an obstruction of or injury to the right of another or of the public, and producing such material annoyance, inconvenience, discomfort, or hurt, that the law will presume resulting damage. City of Phoenix v. Johnson, 51 Ariz. 115, 75 P.2d 30; Wood, Nuis., § 1; District of Columbia v. Totten, 55 App.D.C. 312, 5 F.2d 374, 380, 40 A.L.R. 1461. Anything that
unlawfully worketh hurt, inconvenience, or dam-
age. 3 Bl.Comm. 216; City of Birmingham v. Hood-McPherson Realty Co., 233 Ala. 352, 172 So. 114, 120, 108 A.L.R. 1140. Anything which is injur-ious to health, or is indecent or offensive to the sense, is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlaw-
fully obstructs the free passage or use, in the cus-
tomary manner, of any navigable lake or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance. Civ. Code Cal. § 3449; Veazie v. Dwielin, 50 Me. 473; Bohan v. Port Jervis Gaslight Co., 122 N.Y. 18, 25 N.E. 246, 9 L.R.A. 711; Baltimore & P. R. Co. v. Fifth Baptist Church, 137 U.S. 568, 11 S.Ct. 185, 34 L.Ed. 784; Ex parte Foote, 70 Ark. 12, 65 S.W. 706, 91 Am.St.Rep. 63.

In determining what constitutes a "nuisance," the ques-
tion is whether the nuisance will or does produce such a condition of things as in the judgment of reasonable men is naturally productive of actual physical discomfort to persons or property, or is offensive to ordinary and customary habits. Meeks v. Wood, 66 Ind.App. 514, 118 N.E. 591, 592.

Nuisances are commonly classed as public and private, and mixed. A public nuisance is one which affects an indefinite number of persons, or all the residents of a par-
ticular locality, or all people coming within the extent of its range or operation, although the extent of the anno-
ynance or damage inflicted upon individuals may be unequal. Burnham v. Hotchkiss, 14 Conn. 317; Cheshour v. Comrs., 37 Ohio St. 508; Lansing v. Smith, 4 Wend., N.Y., 30, 31 Am.Dec. 89. A private nuisance was originally defined as anything done to the hurt or annoyance of the lands, tenements, or hereditaments of another. 3 Bl.

As distinguished from public nuisance, it includes any act which, whether done by an individual or a corporation, or in any way connected with their lawful use or enjoyment thereof, or any act which unlawfully hinders them in the enjoyment of a common or public right and causes them a special injury different from that sustained by the general public. Therefore, although the ground of distinction between public and private nuisances is still the injury to the community at large or, on the other hand, to a single individual, it is evident that the same thing or act may constitute a public nu-
issance and at the same time a private nuisance. Heg v. Licht, 80 N.Y. 582, 36 Am.Rep. 653; Baltzeger v. Carollina Min. & Mfr. Co., 54 S.C. 242, 7 S.E. 358, 71 Am.St.Rep. 789; Willcox v. Hines, 100 Tenn. 353, 46 S.W. 297, 41 L.R.A. 279; Harris v. Poulton, 99 W.Va. 20, 127 S.E. 647, 653. A private nuisance is of the kind last described: it is, it is one which both public and private in its effects, public because it injures many pe-
ople, and private because it injures individuals, and private in that it also produ-

Abatement of a nuisance. The removal, pro-
stration, or destruction of that which causes a nu-
issance, whether by breaking or pulling it down, or otherwise removing, disintegrating, or effacing it. Ruff v. Phillips, 50 Ga. 130.

The remedy which the law allows a party injured by a
nuisance of destroying or removing it by his own act, so as to commit no riot in doing it, nor occasions (in the case of a private nuisance) any damage beyond what the re-
movement of the inconvenience necessarily requires. 3 Bl.

Actionable nuisance. See Actionable.

Assize of nuisance. In old practice, this was a judicial writ directed to the sheriff of the county in which a nuisance existed, in which it was stated that the party injured complained of some particular fact done ad nocumentum liberi tenementi sui, (to the nuisance of his freehold,) and com-
manding the sheriff to summon an assize (that is, a jury) to view the premises, and have them at the next commission of assizes, that justice might be done, etc. 3 Bl.Comm. 221.

Common nuisance. One which affects the public in general, and not merely some particular person; a public nuisance. 1 Hawk.F.C. 197; State v. Rodgers, 91 N.J.L. 212, 102 A. 433, 434.

Continuing nuisance. An uninterrupted or per-
iodically recurring nuisance; not necessarily a constant or unceasing injury, but a nuisance which occurs so often and is so necessarily an incident of the use of property complained of that it can fairly be said to be continuous. Farley v. Gas-

Permanent nuisance. A nuisance of such a character that its continuance is necessarily an injury which will continue without change. Norfolk & W. Ry. Co. v. Allen, 118 Va. 428, 87 S.E. 558, 560. One that cannot be readily abated at small expense. Cumberland Torpedo Co. v. Gables, 201 Ky. 88, 255 S.W. 1046, 1048.

NUISANCE AT LAW. Nuisance per se (q. v.).

NUISANCE IN FACT. Acts, occupations or struc-
tures which are not nuisances per se but may become nuisances by reason of the circumstances or the location and surroundings. Asphalt Products Co. v. Marable, 65 Ga.App. 877, 16 S.E.2d 771, 772.

NUISANCE PER ACCIDENTA. Nuisances in fact (q. v.).

NUISANCE PER SE. An act, occupation, or struc-
ture which is a nuisance at all times and under all circum-
stances, regardless of location or surroundings. Kays v. City of Versailles, 224 Mo.App. 175, 22 S.W.2d 182, 183. As, things prejudicial to public morals or dangerous to life or injurious to public rights; distinguished from things declared to be nuisances by statute, and also from things which constitute nuisances only when considered with reference to their particular location or other individual circumstances. Hundley v. Harrison, 132 Ala. 292, 36 So. 294; Whitmore v. Paper Co., 91 Me. 297, 39 A. 1032, 40 L.R.A. 377; Simpson v. Du Pont Powder Co., 143 Ga. 465, 85 S.E. 344, 345, L.R.A.1915E, 430.

NUL. No; none. A law French negative particle commencing many phrases.

NUL AGARD. No award. The name of a plea in an action on an arbitration bond, by which the defen-
dant traverses the making of any legal award.

NUL CHARTER, NUL VENTE, NE NUL DONE VAULT PERPETUELMENT, SI LE DONOR N'EST SEISE AL TEMPS DE CONTRACTES DE DEUX DROITS, SC. DEL DROIT DE POSSESSION ET DEL DROIT DE PROPREITE. Co. Litt. 266. No grant, no sale, no gift, is valid forever,
unless the donor, at the time of the contract, is seised of two rights, namely, the right of possession, and the right of property.

NUL DISSEISIN. In pleading, no disseisin. A plea of the general issue in a real action, by which the defendant denies that there was any disseisin.

NUL NE DOIT S'ENRICHIR AUX DEFENS DES AUTRES. No one ought to enrich himself at the expense of others.

NUL PRENDRA AVANTAGE DE SON TORT DEMESNE. No one shall take advantage of his own wrong. 2 Inst. 713; Broom, Max. 290.

NUL SANS DAMAGE AVERA ERROR OU AT-TAINT. Jenk. Cent. 323. No one shall have error or attain unless he has sustained damage.

NUL TIEL CORPORATION. No such corporation [exists]. The form of a plea denying the existence of an alleged corporation. Rialto Co. v. Miner, 183 Mo.App. 119, 166 S.W. 629, 632.

NUL TIEL RECORD. No such record. A plea denying the existence of any such record as that alleged by the plaintiff. It is the general plea in an action of debt on a judgment. Hoffheimer v. Stiefel, 17 Misc. 236, 39 N.Y.S. 714; Watters v. Freeman Bros., 16 Ga.App. 595, 85 S.E. 931.

Judgment of nul tiel record occurs when some pleading denies the existence of a record and issue is joined thereon; the record being produced is compared by the court with the statement in the pleading which alleges it; and if they correspond, the party asserting its existence obtains judgment; if they do not correspond, the other party obtains judgment of nul tiel record (no such record).

NUL TORT. In pleading, a plea of the general issue to a real action, by which the defendant denies that he committed any wrong.

NUL WASTE. No waste. The name of a plea in an action of waste, denying the committing of waste, and forming the general issue.


NULLA BONA. Lat. No goods. The name of the return made by the sheriff to a writ of execution, when he has not found any goods of the defendant within his jurisdiction on which he could levy. Woodward v. Harbin, 1 Ala. 108; Reed v. Lowe, 163 Mo. 519, 63 S.W. 687, 85 Am.St.Rep. 578.

NULLA CURIA QUE RECORDUM NON HABET POTEST IMPONERE FINEM NEQUE ALIQUEM MANDARE CARCERI; QUA IA SPECTANT TANTUMODO AD CURIAS DE RECORDO. 8 Coke, 60. No court which has not a record can impose a fine or commit any person to prison; because those powers belong only to courts of record.


NULLA IMPOSSIBILIA AUT INHONESTA SUNT PRÆSUMENDA; VERA AUTEM ET HONESTA ET POSSIBILIA. No things that are impossible or dishonorable are to be presumed; but things that are true and honorable and possible. Co.Litt. 739.

NULLA PACTIOE EFFICI POTEST UT DOLUS PRÆSTETUR. By no agreement can it be effected that a fraud shall be practiced. Fraud will not be upheld, though it may seem to be authorized by express agreement. 5 Maule & S. 466; Broom, Max. 656.

NULLA VIRTUS, NULLA SCIENTIA, LOCUM SUUM ET DIGNITATEM CONSERVARE POTEST SINE MODESTIA. Co.Litt. 394. Without modesty, no virtue, no knowledge, can preserve its place and dignity.

NULLE RÈGLE SANS FAUTE. There is no rule without a fault.


NULLI NEM RES SUA SERVIT JURE SERVITUTIS. No one can have a servitude over his own property. Dig. 5, 2, 26; 2 Bouv.Inst. no. 1600; Grant v. Chase, 17 Mass. 443, 9 Am.Dec. 161.

NULLI VENDEMUS, NULLI NEGABimus, AUT DIFFEREMUS RECTUM VEL JUSTITIAM. We neither sell nor deny, nor delay, to any person, equity or justice. State ex rel. Maeci v. City of Bremerton, 8 Wash.2d 93, 111 P.2d 612, 619.

NULLITY. Nothing; no proceeding; an act or proceeding in a cause which the opposite party may treat as though it had not taken place, or which has absolutely no legal force or effect. Salter v. Hiltgen, 40 Wis. 363; Jenness v. Lapeer County Circuit Judge, 42 Mich. 469, 4 N.W. 220.

Absolute Nullity. In Spanish law, nullity is either absolute or relative. The former is that which arises from the law, whether civil or criminal, the principal motive for which is the public interest, while the latter is that which affects one certain individual. Suno v. Hepburn, 1 Cal. 281. No such distinction, however, is recognized in American law, and the term "absolute nullity" is used more for emphasis than as indicating a degree of invalidity. As to the ratification or subsequent validation of "absolute nullities," see Means v. Robinson, 7 Tex. 500, 516.

NULLITY OF MARRIAGE. The entire invalidity of a supposed, pretended, or attempted marriage, by reason of relationship or incapacity of the parties or other diriment impediments. An action seeking a decree declaring such an assumed marriage to be null and void is called a suit of "nullity of marriage." It differs from an action for divorce, because the latter supposes the existence of

NULLIUS FILIUS. Lat. The son of nobody; a bastard. A bastard is considered nullius filius as far as regards his right to inherit. But the rule of nullius filius does not apply in other respects, and has been changed by statute in most states so as to make him the child of his mother, in respect of inheritance. State v. Chavez, 42 N.M. 569, 82 P.2d 900, 902.

NULLIUS HOMINIS AUCTORITAS APUD NOS VALERE DEBET, UT MELIORA NON SEQUEMUR SI QUIS ATTULERIT. The authority of no man ought to prevail with us, so far as to prevent our following better [opinions] if any one should present them. Co.Litt. 383b.

NULLIUS IN BONIS. Lat. Among the property of no person.

NULLIUS JURIS. Lat. In old English law, of no legal force. Fleta, lib. 2, c. 60, § 24.

NULLUM ARBITRIUM. L. Lat. No award. The name of a plea in an action on an arbitration bond, for not fulfilling the award, by which the defendant traverses the allegation that there was an award made.

NULLUM CRIMEN MAJUS EST INOBEDIEN- TIA. No crime is greater than disobedience. Jenk.Cent. p. 77, case 48. Applied to the refusal of an officer to return a writ.

NULLUM EXEMPLUM EST IDEM OMNIBUS. No example is the same for all purposes. Co.Litt. 212a. No one precedent is adapted to all cases. A maxim in conveyancing.

NULLUM FECERUNT ARBITRIUM. L. Lat. The name of a plea to an action of debt upon an obligation for the performance of an award, by which the defendant denies that he submitted to arbitration, etc. Bac.Abr. "Arbitr." etc., G.

NULLUM INIQUUM EST PREJUDEMENIUM IN JURE. 7 Coke, 71. No iniquity is to be presumed in law.

NULLUM MATRIMONIUM, IBI NULLA DOS. No marriage, no dower. Wait v. Wait, 4 Barb., N.Y., 192, 194.

NULLUM SIMILE EST IDEM NISI QUATUOR PEDITUS CURRIT. Co. Litt. 3. No like is identical, unless it run on all fours.

NULLUM SIMILE QUATOR PEDITUS CURRIT. No simile runs upon four feet, (or all fours, as it is otherwise expressed.) No simile holds in everything. Co. Litt. 3a; Ex parte Foster, 2 Story, 143, Fed.Cas.No.4560.

NULLUM TEMPS ACT. A name given to the statute 3 Geo. III. c. 16, because that act, in contravention of the maxim "Nullum tempus occurrit regi," (no lapse of time bars the king,) limited the crown's right to sue, etc., to the period of sixty years.

NULLUS TEMPUS AUT LOCUS OCCURRIT REGI. No time or place affects the king. 2 Inst. 273; Jenk. Cent. 83; Broom, Max. 65.

NULLUS TEMPUS OCCURRIT REGL. Time does not run against the king. The rule refers to the king in his official capacity as representing the sovereignty of the nation and not to the king as an individual. City of Bisbee v. Cochise County, 52 Ariz. 1, 78 P.2d 982, 984.

NULLUS TEMPUS OCCURRIT REIPUBLICAE. No time runs [time does not run] against the commonwealth or state. Covington County v. O'Neal, 239 Ala. 322, 195 So. 234, 238.

NULLUS ALIUS QUAM REX POSSIT EPISCOPO DEMANDARE INQUISITIONEM FACIENDAM. Co. Litt. 134. No other than the king can command the bishop to make an inquisition.

NULLUS COMMODUM CAPERE POTEST DE INJURIA SUA PROPRIA. No one can obtain an advantage by his own wrong. Co. Litt. 148; Broom, Max. 278; De Zottell v. Mutual Life Ins. Co. of New York, 60 S.D. 332, 245 N.W. 58, 59.

NULLUS DEBET AGERE DE DOLO, UBI ALIA ACIO SUBEST. Where another form of action is given, no one ought to sue in the action de dolo. 7 Coke, 92.

NULLUS DICTUR ACCESSORIUS POST FELONIAM, SED ILLE QUI NOVIT PRINCIPALEM FELONIAM FECITSE, ET ILLUM RECEPTAVIT ET COMFORTAVIT. 3 Inst. 138. No one is called an "accessory" after the fact but who knew the principal to have committed a felony, and received and comforted him.

NULLUS DICTUR FELO PRINCIPALIS NISI ACTOR, AUT QUI PRESENS EST, ABETTANS AUT AUXILIANS AD FELONIAM FACIENDAM. No one is called a "principal felon" except the party actually committing the felony, or the party present aiding and abetting in its commission.

NULLUS DONEUS TESTIS IN RE SUA INTEL- LIGITUR. No person is understood to be a competent witness in his own cause. Dig. 22, 5, 10.

NULLUS JUS ALIENUM FORIS FACERE PO- TEST. No man can forfeit another's right. Fleta, lib. 1, c. 28, § 11.

NULLUS RECEDAT E CURIA CANCELLARIA SINE REMEDIO. No person should depart from the court of chancery without a remedy. 4 Hen. VII 4; Branch, Princ.

NULLUS SIMILE EST IDEM, NISI QUATUOR PEDITUS CURRIT. No like is exactly identical unless it runs on all fours.

NULLUS VIDETUR DOLO FACERE QUI SUO JURE UTITUR. No one is considered to act with guile who uses his own right. Dig. 50, 17, 55; Broom, Max. 130.
NUMBERS

A game of chance in which player selects any number and makes a bet on that number and gives amount of bet and number to the "runner" who enters it on a pad, player receiving a copy, and whereby winning number is determined each day by computation based upon prices paid on parimutuel betting machine at a designated track for horse racing as published in a newspaper, the holder of winning number receiving through the number 600 times the amount of his bet. State v. Mola, 128 Conn. 407, 23 A.2d 126, 127.

NUMERATA PECUNIA. Lat. In the civil law, money told or counted; money paid by tale. Inst. 3, 24, 2; Bract. fol. 35.

NUMERICAL LOTTERY. See Genoese Lottery.

NUMMATA. The price of anything in money, as denariata is the price of a thing by computation of pence, and librata of pounds.

NUMMATA TERRÆ. An acre of land. Spelman.


NUNC PRO TUNC. Lat. Now for then. In re Peter's Estate, 175 Okl. 90, 51 P.2d 272, 274. A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i. e., with the same effect as if regularly done. Perkins v. Hayward, 132 Ind. 93, 31 N.E. 670; Secou v. Leroux, 1 N.M. 388.

"Nunc pro tunc" entry is an entry made now of something actually previously done to have effect of former date: office being not to supply omitted action, but to supply omission in record of action really had but omitted through inadvertence or mistake. Mallory v. Ward Baking Co., 270 Mich. 94, 258 N.W. 414; People v. Rosenwald; 266 Ill. 568, 107 N.E. 884, 886; Ann. Cas.1917D, 688; Grizzard v. Fite, 137 Tenn. 103, 191 S.W. 969, 971, L.R.A.1917D, 652.

NUCNIATIO. Lat. In the civil law, a solemn declaration, usually in prohibition of a thing; a protest.

NUCICIO. The permanent official representative of the pope at a foreign court or seat of government. Webster. They are called "ordinary" or "extraordinary," according as they are sent for general purposes or on a special mission.

NUCICUS. In international law, a messenger; a minister; the pope's legate, commonly called a "nuncio."

NUCUPARE. Lat. In the civil law, to name; to pronounce orally or in words without writing.

NUCUPATE. To declare publicly and solemnly.

NUCUPATIVE WILL. An oral will declared or dictated by the testator in his last sickness before a sufficient number of witnesses, and afterwards reduced to writing. Ex parte Thompson, 4 Bradf. Sur., N.Y., 154; Sykes v. Sykes, 2 Stew., Ala., 367, 20 Am.Dec. 40.

A will made by the verbal declaration of the testator, and usually dependent merely on oral testimony for proof. Cent. Diet.

NUNDINÆ. Lat. In the civil and old English law, a fair. In nundinis et mercatis, in fairs and markets. Bract. fol. 56.

NUNDINATION. Traffic at fairs and markets; any buying and selling.

NUNQUAM CRESCIT EX POST FACTO PRETERITI DELICTI ESTIMATIO. The character of a past offense is never aggravated by a subsequent act or matter. Dig. 50, 17, 139, 1; Bac. Max. p. 38, reg. 8; Broom, Max. 41.

NUNQUAM DECURRITUR AD EXTRAORDINARIUM SED UBI DEFICIT ORDINARIUM. We are never to resort to what is extraordinary, but until we resort to what is extraordinary, but what is ordinary fails. 4 Inst. 84.

NUNQUAM FICTIO SINE LEGE. There is no fiction without law.

NUNQUAM INDEBITATUS. Lat. Never indebted. The name of a plea in an action of indebitatus assumpsit, by which the defendant alleges that he is not indebted to the plaintiff.

NUNQUAM NIMIS DICITUR QUOD NUNQUAM SATIS DICITUR. What is never sufficiently said is never said too much. Co. Litt. 375.

NUNQUAM PRESCRIBITUR IN FALSO. There is never a prescription in case of falsehood or forgery. A maxim in Scotch law. Bell.

NUNQUAM RES HUMANÆ PROSPERE SUCCEDUNT UBI NEGLIGUNTUR DIVINAÆ. Co. Litt. 15. Human things never prosper where divine things are neglected.

NUNTIUS. In old English practice, a messenger. One who was sent to make an excuse for a party summoned, or one who explained as to a friend the reason of a party's absence. Bract. fol. 345. An officer of a court; a summoner, appraiser, or beadle. Cowell.

NUPER OBIT. Lat. In practice, the name of a writ (now abolished) which, in the English law, lay for a sister coheirless dispossessed by her coparcener of lands and tenements whereof their father, brother, or any common ancestor died seised of an estate in fee-simple. Fitzh. Nat. Brev. 197.

NUPÆ SECUNDAE. Lat. A second marriage. In the canon law, this term included any marriage subsequent to the first.

NUPTIAL. Pertaining to marriage; constituting marriage; used or done in marriage.
NUPTIAS NON CONCUBITUS SED CONSENSUS FACIT. Co. Litt. 33. Not cohabitation but consent makes the marriage.

NURTURE. To give nourishment to, to feed, to bring up, or train, to educate. Pieretti v. Pieretti, Ch., 13 N.J.Misc. 98, 176 A. 589, 592. The act of taking care of children, bringing them up, and educating them. Regina v. Clarke, 7 El. & Bl. 193.

NURUS. Lat. In the civil law, a son's wife; a daughter-in-law. Calvin.

NYCTHEMERON. The whole natural day, or day and night, consisting of twenty-four hours. Enc. Lond.

NYMPHOMANIA. See Insanity.