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M. A numerical symbol for one thousand, being the first letter of the word "mill," the one thousandth part of a dollar. The Roman numeral for one thousand. An abbreviation also of "meridian," signifying noon.

See **em**.

M. A. Abbreviation of Master of Arts.

macadam. A kind of surface of a highway.

See **macadamize**.

macadamize. The making of a road surface by spreading successive layers of broken rock and binding such together by the application of tar or asphalt, the term deriving from the name of a Scottish engineer. 25 Am J1st High § 67.

Macedonian decree. A Roman law for the protection of young men against usury and denying an action to recover money from them if lent at a usurious rate.

mace proof. Immune from arrest.

macgrief. A buyer of stolen meat or provisions.

machination. A scheme, plot, or conspiracy to defraud.

machine. Something which utilizes, applies, or modifies force or translates motion. *Rosenblad Corp. v United States*, 49 Cust & Pat App 81. A device, either simple or complex, whose function is to increase the intensity of an applied force, or to change its direction, or to change one form of motion or energy into another form. *Durst Mfg. Co. v United States*, 50 Cust & Pat App 56. With less precision, a mechanical device or combination of devices to perform some function and produce a certain effect. *Central Trust Co. v Sheffield & B. Coal, Iron & R. Co.* (CC Ala) 42 F 106.

machine for voting. See **voting machine**.

machine gun. An automatic firearm firing a continuous stream of bullets. *Commonwealth v Colton*, 333 Mass 607, 132 NE2d 398, 399.

Machine Gun Act. One of the uniform statutes. 56 Am J1st Weap § 5.

machinery. A machine plus appurtenances necessary to the working of the machine. Anno: 91 ALR 541; 32 Am J1st L & T § 843. A machine or the constituent parts of a machine taken collectively; any combination of mechanical means designed to work together in accomplishing a given result. *Murphy v O'Neil*, 204 Mass 42, 90 NE 406. A machine or engine and its working parts, also the means, appliances, and attachments by which the machine or engine becomes effectively operative for its purpose. 29 Am J Rev ed Ins § 302.

mactator. A murderer.

mad. Madness.

mad dog. A dog afflicted with rabies.

See **rabies**.

made. Signed and delivered as a negotiable instrument. 12 Am J2d B & N § 1103.

See **case made**.

made and executed. In reference to a deed, usually the equivalent of signed, sealed, and delivered. 23 Am J2d Deeds § 20.

made known to me by introduction. A clause in a certificate of acknowledgment showing the source of the officer's knowledge of the identity of the person acknowledging the instrument. 1 Am J2d Ack § 71.

made land. Land which has been reclaimed from the waters by filling out into a lake or other body of water from the shore. *Carli v Stillwater Street Railway & Transfer Co.* 28 Minn 373, 10 NW 205.

madman. See **madness**.

madness. Insanity or mental derangement, especially in a form resulting in violent acts or other manifestation of acute derangement of the mind. A word which was apparently employed by the earlier writers on the subject of insanity to include almost every form of mental derangement. *Owing's Case (Md)* 1 Bland Ch 370.

mad parliament. A council held in 1258 to adjust the differences existing between King Henry the Third and the barons, which provided for the king's closer observance of Magna Charta and other reforms.

mad point. The idea or object upon which a monomania, in any given case, is centered. *Owing's Case (Md)* 1 Bland Ch 370.

See **monomania**.

maeg. (Saxon.) A kinsman.

maegbot. Same as **maegbote**.

maegbote. (Saxon.) Compensation for the killing of a kinsman.

maelstrom. A violent whirlpool. A state of agitation, literal or figurative. Any destructive or wide-reaching noxious influence. *Wisner v Nichols*, 165 Iowa 15, 143 NW 1020.

maeremium. Lumber for building.

magazine. A receptacle in which anything is stored; a storehouse; a warehouse. *State v Sprague*, 149 Mo 409, 419, 50 SW 901. Particularly a place for the storage of explosives. A periodical publication.

magis. More; the more; in a higher degree.

Magis de bono quam de malo lex intendit. The law inclines rather toward that which is good than toward that which is bad.

Magis dignum trahit ad se minus dignum. The more worthy appropriates to itself the less worthy.

Magis fit de gratia quam de jure. It was done more as a matter of favor than of right.

magister. A master; a chief; a head; a ruler; an instigator; a manager.

magister ad facultates. An ecclesiastical officer who granted dispensations.

magister cancellariae. A master in chancery.

magisterial. Relating or pertaining to a magistrate or his functions.

magisterial precinct. The area or district which constitutes the territorial jurisdiction of a justice of the peace and sometimes serves as an election district or precinct. *Breckinridge County v M'Cracken*

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(CA6 Ky) 61 F 191, 194 (referring to the term as known to the bar in Kentucky.)

magister litis. The master or person in control of the suit or litigation.

magister navis. The master of a ship.

Magister rerum usus. Use is the master of things.

Magister rerum usus; magistra rerum experientia. Use is the master of things; experience is the mistress of things.

magister societatis. (Civil law.) The manager of an association or partnership.

magistra. A mistress; female manager.

magistralia brevia. Magisterial writs,-writs which were drawn by masters in chancery.

magistrate. A judge or justice of an inferior court; a mayor; a justice of the peace. A judge of court, such as a police court, mayor's court, or justice's court, the jurisdiction of which is restricted to the trial of misdemeanors and the conducting of preliminary hearings upon charges of more serious offenses.

In a broader sense, a magistrate is a public civil officer invested with some part of the legislative, executive, or judicial power given by the Constitution. The President of the United States is the chief magistrate of the nation; the governors are the chief magistrates in their respective states. *Childers v State*, 30 Tex App 160, 195, 16 SW 903. For the purposes of extradition, any person regarded as a magistrate under the law of the state where the alleged crime was committed. 31 Am J2d Extrad § 39.

See **committing magistrate; preliminary hearing.**

magistrate's certificate. A certificate required by the terms of some fire insurance policies to accompany proofs of loss, to be procured by the insured from the nearest magistrate, notary public, or other officer, stating that the loss was sustained without fraud. *Kelly v Sun Fire Office*, 141 Pa 10.

magistratus. (Civil law.) A magistrate; a high Roman official.

magna assisa. The grand assize,-an optional substitute for a trial by battel, which was a trial before a jury of sixteen men. See 3 Bl Comm 341.

magna assisa eligenda. A writ for the choosing of the grand assize.

magna avena. Great cattle,—animals of the bovine species.

Magna Carta. Same as **Magna Charta**.

Magna Charta. A charter of liberties, now found to be embodied in some form in every one of the American Constitutions; guaranteeing that every person shall be protected in the enjoyment of his life, liberty, and property, except as they may be declared to be forfeited by the judgment of his peers or the law of the land; issued by King John, at the demand of the barons, June 15, 1215, confirmed, with some changes, 9 Hen. III and 25 Edw. I.

For the full text of Magna Charta, see Am J2d Desk Book Document 4.

Magna Charta et Charta de Foresta sont appele les deux grand charters. Magna Charta and Charta de Foresta—the Charter of the Forest—are called the two great charters.

magna componere parvis. To compare great things with little things.

magna culpa. Gross negligence; great fault.

Magna culpa dolus est. Gross neglect or fault is the equivalent of fraud.

magna curia. See **curia magna**.

Magna negligentia culpa est; magna culpa dolus est. Gross negligence is fault; gross fault is equivalent to fraud. *Beers v Boston & Albany Railroad Co.* 67 Conn 417, 34 A 541.

magna precaria. See **precariae**.

magna serjeantia. Grand serjeanty,—a tenure in capite like knight service, but which did not include either personal attendance on the king or escuage. See 2 Bl Comm 73.

magnesia. See **milk of magnesia**.

magnetic healer. One who practices a special or limited system of healing the sick. 41 Am J1st Phys & S § 31.

magnetic meridian. A great circle of the earth which passes through the magnetic, rather than the geographical, poles of the earth. 12 Am J2d Bound § 59. A meridian established by the employment of a magnetic compass without allowing for deviations in direction from the true meridian on account of magnetic variations in the needle of the compass.

In the earlier private surveys made in the United States, it seems to have been the practice to run lines on the ground according to the magnetic meridian, and not according to the true meridian. 12 Am J2d Bound § 59. The Congressional survey of public lands is according to the true meridian. 43 USC § 751.

magnetic variation. The variation from a geographical or true line caused by the influence of terrestrial magnetism upon the needle of the compass. 12 Am J2d Bound § 59.

magnum cape. Grand cape,—a judicial writ which lay to recover the possession of land when the tenant defaulted in a real action.

magnum concilium. The great council,—the English parliament.

magnum concilium regis, curia magna, conventus magnatum vel procerum, assisa generalis. The great council of the king, the high court, the assembly of the nobles, and the general assize. See 1 Bl Comm 148.

magnus rotulus statutorum. The great roll of statutes, the great statute roll, beginning with Magna Charta and including the statutes following through the reign of Edward the Third.

maiden. An instrument anciently used in England for beheading capital offenders. A virgin but not in the absolute sense in all contexts. A young, unmarried woman, or female, but not necessarily a virgin and not necessarily one who has preserved her chastity. State v Shedrick, 69 Vt 428, 431.

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maiden assize. An assize which did not convict any person of a capital offense.

maidenhead. Same as **hymen**.

maiden name. The surname of a female before her marriage.

maiden rents. A fine paid by the tenant to the lord of the manor for license to marry off his (the tenant's) daughter.

maihem. Same as **mayhem**.

maihematus. Maimed; wounded.

maihemium. Same as **mayhem**.

Maihemium est homicidium inchoatum. Mayhem is inchoate or unfinished homicide.

Maihemium est inter crimina majora minimum, et inter minora maximum. Mayhem is the least among the greater crimes, and the grossest among the lesser ones.

Maihemium est membri mutilatio, et dici poterit ubi aliquis in aliqua parte sui corporis effectus sit inutilis ad pugnandum. Mayhem is the mutilation of a member of the body, and may be said to take place when anyone is so injured in any part of his body as to be rendered useless for fighting.

mail. Verb: To place a letter or other mail matter, properly enveloped or packaged, addressed and stamped, in a mail slot, mail chute, or mail box, provided by the post office department for the reception of mail, or to deliver a letter or other mail matter so prepared to a postman or letter carrier employed by the department. Anne: 63 ALR 932; 29 Am J2d Ev §§ 195, 196. Within the meaning of a cancellation clause in an insurance policy:—to deposit a letter containing a notice of cancellation in the mail, irrespective of its actual receipt by the insured. 29 Am J Rev ed Ins § 386. Noun: Letters, packets, etc. deposited or received for transmission by post to the person or persons to whom they are addressed, in accordance with the postal regulations. 41 Am J1st P O § 48.

The original meaning of the word was a covering, and the word thus came to be applied to the bag or packet in which letters and messages were placed, and later to the contents of the bag or packet.

See **acceptance by mail; competition with the mails; first-class mail; fourth-class mail; franking; letter; mailable matter; packet; parcel post; postoffice; registered letter; second-class mail; thirdclass mail; using mails to defraud.**

mailability. The quality or condition of a matter which renders it mailable, that is, acceptable for transportation as mail. 41 Am J1st P O § 49.

mailable matter. Matter which may be lawfully conveyed in the United States mails, or be delivered by a postmaster or letter carrier. United States ex rel. Milwaukee Social Democratic Publishing Co. v Burleson, 255 US 407, 410, 65 L Ed 704, 708, 41 S Ct 352.

mailbag. The container in which mail is transported.

mail box. A receptacle for the deposit of mail, whether outgoing mail to be picked up by a carrier or mail arriving for a particular person.

mail car. The car on a train in which United States mail is transported. Cincinnati, Lebanon & Springfield Turnpike Co. v Neil, 9 Ohio 11, 12.

mail carrier. An employee of the government, through the post office department, for the free delivery of mail. 41 Am J1st P O § 32.

mail catcher. See **mail crane.**

mail clerk. A clerk engaged in the distribution of mail in a mail car on a train.
See **post-office clerk.**

mail coach. See **mail car.**

mail contract. A contract entered into between the government and a carrier for carrying mail matter over a fixed route for a definite period of time, at a specified rate of compensation. 41 Am J1st P O § 73.

mail correspondence course. See **correspondence course.**

mail crane. An upright post planted close to a railroad track with an arm which, when not in use, hangs by the side of the post, but when in use is extended horizontally toward the track, and from which a suspended mail sack may be taken while the train is in motion by means of an iron hook or "mail catcher" attached to the door of the mail car and operated by the mail clerk. International & Great Northern Railway Co. v Stephenson, 22 Tex Civ App 220, 222.

maile. Rent-money.

mailed. See **mail.**

mail fraud. See **using mails to defraud.**

mailing. See **mail.**

mailing process. See **substituted service.**

mail matter. Letters, packets, etc. deposited or received for transmission by government post to the person or persons to whom they are addressed, in accordance with the postal regulations. 41 Am J1st PO§48.
See **mailability; mailable matter.**

mail offense. An offense directed against the United States mail or an instrumentality of the mail service, such as a post office. A violation of postal laws. 41 Am J1st P 0 § 98.

mail-order divorce. Otherwise known as a Mexican divorce; a divorce in which the plaintiff, without ever becoming a resident of Mexico, corresponds with an attorney of that country who prepares the necessary papers, plaintiff signing and returning them to him, whereupon a divorce is granted in Mexico, without the presence of either party to the marital relation severed by the divorce.

Such a divorce is generally regarded as absolutely void. 24 Am J2d Div & S § 965.

mail stage. A stage coach used in carrying mail in an earlier day.

mail train. Any railroad train carrying United States mail; a railroad train carrying only United States mail.

mail zones. See **parcel post zones.**

maim. To mutilate a limb, member, or any essential part of the body of another. To commit the crime of mayhem.

The word is also used as a noun, and as thus used it has the same meaning as the word mayhem. See *State v Johnson*, 58 Ohio St 417, 51 NE 40.

See **mayhem.**

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main. Adjective: Principal; leading; chief in importance, strength extent or length. *Oregon C. & E. Ry. Co. v Blackmer*, 154 Or 388, 59 P2d 694. Noun: A pipe or conduit for the conveyance of water or gas, particularly along a street or highway. A mainsail or mainmast. The sea. In a sense now obsolete, a hand.

See **en owel main.**

main action. Same as **principal action.**

mainad. False swearing; perjury.

main à main. At once; immediately.

main channel. The channel through which the current courses to best advantage, usually the deeper and more navigable channel of a river of two or more channels at a particular point of the stream.

The description of a boundary line as formed by the center of the "main channel" of a designated river is too indefinite, in many instances, to constitute a description which can be traced. *Michigan v Wisconsin*, 270 US 295, 311, 70 L Ed 595, 602, 46 S Ct 290.

See **main river.**

main employment. See **principal employment or business.**

mainoeuvre. Same as **mainovre.**

mainour. See **in manu; with the mainour.**

mainovre. Handwork; manual labor.

mainpernable. Bailable; that is, admitting of bail, as, aailable offense; entitled to bail, as, aailable prisoner.

mainpernors. Sureties on a bond or undertaking for the appearance of a defendant.

See **mainprise**.

mainprise. A writ directed to the sheriff, either generally, when a man was imprisoned for aailable offense, and bail had been refused, or specially, when the offense or cause of commitment was not properlyailable below, commanding him to take mainpernors or sureties for the prisoner's appearance. See 3 BI Comm 128.

The word is often used in the old books as synonymous with the word "bail," and both are obligations for the appearance of a party and to save him from imprisonment, and the chief difference is said to be that a man's mainpernors are barely his sureties, and cannot imprison him themselves to secure his appearance, as his bail may. *Toles v Adee*, 84 NY 222, 240.

main river. The principal stream of a river system, as distinguished from the branches or tributaries.

See **main channel**.

main seas. The high seas. *United States v Bevans* (US) 3 Wheat 336, 4 L Ed 403.

main stem. A slang expression for main line of a railroad. Anno: 80 ALR 279. Also slang for the principal street of a municipality.

main stream. See **main river**.

mainstream. A new word coined in political circles for the current general course of social, economic, and political events.

main street. See **main stem; main thoroughfare**.

mainsworn. Handsworn,—the condition of a person who has committed perjury after having made oath with his hand on the Book.

maintain. To support; to keep in condition; to sustain.

When the word is used with the word construct, it must be held to relate more closely to the structure itself of a building than to such an operation as keeping the floors of the building clean. *Juul v School Dist.* 168 Wis 111, 169 NW 309, 9 ALR 904, 907.

"We cannot yield our assent to the contention that the word 'maintain' ordinarily means to maintain indefinitely or forever. Its meaning in that respect depends upon the context in which it appears and the subject matter to which it relates." *Hasman v Elk Grove Union High School*, 76 Cal App 629, 245 P 464.

maintainable action. An action capable of being maintained; capable of being sustained or entertained by a court. *McLaughlin v Upton*, 2 Wyo 32, 45.

maintain an action. To uphold, continue on foot, and keep from collapse a suit already begun. *Smallgood v Gallardo*, 275 US 56, 72 L Ed 152, 48 S Ct 23; *National Fertilizer Co. v Fall River Five Cents Savings Bank*, 196 Mass 458, 82 NE 671.

As used in § 16(b) of the Fair Labor Standards Act providing that an action to recover unpaid overtime and liquidated damages "may be maintained in any court of competent jurisdiction," it has been held that the phrase was merely used to confer jurisdiction on the state courts and not to restrict the operation of the removal statute. But a majority of the cases hold that the phrase in effect amends, or creates an exception to the operation of, the removal statute, giving the employee the right to select the forum in which to prosecute the action to a conclusion, and deprives the defendant of the right to remove the action. The

disagreement is due almost entirely to the uncertainty as to the true meaning of the word "maintained." The courts following the first view hold that it means merely that the action may be "commenced" in any court of competent jurisdiction, and that if it is brought in a state court it may be prosecuted to a conclusion there if the defendant does not remove it; but the majority interpret the word "maintained" to mean "prosecute to judgment," so that the statute in effect provides that if the plaintiff brings the action in a state court of competent jurisdiction he may prosecute it there to judgment notwithstanding the desire of the defendant to remove the case to the Federal court. Anno: 172 ALR 1163.

maintain and provide for. In reference to the duty of a husband, the furnishing of support which is reasonable under the circumstances, particularly the husband's financial condition. *State v Fredercici*, 269 Mo 689, 192 SW 464.

maintain in any court of competent jurisdiction. See **maintain an action.**

maintainor. A person guilty of the offense of maintenance.

maintenance. Making repairs and otherwise keeping premises or instrumentalities in good condition. Support of a person. *Wall v Williams*, 93 NC 327. The act of improperly, for the purpose of stirring up litigation and strife, encouraging others either to bring actions or to make defenses that they have no right to make. *Schaferman v O'Brien*, 28 Md 565. An unlawful taking in hand or upholding of quarrels or sides, to the disturbance or hindrance of common right. Anno: 139 ALR 648. An officious intermeddling in a suit which in no way belongs to the intermeddler by maintaining or assisting either party to the action with money or

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otherwise, to prosecute or defend it; the intermeddling in a suit by a stranger, one having no privity or concern in the subject matter and standing in no relation of duty to the suitor. *Gruber v Baker*, 20 Nev 453, 23 P 858.

See **champerty; separate maintenance; support; trading in dormant titles.**

maintenance and cure. A term of the maritime law the real meaning of which is maintenance and care.

The duty to make provision for maintenance and cure is annexed as an inseparable incident to the relation of a seaman and his employers. The right of such maintenance is not restricted to those cases where the seaman's employment is the cause of his illness. Moreover, the obligation may continue after the termination of the voyage in which an injury is sustained or an illness begins. *Calmar S.S. Corp. v Taylor*, 82 L Ed 993, 303 US 525, 58 S Ct 651.

maintenance curialis. Maintenance in a court of justice,—as where one officiously intermeddles in a suit which is not his by assisting either party with money, or otherwise, in the prosecution or defense.

maintenance employee. An employee engaged in the repairing and upkeep of the premises of a business or industry, rather than in production or sales work.

maintenance of action. See **maintain an action.**

maintenance of highway. Keeping a highway in a state of repair. 25 Am J1st High §§ 52 et seq.

maintenance ruralis. Maintenance committed in the country, as where one assists another in his pretensions to certain lands, or stirs up quarrels and suits in the country, in relation to matters wherein he is no way concerned.

maintenant. Now.

maintes fois. Many times; often.

main thoroughfare. A main street, particularly a street upon which a transit line operates. An interstate, intercounty, or farm to market highway. *Heidie v Baldwin*, 118 Ohio St 375, 161 NE 44, 58 ALR 1186.

mainzie. Same as **mayhem**.

maire. (French.) A mayor.

mais. (French.) But; but yet; however.

maison de Dieu. (French.) A house of God; a hospital.

majestas. (Roman law.) Majesty; royal power; sovereignty.

major. Adjective: Greater; more powerful; more important; more eminent. Noun: A military officer, ranking immediately below a lieutenant colonel and immediately above a captain.

majora et minora regalia. The greater and lesser royal prerogatives. See 1 Bl Comm 241.

major and minor fault rule. The rule in admiralty, relative to collisions between vessels that were not equally at fault, that there is a rebuttable presumption, in favor of the vessel with the minor fault, that the major fault of the other vessel was the exclusive contributing cause of the collision. 2 Am J2d Adm § 206; 12 Am J2d Boats § 73.

major annus. A greater year,—a leap year with its three hundred and sixty-six days.

majora regalia. The greater royal prerogatives, including the royal dignity, the high political character of the king, his perfection, his sovereignty or pre-eminence, the sacred quality of his person and indeed all of the royal prerogatives excepting the rights of revenue. See 1 Bl Comm 241.

Majora regalia imperii praeeminentiam spectant; minora vero ab commodum pecuniarium immediate attinent; et haec proprie fiscalia sunt, et ad just fisci pertinent. The greater royal prerogatives appertain to the dignity of royal power; but the lesser have to do immediately with the acquisition of money; and these are properly fiscal and pertain to the right of revenue. See I Bl Comm 241.

Major continet in se minus. The greater includes the lesser within itself.

Majore poena affectus quam legibus statuta est, non est infamis. A person who undergoes a greater punishment than that fixed or established by law is not infamous.

majores. (Roman law.) Persons of consequence.

major general. A high ranking officer of the United States Army, ranking immediately below a lieutenant general and immediately above a brigadier general.

Major haereditas venit unicuique nostrum a jure et legibus quam a parentibus. A greater heritage comes to each one of us from justice and the laws than from our parents.

Majori summae minor inest. The lesser sum or amount is included in the greater.

majority. The age at which infancy terminates and the person acquires contractual capacity. 27 Am J1st Inf § 5. More than half of anything. Re Denny, 156 Ind 104, 59 NE 359.

See **age of majority.**

majority award. An award in arbitration in which the majority of, but not all, arbitrators concur. 5 Am J2d Arb & A § 131.

majority decision. A decision of the court concurred in by a majority but not all the judges sitting in the case, such decision generally being determinative of the case. 20 Am J2d Cts § 67.

majority interest. See **controlling interest.**

majority of electors. See **majority vote.**

majority of members. See **majority vote.**

majority of qualified electors. See **majority vote.**

majority opinion. In effect the opinion of the court; an opinion prepared or approved by a majority of the judges sitting in the case. 20 Am J2d Cts § 71.

majority stockholders. Stockholders of a corporation sufficient in respect of the number of shares held in the aggregate to elect directors and ultimately to control and direct the action of the corporation. 18 Am J2d Corp § 496.

See **majority vote.**

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majority rule. The foundation of the republican system of government. Maynard v Board of Canvassers, 84 Mich 228, 47 NW 756.

majority verdict. A verdict having the assent of a majority of the jury. 53 Am J1st Trial § 1032.

majority vote. A vote of more than half for a candidate for office or a proposition submitted to it" voters at an election. Necessarily the vote received by the winning candidate where there are only two candidates. 26 Am J2d Elect § 309. Of electors, the choice of the majority of the persons voting, except as constitutional or statutory requirements call for a choice by the majority of all the eligible or qualified voters. 26 Am J2d Elect §§ 309 et seq. Of board of directors:—a majority of the directors present and constituting a quorum, unless there are specific provisions in statute, charter, or bylaws of the corporation requiring a larger number of directors to act. As to the Uniform Business Corporation Act, see 19 Am J2d Corp § 112. Of stockholders of a corporation:—a vote of a majority of the stock represented at a legally constituted meeting of the shareholders of a corporation, such being sufficient to decide any question properly presented, in the absence of statute, charter provision, or bylaw requiring more. 19 Am J2d Corp § 627. A majority in interest rather than in number of stockholders. Weinburgh v Union Street Railway Advertising Co. 55 NJ Eq 640, 646.

As to what constitutes a majority of members of a municipal council voting on an issue, see Anno: 43 AL.R2d 698.

The "majority" contemplated by the provision of the Railway Labor Act that "the majority" of any craft or class of employees shall to determine who shall be the representative of the craft or class, is a majority of those voting, although such majority may be less in number than a majority of the entire eligible membership. Virginian Ry. Co. v System Federation, 300 US 515, 81 L Ed 789, 57 S Ct 592.

Major numerus in se continet minorem. The greater number includes in itself the lesser.

Majus dignum trahit ad se minus dignum. The more worthy appropriates or draws to itself the less worthy.

Majus est delictum seipsum occidere quam alium. It is a greater wrong to kill one's self than to kill another.

majus jus. A greater right; a better right.

Majus jus nostrum quam jus alienum servemus. We obey our own laws rather than those of another country. *Smith v Union Bank of Georgetown (US)* 5 Pet 518, 526, 8 L Ed 212, 215.

make. Verb: To build or construct. To accomplish. To execute an instrument, as, to make a promissory note; to sign; to collect money on an execution. Noun: A style or type.

See **made; made and executed.**

make a contract. To arrive at an agreement and to put it into effect as a binding obligation, including, in the case of a written contract, reduction of the terms of the agreement to writing and the execution of the instrument thus prepared.

make an assignment. To assign a chose in action, but in the most common sense of the term to assign property for the benefit of creditors. 6 Am J2d Assign § I.

make an examination. To inspect public records. 45 Am J1st Reeds § 14. To inspect corporate records. 18 Am J2d Corp § 178.

See **physical examination.**

make default. To come into default.

See **default.**

make few laws. A maxim of questionable propriety which is extended with less propriety:—make few laws, make them easy to obey and hard to break, and hang the man who breaks one.

make one's faith. Scottish for to make one's law.

make one's law. See **to make one's law.**

maker. One who obligates himself by entering into a contract, executing a promissory note, or drawing a bill of exchange.

makeweight. Something added to fill up space.

An argument was thus characterized in *Pennsylvania v West Virginia*, 262 US 553, 67 L Ed 1117, 43 S Ct 658.

making an order. The act of the court in announcing or otherwise rendering its order.

See **entry of court order.**

making false entry. See **false entry.**

making his law. See **to make one's law.**

making love. One of the arts of seduction. 47 Am J1st Seduc § 68.

making record. The mechanical act of preparing a record in writing, typewriting, or printing. The presentation of evidence for the record, usually with an appeal in mind.

See **offer of proof.**

making up train. The work in gathering the cars from sidings and placing them in a train for a trip. 35 Am J1st M & S § 446.

mala. Bad; evil. Bad things; evil things; wicked things.

maladministration. Inefficient administration; bad but not necessarily corrupt administration. Minkler v Slate. 14 Neb 181, 183.

mala fide. In bad faith.

mala fides. Bad faith.

Mala grammatica non vitiat chartam. Bad grammar does not vitiate a deed.

Mala grammatica non vitiat chartam; sell in expositione instrumentorum mala grammatica quoad fieri possit evitanda est. Bad grammar does not vitiate a deed; nevertheless, in the drawing of instruments, bad grammar should, as far as possible, be avoided.

mala in se. Inherently wicked, naturally evil, as adjudged by the sense of a civilized community; illegal from the very nature of the transaction, upon principles of natural, moral, and public law; immoral in its nature and injurious in its consequences, without regard to the fact of its being noticed or punished by the law of the state. 21 Am J2d Crim L § 25. A wrong involving moral turpitude or delinquency. Horrabin v Des Moines, 198 Iowa 549, 199 NW 988, 38 ALR 544. Offenses

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involving moral turpitude. Du Vall v Board of Medical Examiners, 49 Ariz 329, 66 P2d 1026.

See **contracts mala in se.**

Malam cerevisiam faciens, in cathedra ponebatur stercoris. The maker of bad beer was placed in a dung cart,—the punishment for knavish brewers during the reign of Edward the Confessor. See 4 Bl Comm 157.

mala mens. Evil mind; bad intention. Flood v Templeton, 152 Cal 148, 92 P 78.

malam partem. See **in malam partem.**

malandrinus. A robber; a thief; a pirate.

mala praxis. Same as **malpractice.**

mala prohibita. Wrong only as forbidden by positive law. 21 Am J2d Crim L § 25. A crime not involving moral turpitude. Du Vall v Board of Medical Examiners, 49 Ariz 329, 66 P2d 1026. Evil because prohibited by law. 17 Am J2d Contr § 167. Wrong because prohibited by law but not immoral. Horrabin v Des Moines, 198 Iowa 549, 199 NW 988, 38 ALR 544.

See **contracts mala prohibita.**

malaria. A morbid condition of the body, formerly believed to be caused by inhalation of bad air coming off decaying vegetation in swamps and marshes, St. Louis v Galt, 179 Mo 8, 77 SW 876; now known as an infectious disease transmitted

through the bite of a mosquito. Sometimes a chronic disease. *American Life & Acci. Ins. Co. v Nirdlinger*, 113 Miss 74, 73 So 875, 4 ALR 871.

mala soi qui mala pens. Evil to him who evil thinks.

mala tolta. A heavy tax or toll; a burdensome or oppressive tax.

malconduct. A term sometimes applied to the unprofessional conduct of a lawyer. *People v McCabe*, 18 Colo 186, 32 P 280.
See **misconduct; misconduct in office.**

mal de lit. See **essoin de mal de lit.**

mal de venue. See **essoin de mal de venue.**

male. A person or animal of the masculine sex; of the sex that begets offspring; of masculine gender.

male citizen. A citizen of the male sex.

The rule of construction under which females are included in words importing the masculine gender has been held not to apply in the interpretation of a code section prescribing rules for the admission of "male citizens" to the bar. *Re Maddox*, 93 Md 727, 50 A 487.

male creditus. Of bad credit; of bad or unfavorable reputation.

Maledicta est expositio quae corrumpit textum. That is a very bad interpretation which corrupts the text. *State v Norfolk Southern Railroad Co.* 168 NC 103, 82 SE 963.

malediction. A curse. Evil speaking. An ecclesiastical curse or anathema which was incorporated into grants to the church and which was directed at anyone who should thereafter interfere with their enjoyment or question their validity.

male estate tail. An estate tail in which the distinctive limitation is to male heirs of the donee's body. *Restatement, Property* § 78, comments B, C, D; *29 Am J2d Est* § 45.

malefactor. A person convicted of crime; a criminal.

malefactoribus in parcis. See **de malefactoribus in parcis.**

malefactors in parcis. See **Statute of Malefactors in Parcis.**

Maleficia non debent remanere impunita, et impunitas continuum affectum tribuit delinquenti. Evil deeds ought not to remain unpunished, for impunity offers constant encouragement to the wrongdoer.

Maleficia propositis distinguuntur. Evil deeds are distinguishable from plots; evil deeds are distinguishable by their purposes.

maleficio. See **ex maleficio.**

maleficium. An evil deed; a wrongful act; a tort; a crime.

male heir. An heir of the male sex.

See **nearest male heir**.

maleson. A curse; a malediction.

malevolence. Ill will.

See **disinterested malevolence**.

malfeasance. The doing of an act which is positively unlawful or wrong. *Allas v Rumson*, 115 NJL 593, 181 A 175, 102 ALR 648. An act forbidden by law, or illegal, causing injury to the person or property of another. 35 Am J1st M & S § 588. Of public officer:—the performance of an act in an official capacity that is wholly illegal and wrongful. *People ex ref. Johnson v Coffey*, 237 Mich 591, 213 NW 460, 52 ALR 1.

malformation. An abnormal condition in the structure of the body or an organ thereof.

malgré. (French.) Against the will.

malice. A state of mind, being ill will, hatred, or hostility entertained by one person toward another. 34 Am J1st Mal § 2. More precisely, that state of mind which prompts the intentional doing of a wrongful act without legal justification or excuse. *State v Heinz*, 223 Iowa 1241, 275 NW 10, 114 ALR 959; *Sall v State*, 157 Neb 688, 61 NW2d 256. As a mental element in crime:—sometimes a connotation of ill will, but frequently merely the state of mind prompting a wrongful act without legal justification or excuse. 21 Am J2d Crim L § 86. As an element of murder:—a condition of mind prompting one to commit or direct an act wilfully; a wicked and corrupt disregard of the lives and safety of others; including all those states and conditions of mind accompanying a homicide committed without legal excuse or extenuation. 26 Am J1st Homi § 40. An intent to do the deceased great bodily harm. *Commonwealth v Buzard*, 365 Pa 511, 76 A2d 394, 22 ALR2d 846. As an element of malicious prosecution:—either personal malice or the malice indicated by an improper motive. 34 Am J1st Mal Pros § 45. Not necessarily, ill will, hatred, or express malice, but a want of probable cause. *Schnathorst v Williams*, 240 Iowa 561, 36 NW2d 739, 10 ALR2d 1199. As an ingredient of libel or slander:—malice in law; malice in fact or

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express malice. 33 Am J1st L & S § 111. Importing a publication that is false and without legal excuse. *Dixon v Allen*, 69 Cal 527, 529. As an element of alienation of affections:—any wrongful or improper motive or intent to do a wrongful or improper act; not limited to a malignant and revengeful disposition and intent. 27 Am J1st H & W § 530. As an element of wrongful and malicious attachment:—either actual malice or legal malice. *Brown v Guaranty Estates Corp.* 239 NC 595, 80 SE2d 645, 40 ALR2d 1094. An improper motive, not necessarily positive malignity; a wilful disregard of the rights of another, whether in accomplishing an unlawful purpose or a lawful purpose by an unlawful means. 6 Am J2d Attach § 598.

See **actual malice; express malice; general malice; implied malice; particular malice; wilful and malicious act**.

malice aforethought. See **with malice aforethought**.

malice in fact. Actual malice; a positive desire and intention to annoy or injure another person. *Gamble v Keyes*, 43 SD 245, 178 NW 870. In overcoming privilege, a motive which induces the defendant to defame the plaintiff. *Hemmers v Nelson*, 138 NY 517, 34 NE 342.

malice in law. The intentional performance of an act harmful to another without just or lawful cause or excuse. *Brown v Guaranty Estates Corp.* 239 NC 595, 80 SE2d 645, 40 ALR2d 1094. The intent unlawfully to take human life in cases where the law neither mitigates nor justifies the killing. *Mann v State*, 124 Ga 760, 53 SE 324. The wilful violation of a known contract right. 30 Am J Rev ed Interf § 27. A wicked or mischievous intention; a wanton inclination to mischief; an intention to do wrong or injury to another; a depraved inclination to disregard the rights of others. *Morasca v Item Co.* 126 La 426, 52 So 565. As an

ingredient of libel or slander:—a presumption of malice arising from the use of certain words, not necessarily inconsistent with an honest or even laudable purpose, implying neither ill will, personal malice, hatred, nor a purpose to injure. 33 Am J1st L & S § 111.

malice prepense. Same as **malice aforethought**.

See **with malice aforethought**.

malicious. Actuated by malice. Wicked and perverse. Commonwealth v York, 50 Mass 93. Intentional in reference to the commission of a wrongful act by one person toward another, without legal justification or excuse. 34 Am J1st Mal § 2.

malicious abuse of process. A wilful and intentional abuse or misuse of process to attain an objective which is unlawful in itself or beyond the purposes for which the process may be legally employed. Anno: 14 ALR2d 322; 1 Am J2d Abuse P § 6.

malicious act. A wrongful act intentionally done without legal justification or excuse. High v State, 26 Tex App 545, 10 SW 238; 9 Am J2d Bankr § 786 (relating to liability excepted from discharge in bankruptcy). An act committed in a state of mind which shows a heart regardless of social duty and fatally bent on mischief. Bowers v State, 24 Tex App 542, 7 SW 249.

malicious arrest. The term applied where the arrest on which an action for malicious prosecution is based was under civil, not criminal, process; an action not essentially different from an action for malicious prosecution. Waters v Winn, 142 Ga 138, 82 SE 537. Causing an arrest by maliciously bringing a suit upon false charges, or maliciously making a false affidavit. Everett v Henderson, 146 Mass 89, 14 NE 932.

malicious attachment. See **malice; probable cause**.

malicious burning. An essential element of common-law arson. 5 Am J2d Arson § 11. An act of setting fire performed with a condition of mind that shows a heart regardless of social duty and bent on mischief, evidencing a design to do an intentional wrongful act toward another, or toward the public, without legal justification or excuse. Love v State, 107 Fla 376, 144 So 843.

malicious injury. A wrongful injury intentionally inflicted by one person upon another. State ex rel. Durner v Huegin, 110 Wis 189.

See **wilful and malicious injury**.

malicious interference with contract. See **interference**.

maliciously. With harmful motive and in wilful disregard of the rights of others. 34 Am J1st Mal § 2. For some purposes the equivalent of "wilfully and unlawfully." Chapman v Commonwealth, (Pa) 5 Wharton 427; 27 Am J1st Indict § 67.

malicious mischief. The wilful and unlawful injury to or destruction of the property of another with the malicious intent to injure the owner; a malicious physical injury to the rights of another, which impairs utility or materially diminishes value; a malicious or mischievous physical injury, either to the rights of another or to those of the public in general. 34 Am J1st Mal Mis § 2. As used in an insurance policy: wilful or malicious physical injury to or destruction of the insured property; a reckless disregard of the owner's rights in deliberately injuring his property. General Acci. Fire & Life Assur. Corp. v Azar, 103 Ga App 215, 119 SE2d 82.

As to what constitutes "malicious mischief " within the meaning of an automobile comprehensive policy, see Anno: 43 ALR2d 604.

malicious misconduct. The wrong of an election officer for which he may be held liable to electors or to a candidate for public office. 25 Am J2d Elect §§ 47 et seq.

See **malicious mischief.**

malicious prosecution. A criminal prosecution begun in malice, without probable cause to believe it can succeed, and finally ending in failure. 34 Am J1st Mal Pros § 2. An action for damages brought by one against whom a criminal prosecution, civil suit, or other legal proceeding has been instituted maliciously and without probable cause, after the termination of such prosecution, suit, or other proceeding in favor of the defendant therein. *Shedd v Patterson*, 302 Ill 355, 134 NE 705, 26 ALR 1004; 34 Am J1st Mal Pros § 2. An action for the wrong of instituting a civil action without probable cause, especially where there is in such action a seizure of property or of the person of the defendant or other circumstances giving rise to special damages. 34 Am J1st Mal Pros § 10.

malicious prosecution of civil action. See **malicious prosecution.**

malicious use of process. In essence a form of malicious prosecution. The use of civil process without probable cause. *Nix v Goodhil*, 95 Iowa 282, 63 NW 701.

malign. To defame.

malignancy. A dangerous condition of the body, especially a cancerous condition. A condition of ill will or malevolence.

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malignant pustule. See **wool sorter's disease.**

malignare. To malign; to defame; to maim.

malinger. To pretend or feign illness or sickness, usually to avoid labor, but sometimes with the idea of enhancing damages or collecting insurance.

malison. Same as **maleson.**

malitia. Malice.

See **ex malitia.**

Malitia est acida; est mali animi affectus. Malice is sour; it is an affection of an evil heart.

malitia implicita. Implied malice.

malitia praecogitata. Malice aforethought; malice prepense; evil intended beforehand. See 4 Bl Comm 198-200.

See **with malice aforethought.**

Malitia supplet aetatem. Malice supplies age, a maxim is applied to offenses committed by children between the ages of seven and fourteen years. See 4 Bl Comm 23.

malo animo. With bad intent; with a wicked or evil heart.

malo lecti. See **essoin de malo lecti.**

malo sensu. In a bad sense; with an evil or wicked meaning.

malo veniendi. See **essoin de malo veniendi.**

malpractice. The violation of a professional duty to act with reasonable care and in good faith without fraud or collusion, as in the case of a public accountant, 1 Am J2d Accts § 15, or a beautician. Ocean Acci. & Guarantee Corp. v Herzberg's Inc. (CA8 Neb) 100 F2d 171. By an attorney at law:—the failure to exercise on behalf of his client the knowledge, skill, and ability ordinarily possessed and exercised by members of the legal profession, whereby an actual loss is caused the client. 7 Am J2d Attys §§ 167 et seq. By physician or surgeon:—the wrong, for which a physician or surgeon is answerable to his patient where it results in injury to the patient, consisting in the want of that reasonable degree of learning, skill, and experience which ordinarily is possessed by others of his profession, the omission to exercise reasonable care and diligence in the exertion of his skill and the application of his knowledge, or his failure to exert his best judgment in the case entrusted to him. 41 Am J1st Phys & S §§ 79, 82. A cause of action predicated by law on the relation which exists between physician and patient, although supported by some cases on the theory of liability under a contract implied by law. 41 Am J1st Phys & S § 79.

malpractice insurance. See **physician's liability insurance.**

malt. Barley or other grain processed for brewing. Grain within the meaning of a statute imposing, in lieu of other taxes, a tax of a stated amount per bushel upon all "grain" received in or handled by an elevator or warehouse. Joseph Schlitz Brewing Co. v Milwaukee, 232 Wis 118, 286 NW 602, 122 ALR 1432.

malt beverage. See **malt liquor; near beer; small brew.**

malt extract. See **malt liquor; near beer; small brew.**

malt liquor. An alcoholic beverage produced by the fermentation of malt. 30 Am J Rev ed Intox L § 9.
See **small brew.**

malt mead. Same as **near beer.**

malt-tax. A tax of six pence a bushel on malt and a proportionate sum on certain liquors, such as cider and perry, first levied by parliament in 1697, the whole yielding an annual sum of seven hundred and fifty thousand pounds a year. See 1 Bl Comm 313.

Malum hominum est obviandum. The wickedness of men is to be opposed.

malum in se. See **mala in se.**

Malum non habet efficientem, sed deficientem causam. Evil has not an efficient cause, but a deficient one.

Malum non praesumitur. Evil is not presumed.

malum prohibitum. See **mala prohibita.**

Malum quo communius eo pejus. The more common an evil, the worse it is.

malus animus. Evil or bad intent. Flood v Templeton, 152 Cal 148, 92 P 78.

Malus usus est abolendus. A bad custom should be abolished. Evans v Waln, 71 Pa 69, 75.

malveilles. Malevolence; ill will.

malveis proeurors. Persons who packed jurors, who used improper or corrupt means in their selection.

malversation. Official misconduct; corruption in office.

man. In the generic sense, a human being, whether male or female; all human beings; mankind. In the narrow sense, a male human being who has reached the age of majority, at least an age above puberty. *State v Seder*, 106 Wis 343, 82 NW 167.

manacles. Handcuffs.

manage. To direct; to control; to govern; to administer; to oversee. *Ure v Ure*, 185 Ill 216, 218.

It has been held in a majority of the cases that a testamentary authorization for an executor or trustee to "manage" property includes the power of sale. Anno: 134 ALR 405; 23 ALR2d 1011.

management. Government; control; superintendence; physical or manual handling or guidance; the act of managing by direction or regulation; administration,—as the management of a family or of a household, or of servants, or of great enterprises, or of great affairs. *Re Sanders*, 53 Kan 191, 36 P 348. The executives in charge of a business, considered collectively.

management contract. A contract for the management, agency, or representation of an actor, musician, dancer, or other professional artist or entertainer. Anno: 175 ALR 621.

management functions clause. A clause in a collective labor agreement under which the right to select, hire, promote, discharge, and discipline employees and to determine work schedules is the

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sole prerogative of the employer, and his decision with respect to such matters is not subject to arbitration. *NLRB v American Nat. Ins. Co.* 343 US 395, 96 L Ed 1027, 72 S Ct 824.

Management Relations Acts. See **Labor Relations Acts.**

manager. One who has the conduct or direction of anything, as the manager of a theater. *Commonwealth v Johnson*, 144 Pa 377, 381. One in charge of the business or operations of another. The officer of a private corporation to which the general business of the corporation is entrusted in some corporations the head of one of several departments. 19 Am J2d Corp § 1174. The title of an officer of a business trust who is in charge of the business and managing its affairs. 13 Am J2d Bus Tr § 44. Descriptio personae as appended to the name of a payee of a bill or note and not destroying negotiability of the instrument. 1 I Am J2d B & N § 115.

manager form of government. See **city manager.**

managing agent. A person invested by a corporation with general powers involving the exercise of judgment and discretion. Anno: 113 ALR 70 et seq. An executive of a co-operative apartment association. 15 Am J2d Con Apt § 21. As one upon whom service of process binding a foreign corporation can be made:—an officer or agent whose position, right, and duties make it reasonably certain that the corporation will be apprised of service made upon him. 36 Am J2d For Corp § 558. An agent whose contract of agency demands of him the exercise of judgment in the business affairs of his principal, and who has charge of all of the business of his principal in the territory covered by his contract. *Ord Hardware Co. v J. I. Case Threshing Machine Co.* 77 Neb 847, 110 NW 551. As one through whom a corporation may be examined by way of discovery or deposition:—

one authorized to exercise judgment and discretion in dealing with corporate matters and expected to identify himself with the interest of the corporation. Anno: 98 ALR2d 626, 627, § 3[a, b].

managing employee. A term in an automobile liability insurance policy extending the coverage to one other than the named insured; an employee of the named insured who, at the time of an accident giving rise to liability, had the named insured's car under his control and direction and was acting within the scope of his duties. *Continental Casualty Co. v Phoenix Constr. Co.* 46 Cal 2d 423, 296 P2d 801, 57 ALR2d 914.

managing owner of ship. One of the several owners of a ship who acts as manager for them all.

managium. A mansion,—a dwellinghouse and all within the curtilage thereof.

manas mediae. Inferior persons.

man-bote. (Saxon.) A recompense paid to the lord of a manor for the killing of one of his tenants.

manche present. A present from the hand of the owner; a bribe.

mancipare. (Roman law.) To sell; to sell in a formal manner; to transfer; to give up.

mancipation. (Roman law.) A sale of property attended with certain essential formalities.

mancipia quasi manu capti. Sold, as if taken by the hand. See 1 Bl Comm 423.

mancipium. (Roman law.) An old form of purchase in which the thing sold was taken by the hand in the presence of five witnesses; a slave purchased in the manner above stated; a formal purchase or transfer.

mancomunal. (Spanish.) An undertaking to answer for the debt or obligation of another person.

mandamiento. (Spanish.) A power of attorney.

mandamus. A command by order or writ issuing from a court of law of competent jurisdiction, in the name of the state or sovereign, directed to some inferior court, tribunal, or board, or to some corporation or person, requiring the performance of a particular duty therein specified, which duty results from the official station of the party to whom the writ is directed, or from operation of law. A coercive writ, one that commands performance, not desistance. 34 Am J1st Mand § 2. An extraordinary remedy. *State ex rel. Ricco v Biggs*, 198 Or 413, 255 P2d 1055, 38 ALR2d 720.

A writ of mandamus was originally a prerogative writ but in this country, in modern practice, it is nothing more than an action at law between the parties and is not now regarded as a prerogative writ. 34 Am J1st Mand § 5.

Since mandamus was originally a prerogative writ, issuing in the king's name, it was not a civil action, but the character of the proceeding and the nature of the writ have been so changed by statute that in most of the states of the Union it is now regarded as a civil proceeding. Nevertheless the supreme court has repeatedly held that it is not a suit of a civil nature at common law or in equity within the meaning of the acts of Congress defining the jurisdiction of the federal courts. *Western Union Tel. Co. v State ex rel. Hammond Elevator Co.* 165 Ind 492, 76 NE 100.

See **alternative mandamus; peremptory mandamus; writ of mandamus.**

mandans. Commanding; committing; entrusting.

mandant. Same as **mandans.**

Mandata licita strictam recipiunt interpretationem, sed illicita latam et extensam. Lawful commands receive a strict interpretation, but unlawful ones receive a broad and elastic one.

mandatarius. Same as **mandatary.**

Mandatarius terminus sibi positos transgredi non potest. A mandatary cannot transgress the limits of his powers.

mandatary. The person to whom a mandate has been given. A bailee under a bailment of the class known as mandatum.
See **mandatum.**

mandate. An order; an authoritative command by the court. In technical significance, the official communication made of the judgment of a reviewing court to the court below and the direction given by the reviewing court as to the enforcement, reversal, or vacation, as the case may be, of the judgment below. 5 Am J2d A & E § 989.

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mandator. (Civil law.) The person who makes a bailment of mandatum; one who gives a mandate.

mandatory. Imperative. Required to be done or performed. Compulsory, not a matter of discretion.
See **mandatary.**

mandatory clause. The part of an alternative writ of mandamus in the form of a command. 35 Am J1st Mand § 351.

mandatory constitutional provision. A provision of a constitution which leaves no discretion to the legislature in respect of obedience to, or disregard of, it, the use of the word "shall" sometimes being emphasized in construction as indicative of mandatory character. 16 Am J2d Const L §§ 90-92.

mandatory continuance. A continuance resulting by operation of law, as where a case is not reached for trial by the end of a term. 17 Am J2d Contin § 1. A continuance to which a party is entitled as a matter of right, for example, in some jurisdictions, a continuance because of the absence of counsel in attendance upon the legislature. Anno: 49 ALR2d 1074 § 1.

mandatory counterclaim. Same as **compulsory counterclaim.**

mandatory franchise. A franchise, performance of which by conducting the operation licensed is obligatory upon the grantee. Murray v Roberts (CA2 NY) 103 F2d 889.

mandatory injunction. An injunction which compels some positive action involving a change of existing conditions-some affirmative act or acts essential to restore the status quo. 28 Am J Rev ed Inj § 17.

mandatory order. An order which requires affirmative action to be taken. 2 Am J2d Admin L § 468.

mandatory provision. See mandatory clause; mandatory constitutional provision; mandatory statute.

Mandatory Securities Valuation Reserve. A reserve fund required to be maintained by insurance companies in some states for the purpose of absorbing fluctuations in prices of securities.

mandatory statute. A statute which leaves nothing to the discretion of the court in respect of compliance with its terms; a statute which relates to matters of substance, affects substantial rights, and is of the very essence of the thing required to be done. 1 Am J2d Admin L § 45; 50 Am J1st Stat §§ 180 et seq.

A "mandatory provision" in a statute is one which if not followed renders the proceeding to which it relates illegal and void. *State v Parnell*, 109 Ohio St 246, 142 NE 611.

mandatum. A bailment of goods without recompense, where the mandatary or person to whom the property is delivered, undertakes to do some act with respect to the thing bailed, as simply to carry it; a bailment of something for some gratuitous service upon it by the bailee. *Briggs v Spaulding*, 141 US 132, 148, 35 L Ed 662, 669, 11 S Ct 924; *Maddock v Riggs*, 106 Kan 808, 190 P 12, 12 ALR 216.

Mandatum nisi gratuitum nullum est. A mandatum (bailment), unless gratuitous, is not one.

Mandavi ballivo. I have commanded the bailiff,—a form of sheriff's return on a writ executed by his bailiff.

manens. Remaining.

manerium a manendo. "Manor," from "manendo," a place to remain or reside.

See **manor**.

Manerium dicitur a manendo, secundum excellentiam, sedes magna, fixa et stabilis. Manor is derived from "manendo, par excellence," a great, fixed, and stable abode.

mangle. A machine constituting part of laundry equipment, being used for ironing. *Quinn v Electric Laundry Co.* 155 Cal 500, 101 P 794.

See **maim**.

manhandle. To handle a person roughly; to maul him.

Manhattan. A borough of New York City, consisting of the island of the same name. A cocktail, strong and stimulating, made of whisky, vermouth, and sometimes a dash of bitters, served cold after shaking in cracked ice.

manhole. An opening in a street or highway, permitting a man to go below for the purpose of inspection or work upon subsurface instrumentalities such as telephone wires, sewers, and pipe lines.

manhood. Resolute strength of character. The state of being a man. A feudal ceremony by which the vassal or tenant became the lord's man "from that day forth, of life and limb and earthly honor." See 2 Bl Comm 54.

mania. Violent insanity; an obsession or craze.

See **moral mania**.

mania a potu. The same as delirium tremens.

maniac. A madman; an insane person; a lunatic.

mania transitoria. Emotional insanity; that is, the case of one in the possession of his ordinary reasoning faculties, who allows his passions to convert him into a temporary maniac. *Mutual Life Ins. Co. v Terry (US)* 15 Wall 580, 21 L Ed 236, 239.

manifest. Adjective: Evident to the senses; evident to the mind; obvious to the mind. *Love v Mt. Oddie United Mines Co.* 43 Nev 61, 184 P 921. Noun: In maritime law, a record or statement in writing, carried by a vessel, containing information with respect to the vessel's cargo, passengers, and other matters required by statute or regulation. 19 USC §§ 1431 et seq.; 46 USC §§ 91 et seq. A summary of all the bills of lading for the cargo of a vessel. *The Newton Bay* (CA2 NY) 36 F2d 729. One of a ship's papers; one to be presented to the customs officers upon the entry of any vessel into the United States. *New York & Cuba Mail S.S. Co. v United States* (DC NY) 125 F 320, 321.

Manifesta non indigent probatione. Those facts which are manifest do not require proof. *Riley v Wallace*, 188 Ky 471, 222 SW 1085, 11 ALR 337, 340.

Manifesta probatione non indigent. Manifest facts do not require proof.

manifest impediment. An impediment which operates to prevent a military court from exercising its

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jurisdiction over a soldier charged with a military offense.

Such an impediment may consist of his being continuously a prisoner in the hands of the enemy, or of his being imprisoned under sentence of a civil court for crime, and the like. *Re Davison* (DC NY) 4 F 507, 510.

manifest incapacity. Obvious incapacity. In reference to a physician, a want of power to comprehend or to act, so obvious that no proof is necessary to establish it other than proof of the act or omission itself. *Yoshizawa v Hewitt* (CA9 Hawaii) 52 F2d 411, 79 ALR 317.

manifest injustice. As a ground for withdrawing a plea of guilty:—something more than the expectation of a sentence less severe than that actually imposed. Injustice from conduct improperly inducing accused to expect lenient punishment or from the accused's misunderstanding, reasonably entertained, of the trial judge's remarks, regarding the severity of the sentence that might be imposed. 21 Am J2d Crim L § 511.

manifest intent. The meeting of the minds of the parties to a contract as manifested by conduct, act, or sign. The intent of an instrument as it appears from the face thereof.

manifestly. Obviously.

Language which "manifestly" tends to the corruption of the youth must be such language as obviously and incontrovertibly has that tendency. It is not sufficient that it might tend to corrupt. *Commonwealth v Buckley*, 200 Mass 346, 86 NE 910.

manifesto. A public statement issued under the governmental authority of one nation, describing its reasons for its acts or attitude toward another nation. A statement to the public by an organization or group of people, social, economic, or scientific, of its policy or position with supporting reasons.

manifest theft. Same as open theft.

manifestus. See **fur manifestus**.

manipulation of prices. The artificial control or stabilization of security prices by a pooling arrangement or other joint adventure. 47 Am J1st Secur A § 12; 50 Am J1st Stock Ex § 26.

Mann Act. Same as **White Slave Traffic Act**.

manner. Way of performing or executing; method; custom; habitual practice. People ex rel. Ahrens v English, 139 Ill 622, 629.

mannire. To cite an adverse party to appear in court; a citation issued at the instance of one of the parties to an action requiring his adversary to appear in court.

mannopus. Stolen goods which have been taken from the hands of a thief.

man of straw. See **straw man.**

manor. The feudal estate of a lord; a barony; a lordship.

manorial court. A court-baron,—a court held within certain manors in which the tenants litigated and were tried.

manor lease. An estate, formerly legal in New York, now expressly forbidden in that state by constitutional provision, similar to ground rent. 32 Am J1st L & T § 1039.

manqueller. (Saxon.) A man-killer; a murderer.

manred. Same as manrent.

manrent. A vassal's bond or promise of fidelity and service in return for the protection he is to receive from his lord.

manse. A dwelling house, particularly one in which a Protestant clergyman resides.

manser. An illegitimate child; a bastard.

mansion. See **mansion house.**

mansion house. Deriving from the Latin "mansio," a place where one remains or sojourns. Including, not only the dwelling house, but also the outhouses, such as barns, stables, cow houses, dairy houses and the like, if they be parcel of the message, though they be not under the same roof, or joining contiguous to it. State v Brooks, 4 Conn 446, 448.

See **quarantine.**

manslaughter. The unlawful killing of another, without malice, and either voluntary, as when the act is committed with a real design and purpose to kill, but through the violence of sudden passion, occasioned by some great provocation, which in tenderness for the frailty of human nature, the law considers sufficient to palliate the offense, or involuntary, when the death of another is caused by some unlawful act, not accompanied with any intention to take life. 26 Am J1st Homi § 17. A crime in various degrees under the statutes, there being inconsistency between jurisdictions as to particulars. First degree:—involuntary manslaughter; a killing by negligence. 26 Am J1st Homi § 219. Second degree:—the killing of one human being by another when committed without a design to effect death. People v Rochester Railway & Light Co. 195 NY 102, 88 NE 22. Third degree:—the killing of a human being in the heat of passion, without a design to effect death. Clemens v State, 176 Wis 289, 185 NW 209, 21 ALR 1490. Fourth degree:—an involuntary killing of a human being in the heat of passion. Clemens v State, 176 Wis 289, 185 NW 209, 21 ALR 1490. A killing by inadvertence amounting to culpable negligence. 26 Am J1st Homi § 219.

manstealing. The offense of kidnapping, or the forcible abduction or stealing away of a man, woman or child from his own country and sending him to another. See 4 Bl Comm 219.

mansuetae naturae. Gentle or tame by nature. 4 Am J2d Am § 2.

mansueta, quasi, manui assueta. Domesticated, made accustomed to the hand, as it were. See 2 Bl Comm 391.

mansuetus. Tamed; gentle; domesticated.

mansum capitale. A manor house.

man trap. A dangerous instrumentality maintained upon one's premises as a protection against trespassers or burglars. 38 Am J1st Negl § 114. A device, such as a spring gun or spring trap, set for the protection of property, but which is a lethal instrument. 26 Am J1st Homi § 200.

menu. See **in manu.**

manual. Directions for the manner of performance of certain work, particularly the assembly of machines and appliances and the operation of machines. *Meccano Ltd. v Wagner* (DC Ohio) 234 F 912, *affd* (CA6) 246 F 603.

See **sign manual.**

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manual delivery. A hand to hand or physical delivery of an instrument or article by one person to another. 23 Am J2d Deeds § 91.

manual gift. A gift by the donor's own hand. *Succession of Gomez*, 223 La 859, 67 So 2d 156.

manual labor. Labor under physical power of the laborer, in the service and under the direction of another, for fixed wages. *Rogers v Dexter & P. R. Co.* 85 Me 372, 27 A 257. Within the meaning of the immigration laws, including both skilled and unskilled work, even work in the mechanical trades, although not professional services. 3 Am J2d Aliens § 62.

manual laborer. See **manual labor.**

manual rates. The premium rates to be charged for insurance covering risks on property as fixed by a rating bureau or underwriters' association after inspection of the properties. *Commercial Standard Ins. Co. v Remer* (CA10 Okla) 119 F2d 66; 29 Am J Rev ed Ins § 109.

manual seizure. An actual seizure, particularly under a writ of execution. 30 Am J2d Exec § 238.

manual test. A physical test such as that given to determine the degree of intoxication of a person by requiring him to walk along a straight marked line. *Alexander v State* (Okla Crim) 305 P2d 572.

manual training. Training in work in wood and metals and in other arts and crafts, particularly as given in the public schools. *Maxe v Oshkosh*, 144 Wis 238, 128 NW 899.

manu brevi. With short hand; briefly; directly.

manucapere. To become surety of mainprise.

See **mainprise.**

manucaptio. Same as **mainprise.**

manuaptione. See **de manuaptione.**

manuaptors. Same as **mainpernors.**

manufactory. A house or place where anything is manufactured. *Halpin v Insurance Co. of North America*, 120 NY 73, 23 NE 989.

See **factory.**

manufacture. Verb: To make and fabricate from raw materials or processed materials by the hand, by art, or by machinery, into a form fit and convenient for use. *Attorney General v Lorman*, 59 Mich 157, 26 NW 311; *Bell v Lamborn*, 18 Colo 346, 32 P 989; 51 Am J1st Tax § 592. Noun: The process of converting a raw material into a form fit and convenient for use, that is into finished parts or products. Anno: 10 ALR 1276; 34 ALR 544. An article upon the material of which labor has been expended to make the finished product. *Comptroller of Treasury v Crofton Co.* 198 Md 398, 84 A2d 86, 30 ALR2d 1434.

manufactured article. An article made either by hand or by machinery into a new form, capable of being used, and designed to be used in ordinary life. *Lawrence v Allen (US)* 7 How 785, 793, 12 L Ed 914, 917.

manufacturer. One engaged in manufacturing.

See **manufacture.**

manufacturers' bounties. Payments of public funds to manufacturers for the purpose of stimulating production. 12 Am J2d Bount § 3.

manufacturer's liability. See **products liability.**

manufacturing corporation. A private corporation organized and operating in reducing raw or processed materials by hand or by machinery into a form fit for use or consumption. 18 Am J2d Corp § 32. A corporation engaged in manufacturing, as its principal business, and not as a mere minor incident to some larger work. *Friday v Hall & Kaul Co.* 216 US 449, 54 L Ed 562, 30 S Ct 261.

manufacturing establishment. A factory or industrial plant. A place where machinery or mechanical power is utilized in connection with the employment of the individual. 58 Am J1st Workm Comp § 117. A place where there is an organized force of laborers working with machinery to produce the finished product from raw materials, or converting manufactured articles into a different product. *Hotchkiss v District of Columbia*, 4 App DC 73 (involving statutes fixing hours of labor or prescribing provisions as to child labor.) For practical purposes, any plant or factory where raw material is converted into a finished product, complete and ready for the final use for which it is intended, or so completed as that in the ordinary course of business of the concern it is ready to be put upon the open market for sale to any person wishing to buy it. *Louisville v Zinmeister & Sons*, 188 Ky 570, 222 SW 958, 10 ALR 1269, 1273.

manufacturing explosives. The common-law offense of manufacturing explosives near a public place, such as a city or highway. 31 Am J2d Explos § 127.

manu forti. With strong hand; an expression used to characterize an entry upon real estate as partaking of criminality due to its forcible or violent nature. 35 Am J2d Fore E & D § 4.

manu forti et cum multitudine gentium. With strong hand and a multitude of people.

manu longa. With long hand,—in directly; in a roundabout manner.

manumission. Liberation from a condition of servitude by the voluntary act of the master. *Fenwick v Chapman* (US) 9 Pet 461, 472, 9 L Ed 193, 197. The emancipation of a child by his parent, terminating the parent's right to the services of the child. 39 Am J1st P & C § 82.

Manumittere idem est quod extra manum vel potestatem ponere. To manumit is the same thing as to put out of the hand or power.

manurable. Capable of being manured or cultivated; tillable; capable of being handled; corporeal; tangible.

manure. Verb: To work on by hand; to cultivate; to spread with manure. Noun: Animal excrement applied to the soil to increase fertility. *Snow v Perkins*, 60 NH 493. Droppings of cattle composted with earth and vegetable matter taken from the land and used to supply the drain made on the soil in the production of crops, which would otherwise become impoverished and barren; sometimes regarded as appurtenant to the real estate. 42 Am J1st Prop § 31.

manure clause. A covenant by a tenant to leave the manure on the land. 32 Am J1st L & T § 814.

menus. A hand; an oath made with the hand on the Book; an oath; a compurgator.

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manuscript. Written or typewritten matter, particularly of a book or article proposed for publication. Becoming property when placed on the market for use or profit. *Leon Loan & Abstract Co. v Equalization Board of Leon*, 86 Iowa 127, 53 NW 94.

manus mortua. Same as **mortmain**.

Manus mortua, quia possessio est immortalis, matins pro possessione et mortua pro immortalis. "Manus mortua," dead hand or mortmain, because it is an immortal possession; "manus" stands for possession, and "mortua" for immortal.

manutendo. See **de manutendo**.

manutenentia. Same as **maintenance**.

manworth. The value of a man's life or that of a man's head.

many. A multitude. A number relatively large as compared with the whole or possible number of persons or things. *Louisville & Nashville R. Co. v Hall*, 87 Ala 708, 6 So 277.

map. A condensed representation, usually according to a scale noted, of an area of the earth's surface, large or small, of a nation, a state, a county, a municipality, etc., showing on a fiat surface by lines and characters boundaries and peculiarities of the earth's surface, such as watercourses, other bodies of water, mountains, swamps, etc., and man's accomplishments in cities, towns, and villages established by him, even particular structures erected by him, such as bridges. *Banker v Caldwell*, 3 Minn 94, 103.

See **plat**.

marathon. An athletic event consisting in a long race; any endurance contest, sometimes one in dancing. *State ex rel. Bluemound Amusement Park v Milwaukee*, 207 Wis 199, 240 NW 847, 79 ALR 281.

marauder. A soldier or deserter who robs or steals. *Curry v Collins*, 37 Mo 324, 328. Broadly, one who roves for pillage and plunder.

marble. A mineral. A stone valuable for use in building and sculpture, resulting in nature from the subjecting of limestone to metamorphism. 36 Am J1st Min & M§ 5.

marca. Same as **march.**

march. Verb: To walk in an orderly manner, as in a military formation. Noun: A mark; a boundary; a limit; a frontier.

marchers. Noblemen of the marches or frontiers between England and Scotland who exercised a petty sovereignty and made and enforced their own laws. Persons marching.

marcheta. The lord's customary right of spending the first night with the bride of a tenant following the marriage. (English.) Same as **maiden rents.**

marchioness. An English noblewoman with a rank corresponding to that of a marquis.

mare. A female of the horse family. Precisely, a female horse, donkey, mule, or zebra.

mare. The sea.

mare altum. The high sea.

Lord Hale says: "The sea is either that which lies within the body of a county or without. The part of the sea which lies not within the body of a county is called the main sea or ocean." By the main sea, Lord Hale undoubtedly means the same as is expressed by "high sea," "mare altum," or "le haut meer." *United States v Bevans* (US) 3 Wheat 336, 340, 4 L Ed 404, 405, argument of Honorable Daniel Webster.

mare apertum. The open sea.

maretum. Overflowed marshes.

margarine. See **oleomargarine.**

margin. A sum of money, or its value in securities, deposited with a broker to protect him against loss in buying or selling for his principal. *Assigned Estate of Taylor*, 192 Pa 304, 43 A 793.

marginal hazard. A source of peril to a traveler on the highway, although located along the margin or outside of the highway, not on the traveled portion. 25 Am J1st High § 528.

marginal notations. Notes appearing in the margin of a document offered in evidence. 53 Am J1st Tr § 111. Words and figures written on an instrument outside the body of the instrument. 11 Am J2d B & N § 66. A part of a bill or note where placed thereon at the time of the execution of the instrument with the intention of making them a part of the contract. 11 Am J2d B & N § 66. Notes appended to the sections of a code of statutes by way of explanation of the codification and for convenience in search and examination. 50 Am J1st Stat § 157.

marginal notes. Same as **marginal notations.**

marginal purchase. A purchase wherein the full price or cost of the stock or commodity purchased is not given to the broker at the time of the execution of the order of the customer, without regard to whether the purchase was made as an investment with the expectation on the part of the customer of later making full payment and acquiring the ultimate possession, or as a speculation with the intention of reselling upon a rise in the market and without any intention of making full payment therefor or acquiring possession thereof. *Austin v Hayden*, 71 Mich 38, 137 NE 317.

marginal sale. See **short sale**.

marginal signature. The signature of a testator appearing in the margin of the instrument. 57 Am J1st Wills § 274.

marginal well. A term of the oil industry.

The term is defined by a Texas statute regulating the production of oil wells as any pumping well having a daily output of production of twenty barrels or less. The statute prohibits restriction of the production of any marginal well as thus defined. *Railroad Com. v Rowan & Nichols Oil Co.* (CA5 Tex) 107 F2d 70.

margin of credit. The amount of credit which a merchant will extend to a customer over and above a fixed limit in the latter's indebtedness to the merchant upon account, it being understood that the indebtedness will be kept within such limit by payments upon the account from time to time. *Schaffran v Mount Vernon-Woodbury Mills* (CA3 NJ) 70 F2d 963, 94 ALR 543; *Schneider-Davis Co. v Hart*, 23 Tex Civ App 529, 530, 57 SW 903.

margin of safety. The margin, to be noted by a trustee in making an investment of funds of the

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trust, between the value of the security and the amount of the investment. 54 Am J1st Trusts § 426.

margin on sale. The sum of money or its value in securities required by a broker of his customer in making a short sale, such being for the protection of the broker. 12 Am J2d Brok § 114.

See **short sale**.

margin transaction. A transaction in stocks or commodities made through a broker, usually as a speculation, wherein no more than an advance is made by way of payment to the broker. 24 Am J1st Gaming § 72.

See **margin; marginal purchase; margin on sale**.

marijuana. A substance derived from a hemp plant, generally classified as a narcotic. 25 Am J2d Drugs §§ 2, 16.

marinarius. A mariner.

marine. Pertaining or relating to the sea; pertaining or relating to navigation.

A person serving in the Marine Corps.

See **Marine Corps**.

marine contract. Same as **maritime contract**.

Marine Corps. A military body in the regular service of the United States, but identified with the Navy. *Wilkes v Dinsman* (US) 7 How 89, 124, 12 L Ed 618, 634.

While the Marine Corps partakes more of a military body than a naval one and is sometimes loosely referred to as the third branch or element of the military establishment, it is a branch of the navy designed to perform military services. *United States v Dunn*, 120 US 249, 30 L Ed 667, 7 S Ct 507.

marine hospital. A hospital for sick and disabled seamen. 48 Am J1st Ship § 175.

marine insurance. A policy or contract of insurance covering the risk of loss to ship, cargo, or freight from a peril or perils of the sea. 29A Am J Rev ed Ins §§ 1308 et seq. A maritime contract or guaranty, on the part of the insurer, that the ship or goods shall pass safely over the sea, and through its storms and its many casualties, to the port of its destination; and that if they do not pass safely, but meet with disaster, from any of the misadventures insured against, the insurer will pay the loss sustained. *New England Marine Ins. Co. v Dunham* (US) 11 Wall 1, 20 L Ed 90. Probably the oldest form of insurance.

marine interest. The interest allowable on bottomry and respondentia bonds, such being at an exceptionally high rate on account of the hazard of loss of both principal and interest. 48 Am J1st Ship § 601.

Although bottomry and respondentia bonds usually make provision for the payment of maritime interest, an agreement for such interest is not a necessary element of a bottomry contract. *Force v The Ship Pride of the Ocean* (DC NY) 3 F 162, 164.

marine league. The equivalent of three geographical miles. *Manchester v Massachusetts*, 139 US 240, 257, 35 L Ed 159, 164, 11 S Ct 559.

marine lien. See **mariner's lien**; **maritime lien**.

marine mile. Same as **nautical mile**.

marine protest. A written statement under oath, made by the master of a vessel after the occurrence of an accident or disaster in which the vessel or cargo is lost or injured, with respect to the attending circumstances, being intended to show that the loss or damage resulted from a peril of the sea or other cause for which neither the master nor the owner was responsible, concluding with protestation against any liability of the owner for such loss or damage. 48 Am J1st Ship § 221.

mariner. Every person whose employment is on the sea and who is attached to a ship. *Spinetti v Atlas S.S. Co.* 80 NY 71, 81.
See **seaman**.

marine railway. A railway so constructed as to permit a ship to be rather conveniently loaded on a conveyor and pulled from the water. An inclined structure at the water's edge which extends below the water. It carries a cradle which moves on rollers or wheels. The cradle runs below the water and receives the vessel which is then hauled out. *Maryland Casualty Co. v Lawson* (CA5 Fla) 101 F2d 732, citing *Bradford*, *Glossary of Sea Terms*.

mariner's lien. The lien of a mariner for his wages. It is one of the oldest and best recognized of maritime liens. It exists as a rule in favor of every one who, in justice, can be regarded as a seaman. It follows the ship and its proceeds into whatever hands they go. *Sheppard v Taylor* (US) 5 Pet 675, 8 L Ed 269.

marine tort. Same as **maritime tort**.

maris. See **exercitor maris**

Maris et foeminae conjunctio est de jure naturae. The union of the male and the female is according to the law of nature.

maritagio amisso per defaltam. An old writ for the recovery of lands of which a tenant in frankmarriage had been disseised.

maritagium. The right of marriage, which is to be distinguished from matrimonium and in its feudal sense signifies the power the lord or guardian in chivalry had of disposing of his infant ward in matrimony. See 2 Bl Comm 70.

Maritagium est aut liberum aut servitio obligatum; liberum maritagium dicitur obi donator volt quod terra sic data quieta sit et libera ab omni seculari servitio. Marriage is either frankmarriage or obligated with service; it is called frankmarriage when the giver wills it that land so given be secure and free from all secular service.

marital. Pertaining or relating to the marriage relation.

marital deduction. A deduction in computing the taxable estate for federal estate tax purposes, limited to one-half of the decedent's adjusted gross estate, of property passing to the surviving spouse. IRC § 2056(a).

marital discord. Unhappy relations between husband and wife.

marital duties. The personal consequences and incidents of the marital relationship, duties reciprocal to the rights of consortium. 26 Am J1st H & W § 5.

See **consortium.**

marital infidelity. See **infidelity.**

marital portion. (Louisiana terminology.)

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The rightful share or portion of a widow in the estate of her deceased husband.

marital relationship. The natural and legal relationship of husband and wife; the peculiar relationship growing out of marriage, based upon the reciprocal rights and duties of the spouses. 26 Am J1st H & W § 2.

marital rights. The rights of spouses as such. The personal consequences and incidents of the marital relationship; the rights of consortium. 26 Am J1st H&W§5.

See **consortium.**

marital rights, duties and obligations. Such rights, duties, and obligations as arise from the contract of marriage, and constitute its object, and therefore embracing what the parties to such a contract mutually agree to perform toward each other and toward society. *Kilburn v Kilburn*, 89 Cal 46, 26 P 636.

See **marital duties; marital rights.**

marital settlement. See **marriage settlement.**

marital status. The status of one as a single or married person.

maritima incrementa. Marine increment or increase,—lands reclaimed from the sea.

maritime. Of the sea. Pertaining to the sea; pertaining to navigable waters. *Eclipse Mill Co. v Department of Labor & Industries*, 141 Wash 172, 251 P 130.

maritime assizes of Jerusalem. That part of the assizes of Jerusalem dealing with maritime law.

maritime belt. That part of the sea which, in contradistinction to the open sea, is under the sway of the littoral or bordering states, which can exclusively reserve the fishery within their respective maritime belts for their own citizens, whether fish, or pearls, or amber, or other products of the sea. *Louisiana v Mississippi*, 202 US 1, 52, 50 L Ed 913, 932, 26 S Ct 408, 571.

maritime blockade. See **blockade**.

Maritime Code. A code of laws pertaining to the navigation of the Mediterranean Sea formerly in effect, having been compiled about 1000 A. D.

Maritime Commission. An administrative agency of the United States, dealing with maritime things and activities, many of its duties being those of the former United States Shipping Board. *Isbrandtsen-Moller Co. v United States*, 300 US 139, 81 L Ed 562, 57 S Ct 407.

Maritime Commission Liens. The title of Chapter XIV of the Bankruptcy Act relating to the rights of the United States as a mortgage or lien creditor in the receivership or trusteeship of a shipping corporation. Bankruptcy Act §§ 701-703; 11 USC §§ 1101-1103.

maritime contract. A contract relative to a matter, transaction, or service that depends on, assists, or furthers transportation on navigable waters. Basically, a contract the whole substance of which has a connection with navigation of a ship, with her equipment or preservation, or with the maintenance or preservation of her crew. 2 Am J2d Adm § 61.

maritime courts. Courts established in England during the middle ages with jurisdiction over maritime matters.
See **admiralty court**.

maritime employment. Employment on a vessel, in the operation and repair of vessels, in loading and unloading vessels, and other longshore work. Anno: 83 ALR 1039; 58 Am J1st Workm Comp § 124.

A service is not necessarily a maritime service because it is rendered upon the high seas or a navigable river. To be a maritime service it must have some relation to commerce or navigation; some connection with a vessel employed in trade, -with her equipment, her preservation or the preservation of her crew. *Cope v Vallette Dry-Dock Co.* (CC La) 16 F 924.

maritime hypothecation. See **bottomry; respondentia**.

maritime insurance. See **marine insurance**.

maritime interest. Same as **marine interest**.

maritime law. The law which deals with rights, duties, and liabilities with respect to, or arising out of, the use of navigable waters for the transportation of persons or property by means of ships or vessels, either commercially or non-commercially. 48 Am J1st Ship § 3.

The United States has its own system of maritime law, coextensive with and operating uniformly throughout its boundaries. The basis of this system is the general maritime law but the latter has no inherent force of its own and is operative in this, as in any country, only so far as it has been adopted by the laws and usages thereof. 48 Am J1st Ship § 3.

See **admiralty**.

maritime lien. A lien on a vessel, enforceable by suit in rem, in favor of any person furnishing repairs, supplies, towage, use of drydock or marine railway or other necessities, to any vessel, foreign or domestic. 46 USC § 971. To be distinguished from a common-law lien on a vessel which depends upon possession. 48 Am J1st Ship § 551. A lien on a vessel by contract, even by tort. 48 Am J1st Ship §§ 553 et seq.

See **mariner's lien**.

Maritime Lien Act. A comprehensive federal statute on the subject of maritime liens. 46 USC §§ 971 et seq.

maritime loan. A loan wherein the lender loses all the money lent in the event of the total loss of the security, or pro rata in the event of a partial loss.

See **bottomry; respondentia**.

maritime service. See **maritime employment**.

maritime state. A collective name sometimes applied to the officers and men of the English navy.

maritime supplies. Articles and substances used in the operation of vessels on navigable waters.

maritime tort. An injury to person or property of which admiralty will take jurisdiction because of its origin on navigable waters in a maritime matter, including torts resulting from malfeasance or negligence, as well as those committed by direct force. 2 Am J2d Adm §§ 77 et seq.; 48 Am J1st Ship § 531.

So long as a tort is committed on navigable waters, it is not essential to its classification as a maritime tort that it be committed on board a vessel. *Newport News Shipbuilding & Dry Dock Co. v O'Hearne* (CA4 Va) 192 F2d 968.

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maritime transaction. See **maritime contract; maritime lien; maritime tort**.

maritus. A married man; a husband.

Maritus potest perdere, dissipare, abuti. The husband can lose, squander and waste. *Garrozi v Dastas*, 204 US 64, 81, 51 L Ed 369, 379, 27 S Ct 224.

mark. See **signature by mark; trademark; visible mark or injury**.

marked ballot. A ballot marked by the voter to indicate his choice of a candidate or candidates, normally, in accord with statute, by making a cross in the square appearing opposite the name of the candidate. 26 Am J2d Elect § 258. A ballot having distinguishing marks, permitting it to be identified among all the ballots cast. 26 Am J2d Elect § 263.

marked card. A playing card secretly marked by minute mark, so that a player can identify the card in play.

marked crosswalk. A way for pedestrians across a street marked by lines, usually in white. 7 Am J2d Auto § 421.

marked line. A boundary line based upon monuments, such prevailing, in the construction of a description of real estate, over calls for courses and distances. 12 Am J2d Bound § 72.

marked tree. A tree marked by slash or cut of an axe for identification, particularly for use as a monument of a land boundary.

marker. A stone or metal piece placed at a grave, lettered for the purpose of identifying a body at rest in a grave. 14 Am J2d Cem §§ 33-35.

See **monument**.

market. At common law, a franchise conferring a right to hold a concourse of buyers and sellers. 35 Am J1st Mark & M § 3. In the modern sense, a place designated by municipal or town authority for the sale of articles necessary or convenient for the subsistence of men and domestic animals. 35 Am J1st Mark & M § 2. Within the meaning of occupation or privilege tax statutes:-a designated place to which all persons can go who wish to buy things necessary for subsistence or for the convenience of life which are there exposed for sale. *Jacksonville v Ledwith*, 26 Fla 163, 7 So 885. The state of business and prices upon a stock or commodity exchange as active, slow, rising or falling.

The word is derived from the Latin word "mercatus," which signifies trade or traffic, or buying and selling. *Re New York*, 127 Misc 710, 723, 217 NYS 544.

See **corner; forestalling the market.**

marketable title. A title good as a matter of law, its validity not being dependent upon the determination of any question of fact. *Wurzweiler v Cox*, 138 Or 110, 5 P2d 699; *First Nat. Bank of St. Johnsbury v Laperle* 117 Vt 144, 86 A2d 635, 30 ALR2d 958. A title that a person of reasonable prudence and intelligence, guided by competent legal advice, will be willing to take and pay for according to the fair value of the land. *Campbell v Doherty*, 53 NM 280, 206 P2d 1145, 9 ALR2d 699. A title not subject to such reasonable doubt as will create a just apprehension of its validity in the mind of a reasonable, prudent and intelligent person. *Campbell v Doherty*, 53 NM 280, 206 P2d 1145, 9 ALR2d 699. A title free from reasonable doubt both as to matters of law and fact, at law and in equity; a title which a reasonable purchaser, well informed as to the facts and their legal bearings, willing and ready to perform his contract, would, in the exercise of that prudence which businessmen ordinarily bring to bear upon such transactions, be willing to accept and ought to accept. *Robinson v Bressler*, 122 Neb 461, 240 NW 564, 90 ALR 600. Such ownership as enables and insures to the owner the peaceable enjoyment and control of the land as against all others. *Barnard v Brown*, 112 Mich 452, 70 NW 1038. A title free from liens or encumbrances, and dependent for its validity on no doubtful questions of law or fact-a title either of record, or, if dependent upon facts extrinsic to the record, dependent only upon facts sure to be easily accessible at all times in the future to a vendee, should his title at any time be attacked. Anno: 57 ALR 1284. A title which the purchaser of real estate under a contract is impliedly bound to accept in the absence of a provision requiring a particular kind of title. Anno: 46 ALR2d 547.

market agency. A person engaged in the business of buying and selling for others on a commission basis livestock in interstate commerce at a stockyard. *Tagg Bros. & Moorhead v United States*, 280 US 420, 74 L Ed 524, 50 S Ct 22.

market corner. See **corner.**

market house. The building in which a market is housed.

marketing agreement. See **marketing contract.**

marketing association. An organization having the purpose of promoting the marketing of agricultural products, sometimes of a particular product.

See **co-operative marketing association.**

marketing contract. The most vital instrumentality of a co-operative association. *Hiroshi Kaneko v Jones*, 192 Or 523, 235 P2d 768. A contract between a co-operative association and its members whereby the latter undertake to market their products exclusively through the association for a stated period, and the association undertakes to obtain the best price possible for the products. 18 Am J2d Coop Asso § 21. An agreement between administrative authorities of the federal or state government with a producer, processor, or other person engaged in the handling of agricultural commodities, entered into under the authority conferred by an agricultural adjustment and marketing act and as a means of effectuating the purposes of such statute. *Yarnell v Hillsborough Packing Co.* (CA5 Fla) 70 F2d 435, 92 ALR 1475.

marketing quota. See **quota.**

market license. A license to occupy a stall in a public market. Re Emrich (DC Pa) 101 F 231.

market of competition. A market in which two litigants involving trademark or trade-name protection compete in business, irrespective of geographical remoteness from one another. 52 Am J1st Tradem § 107.

market overt. An open, public, and legally constituted market.

In England, sales in market overt are an exception to the rule that no one can transfer even to a bona fide purchaser any greater or better title than he himself has. The established American doctrine is that a purchaser in a public, open market acquires no better title to goods than if he had bought them elsewhere. 46 Am J1st Sales § 462.

market price. A price determined by the demand for

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the commodity in relation to the supply; the price in an open market. 46 Am J1st Sales § 180.

If the market is not open but subject to control by all who offer a commodity of like kind, by fixing a price, either by a common, although unexpressed, understanding, the term "market price" means merely quoted price. 46 Am J1st Sales § 180.

market quotations. A list of current or latest prices for commodities or securities bought and sold on a board of trade, stock exchange, or other market. Board of Trade v L. A. Kinsey Co. (CA7) 130 F 507, affd 198 US 236, 49 L Ed 1031, 25 S Ct 637.

market rate. The rate at which a commodity is commonly sold. Gold Brand Confectionery Co. v Dimmick, 276 Mass 386, 177 NE 547.

See **market price.**

market report. The report of the prices paid for particular commodities or securities upon a particular day or during a certain period of time.

See **market quotations.**

market value. The price for which an article is bought and sold in the ordinary course of business. 22 Am J2d Damg § 146. The price which would be agreed upon at a voluntary sale between an owner willing to sell and a purchaser willing to buy. 27 Am J2d Em D § 267. Of real estate:—the highest price obtainable in the open market for cash. Anno: 48 ALR 71, s. 68 ALR 152. The resultant of the prediction of many minds as to the usability of real property and probably financial returns from that use, projected into the future as far as reasonable, intelligent men can foresee the future. Palmer v Connecticut R. & Lighting Co. 311 US 544, 85 L Ed 336, 61 S Ct 379, reh den 312 US 713, 85 L Ed 1143, 61 S Ct 609. In condemnation proceedings, the fair market value. 27 Am J2d Em D § 267. As a standard of valuation for inheritance tax:—fair market price; cash value; actual value. Anno: 57 ALR 1158, s. 83 ALR 939 and 117 ALR 143.

In order for it to be said that a thing has a market value, it is necessary that there shall be a market for such commodity—that is, a demand therefor and an ability from such demand to sell the same when a sale thereof is desired. 22 Am J2d Damg § 146.

The courts have recognized the lack of correlation between "market value" and "book value" of corporate stock. Anno: 51 ALR2d 612.

See **clear market value; market price.**

market wagon. A vehicle, formerly in frequent use on the streets of cities and villages, wherefrom the proprietor dispensed groceries, vegetables, and other articles of merchandise from door to door and house to house. Re Flaherty, 105 Cal 558, 38 P 981.

marking ballot. A part of the process of voting.

See **marked ballot.**

marking document. Identifying a document by a mark placed upon it upon introducing or offering it in evidence. *State v Rhoads*, 81 Ohio St 397, 91 NE 186.

mark it off. An expression in the nature of a request accompanying the return of a binder to an insurance company, but insufficient as a request for the cancellation of the policy, the theory being that in insurance parlance a request for cancellation is not unconditional but carries with it the understanding that the policy shall be considered as having never been in force and that the insurer abandons any claim for premiums under such policy. *Boutwell v Globe & Rutgers Fire Ins. Co.* 193 NY 323, 85 NE 1087.

marksman. A person who, being unable to write his name, signs an instrument by making his mark, either as a witness or a principal. 57 Am J1st Wills § 250.

Marlborough. See **Statute of Marlborough.**

marque. See **law of marque; letters of marque and reprisal.**

marque and reprisal. See **letters of marque and reprisal.**

marquee. An awning or roof projecting from a building, especially a theater, over the sidewalk at the main entrance, sometimes supported by columns. *Gilbert v Repertory, Inc.* 302 Mass 105, 18 NE2d 437.

marquis. An English nobleman ranking next below a duke. See 1 Bl Comm 405, note.

Marquis of Queensbury Rules. Rules governing boxing and sparring exhibitions. *State v Olympic Club*, 46 La Ann 935, 15 So 190.

marriage. An institution; the foundation of the family and of society. 35 Am J1st Mar § 8. The status or relation of a man and a woman legally united as husband and wife. *Baker v State*, 86 Neb 775, 126 NW 300. A personal relation arising out of a civil contract to which the consent of the parties is essential. The voluntary union for life of one man and one woman as husband and wife, to the exclusion of all others, for the discharge to each other and to the community, of the duties legally incumbent on those whose association is founded on the distinction of sex. The act of becoming married. 35 Am J1st Mar § 4.

See **clandestine marriage; common-law marriage; companionate marriage; coverture; morganatic marriage; putative marriage.**

marriageable age. The age of consent, upon arriving at which one becomes capable of entering into a marriage. 35 Am J1st Mar § 16.

See **age of consent.**

marriage articles. The articles of an agreement made by parties in contemplation of marriage, usually in anticipation of the drafting of a formal marriage settlement. 26 Am J1st H & W § 278.

See **marriage settlement.**

marriage banns. See publication of marriage banns.

marriage benefit insurance. A contract by which the insurer becomes bound to pay either a stated sum of money to the beneficiary or his wife on his marriage, if the beneficiary will remain unmarried for a certain time, or a sum of money the amount of which is proportioned to the length of time during which the beneficiary remains single.

Such a contract is held void, both as being a wagering contract and as holding out an inducement for the postponement of marriage. *White v Equitable Mut. Ben. Union*, 76 Ala 251.

marriage broker. See **marriage brokerage.**

marriage brokerage. The business of a "marriage broker," who undertakes for compensation to procure spouses for those who seek them.

At one time the courts differed as to whether such contracts could be set aside without fraud, deceit, coercion, or a total failure of consideration, but since the House of Lords declared them to be against public policy this view has been quite gener-

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ally followed in the United States as well as in England. 35 Am J1st Mar § 283.

marriage ceremony. The giving utterance to and public evidence of the contract of marriage. 35 Am J1st Mar § 25.

marriage certificate. A certificate of the solemnization of a marriage, prepared by the person officiating. 35 Am J1st Mar § 27.

marriage in facie ecclesiae. A marriage in the face of the church. A marriage solemnized by a clergyman of the church. 35 Am J1st Mar §§ 25, 26.

marriage license. A license to marry; a condition precedent to the solemnization of a marriage. 35 Am J1st Lic § 23.

marriage per verba de futuro cum copula. A common-law marriage through carnal intercourse after an agreement to be married in the future, the law presuming a present consent from such agreement and intercourse. 35 Am J1st Mar § 42.

marriage per verba de praesenti. Marriage by means of words of present assent. That is, a common-law marriage entered into by the parties simply by their joint consent, without the interposition of any person authorized to solemnize the marriage and without formal solemnization of any sort. 35 Am J1st Mar § 2a.

marriage portion. The same as the "dot" of the French. The property which a woman brings to her husband upon her marriage. *Croft, Petitioner*, 162 Mass 22, 27, 37 NE 784.

marriage register. A public record of marriages. A church record of marriages.

marriage settlement. A settlement of property by one spouse on the other or an agreement with respect to the rights of one spouse in the property of the other, as surviving spouse or otherwise, or with respect to the disposition of property, or with respect to support and maintenance. 26 Am J1st H & W § 274.

See **antenuptial settlement; property settlement.**

marriage speculation contract. A contract whereby an unmarried man in consideration of payments to be made by him receives the promise and engagement of the other contracting party to pay a stated sum to his wife, upon his marriage, provided such marriage does not occur until after a specified time running from the date of the contract. Anno: 63 ALR 733, s. 100 ALR 1457, 119 ALR 1246.

See **marriage benefit insurance.**

married woman. A status no longer of much more legal significance than the comparable status of married man.

Blackstone said: "By marriage, the husband and wife are one person in law,-that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband, under whose wing, protection, and cover, she performs everything." 1 Bl Comm 442. But modern legislation has made one change after another until "what there is left of subjugation by her husband or subjection to him to incapacitate her to make any kind of contract she pleased is difficult to perceive." *Harrington v Lowe*, 73 Kan 1, 84 P 570.

See **Married Women's Acts**.

married woman's acknowledgment. An acknowledgment by a married woman of an instrument in the execution of which she joins with her husband, the examination and the act of acknowledgment being separate from the acknowledgment by the husband. 26 Am J1st H & W § 154. A distinctive form of acknowledgment, characterized by a privy examination of a married woman making an acknowledgment before the officer taking the acknowledgment, formerly required generally but now required in only a few states. 1 Am J2d Ack § 2.

married woman's equity for a settlement. See **equity for a settlement**.

married woman's separate estate. See **separate estate of wife**.

Married Women's Acts. Statutes or constitutional provisions, now found in most, if not all, American jurisdictions, enacted for the benefit of married women, abolishing common-law restrictions upon their right to contract, sue and be sued, acquire, hold, and convey property in their own right free from interference by their husbands. 26 Am J1st H & W §20.

Married Women's Property Acts. Essentially the same as Married Women's Acts. 26 Am J1st H & W § 20.

See **Married Women's Acts**.

marsh. A wet tract of land.

marshal. A court officer. An officer vested with power and authority for the execution of process. A town or village police officer in some jurisdictions.

See **earl marshal; knight marshal; provost marshal; United States Marshal**.

marshal court. Same as **court of chivalry**.

marshaling assets. The principle that where two or more creditors seek satisfaction out of the assets of their debtor, the creditor who has a lien on only a part of the assets shall be protected so far as possible without doing violence to the rights of the other creditor or creditors. 35 Am J1st Marsh A § 2. The principle that where two or more creditors seek satisfaction out of the assets of their debtor and one of them can resort to two sources whereas another creditor has recourse to only one of the sources for example, where a senior or prior mortgagee has a lien on two parcels of land, and a junior mortgagee has a lien on only one of the parcels-the former may be required to seek satisfaction out of the fund which the latter creditor cannot touch, in order that the latter may, if possible, have his claim satisfied out of the fund which is subject to the claims of both creditors. *Showmaker v White-Dulaney Co.* 131 Wash 347, 230 P 162, 232 P 695.

See **inverse order of alienation**.

marshaling liens. Determining the priority as between two or more liens. An expression sometimes loosely used for marshaling assets.

See **marshaling assets**.

marshaling securities. Same as **marshaling assets.**

marshal of the king's household. Same as **knight marshal.**

Marshalsea. An old prison in London which formerly belonged to the court of king's bench.

See **court of the Marshalsea.**

mart. A market; a public market.

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martial law. Law as applied by military authorities for the government of the civilian population in portions of the country in a state of war, operative only until pacification. 16 Am J1st Const L § 52. That law which is promulgated and administered by and through military authorities and agencies for the maintenance of public order and the protection of persons and property in territory wherein the agencies of the civil law have been paralyzed, overthrown, or overpowered, and are unable, for the time being, fully to operate and function. 36 Am J1st Mil § 84. The law of military necessity in the actual presence of war. United States v Diekelman, 92 US 520, 23 L Ed 742. The will of the military commander in the field. Re McDonald, 49 Mont 454, 143 P 947.

It is to be distinguished from military law which applies to those rules enacted by the legislative power for the government and regulation of the army and navy, and the militia when called into the active service of the United States. Johnson v Jones, 44 Ill 142.

See **military law.**

martini. A cocktail made of gin, a dash of bitters, and vermouth, cooled by shaking it in cracked ice.

martyrs. See **acta martyrum.**

Mary. The queen of England from July 6th, 1553, to November 17th, 1558, known to some as Bloody Mary.

mask. A covering over the face or part of the face, worn as a disguise in committing or attempting to commit a crime or in fun, as at a costume ball or party.

mason. A layer of stone or brick. One who builds of brick or stone.

Mason. A member of the secret fraternal order of Masonry, otherwise called Freemasonry, through a masonic lodge.

Masonic lodge. A lodge of Masons or Freemasons, organized and operating in the exemplification of the principles of Masonry. A charitable organization in some jurisdictions, but not in others. 15 Am J2d Char § 149.

masonry. Stone or brick construction.

Masonry. A fraternal and secret order, often called Freemasonry, existing throughout the civilized world in grand lodges and local lodges. The principles taught by Masons in Masonic lodges.

mass. Bulk. A quantity of articles, goods, or substances, usually large in size.

Mass. The service in the Roman Catholic Church.

Mass is an act of public worship, in celebration of the Eucharist as observed in the Roman Catholic Church, and formerly observed in the Church of England, and still observed in some Anglican churches. It is common, and public to all as a

religious ceremony, and is therefore a religious or pious use, and is a public charity, as distinguished from a private charity, which it might be if restricted to masses for the souls of designated persons. *Ackerman v Fichter*, 179 Ind 392, 101 NE 493.

massa. (Civil law.) A mass; a lump; raw material before it has been fabricated.

Massachusetts Colony Ordinance. An important statutory provision pertaining to the boundaries of lands bordering water courses, and the right of a town to grant away a great pond, such provision having been extended by judicial construction to cover the entire state of Massachusetts and apparently having become a part of the common law of Maine. 12 Am J2d Bound § 36.

Massachusetts trust. Same as **business trust**.

massage. A method of treating the superficial soft parts of the body for remedial or hygienic purposes, consisting in rubbing, stroking and kneading, tapping, etc. with the hands or an instrument. *Rubin v United States*, 59 App DC 195, 37 F2d 991; *Florida Board of Massage v Underwood (Fla)* 45 So 2d 184, 17 ALR2d 1181.

See **masseur**.

mass convention. A political convention of electors as distinguished from a convention of delegates chosen by the electors. 25 Am J2d Elect § 120. A political convention of voters held for the purpose of nominating candidates for office to be voted for at an ensuing election, at which convention every voter represents himself and himself only, as distinguished from a delegate convention at which the delegates vote as representatives. *Manston v McIntosh*, 58 Minn 525, 60 NW 672.

Masses. See **Mass**.

masseur. One accomplished in massage, that is in rubbing or kneading muscles or joints so as to relieve pain or stiffness by stimulating the circulation. Anno: 17 ALR2d 1190. A person who practices, administers or teaches the art of body massage. *Florida Board of Massage v Underwood (Fla)* 45 So 2d 184, 17 ALR2d 1181.

mass picketing. The use of pickets in great numbers in a labor dispute. 31 Am J Rev ed Lab § 365.

mass sale. See **sale en masse**.

mast. A pole raised vertically from the deck of a vessel to support the sails and yards. 48 Am J1st Ship § 641.

master. The person in command of a vessel. 48 Am J1st Ship § 113. An official of court assisting in the administration of the functions of the court. An officer similar to commissioner or referee. 20 Am J2d Cts § 4. An outdated term for "employer." 35 Am J1st M & S § 2.

The words "employer" and "employee" are the outgrowth of the old terms "master" and "servant"; they have been adopted by reason of the shift of the relation in general from a personal to an impersonal one, and are the terms now commonly used to describe the relationship. 35 Am J1st M & S § 2.

See **master in chancery**.

master and servant. The relationship which exists when one person who employs another to do certain work exercises the right of control over the performance of the work to the extent of prescribing the manner in which it is to be executed. 35 Am J1st M & S § 2. The equivalent of the more modern term "employer and employee."

master at common law. A ministerial officer of an English superior court with functions and duties corresponding to those of a master in chancery.

master builder. A contractor who employs men to build. *Little Rock, Hot Springs & Texas Railway Co. v Spencer*, 65 Ark 183, 198. A person skilled in building, in making plans for building, or in supervision of construction.

master chief petty officer. A noncommissioned

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officer of the Navy, of a rank comparable to that of sergeant major of the Army.

master in chancery. An officer of the court. A referee in a suit in equity. An assistant of the chancellor having the function of performing acts, either judicial or ministerial in nature, which the chancellor may see fit in accordance with equity practice, to require of him. 27 Am J2d Eq § 225.

Master of Arts. A postgraduate degree in the liberal arts, humanities, or social sciences. Master of Science. A postgraduate degree in science.

master of ship. The person, usually called "captain," in command of the vessel, including control of the crew, chief charge of the government and navigation of the vessel, and supervision over the care of the vessel and cargo. 48 Am J1st Ship § 113.

master of the crown office. An important English officer performing the functions of public prosecutor in the court of king's bench, and also acting as coroner to the king.

master of the rolls. An assistant judge of the English chancery court holding a court of his own ranking next below that of the lord chancellor.

master of vessel. See **master of ship.**

master plumber. A skilled plumber. A plumber qualified to work without supervision.

master pro hac vice. A master appointed to act in a particular case and for such case only. 27 Am J2d Eq § 225.

master's mate. See **mate.**

master sergeant. The highest in rank of noncommissioned officers of the United States Army.

masthead. A term of the printing and publishing business for the part of a page of a publication upon which there is noted the name of the publication, the names of the owner, publisher, and editor, the place of publication, business-office address, the address of the editorial office, and the titles of any prior publications which have been merged or consolidated with the reporting publication. *American Photographic Publishing Co. v Ziff-Davis Publishing Co.* 27 Cost & Pat App 1014, 127 F2d 308.

mastiff. A large dog formerly in common use for hunting, also as a watchdog.
See **lawing.**

masturbation. Self-abuse; onanism; the self-excitement of the genitals, usually by manipulation. Sometimes a serious disease within the meaning of an application for life insurance. 29 Am J Rev ed Ins § 745.

mat. A removable covering for the floor or part of the floor, often placed in vestibules and aisles of the cars of a carrier to prevent passengers from falling on a slippery floor.

match. See **boxing match; matched orders; matching.**

matched orders. Orders to sell or purchase the same securities in substantially the same amounts, at substantially the same prices, and at substantially the same times at which sales or purchases are made; a means of illegal manipulation of prices on an exchange. 50 Am J1st Stock Ex § 26.

matching. A stock exchange term designating the practice, when dealing in futures, of settling contracts by offsetting purchases against sales. *United States v New York Coffee & Sugar Exchange*, 263 US 611, 616, 68 L Ed 475, 476, 44 S Ct 225.

mate. A ship's officer, subordinate to the captain. Sometimes regarded as a seaman, although clearly of a rank above an ordinary seaman. 48 Am J1st Ship § 144.

The officers of a ship are the master and the mate. The mate is the first officer under the master. He is sometimes called the "master's mate," and is neither a seaman nor a mariner. *Ely v Peck*, 7 Conn 239, 242.

Two masters of whaling vessels are said to mate when they enter into a contract of mateship. *Baxter v Rodman*, 20 Mass (3 Pick) 435.

See **contract of mateship.**

materfamilias. (Civil law.) The mother of a family; a woman in the position of head of the household.

materia. Materials; matter; subject matter.

See **in pari materia.**

material. Adjective: Important; relating to the substance rather than form; going to the merits and essence. Noun: Metal, wood, or any substances used in the fabrication of a product. Wood, brick, stone, steel, etc. used in the construction of a building or other improvement. 36 Am J1st Mech L § 69. Collected facts or ideas used by a writer in the preparation of an essay or thesis.

See **immaterial.** See also terms and expressions beginning **immaterial.**

material allegation. A statement in a pleading upon which an issue in the action can be made. *Miller v Brumbaugh*, 7 Kan 343, 353. A statement in a pleading essential to the claim or defense, and which cannot be stricken from the pleading without leaving it insufficient. *Tucker v Parks*, 7 Colo 62, 67.

material alteration. A change in the terms of a written instrument which gives it a legal effect different from that which it originally had. *Barton Sav. Bank & Trust Co. v Stephenson*, 87 Vt 433, 89 A 639. An intentional act performed upon an instrument after it has been fully executed, by one of the parties thereto, without the consent of the other, which changes the legal effect of the instrument in any respect. *O. N. Bull Remedy Co. v Clark*, 109 Minn 396, 124 NW 20. An alteration of an instrument which destroys the identity of the instrument or of the contract evidenced thereby, or which so changes its terms as to give it different legal effect from that which it originally had, and thus works some change in the rights, obligations, interest, or relations of the party. 4 Am J2d Alt Inst § 5. The completion of an executed but incomplete instrument, in a manner other than is authorized, so as to change the contract. UCC § 3-115(a).

Elimination of words which had no legal effect at the time the contract was signed and delivered is not a material alteration. *Cities Service Oil Co. v Viering*, 404 111 538, 89 NE2d 392, 13 ALR2d 1448.

An instrument is "materially altered" if the change increases the liability of, or injuriously affects, a party or parties. *Newman v Cover*, 300 Pa 267, 150 A 595.

material breach. A breach of contract which goes to the whole consideration; a breach which gives to the injured party the right to rescind the contract

or to maintain an action for damages for a total breach. 17 Am J2d Contr § 446.

material change. An expression which, in reference to a building or construction contract, is so well understood that to attempt to define it in instructing the jury is more likely to confuse than to aid the jury. *Nance v Patterson Bldg. Co.* 140 Ky 564, 131 SW 494.

See **material alteration**.

material concealment. A concealment upon which fraud may be predicated where the fact concealed is such that had it been known to the other party he would not have entered into the contract or engaged in the transaction. 37 Am J2d Fraud § 178. In an application for insurance, the concealment of a fact material to the risk. 29 Am J Rev ed Ins § 689.

In contracts of life insurance, a concealment is material when the knowledge or ignorance of the fact involved will influence the judgment of the insurer as to whether or not it will enter into the contract. *Travelers Ins. Co. v Wilkins (DC Fla)* 33 F 117.

material error. See **prejudicial error**.

material evidence. Evidence which bears so closely upon the issues of the case as to warrant its being considered by jury or court as the trier of the facts. 20 Am J Rev ed Ev §§ 253 et seq. Evidence which goes to the substantial matters in dispute or has a legitimate and effective influence or bearing on the decision of the case. *Lynch v Rosenberger*, 121 Kan 601, 249 P 682. Evidence which has a substantial, as distinguished from a formal bearing upon the merits of the controversy. *David Bradley Mfg. Co. v Eagle Mfg. Co. (CA7 Ill)* 57 F 980, 986.

Testimony is deemed "material testimony," the falsity of which warrants a conviction of perjury, if it might have substantially influenced the jury's consideration of the merits or the credibility of other testimony going to the merits. *People v Kresel*, 147 Misc 241, 264 NYS 464.

material facilities. Instrumentalities for the production of special. nuclear material. 6 Am J2d Atomic E§12.

material fact. See **material**.

material fraud. A fraud which so influenced the conduct of the injured party in leading him to enter into the transaction that without it he would not have done so. *Boulden v Stilwell*, 100 Md 543, 60 A 609.

See **material concealment; material representation**.

material injury. An injury resulting in damages of a substantial nature as distinguished from merely nominal damages. Anno: 16 ALR 633. To the freehold:—the term as used in the provisions of a conditional sales act making severability without "material injury to the freehold" a factor in determining the rights, as against third persons, of the seller of the goods which are affixed by the purchaser to realty, does not have reference to the diminution of value or usefulness of the freehold resulting from a removal, but to cases in which the articles sold have been so closely attached to or incorporated into the realty as to lose its identity as personal property. *People's Sav. & Trust Co. v Munsert*, 212 Wis 449, 249 NW 527, 88 ALR 1306.

materiality. The state of a thing in reference to whether or not it is material or the degree in which it is material.

See **material**. See also terms and expressions beginning **material**.

materially altered. See **material alteration**.

materialman. A person who supplies materials for use in the construction of a building or other structure. A person to whom the protection of a mechanic's lien statute is now generally extended.

See **mechanic's lien**.

materialman's lien. A lien now generally provided under mechanic's lien statutes for the protection of one who supplies materials for use in the construction of a building or other improvement.

See **mechanic's lien**.

materialman's maritime lien. The lien upon a ship under federal or state statute for necessary materials or supplies furnished the vessel in port, especially her home port. 48 Am J1st Ship §§ 552 et seq.

material misrepresentation. See **material representation**.

material mistake. A mistake substantially affecting the rights and obligations of the parties to an instrument. 45 Am J1st Reform Inst § 48. A mistake so great that the parties obviously did not act with knowledge of the true facts, since such would have defeated the very object of the transaction. Anno: 1 ALR2d 79.

material payment bond. See **labor and material payment bond**.

material representation. As an element of fraud:—a representation of fact which influences a person to act, as to enter into a contract or transaction which, in the absence of the representation, would not have been a subject of engagement by him. 37 Am J2d Fraud § 178; 55 Am J1st V & P § 64. An element of estoppel in Pais. *Douglass v Belknap Springs Land Co.* 76 NH 254, 81 A 1086. In application for insurance:—a representation of a fact which reasonably careful and intelligent underwriters would regard as substantially involved in the risk of loss and rate of premium to be charged. 29 Am J Rev ed Ins § 701.

material testimony. See **material evidence**.

material variance. See **variance**.

matéria prima. The primary matter,—the groundwork of all natural knowledge. See 3 Bl Comm 322.

maternal. Pertaining to or emanating from the mother.

maternal fee. See **feudum maternum**.

maternal property. Property which has come from the maternal or mother's side of the family.

maternal welfare. Relief by welfare payments to mother.

See **mother's pension**.

materna maternis. Maternal things to maternal.

The expression is an abbreviated form of the common-law rule that property which has come through the mother descends to maternal relatives. See 2 Bl Comm 236.

maternity. Motherhood; the state or condition of being a mother.

maternum. See **feudum maternum**.

mateship. See **contract of mateship**.

mathematical evidence. Evidence established by

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computation or demonstration; evidence of a very certain and reliable character.

mathematical symbols. Arabic numerals and Roman letters for numbers. I Am J2d Abbr § 9.

matima. A godmother.

mating. Taking a spouse; being married. The act of the masters of two whaling ships whereby they enter into a contract of mateship. *Baxter v Rodman*, 20 Mass (3 Pick) 435.

See **contract of mateship**.

matricide. The murder of one's own mother; a person who murders his own mother.

matricula. A register containing the names of the members of an institution, association, or society.

matriculation. Enrollment as a student in an educational institution, particularly a college or university. A contract, complete upon payment of the required tuition fee, containing two implied conditions: (1) that no student shall be arbitrarily expelled; and (2) that the student will submit himself to reasonable rules and regulations for the breach of which, in a proper case, he may be expelled. 15 Am J2d Colleges § 25.

matriculation fee. The fee paid by a student upon matriculation at a college or university. 15 Am J2d Colleges § 19.

Matrimonia debent esse libera. Marriages ought to be free.

It was a loose application of this maxim of the old Roman law under which the Romans permitted voluntary divorces. *Knost v Knost*, 229 Mo 170, 129 SW 665.

matrimonial acquets. (Civil law.) Property acquired otherwise than by descent by a husband or wife during the marriage.

matrimonial action. An action predicated upon the marital relation, such as an action for divorce, for separate maintenance, or for an annulment of a marriage.

Causes involving the marriage relation; causes involving injuries respecting the rights of marriage, including jactitation of marriage (formerly), specific performance of marriage contracts, restoration of conjugal rights, separate maintenance and alimony. See 3 Bl Comm 92 et seq.

matrimonial causes. See **matrimonial action**.

matrimonial cohabitation. The living together by a man and a woman, ostensibly as husband and wife, either with or without sexual intercourse between them. It is stated, however, that from such cohabitation the carnal act is presumed. *Cox v State*, 117 Ala 103, 23 So 806; *Stevens v Allen*, 139 La 658, 71 So 936.

matrimonial domicil. The domicil of the husband which is that of the wife by virtue of the marital relation, her domicil merging into that of her husband.

The unity of the domicil of husband and wife is in reality no more than a fiction of the law. It should not prevail in divorce cases where the purpose is to sever the marital relation and the incidents thereof. 24 Am J2d Div & S § 257.

matrimonial offense. An offense against the vows of marriage. Richardson v Richardson [1950] Prob 16, [1949] 2 All Eng 330, 16 ALR2d 579.

matrimonium. (Roman law.) Matrimony; marriage.

Matrimonium subsequens tollit peccatum praecedens. Subsequent marriage obliterates precedent sin or offense.

matrimony. The state or status of being married. Married life.

matrix. (Civil law.) An original document, as distinguished from copies.

matron. A married woman or widow. A woman serving as an attendant or guard in an institution for females, such as a hospital or prison, or in a similar capacity in a department for females in an institution.

See **jury of matrons.**

matter. Substance or material. A fact or facts constituting the whole or a part of a ground of action or defense, not to be confused with "evidence," which is that which tends to prove the existence of a fact or facts. Nelson v Johnson, 18 Ind 329, 332. In one sense of the term, a fact or facts material to the issue which is being tried. Bishop v Shurly, 237 Mich 76, 84, 211 NW 75, 78.

The word is often used as synonymous with the word "subject," and sometimes simply to avoid repetition, as in the constitutional clause, "every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title." The word "subject" is here used to indicate the chief thing about which legislation is had, and "matters," the things which are secondary, subordinate, or incidental. State ex rel. Duensing v Roby, 142 Ind 168, 41 NE 145.

Matter en ley ne serra mise en bouche del jurors. A matter of law shall not be placed in the mouth of the jurors.

matter in controversy. The subject of the litigation; the matter for which suit is brought and upon which the trial of the action proceeds. Lee v Watson (US) 1 Wall 337, 17 L Ed 557. The claim presented on the record of a case in court to the legal consideration of the court, ordinarily the amount demanded by the plaintiff's pleading. St. Paul Mercury Indem. Co. v Red Cab Co. 303 US 283, 82 L Ed 845, 58 S Ct 586 (relative to removal of case to federal court from a state court).

See **amount in controversy; matter in issue.**

matter in deed. A matter contained in an instrument under seal.

matter in dispute. Same as **matter in controversy.**

matter in issue. In the usual sense, the question or questions of fact presented by the pleadings.

Within the meaning of the rule that a judgment is only conclusive upon the matter which was directly in issue upon the former trial, the "matter in issue" is that matter upon which the plaintiff proceeds by his action, and which the defendant controverts by his pleadings. The declaration and other pleadings may show specifically what this is, or they may not. If they do not, the party may introduce other evidence to show what was in issue. But facts offered in evidence to establish the matters in issue are not themselves in issue within the meaning of the rule, although they may be controverted on the trial. King v Chase, 15 NH 9.

See **matter in controversy.**

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matter in pais. A matter of fact, as opposed to a matter of law. A matter not of record. A matter not in writing, so susceptible of proof only by oral testimony.

matter of defense. An affirmative defense.

matter of fact. See **question of fact.**

matter of form. A formality involving in the law a technical aspect, particularly in reference to a fixed procedure, the form of an action, or manner of pleading, as distinguished from a matter of substance going to the existence of a cause of action. *Meath v Board of Mississippi Levee Comrs.* 109 US 268, 27 L Ed 930, 3 S Ct 284; *Lake Shore & Michigan Southern Railway Co. v Kurtz*, 10 Ind App 60, 75, 37 NE 303.

matter of law. See **question of law.**

matter of probate. Such a matter as the probate of a will or the administration of a decedent's estate which is within the jurisdiction of a probate court.

There is a "matter of probate," within the term as used in a state constitution, if the status of heirship or nonheirship, whether dependent on matters of legal or equitable cognizance, becomes material in the probate of a will or in any proceedings incident thereto. *Re Stoiber*, 101 Colo 192, 72 P2d 276, 112 ALR 1416.

matter of record. A matter entered on the records of a court of record; a matter recorded in the place and manner required by law. *Croswell v Byrnes* (NY) 9 Johns 287, 290.

matter of substance. A matter going to the existence of a cause of action or defense as distinguished from a matter of formal pleading or procedure. *Meath v Board of Mississippi Levee Comrs.* 109 US 268, 277 L Ed 930, 3 S Ct 284.

If the right of the party pleading sufficiently appears to the court, the pleading, if defective at all, is defective in a matter of form. If such right does not sufficiently appear to the court from the pleading, the pleading is defective in a matter of substance. *Lake Shore & Michigan Southern Railway Co. v Kurtz*, 10 Ind App 60, 37 NE 303.

mature. Adjective: Full-grown. Ripe. Fully developed. Due and payable. Verb: To ripen; to develop. To reach maturity; to become due and payable, as in the case of a promissory note. To accelerate the maturity of an instrument, as to exercise an option to declare it payable at a time before the due date prescribed in the instrument. *Vestal v Texas Employers' Ins. Asso.* (Tex Com App) 285 SW 1041, 1045.

matured crop. A crop that has come to maturity. Anno: 103 ALR 469. A crop that has stopped growing and is ready for harvesting. 21 Am J2d Crops § 2. A crop which has ceased to draw sustenance from the soil, notwithstanding it may require seasoning before it is ready to be stored or marketed, and therefore may be left standing for a time. *Myers v Steele*, 98 Kan 577, 158 P 660.

Maturiora sunt vota mulierum quam virorum. The desires of women are earlier than those of men.

maturity. The state of full growth and development. The time specified in a negotiable instrument for the payment thereof. 11 Am J2d B & N § 285.

See **acceleration of maturity.**

maxim. A precise expression developed over the years in elucidating a principle of law by reasoning. A time-tried rule of thumb, not a law in itself. *Ackroyd v Winston Bros. Co.* (CA9 Mont) 113 F2d 657. Maxim of equity:—a rule or principle formulated by equity courts for the government and regulation of judicial action. 27 Am J2d Eq § 119. Divisible, with respect to the mode of their operation, into four groups, as follows: (1) maxims governing the action of the chancellor or court; (2) maxims connoting the right or standing of the party to claim a remedy or relief; (3) maxims describing the relative standing of litigants

where the question is whether one party or another has the prior or superior right or "equity"; and (4) maxims prescribing the mode of disposition of the case where the "equities" of the parties are shown to be of equal dignity. 27 Am J2d Eq § 119.

Maxime ita dicta quia maxima est ejus **dignitas et certissima auctoritas, atque quod maxime omnibus probetur**. A maxim is so called because its dignity is greatest and its authority is the most certain, and because it is approved most by all.

Maxime **paci sunt contraria, vis et injuria**. Those elements which are most opposed to peace are violence and wrong.

maxims of equity. See **maxim**.

maximum amount. A constitutional or statutory provision which deprives a court of jurisdiction where the amount or value in controversy exceeds a stated amount. 20 Am J2d Cts § 154. A statutory limitation of a penalty. 36 Am J2d Forf & P § 64. A limit on the amount to be allowed by way of workmen's compensation. 58 Am J1st Workm Comp § 320. A prescribed limit on the amount of damages recoverable under a wrongful death statute. 22 Am J2d Dth § 117. A stipulation in an airplane ticket limiting the amount of the recovery for the passenger's death to a specified amount. *Conklin v Canadian-Colonial Airways*, 266 NY 244, 194 NE 692. A limitation placed by statute upon the amount of damages recoverable for infringement of a copyright. 18 Am J2d Copyr § 137.

maximum height restriction. A limitation in linear measurement or by a stated number of stories, placed upon the height of buildings within a definite area by restrictive covenant. 20 Am J2d Cov § 263. A limitation placed upon the height of buildings by a restrictive covenant in terms of comparison with other described structures. 20 Am J2d Cov § 263.

maximum hours. A limitation placed upon hours of labor in certain occupations.

See **hours of labor; Hours of Service Act**.

maximum number. A limitation placed by statute upon the number of signatures to be affixed to a nominating petition. 25 Am J2d Elect § 171.

maximum rate. The highest rate of interest warranted by law. 55 Am J1st Usury §§ 36 et seq.

maximum sentence. The longest sentence provided by statute for a particular criminal offense. A limit placed by statute upon the length of the sentence of an habitual criminal. *State v Malusky*, 59 ND 501, 230 NW 735, 71 ALR 190.

See **indeterminate sentence**.

Maximus erroris populus magister. The greatest master of error is the people; the people may be the greatest master or error.

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may. An auxiliary verb qualifying the meaning of another verb by expressing ability, contingency, liability, possibility or probability. *United States v Lexington Mill & Elevator Co.* 232 US 399, 58 L Ed 658, 34 S Ct 337. Ordinarily a permissive, rather than a mandatory, term in a statute. *Burnett v Graves*, 230 F2d 49, 56 ALR2d 1; 50 Am J1st Stat § 28. Permissive rather than mandatory and, appearing in a constitutional provision, not to be construed as "shall," unless from the whole context, it plainly appears to be mandatory. *State ex rel. Greaves v Henry*, 87 Miss 125, 40 So 152. Discretionary in its grammatical sense, but subject to construction as mandatory where the sense of the entire context impels such construction, 1 Am J2d Admin L § 46, as where used in a statute providing that when the bank commissioner has reasonable cause to consider a bank insolvent, he "may" immediately apply for a receiver. *State use of Mills v American Surety Co.* 26 Idaho 652, 145 P 1097. Frequently construed as mandatory where relating to the duty of a public officer. 34 Am J1st Mand § 72.

A provision in a trust agreement that the trustee "may" use the principal for the beneficiary, has been regarded as mandatory. *Re Ward*, 186 App Div 261, 174 NYS 182.

may declare due. Terms of an optional provision for acceleration of maturity. 11 Am J2d B & N § 294.

may elect to declare due. Terms of an optional provision for acceleration of maturity. I 1 Am J2d B & N § 294.

Mayflower Compact. A compact made and signed by 41 adult male members of the Pilgrims aboard the Mayflower, off the coast of what later became the state of Massachusetts, in 1620, binding the signers under solemn covenant to form a civil body politic to operate under just and equal laws, acts, ordinances, and constitutions to be enacted from time to time for the good of the Colony.

mayhem. At early common law, the deprivation of the use of a limb or member of the body by which one was rendered unable to defend himself or annoy his adversary. Anno: 16 ALR 955, s. 58 ALR 1320. Under modern statutes, a malicious injury which disables or disfigures the person of another. An offense which is ordinarily a felony. 36 Am J1st May § 2.

mayhemavit. He has maimed.

maynover. The product of hand labor.

See **manure**.

mayor. A municipal officer, usually the highest charged with administrative duties to be performed on behalf of the municipality. Sometimes having judicial duties as the magistrate of a mayor's court. *Waldo v Wallace*, 12 Ind 569, 577.

mayor of the staple. The chief officer of the staple or great market at Westminster who acted as one of the substitutes for the chief justices, out of term, in taking acknowledgments of recognizances similar in their nature to statutes staple as security for debts acknowledged to be due. See 2 Bl Comm 160.

mayor's court. A municipal or city court presided over by the mayor.

mazuma. Slang for money, especially money taken illegally or employed for an ulterior purpose.

McCarran Act. A federal statute supporting the power of a state to tax and regulate foreign insurance companies doing business in the state. 15 USC §§ 1011 et seq.

McCarren-Walter Act. See **Immigration and Nationality Act**.

McGuire Act. A federal statute, the primary significance of which is in allowing states to permit enforcement of fair trade laws against nonsigners of fair trade agreements. Anno: 12 L Ed 2d 1210, 1215.

M.D. Abbreviation of **Doctor of Medicine**.

See **doctor; physician**.

mead. A mild fermented beverage made of honey, malt, and spices, with yeast added; sometimes akin to near beer. 30 Am J1st Intox L § 11. Under poetic license, a meadow.

meadow. Grassland, especially grassland kept for the hay crop to be grown thereon.

The term is also applied to the tracts which lie above the sea shore, and are overflowed by spring and extraordinary tides only, and yield grasses which are good for hay. *Church v Meeker*, 34 Conn 421, 429.

meadow grass. Hay. 21 Am J2d Crops § 23.

meal rent. Rent paid by a tenant in meal.

mean. Adjective: Vicious; bad-tempered. Of little importance; inferior. In a distinct sense, intermediate or in the middle. Noun: An average; a state between extremes.

meander. Verb: To follow a winding or flexuous course. *Turner v Parker*, 14 Or 340, 12 P 495. Noun: Same as meander line.

meander line. A line established by a survey, defining the sinuosities of a stream which constitutes a land boundary. A line established in surveying land adjacent to a river or stream, whether navigable or not, running from one point to another along or near the bank or margin of the stream in such a manner as to leave a quantity of land lying between the line and the thread or bank of the stream. 12 Am J2d Bound § 29.

A meander line, although not in itself a boundary, affords a means of ascertaining the quantity of land to be paid for by a purchaser of a tract bounded in part by a river. *Anne*: 71 ALR 1256; 12 Am J2d Bound § 29.

mean high tide. The average height of all the high waters at a place over a considerable period of time. A line, to be determined by taking an average of the rise of the water above sea level for a period of 18.6 years, that fixes the boundary between tideland and upland. *Borax Consolidated v Los Angeles*, 296 US 10, 80 L Ed 9, 56 S Ct 23.

mean low tide. The line of the average low tide. The average taken at a specific point on a shore of the extreme low tide and the highest line of an ebbing tide.

mean person. A cruel, vicious, or corrupt person. A person without compassion or charity. In an older sense, a person of low degree.

mean reserve. A well-recognized term in the insurance business which, as applied to individual insurance policies may be defined as the mean of the reserve at the beginning of the policy year after the premium for such year is paid and the terminal at the end of such policy year. When applied to the whole business of a life insurance company, the

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term "mean" as ordinarily understood is that reserve which is in the middle or that which is intermediate, or a condition that is equally removed from two opposite extremes. *Western & Southern Life Ins. Co. v Howe* (CA6 Ohio) 116 F2d 1008.

See **reserve**.

means. Financial resources. An instrumentality for the accomplishment of a purpose. 16 Am J2d Consp § 7.

See **accidental means; available means**.

means of support. In a general sense, all those resources from which the necessities and comforts of life are or may be supplied, such as lands, goods, salaries, wages or other sources of income. In a limited sense, any resource from which the wants of life may be supplied. *Meidel v Anthis*, 71 Ill 241, 246.

See **visible means of support**.

mean solar time. A measure of time calculated upon the motion of a fictitious sun called "the mean sun," which is imagined to move with perfect uniformity, being sometimes behind the true sun, and sometimes in advance of it. Anno: 143 ALR 1238.

mean sun. See **mean solar time.**

mean sun time. See **mean solar time.**

mease. A house.

meason. Same as **mease.**

measure. Verb: To determine the size, weight, or value of something by the use of a recognized standard. Noun: A standard or unit of measure, such as a bushel or a gallon. The size or weight of anything as ascertained by applying a standard. A statute or resolution enacted by a legislative body. *McBride v Kirby*, 32 Okla 515, 260 P 435.

measured in wall. A term of measurement of mason work, subject to explanation by custom or usage. *Miller v Wiggins*, 227 Pa 564, 76 A 711.

measure of care. See **standard of care.**

measure of damages. The rule of law established by statute or decision for arriving at the amount of the plaintiff's damages which he is entitled to recover in a given case. 22 Am J2d Damg § 45.

measure with gold scales. See **gold scales.**

Meat Inspection Act. A federal statute providing for an elaborate system of inspection of animals before slaughter, of carcasses after slaughter, and of meat food products, with the view of preventing the shipment of impure, unwholesome, and unfit meat and meat food products in interstate and foreign commerce. 34 Stat at L 674, ch 3913; 22 Am J1st Food § 46.

meat processing. Slaughtering and butchering livestock in the preparing of the various parts of the carcass for distribution and sale, the process ending when the meat is placed in the cooler. *Shain v Armour & Co.* (DC Ky) 50 F Supp 907.

mechanic. For the purposes of laws granting an exemption against claims for indebtedness:—narrowly, a skilled workman employed in shaping materials, such as wood, metal, or stone, into a structure, machine or other object requiring the use of tools in its construction; more commonly and more broadly, any person who works with machines or instruments, including a baker, barber, tailor, even a dentist. 31 Am J2d Exemp § 21. As the term is used in a mechanic's lien statute:—a skilled workman. 36 Am J1st Mech L § 53. For the purposes of a workmen's compensation act:—a person in a manual occupation. 58 Am J1st Workm Comp § 91.

mechanical. Of or pertaining to, or concerned with manual labor, especially as performed by an artisan. Of, pertaining to, or concerned with machinery or mechanism; made or performed by machinery or with tools. *Arizona Eastern Railroad Co. v Matthews*, 20 Ariz 282, 180 P 159, 7 ALR 1149, 1155. By rote or settled rule rather than by use of the intellect.

mechanical device for aerial navigation. An aircraft, including a glider and a seaplane. 29A Am J Rev ed Ins § 1263.

mechanical equivalent. A term of art in patent law. A device which accomplishes the same result as that achieved by the patent alleged to be infringed. 40 Am J1st Pat § 156.

The term, when applied to the interpretation of a pioneer patent, has a broad and generous signification, but when applied to a patent for a slight improvement, its meaning is narrow and limited. The range of equivalents depends upon the degree of invention. If the patent is primary in character, the patentee is entitled to a broad range of equivalents. But if the patent

is for a slight improvement on an old device or combination which performs the same function before as after the improvement, the range of equivalent is narrow. *Mason Corp. v Halliburton* (CA10 Okla) 118 F2d 729.

mechanical establishment. In the broad sense, any place or plant where machinery is used in production or other work. Within the meaning of a statute regulating hours of labor, a place where the mechanical element predominates in the activity, thereby excluding a newspaper plant. 31 Am J Rev ed Lab § 784.

mechanical failure. An accident occurring from a defect inherent in an instrumentality rather than from the act or omission of the operator.

mechanical labor. Work performed by a mechanic or one practicing a mechanical art; the shaping or uniting of materials into any structure, machine, or object, the construction of which requires the use of tools. *Arizona Eastern Railroad Co. v Matthews*, 20 Ariz 282, 180 P 159, 7 ALR 1149, 1155. Broadly, the work of a mechanic. Labor performed according to rule or rote rather than by use of the intellect.

See **mechanic; mechanical pursuit.**

mechanical musical device. See **jukebox.**

mechanical pursuit. An occupation or trade in which the object realized is not dependent for its perfection on the exertion of a controlling intellect, but rather on the adaption of some helpful mechanism, or use of some auxiliary tool or instrument. 33 Am J1st Lic § 39.

See **mechanical labor.**

mechanical skill. A term contrasted in patent law with inventive faculty.

As distinguished from invention, the term imports simply the display of the expected skill of the calling; it involves the exercise of the ordinary faculties of reasoning, aided by the special knowledge and the facility of manipulation which is acquired through habitual and intelligent practice of the art; and it is in no sense the creative work of that inventive faculty which it is the purpose of the Constitution and the patent laws to encourage and reward. *Callison v Dean*. 70 F2d 55.

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mechanic's lien. A claim created by law for the purpose of securing a priority of payment of the price or value of work performed and materials furnished in erecting or repairing a building or other structure, usually attaching to the land as well as to the buildings erected thereon. *Schwartz v Whelan*, 295 Pa 425, 145 A 525, 65 ALR 277. A lien upon moneys withheld by a public body from a contractor in favor of a laborer or materialman for the amount of his claim for labor or materials furnished the contractor upon the improvement under construction by him pursuant to a contract with the public body. Anno: 112 ALR 816.

mechanic's maritime lien. A lien for repairs made upon a vessel provided by the Federal Maritime Lien Act of 1910, re-enacted in 1920, which superseded state legislation upon the same subject. 46 USC §§ 971 et seq.; 48 Am J1st Ship § 555.

See **materialman's maritime lien.**

mechanism. Working parts of a machine, a watch, or other instrumentality or device.

meddler. See **intermeddler.**

medfee. A bribe; a reward; the return given in an unequal exchange.

media annata. (Civil law.) Half-yearly profits. *McMullen v Hodge*, 5 Tex 34, 79.

media concludendi. Plural of **medium concludendi**.

mediae et infimae manus homines. Men of mean and lowly condition.

mediam viam. See **in mediam viam**.

media nox. Midnight.

mediante altero. Mediate through another. Intermediate.

See **mediate descent**.

mediante patre. Mediate through the father. Lessee of Levy v M'Cartee (US) 6 Pet 102, 114, 8 L Ed 334, 339.

medics res. See **in medics res**.

mediate descent. In one sense of the term, a descent not cast immediately, as where a grandson takes by descent land once owned by his intestate grandfather, but not directly from his grandfather, the descent having first been cast upon his father and then from his father upon him. In a more practical and different sense, a descent cast directly upon the heir but through an intermediate link or degree of consanguinity, as from grandfather to grandson, the father being dead, but nevertheless constituting an intermediate link or degree of consanguinity. Lessee of Levy v M'Cartee (US) 6 Pet 102, 112, 8 L Ed 334, 338. Comparably, a descent to a cousin, the latter not inheriting immediately from the intestate but only mediately through the parents of each of them. Cramer v McCann, 83 Kan 719, 112 P 832.

mediate powers. Those powers which are incidental to authority which has been granted or delegated.

mediate testimony. Same as **secondary evidence**.

mediation. The settlement of disputes between sovereign nations by the arbitration thereof. 30 Am J Rev ed Internat L § 52. The settlement of labor disputes.

See **mediation of labor disputes**.

Mediation and Conciliation Service. An independent federal agency, operating under a Director and having regional offices throughout the country, the duties of which are to assist parties to labor disputes to settle such disputes through conciliation and mediation. 29 USC §§ 172-174; 31 Am J Rev ed Lab § 371.

mediation of labor disputes. The settlement of labor disputes by conciliation or by arbitration of the matters in dispute. 31 Am J Rev ed Lab § 371.

mediators of questions. Persons who were appointed under the authority of a statute passed in the reign of Edward the Third to settle disputes arising among merchants.

medical. Pertaining or relating to the science of medicine or to the practice or study of medicine. Lowman v Kuecker, 246 Iowa 1227, 71 NW2d 586, 52 ALR2d 1380.

medical aid. Relief pertaining to the science of medicine for one injured, sick, disabled, or distressed. Olmstead v Lamphier, 93 Conn 20, 104 A 488, 7 ALR 542, 544.

medical attendance. Attendance by a physician for the purpose of medical treatment or medical advice. 29 Am J Rev ed Ins § 756.

As the term is used in a penal statute requiring a parent to furnish food, clothing, shelter, and "medical attendance" to his minor child, it means attendance by a regularly licensed physician. *People v Pierson*, 176 NY 201, 68 NE 243.

medical benefits. Aid furnished by a corporation for employees injured in the performance of their duties. 19 Am J2d Corp § 1054. In the broad sense of the term, payments under Social Security, workmen's compensation, or any contract of insurance, to cover medical expenses.

medical boards. Boards established under legislative authority in most, if not all, of the states of the Union, whose chief functions are to supervise the practice of medicine and surgery in their states, to examine applicants for licenses to practice, and to issue and revoke such licenses. 41 Am J1st Phys & S§19.

medical clinic. See **clinic**.

medical college. An institution, usually one of the colleges of a university, for the education and training of men and women for the medical profession, teaching the nature, source, and causes of disease, the nature and effect of the various drugs, surgery, and whatever is necessary to adequate education in the constantly expanding field of medicine and surgery. *Nelson v State Board of Health*, 108 Ky 769, 57 SW 501.

medical college hospital. A hospital maintained in connection with a medical school, normally for the purpose of giving students opportunity for clinical observation and instruction.

medical consultation. Consultation with a physician for the purpose of obtaining medical treatment or medical advice. 29 Am J Rev ed Ins § 756.

medical evidence. Expert testimony of physicians and surgeons. 31 Am J2d Ex & Op §§ 1 et seq.

The opinions of medical men are constantly admitted as to the cause of disease, or of death, or the consequences of wounds, and as to the sane or insane state of a person's mind, as collected from a number of circumstances, and as to other subjects of professional skill. *Estate of Toomes*, 54 Cal 509.

medical examination. An examination of a person by a physician for the purpose of giving medical treat

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mentor medical advice. 29 Am J Rev ed Ins § 756. An examination by a physician to determine the state of health of the person examined, apropos the need for medical or surgical treatment or his acceptability as a life insurance risk. An examination by a physician to determine whether or not a person has a communicable disease. 25 Am J1st Hlth § 32. An examination to determine the existence of venereal disease. 25 Am J1st Hlth § 34. An examination of a litigant for the purpose of determining his physical condition, involving, not only observation of the body, but also an inquiry by questions and answers as to the cause and character of a disability. 23 Am J2d Dep §§ 210 et seq.

See **mental examination**; **physical examination**.

medical examiner. A physician engaged by an insurance company to examine applicants for life insurance. In some jurisdictions, an officer who has succeeded to the authority of the coroner to make inquests and reports. 18 Am J2d Corn § 1. In the broadest sense of the term, a physician making a medical examination.

medical insanity. Some unsoundness of mind but not necessarily such as relieves from legal responsibility for crime. 21 Am J2d Crim L § 32.

medical insurance. Insurance providing for the payment of medical expenses in the event of sickness or disability.

See **blue shield; physicians' liability insurance.**

medical journal. A publication devoted to the special interests of physicians and surgeons. 39 Am J1st Newsp § 9.

medical jurisprudence. That part or branch of the science of medicine which has to do with questions of law.

medical or surgical treatment. All things performed by a physician or surgeon on the body of a patient in the diagnosis of the ailment or in treatment or operation to effect a cure. *Provident Life & Acci. Ins. Co. v Hutson* (Tex Civ App) 305 SW2d 837, 65 ALR2d 1443, error ref n r e.

medical practice. The professional practice of a physician.

medical preparations. Substances treated or compounded for administration or use to obtain cure or relief from sickness or pain. *Grace v Collector of Customs* (CA9 Cal) 79 F 313, 314.

See **medicine; patent medicine.**

medical record. A record kept in the office of a physician or surgeon or in a hospital of observations made in the course of a medical examination of a patient, of treatment administered to him, and of surgery performed upon him.

medical science. The science in which physicians and surgeons are trained. The branch of science dealing with the human body, disease, the treatment of sickness, and the alleviation of pain and suffering.

medical school. See **medical college.**

medical service corporation. See **blue cross; blue shield.**

medical testimony. See **medical evidence.**

medical therapy. Curative treatment by physician.

medical treatment. The administration of treatment by a physician. 29 Am J Rev ed Ins § 756.

See **medical or surgical treatment; regular care of physician.**

medicine. Any substance administered in the treatment of disease; a remedial agent; a remedy. *State v Stoddard*, 215 Iowa 534, 245 NW 273, 86 ALR 616; *Kelly v Carroll*, 36 Wash 2d 482, 219 P2d 79, 19 ALR2d 1174; *Waldo v Poe* (DC Wash) 14 F2d 749. Anything, however simple, administered in the treatment of disease or disorder of the human system. *Kelly v Carroll*, 36 Wash 2d 482, 219 P2d 79, 19 ALR2d 1174. The science and art of preserving health and preventing and curing disease. *Lowman v Kuecker*, 246 Iowa 1227, 71 NW2d 586, 52 ALR2d 1380. A technical word, denoting a science or art comprehending, not only therapeutics, but the art of understanding the nature of diseases, the causes that produce them, as well as knowing how to prevent them,—hygiene, sanitation, and the like. *Bragg v State*, 134 Ala 165, 32 So 767. The practice of medicine.

See **curative medicine: medicinal preparations; patent medicine.**

medicine chest. A wooden or metal box with cover and lock, having compartments or slots in which drugs and medicines may be safely carried for use as needed by any member of an expedition going abroad or afield. Required equipment of a ship under certain statutes. 48 Am J1st Ship § 176.

medietas advocacionis. The moiety of an advowson; a half right of presentation which existed when two patrons shared the right to present one clerk or parson.

medietas linguae. See **jury de medietate linguae.**

medietate linguae. See **de medietate linguae.**

medio. See **de medio.**

medio tempore. In the meantime.

meditatio fugae. The intention of fleeing or running away.

medium. A person who professes ability to communicate with departed spirits. *McMasters v State*, 21 Okla Crim 318, 207 P 566, 29 ALR 292. One in a confidential relationship to the person advised professionally by him in the realm of spiritualism. *Lyon v Home (Eng)* LR 6 Eq 655. One who purports to heal disease by the application of forces beyond the physical world. 41 Am J1st Phys & S § 31.

medium concludendi. A means of reaching a conclusion; a course of reasoning, as to reach the same result by a different medium concludendi. *United States v California & Oregon Land Co.* 192 US 355, 358, 48 L Ed 476, 479.

medium deferens. The medium or means of descending; that is the intervening ancestor through whom property descends to the heir from a more remote ancestor; as where a grandson inherits from his grandfather, the grandson's father being dead, the dead father is the medium deferens of the descent or consanguinity. *Lessee of Levy v M'Cartee (US)* 6 Pet 102, 113, 8 L Ed 334, 338.

medium filum. The middle thread.

medium filum aquae. The middle thread of the water or river.

medium of payment. Money, currency, current funds. 11 Am J2d B & N § 153. Money or, by agreement of the parties, anything of value which the debtor is to give and the creditor to receive as

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a satisfaction of a debt. 11 Am J2d B & N § 155; 40 Am J1st Paym § 40.

medius ancestor. Same as **medium deferens.**

medletum. Same as **medley.**

medley. A mixture of a heterogeneous character. In an old sense, a sudden fight; a melee; an affray.

medsheat. A bribe. Same as **medseat.**

medseat. A bribe.

meet. See **meeting.**

meeting. Coming together by approaches from opposite directions; coming face to face; joining. An assembly or convening of persons in large or small numbers.

See **directors' meeting; family meeting; race meeting; regular meeting; religious meeting; stockholders' meeting; town meeting.**

meeting each other. A phrase not meaning merely persons passing each other while going in opposite directions but implying a coming together in such manner that there would be an actual collision or an apparent danger of one, if they should pursue their course without change of direction. *Riepe v Elting*, 89 Iowa 82, 56 NW 285.

meeting of creditors. See **creditors' meeting.**

meeting of directors. See **directors' meeting.**

meeting of minds. See **meeting of the minds.**

meeting of stockholders. See **stockholders' meeting.**

meeting of the minds. A concurrence of intention between a promisor and a promisee. The mutual assent of the parties on all the essential elements or terms of a contract. 17 Am J2d Contr § 18.

meeting of vehicles. An exigency for which rules of the road are provided, particularly where physical features of the way obscure the approach of the one vehicle to the driver of the other. 8 Am J2d Auto §§ 687 et seq.

meeting of vessels. An exigency for which steering, sailing, and other pertinent rules of navigation are provided. 48 Am J1st Ship §§ 250 et seq.

meeting place. See **place of meeting.**

megebote. Same as **maegbote.**

meindre age. Under age,—under the age of majority.

melancholia. A disease of the brain which, in its simple form, is characterized by deep depression, by inconsolable sorrow, by weary grief, and yet without by no impairment of the intellectual powers. See *Browne*, *Med. Jurisprudence of Insanity*, section 266.

That form of melancholia which creates a prevailing propensity to suicide, consists in the unfounded and morbid fancies of the sufferer regarding his means of subsistence or his position in life, or in distorted conceptions of his relations to society or his family, of his rights or duties, or of dangers threatening his person, property or reputation. When fully developed, the hallucination becomes the sole object of attention; the evil seems overwhelming and hopeless. See *Connecticut Mutual Life Ins. Co. v Green*, 86 Pa 92.

meldfeoh. (Saxon.) A reward paid to an informer.

melior. Better; more advantageous; preferable.

meliorating waste. An act which, although technically waste, results in improving instead of injuring the inheritance. *J. H. Bellows Co. v Covell*, 28 Ohio App 277, 162 NE 621.

melioration. The equitable doctrine which recognizes the right of compensation for improvements made by an occupying claimant. 27 Am J1st Improv § 26. A betterment; a permanent improvement made upon land.

"It is a maxim suggested by nature, that reparations and meliorations bestowed upon a house, or on land, ought to be defrayed out of the rents." Green v Biddle (US) 8 Wheat 82, 5 L Ed 547, 567.

Meliorem conditionem ecclesiae suae facere potest praelatus, deteriorem nequaquam. A prelate can make the condition of his own church better, but in no wise, or by no means, worse.

Meliorem conditionem suam facere potest minor, deteriorem nequaquam. A minor can make his own condition better, but in no wise, or by no means, worse.

Melior est causa possidentis. The cause of the party who is in possession is the more advantageous.

Melior est conditio defendentis. The position of the defendant is superior. Osborn v Baxter (4 Cush) 58 Mass 406, 408.

Melior est conditio possidentis et rei quam actoris. The position of the party in possession and that of the defendant is more advantageous than that of the plaintiff.

Melior est conditio possidentis, et rei quam actoris, ubi neuter jus habet. The position of the party in possession and that of the defendant is more advantageous than that of the plaintiff, where neither has the right.

Melior est conditio possidentis, ubi neuter jus habet. The position of the party in possession is the more advantageous, where neither party has the right.

Melior est justitia vere praeveniens quam severe puniens. Truly preventive justice is better than severe punishment.

melioribus damnis. See **de melioribus damnis.**

Melius est in tempore occurrere, quam post causam vulneratum remedium quaerere. It is better to hasten to meet a thing in time than to seek a remedy after his situation has been injured.

Melius est jus deficiens quam jus incertum. A deficient law is better than an uncertain one.

Melius est omnia mala pati quam malo consentire. It is better to suffer every ill than to consent to evil.

Melius est petere fontes quam sectari rivulos. It

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is better to seek out the springs or sources than to follow the little streams.

Melius est recurrere quam malo currere. It is better to recede than to rush into error.

melius inquirendum. To be better inquired into,—an ancient writ ordering a further inquiry into a matter.

melting. Dissolving under heat.

member. One who belongs to an organization, such as cooperative association, fraternal order, or membership corporation. *Smith v Iron M.T. Terminal Co.* 46 Mont 13, 125 P 649. An incorporator or the successor of an incorporator of a corporation which has no capital stock. 18 Am J2d Corp § 460. A hand, foot, arm, leg, finger, toe, testicle, or other organ of the body. See 4 Bl Comm 205.

member of Congress. A member of the lower house, the House of Representatives, of the Congress of the United States. In a broader sense, a member of either the House of Representatives or the Senate.

member of crew. One of a crew of a vessel or of a work force.

As to the meaning of "member of a crew" within Social Security and Unemployment Compensation Acts see Anno: 161 ALR 842.

member of family. Narrowly, one of a group related by blood or marriage. Sometimes limited to a close relative, such as widow, child, or parent. *Fennimore v Pittsburg-Scammon Coal Co.* 100 Kan 372, 164 P 265 (workmen's compensation statute). Broadly, one of a group living in the same household. Within the meaning of a statute permitting substituted service of process upon the defendant in an action by leaving a copy with a "member of his family":—any person living permanently and continuously with the defendant in the same domestic establishment. Anno: 136 ALR 1505.

The purpose of a clause of an automobile liability insurance policy excluding from coverage an injury to "any member of the family of the insured residing in the same household as the insured" is to exempt the insurer from liability to those persons to whom the insured, on account of close family ties, would be apt to be partial in case of injury, and cases defining the word "family", but involving an entirely different situation, are not authoritative. *Tomlyanovich v Tomlyanovich*, 239 Minn 250, 58 NW2d 855, 50 ALR2d 108.

The question as to who is a member of the insured's "family" within the coverage clause of a property insurance policy depends upon the precise terminology of the particular policy involved and the particular circumstances present. Anno: 1 ALR2d 561.

member of household. An inmate or resident of a house in which two or more persons reside. A member of the insured's family for the purpose of a clause of an automobile theft insurance policy excepting from coverage a theft by a "member of the household" of the insured. Anno: 48 ALR2d 93, § 32. Within the meaning of a clause of an automobile liability insurance policy excluding from coverage "members of the insured's household":—a person living in the same household as the insured, whether or not the insured is the head of the household. Anno: 50 ALR2d 122, § 3.

The question as to who is a member of the insured's household within the coverage clause of a property insurance policy depends upon the precise terminology of the particular policy involved and the particular circumstances present. Anno: 1 ALR2d 561.

member of the human body. See **member.**

membership. A condition or status of being a member. In reference to a building and loan association, a matter of contract and ordinarily acquired by taking and holding stock, such being evidenced by the issuance and delivery of a certificate or certificates of stock to the member and the inscription of his name on the books of the association. 13 Am J2d B & L Assoc § 16.

membership certificate. See **certificate of membership.**

membership corporation. A distinct kind of corporation authorized under the statutes of most jurisdictions, existing for purposes other than profit, often for charitable, fraternal, social, or religious purposes, in which the participants acquire the status of members rather than stockholders. 18 Am J2d Corp § 460.

membership in exchange. See **seat on exchange.**

membership list. A list of the members of a building and loan association, constituting one of the records of the association. 13 Am J2d B & L Assoc § 18.

membership organization. A voluntary organization which is a charity only as its stated purposes, and the nature and extent of its operations make it so, considering the objective of applicable statutes. 15 Am J2d Char § 149.

See **membership corporation.**

members of a family. See **member of family.**

membrana. Membrane; parchment.

membrum pro membro. A limb for a limb.

memoranda. Plural of **memorandum.**

memorandum. An informal writing. A brief writing to preserve a thing or an event against loss of memory in respect thereof. A writing used by a witness to assist and refresh his memory while on the witness stand. 29 Am J2d Ev § 876. A writing which records the terms of an agreement preliminary to the drafting and execution of a more formal instrument. A writing evidencing a transaction, for example, a sale by auction. 7 Am J2d Auct § 34. As a requirement of the statute of frauds:—a writing which contains the names of the parties to the contract, the terms and conditions of the contract, and a description of the subject matter sufficient to render it capable of identification. 49 Am J1st Stat § 32. A writing submitted by the attorney of the losing party to the attorney of the successful party embodying his objections to the decree as drafted by the latter. 27 Am J2d Eq § 250. A draft of a decree in equity, filed with the clerk of court, not as a record, but merely as a memorandum of the decree to be entered. 27 Am J2d Eq § 250. A written opinion of an equity court. 27 Am J2d Eq § 235.

memorandum articles. See **memorandum clause.**

memorandum clause. A limitation of liability of a marine insurer for partial loss of articles perishable in their nature or peculiarly susceptible to damage. 29A Am J Rev ed Ins § 1584. Not a finding of fact. *Gould v McCormick*, 75 Wash 61, 134 P 676. To be regarded as an order of court where its substance is clearly that of an order. *Feenaughty Machinery Co. v .Turner*, 44 Idaho 363, 257 P 38.

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memorandum check. An instrument in the ordinary form of a bank check, with the word "memorandum" written across its face, not intended for immediate presentation, but simply as evidence of an indebtedness of the drawer to the holder. *United States v Isham (US)* 17 Wall 496, 21 L Ed 728.

memorandum decision. The decision of an appellate court usually contained in a single very brief paragraph, announcing the bare result of the court's decision, without an opinion.

memorandum of alteration. A disclaimer filed by a patentee under the patent laws of England whereby he denied making any claim to certain rights to which he was not entitled in order to prevent the total loss of his patent.

memorandum of association. Same as **articles of incorporation.**

memorandum of costs. A bill of costs; an itemization of the costs or disbursements to be filed by the party entitled to costs, a copy of which is served upon the adverse party. 20 Am J2d Costs § 91.

memorandum of levy. An entry made by the sheriff upon a writ of attachment of the levy made by him under the writ. 6 Am J2d Attach § 312. A comparable entry made by a sheriff on a writ of execution delivered to him for service. 30 Am J2d Exec § 563.

memorandum of protest. Same as **certificate of protest**.

See protest.

memorandum sale. Same as **sale on approval**.

memorial. A manifestation of recognition of a person or an event to stand as a reminder in the future of services or sacrifices made by the person or of the importance of the event. A memorandum; a means of reminding of something to be done. A short note, abstract, memorandum, or rough draft of the orders of court from which the records thereof may at any time be fully made. State v Shaw, 73 Vt 149, 165, 50 A 863.

memorial building. A building erected as a memorial to deceased and living veterans of the armed forces but usually available for public meetings and entertainments of various kinds under conditions prescribed by the management.

Memorial Day. A national holiday, also a legal holiday in most of the states, observed on May 30, in memory of the deceased members of the armed forces, with special recognition to those who made the supreme sacrifice while in service. A legal holiday in some of the southern states in memory of deceased members of the armed forces, including the armed forces of the Confederate States.

memoriter. From memory; that is with nothing to refresh the mind with respect to past events or circumstances.

memory. The power of retaining knowledge in the mind; the mental power of recognizing past knowledge. State v Coyne, 214 Mo 344, 114 SW 8.

See **impairment of memory; refreshing memory; time of legal memory**.

men. See **man**.

menace. A threat of harm, of confinement, of personal injury. Morrill v Nightingale, 93 Cal 452, 28 P 1068.

menagerie. A collection of wild or strange animals in an enclosure for exhibition and sometimes for performances. 4 Am J2d Amuse § 3.

menial. Low; servile. A menial servant.

menial servant. A servant whose duties involve the most simple of domestic tasks, requiring little, if any, exercise of discretion, and often consisting in tasks of a degrading nature.

Menials or menial servants were originally so called because they were employed to serve their masters intra moenia, within the walls; that is, in the house. They were domestic or household servants. See 1 Bl Comm 425.

meningitis. A bodily infirmity. First Nat. Bank v Equitable Life Assur. Soc. 225 Ala 586, 144 So 451. A disease of the brain and the spinal cord often resulting in mental derangement and insanity. Tiffany v Tiffany, 84 Iowa 122, 126.

men of straw. See **straw man**.

mens. (Latin.) Mind; intention; reason; judgment; understanding; conscience.

mensa. A table; a dining table; board; sustenance; support.

mensa et thoro. Bed and board.

See **divorce a mensa et thoro.**

menses. The periodic flow experienced by a woman from puberty to menopause.

See **suppression of menses.**

mensis. A month.

mensis vetitus. The prohibited month,—the summer closed season for deer hunting, also called "fence month."

mens legislatories. The intention of the legislature; the legislative intent.

mentor. (Civil law.) A measurer; a surveyor.

mens rea. An evil intent; a guilty mind. *Durham v United States*, 94 App DC 228, 214 F2d 862, 45 ALR2d 1430; *Brown v State* 23 Del (7 Penn) 159, 74 A 836. Referring not to one state of mind, but to many different ones for many different offenses. *Brown v State*, 23 Del (7 Penn) 159, 74 A 836.

Mens testatoris in testamentis spectanda est. In wills, the intention of the testator should be regarded.

mensularius. (Civil law.) A moneychanger; a money dealer.

mensura. A measure.

mensura domini regis. The measure of our lord, the king.

The original standard of measure was so called, and that of weight was called *pondus regis*, weight of the king. These standards were established by parliament and subsequent statutes directed them to be kept in the exchequer and required that all weights and measures should conform to them, but the requirement was most difficult to enforce. See 1 Bl Comm 276.

mental abstraction. Want of awareness of one's surroundings, even of circumstances fraught with peril. 38 Am J1st Negl § 187.

mental anguish. Grief. Mental suffering as distinguished from physical pain, but inclusive of the mental reaction to physical pain and suffering caused by a personal injury. 22 Am J2d Damg § 195.

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mental capacity. The condition or quality of the mind which renders one criminally responsible for his acts; an essential of criminal responsibility. *State v Pinski* (Mo) 163 SW2d 785. Sufficient capacity to know and understand in a reasonable manner the nature and character of the transaction engaged in. *Shelton v Shelton*, (Tex Civ App) 281 SW 331, 334.

See **capacity; mental incapacity.**

mental condition. The state of mind of a person in reference to his consciousness, senses, and perceptions. *Mutual Life Ins. Co. v Terry* (US) 15 Wall 580, 588, 21 L Ed 236, 241.

See **insanity; mental capacity; mental incapacity.**

mental cruelty. As ground for divorce, misconduct which impairs or threatens to impair physical or mental health of the complainant in the action, 24 Am J2d Div & S § 35; conduct on the part of the defendant which renders it impracticable for the complainant to perform the marital duties. 24 Am J2d Div & S § 37.

mental defect. A defect in the mind of a person. For the purposes of the Durham or product test of criminal responsibility, a condition which is not considered capable of either improving or deteriorating, and which may be either congenital, the result of injury, or the residual effect of a physical or mental disease. *Durham v United States*, 94 App DC 228, 214 F2d 862, 45 ALR2d 1430.

See **mental disability**.

mental disability. Any abnormal condition of the mind, regardless of its medical label, which substantially affects mental or emotional processes and substantially impairs behavior controls. *Blocker v United States*, 116 App DC 78, 320 F2d 800, cert den 375 US 923, 11 L Ed 2d 167, 84 S Ct 269.

A witness who has a "mental disqualification" is one who has not the capacity to receive, to record, and to recall impressions and to testify intelligently concerning them. *Batterson v State*, 52 Tex Crim 381, 107 SW 826.

See **insanity; mental incapacity; total mental disability**.

mental disease. A disease affecting the mind. For the purposes of a Durham or product test in determining criminal responsibility, a condition which is considered capable of either improving or deteriorating. *Durham v United States*, 94 App DC 228, 214 F2d 862, 45 ALR2d 1430.

See **insanity**.

mental disorder. An affliction of the mind.

See **insanity**.

mental disqualification. See **mental disability**.

mental endurance contest. A form of public competition for prizes conducted in a place of amusement. 4 Am J2d Amuse § 28.

mental examination. An examination by a psychiatrist to determine the condition of the mind, sometimes conducted as part of a proceeding for the commitment of a person as insane or for the appointment of a committee or guardian of his person or property. An examination by a psychiatrist conducted by way of perpetuating testimony through taking a deposition. 23 Am J2d Dep § 46. An examination of the defendant in a criminal prosecution to determine his criminal responsibility, his ability to stand trial, or his condition while awaiting execution in the event the death penalty has been imposed.

mental healer. One engaged in a peculiar system of practicing medicine. 41 Am J1st Phys & S § 31.

mental illness. See **insanity**.

mental inbecility. See **imbecility**.

mental incapacity. A condition of outright insanity or other weakness or deficiency of mind which renders the person afflicted incapable of understanding the nature and effect of a business transaction. 13 Am J2d Cane Inst § 13.

Old age, weakening of the memory and understanding, and occasional strange and eccentric acts are not of themselves mental incapacity. *Beckley National Bank v Boone (CA4 W Va)* 115 F2d 513.

See **incompetent person**.

mental incompetent. See **incompetent person; insane person; mental incapacity.**

mental institution. See **asylum; state hospital.**

mental reservation. The secret understanding of a party to a contract concerning the meaning of the agreement. 17 Am J2d Contr § 248.

mental shock. See **nervous shock; shock.**

mental suffering. See **mental anguish.**

mentiri. To lie; to falsify; to deceive; to counterfeit; to misrepresent; to break one's word or promise.

Mentiri est contra mentem ire. To lie is to go contrary to the mind, to do a foolish thing.

mentis. See **compos mentis; non compos mentis.**

mentition. A lie; a deceit; a falsification.

mephitic. Neither more nor less than what common folks refer to as "stinking."

mer. Abbreviation of **meridian.**

mera gratia. See **e mera gratia.**

mera noctis. Midnight.

mercable. Merchantable.

mercantile. Commercial. Pertaining to trade and commerce in merchandise.

Although the word includes trade, it is of a larger significance, being extended to all commercial operations, so that we speak of shipping merchants, commission merchants, and forwarding merchants. But the dishes of a restaurant could not with propriety be described as merchandise, or the proprietor as a merchant, or as engaged in mercantile pursuits. *Swift & Co. v Tempelos*, 178 NC 276, 101 SE 8, 7 ALR 1581, 1583.

mercantile agency. A person, firm, or corporation, engaged in the business of collecting information relating to the financial standing, credit, character, responsibility, and general reputation of persons, firms, and corporations engaged in business, and furnishing this information to subscribers for a consideration. Annotation: 54 ALR2d 889, § 5; 15 Am J2d Collect § 3. A term sometimes applied to a collection agency.

See **collection agency; commercial agency.**

mercantile business. The business of buying and selling articles of merchandise. *State v Winneshiek Coop. Burial Asso.* 237 Iowa 556, 22 NW2d 800, 165 ALR 1092.

mercantile contract. A contract for the purchase or

sale of goods, wares, and merchandise. A contract between merchants or persons in trade.

mercantile custom. A custom of merchants.

See **custom; trade usage.**

mercantile establishment. Any place where goods, wares, and merchandise are offered for sale. Anno: 16 ALR 542. Within the meaning of statutes regulating or limiting hours of labor or otherwise restricting the employment of women and children:—a place where the buying and selling of articles of merchandise are conducted as an employment. 31 Am J Rev ed Lab § 784.

mercantile law. Same as **law merchant.**

Mercantile National Bank Case. A recent decision by the United States Supreme Court in respect of the venue of actions against national banks. *Mercantile Nat. Bank v Langdeau*, 371 US 555, 9 L Ed 2d 523, 83 S Ct 520.

mercantile paper. Same as **commercial paper.**

mercantile partnership. A trading firm engaged in buying and selling goods.

mercantile restrictions. Limitations placed by covenant upon the location of places of business within a designated and described locality.

mercantile rule. A rule for the application of partial payments as between interest and principal, by which interest is charged on each item of principal on the debit side and credited on each item on the credit side of the account, and a balance of such interest is struck and added to the balance of the principal. In other words, the rule is to compute the interest on the principal debt until maturity or any given time and the interest on payments made, for the time when made, until such time, and then deduct the one sum from the other. 30 Am J Rev ed Int § 49.

mercat. A market.

mercative. Pertaining to trade.

mercatoribus. See **De Mercatoribus.**

mercatum. Same as **mercatus.**

mercatus. A market; a fair; a public place for the transaction of business.

mercenarius. A mercenary; a hired soldier; a hired servant.

Mercen-Lage. The Mercian laws, which were observed in many of the midland counties of England, and those bordering on the principality of Wales, the retreat of the ancient Britons.

These laws were very probably intermixed with the British or Druidical customs. See 1 Bl Comm 65.

merces. (Civil law.) Wages for labor.

merchandise. Noun: Goods, wares, and commodities commonly bought and sold in trade or market by merchants. All kinds of personal property ordinarily bought and sold in the market. *Blackwood v Cutting Packing Co.* 76 Cal 212, 18 P 248. Goods or things kept for sale, constantly sold and replaced by another supply. *Root Refineries v Gay Oil Co.* 171 Ark 129, 284 SW 26,

46 ALR 979; *McPartin v Clarkson*, 240 Mich 390, 215 NW 338, 54 ALR 1535. For the purposes of customs duties, articles, goods, and wares. 21 Am J2d Cust D § 1. As an entry on a ship's manifest, wares, and chattels of every description, even contraband articles the importation of which is forbidden by law. *United States v Sischo*, 262 US 165, 67 L Ed 925, 43 S Ct 511. Verb: To trade or traffic in goods and wares ordinarily bought and sold by merchants. *Ellis v Commonwealth*, 186 Ky 494, 217 SW 368, 11 ALR 1030, 1031.

See **stock of merchandise**.

merchandise broker. A person who negotiates the sale of merchandise for others without having it in his possession or control. See *Robinson, Norton & Co. v Corsicans Cotton Factory*, 124 Ky 435, 99 SW 305; *Jones v Pittsburg*, 176 Pa Super 154, 106 A2d 892.

Merchandise Marks Act. An English statute passed in 1862, to protect trademarks from infringement.

merchant. In most common usage, a retailer of merchandise. In a more accurate sense, one who buys and sells merchandise as an entrepreneur.

See **commission merchant**.

merchantability. See **merchantable**.

merchantable. Of good quality and salable, but not necessarily the best. Anno: 21 ALR 368; 46 Am J1st Sales § 149. Being at least of medium quality, of such quality as to bring the average price for goods of a similar kind. 46 Am J1st Sales § 149.

The term includes what the law requires. "The Uniform Sales Act carries an implied warranty of merchantable quality. Therefore the defendant's sale to the plaintiff warranted that the kerosene was of the statutory proof." *Manning Manufacturing Co. v Hartol Products Corporation* (CA2 Vt) 99 F2d 813.

One meaning of the term, as applied to the sale of goods, is that the article sold shall be reasonably suitable for the ordinary uses it was manufactured to meet. *Giant Mfg. Co. v Yates-American Machine Co.* (CA8 Iowa) 111 F2d 360.

merchantable coal. Coal which is not only salable but salable at a profit. Anno: 28 ALR2d 1031.

merchantable quality. See **merchantable**.

merchantable timber. Trees suitable for the production of lumber. Anno: 72 ALR2d 734. Trees which will produce any salable product. Anno: 72 ALR2d 735. Timber of a grade or quality to be profitably used, a matter determinable by experts with approximate certainty. *Lee Lumber Co. v Hotard*, 122 La 850, 48 So 286.

merchantable title. A marketable title. A title which a reasonably prudent man would accept in the ordinary course of business after being fully apprised of the facts and the law applicable thereto. *Holliday v Arthur*, 241 Iowa 1193, 44 NW2d 717, 24 ALR2d 1302; *Campbell v Doherty*, 53 NM 280, 206 P2d 1145, 9 ALR2d 699.

See **marketable title**.

merchantable title, abstract, and deed. A phrase expressive of a vendor's obligation meaning that he must furnish an abstract of title showing in itself a marketable title of record in the vendor and execute a deed conveying a marketable title of record to the purchaser. *Campbell v Doherty*, 53 NM 280, 206 P2d 1145, 9 ALR2d 699.

merchantman. Same as **merchant vessel**.

merchant marine. The entire body of ships and their personnel used in commerce of the nation.

Merchant Marine Act. See **Jones Act**; **Merchant Seamen's Act**.

merchants' accounts. Such accounts as concern the trade of merchandise between merchant and mer

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chant, their factors or servants. 34 Am J1st Lim Ac § 98.

merchant seamen. Men employed on private vessels of any nation, as distinguished from men employed on public vessels or in naval forces. *United States v Sullivan* (CC Ore) 43 F 602, 604.

Merchant Seamen's Act. A federal statute which provides that any seaman who has signed an agreement and is discharged before commencement of the voyage or before one month's wages are earned, without fault on his part and without his consent, is entitled to receive from the master or owner, in addition to any wages he may have earned, a sum equal to one month's wages, on adducing evidence satisfactory to the court hearing the case. 46 USC § 594.

See **Jones Act**.

merchant vessel. A vessel which carries cargo. A vessel which is wholly engaged in commercial service. *Petition of United States*, 250 US 246, 256, 63 L Ed 962, 968, 39 S Ct 460.

merchet. Same as **marcheta**.

merciament. Amercement.

Mercian laws. See **Mercen-Lage**.

merciful. Disposed to spare another the suffering which might be inflicted upon him. *Willett v Willett*, 197 Ky 663, 7.47 SW 739, 31 ALR 426.

See **humane**.

Mercis appellatio ad res mobiles tantum pertinet. The term "merx" (merchandise) pertains only to movable things.

Mercis appellatione homines non continere. The term "merx" (merchandise) does not apply to men.

mercy. See **in mercy**; **merciful**; **recommendation of mercy**.

mere. Adjective: Nothing more. Noun: The sea. A term of old English for boundary.

See **mere-stone**.

mere. (French.) Mother.

mere droit. Same as **mere jus**.

mere irregularity. See **irregularity**.

mere jus. A bare right.

See **mere right**.

mere motion. Of a person's own free will; a voluntary act.

mere possibility. See **possibility**.

mere right. The *jus mereum*, or mere right of property, without either possession or even the right of possession. See 2 Bl Comm 197.

mere-stone. A stone marking a boundary line or corner.

meretricious. Lewd; sexually immoral.

meretricious relation. A sexual relation which is immoral, if not illicit.

meretricious union. A marriage in which either or both of the parties is legally incapable; hence, one which is not a matrimonial union.

Such incapacity or disability may result from having another husband or wife still living; from want of age; from want of consent of parents or guardians; or from want of sufficient mental capacity. See 1 Bl Comm 436.

mere volunteer. See **volunteer**.

merge. To sink or disappear in something else; to be swallowed up; to lose identity or individuality, *Marfield v Cincinnati, Dayton & Toledo Traction Co.* 111 Ohio St 139, 144 NE 689, 40 ALR 357, 369, as the negotiations for a contract unite and lose identity in the written contract as finally executed, *Price v Block* (CA7 Ill) 124 F2d 738, as one agreement is lost in a later agreement substituted for it by the parties, 17 Am J2d Contr § 459, as prior negotiations between vendor and purchaser are swallowed up by the deed, 23 Am J2d Deeds § 161, and as a claim by the state disappears in state ownership as acquired by escheat. 27 Am J2d Esch § 39.

merger in judgment. The extinguishment of claim pleaded as a cause of action in the judgment rendered for the plaintiff. Anno: 32 ALR2d 1147. The extinguishment of an obligation for the payment of money existing under a separation agreement in a judgment for alimony. 24 Am J2d Div & S § 908.

merger of action in criminal prosecution. The ancient doctrine of the common law that all civil remedies in favor of one injured by a felony are merged in the felony. 1 Am J2d Actions § 45.

merger of corporations. A combination whereby one of the constituent companies remains in being, absorbing the other or all the other constituent corporations. 19 Am J2d Corp § 1492. A union or combination of pre-existing corporations wherein all but one go out of existence leaving a designated survivor. Anno: 27 ALR2d 777. A union, or amalgamation by which the stock of two corporations is made one, their property and franchises combined into one, their powers become the powers of one, and the identity of the two practically, if not actually, runs into one. *State, ex rel. Nolan, v Montana Railway Co.* 21 Mont 221, 53 P 623.

A distinction exists between a merger and a consolidation of corporations: in a merger, one of the combining corporations continues in existence and absorbs the others; in a consolidation, all the combining corporations are deemed dissolved and lose their identity in a new corporate entity which takes over the properties, powers, and privileges, as well as the liabilities, of the constituent companies. *Dodier Realty & Invest. Co. v St. Louis Nat. Baseball Club*, 361 Mo 981, 238 SW2d 321, 24 ALR2d 683; *Marfield v Cincinnati, Dayton & Toledo Traction Co.* 111 Ohio St 139, 144 NE 689, 40 ALR 357, 369. But the terms "consolidation" and "merger" have been used rather indiscriminately, and some of the courts and text writers have used the terms interchangeably, and, in cases of doubt, conjunctively, to express the idea of complete corporate union, whether a new corporation, normally results or whether a constituent corporation is normally preserved. *Alabama Power Co. v McNinch*, 68 App DC 132, 94 F2d 601.

merger of crimes. See **merger of offenses.**

merger of custom. The extinguishment of a custom by a statute which deals with the subject matter. *Creekmore v F. T. Justice & Co.* 152 Ky 514, 153 SW 738.

merger of estates. The absorption of one estate in another, where a greater estate and a lesser coincide and meet in one and the same person without any intermediate estate. 28 Am J2d Est § 374. The unit-

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ing of the legal and equitable interests in the same person. 54 Am J1st Trusts § 88.

merger of offenses. The common law doctrine that if a misdemeanor is an ingredient of a felony, the misdemeanor is an integral part of the felony and prosecution can only be for the felony. 21 Am J2d Crim L § 9. The embracing of one offense necessarily involved in another in the latter offense, for the purposes of determining the penalty upon conviction on a plea of guilty, for example, rape involving fornication, and robbery involving both assault and larceny. 21 Am J2d Crim L § 9. The doctrine that where an indictment charges more than one offense and the jury returns a general verdict of guilty, such verdict is understood to find the higher offense if there is testimony to support it. *State v Nelson*, 48 SCL (14 Rich) 169. The encompassing of an attempt to commit a crime in the crime itself when the latter is consummated. Anno: 59 ALR2d 998, § 42.

merger of personalities. The unity of husband and wife.

merger of school districts. Two or more school districts joining in a new or enlarged district. 47 Am J1st Sch § 22.

meridian. Adjective: At noon. Noun: A line of longitude, running north and south from pole to pole.

See **magnetic meridian; principal meridian; true meridian.**

meridies. Noon; midday.

Merito beneficium legis amittit, qui legem ipsam subvertere intendit. He justly loses the protection of the law who attempts to subvert it.

merito justitiae. See **ex merito justitiae.**

meritorious condition. See **condition meritorious.**

meritorious consideration. A consideration for a promise confined to three duties, that of charity, that of paying one's creditors, and that of maintaining a wife and children. *Fischer v Union Trust Co.* 138 Mich 612, 101 NW 852. A good consideration of natural love and affection, of love and affection based on kindred by blood and marriage. Williston, *Contracts* 3d ed § 110.

meritorious defense. A defense worthy of a hearing or judicial inquiry, because raising a question of law deserving some investigation and discussion or a real controversy as to essential facts arising from conflicting or doubtful evidence, albeit not a perfect defense or defense assured of prevailing at a trial. 30A Am J Rev ed Judgm § 682.

merits of case. The essential issues. The substantive rights presented by an action. The strict legal rights of the parties to an action, as contradistinguished from those mere questions of practice which every court regulates for itself, and from all matters which depend upon the discretion or favor of the court. *Chouteau v Parker*, 2 Minn 118, 121.

See **affidavit of merits; judgment on the merits; meritorious defense; pleading to the merits.**

merit system. The system in the Civil Service whereby appointments and promotions are made according to the merit and fitness rather than by way of political favor. 15 Am J2d Civ S § 20.

merit wage increase. A raise in pay ostensibly in recognition of individual aptitude and industry.

Where a union has been recognized as a bargaining agent of the employees, merit increases in wages cannot be made by the unilateral action of the employer, without being guilty of an unfair labor practice within the meaning of the statute requiring collective bargaining. 31 Am J Rev ed Lab § 243.

mero jure. See **in mero jure.**

mero motu. See **ex mero motu.**

Merton. See **Statute of Merton.**

merum. Mere; bare; naked.

merry-go-round. An amusement device having carriages or wooden horses upon a revolving platform, particularly appealing to children. Condon v Forest Park, 278 111 218, 115 NE 825. A figure of speech for a continual round of work or pleasure.

merx. Merchandise.

Merx est quicquid vendi potest. Merchandise is whatever can be sold. Baldwin v Williams, 44 Mass (3 Met) 365, 367.

merx peculiaris. (Civil law.) The property of a slave invested in his own business.

mesaventure. Same as **misadventure.**

mescroyant. An unbeliever; an infidel; an agnostic.

mese. A house.

mesmerism. Same as **hypnotism.**

mesnality. The manor or estate of a mesne lord.

mesne. Intermediate; intervening; the middle between two extremes. Davis v Dantzler Lumber Co. 261 US 280, 67 L Ed 387, 43 S Ct 349, 28 ALR 834, 836.

mesne conveyance. A conveyance prior to one, but subsequent to another, conveyance of the same property.

mesne damage. The damage allowed in ejectment based upon the profits of the land during the time it was held tortiously by the defendant. 25 Am J2d Eject § 148.

mesne encumbrance. An encumbrance which is prior in right to one encumbrance and subsequent in right to another one.

mesne lord. A lord in the middle, standing between those tenants holding of him and the king of England or lord paramount under whom he holds. *De Peyster v Michael*, 6 NY 467.

mesne process. Process issued between the beginning of a suit and final judgment, especially process in invoking a provisional remedy, such as attachment or civil arrest.

mesne profits. Intermediate profits; profits accruing between two points of time. Profits accruing from land during an intermediate period, such as a period of tortious holding by the defendant in an action in ejectment. 25 Am J2d Eject § 148.

mesprision. Same as **misprision**.

mesque. Unless; except.

message. A communication from one person to another. A communication received for transmission for telegraph. 52 Am J1st Teleg & T § 103.

See **dead-head message**.

messenger. One who delivers written telegrams. One

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employed for the delivery of messages, running errands, or services of a comparable character.

The term, by its fair import and significance, does not apply to a public officer acting in an original capacity in the discharge of duties imposed upon him by law, but presupposes a superior in authority whose servant the messenger is and whose mandate he executes, not as a deputy, with power to discriminate and judge, or to bind his superior, but as a mere bearer and communicator of the will of his superior. *Pfister v Central Pacific Railroad Co.* 70 Cal 169, 11 P 686.

See **express messenger**.

messenger service. A service, sometimes conducted by a telegraph company in addition to its usual business of transmitting messages by telegram, consisting in furnishing persons for delivering messages or performing other errands. 52 Am J1st Teleg & T' § 102.

Messis sementem sequitur. The crop follows the sower.

messuage. A house. In some contexts, a dwelling house, with its adjacent buildings, orchard, garden, and curtilage. *Gibson v Brockway*, 8 NH 465.

mestizo. The offspring of parents of different races, particularly the offspring of a Spaniard and an American Indian.

See **mustizo**.

meta. An object marking a boundary; a monument; a boundary.

metabolism. The processes in the human body by which food is converted for assimilation and energy released.

metachronism. Error in computing time.

metallic poisoning. An occupational disability, of idiopathic, as distinguished from traumatic, origin. 58 Am J1st Workm Comp § 253.

metallum. (Roman law.) A metal; a mine; a quarry.

metaphysical meaning. An artificial, overly-refined, or subtle meaning. 50 Am J1st Stat § 238.

metatus. A residence; a dwelling house.

metayer. A person who worked a farm on shares; as, for half of the crops raised.

metecorn. Corn paid out for labor.

metegavel. Rent paid in victuals.

metempsychosis. A belief that the souls of men, after death, pass into animals. Bonard's Will (NY) 16 Abb Pr NS 128, 182.

meteorological record. A record of weather or climate. 30 Am J2d Ev § 1001.

meteorological report. A weather report.

meteorological service. Furnishing information concerning the weather to be expected in a given area. A service expected of the Federal Aviation Agency. 49 USC § 1351.

meter. An installation made by a gas, electric, or water company for the purpose of measuring the amount of the product consumed in a particular house, place of business, or factory. A lineal measure of the metric system, equivalent to 39.37 inches.

See **parking meter; prepayment meter.**

meter charge. A charge made by a public utility for installing a meter. 43 Am J1st Pub Util § 55.

meter reader. An employee of an electric, gas, or water company, engaged in reading meters for the purpose of ascertaining and reporting to his employer the amount of the product consumed at particular houses, places of business, or factories.

meter rental. A service charge made by a public utility for the use or rental of one of its meters. 43 Am J1st Pub Util § 57.

metes and bounds. The boundary lines and marks of a piece of land. A means of description of land in a deed. 23 Am J2d Deeds § 228.

methanol. Same as **methyl alcohol.**

metheglin. A drink, otherwise known as mead, made from honey and malt, with yeast added. Marks v State, 159 Ala 71, 48 So 864.

method. Manner of accomplishing something. The way in which a thing is done.

As used in the Federal income tax statute providing that the taxpayer may make his returns in accordance with the "method" of accounting regularly employed in keeping the books of such taxpayer, the word "method" means the way of keeping the taxpayer's books according to a defined and regular plan. Huntington Securities Corporation v Bussey (CA6 Ohio) 112 F2d 368.

methomania. A form of dipsomania. An abnormal craving for intoxicants. The befuddled condition of mind brought on by prolonged excessive use of intoxicants. State ex rel. Atty. Gen. v Savage, 89 Ala 1, 7 So 183.

methyI alcohol. Commonly known as wood alcohol; a narcotic poison rather than an intoxicating liquor. Obtained by the distillation of wood. 30 Am J Rev ed Intox L § 14.

metropolitan. Adjective: Pertaining to a metropolis, especially a large city such as New York. Noun: An archbishop.

metropolitan district. An entire center of population comprising a city and its suburbs.

mettrè a large. To set free.

metus. Fear; apprehension; dread; terror.

See **exceptio metus.**

meubles. Same as **movables.**

See **biens meubles.**

Meum est promittere, non dimittere. It is mine to promise, not to discharge.

meum et tuum. Mine and thine, my property and yours.

Mexican divorce. Literally a divorce obtained in Mexico, but often associated in the mind with a mail-order divorce. 24 Am J2d Div & S § 965.

See **mail-order divorce.**

Mexican grants. Land grants by the Mexican Government in areas later ceded to the United States.

Mexico Convention. A copyright treaty or convention to which the United States became a party. 18 Am J2d Copyr § 76.

meynour. Same as **mainour.**

mezzanine floor. A story of diminished height introduced between two main stories of a building, usually immediately above the ground floor. Biber v O'Brien, 138 Cal App 353, 32 P2d 425.

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mfg. Abbreviation of "manufacturing." Seiberling v Miller, 207 Ill 443, 69 NE 800.

Michaelmas term. An English term of court held from November second to November twenty-fifth.

micel-gemote. One of the names of the general assembly, or general council or great council anciently held in England, which was the ancient predecessor of the body which finally developed into the modern parliament. See 1 Bl Comm 147.

micel-synod. Same as **micel-gemote.**

micel-synoth. Same as **micel-gemote.**

michery. Trickery; larceny.

microphone. An instrumentality whereby sounds are intensified, in common use at the present time by public speakers and entertainers, and in radio and television.

microscopic blood test. See **microscopic examination.**

microscopic examination. A medical examination or analysis by a competent technician or other physician using a microscope to determine the condition of blood, urine, etc. Anno: 135 ALR 885; 23 Am J2d Dep § 220. An examination of blood stains with the aid of a microscope, particularly to ascertain if the blood was that of a human. *State v Baker*, 33 W Va 319, 370.

mid-air collision. A collision of aircraft, both of which are in flight.

mid-channel. The middle of a navigable stream. 56 Am J1st Wat § 177.

Grotius and Vattel speak of the middle of the river as the line of demarcation between two jurisdictions, but modern publicists and statesmen prefer the more accurate and more equitable boundary of the navigable mid-channel. If there be more than one channel of a river, the deepest channel is regarded as the navigable mid-channel for the purpose of territorial demarcation; and the boundary line will be the line drawn along the surface of the stream corresponding to the line of deepest depression of its bed. The islands on either side of the mid-channel are regarded as appendages to either bank; and if they have once been taken possession of by the nation to whose bank they are appendant, a change in the mid-channel of the river will not operate to deprive the nation of its possession, although the water-frontier line will follow the change of the mid-channel. *Iowa v Illinois*, 147 US 1, 9, 37 L Ed 55, 58, 13 S Ct 239.

middle lord. A mesne lord, standing in the middle, standing between his tenants who hold under him and the king or lord paramount under whom he holds. *De Peyster v Michael*, 6 NY 467.

middleman. One who buys from a manufacturer or supplier and sells to a consumer. An intermediary. One engaged, not to negotiate a sale or purchase, but simply to bring two parties together and permit them to make their own bargain. *Synnott v Shaughnessy*, 2 Idaho 122, 7 P 82; *Banta v Chicago*, 172 Ill 204, 50 NE 233; *Moore v Turner*, 137 W Va 299, 71 SE2d 342, 32 ALR2d 713; 12 Am J2d Brok § 173. An agent of an agent. *State v Taberner*, 14 RI 272.

middle name. The second Christian name of a person, intervening between the first Christian name and the surname; occasionally the name by which a person is called or which he uses.

An early rule, no longer closely adhered to, prevailed in some jurisdictions to the effect that both first and middle names were essential to a proper designation of a person. 38 Am J1st Name § 6.

middle of the river. See **middle of the stream.**

middle of the stream. The thread of a navigable river at mid-channel, generally equally distant from either bank. 56 Am J1st Wat § 177.

In international law, and by the usage of European nations, the term as applied to a navigable river, is the same as the middle of the channel of the stream. By the language, "a line drawn along the middle of the river Mississippi from its source to the river Iberville," as there used, is meant along the middle of the channel of the river Mississippi. *Iowa v Illinois*, 147 US 1, 8, 37 L Ed 55, 57, 13 S Ct 239.

See **mid-channel.**

Middlesex. See **bill of Middlesex.**

middle thread. The middle or center line of a river, stream, way, street, or road. *Ingraham v Wilkinson* 21 Mass (4 Pick) 268.
See **middle of the stream.**

midget racing. A public attraction consisting of the driving by children of small or so-called "midget" automobiles propelled by two-horse power motors. Anno: 83 ALR2d 878.

midnight. Twelve o'clock at night. The opening of the civil day. *Jones v German Ins. Co.* 110 Iowa 75, 81 NW 188.

midnight deadline. With respect to a bank, midnight on the next banking day following the banking day on which the bank involved receives the relevant item or notice or from which the time for taking action commences to run, whichever is later. UCC §§ 4-104(1) (h).

midshipman. A student in the United States Naval Academy at Annapolis, Maryland. A young man in training for the purpose of receiving a commission in the Navy. Ranking above enlisted personnel of the Navy when serving aboard ship. *United States v Cook*, 128 US 254, 32 L Ed 464, 9 S Ct 108.

midway. Adjective: In the middle of a course, route, or journey. Noun: The section of a fair grounds devoted to entertainment and public amusements. The main channel of a navigable river; the deepest or most navigable channel of a river. *Louisiana v Mississippi*, 202 US 1, 50 L Ed 913.

midwife. A woman who assists another in childbirth. *Banti v State*, 163 Tex Crim 89, 289 SW2d 244. Sometimes regarded as a female obstetrician. *Commonwealth v Porn*, 196 Mass 326, 82 NE 31.

midwifery. The work of a midwife, that is assisting a woman in childbirth. Sometimes regarded more highly as the practice of obstetrics. *Commonwealth v Porn*, 196 Mass 326, 82 NE 31; *State v Banti*, 163 Tex Crim 89, 289 SW2d 247.

miseses. (Spanish.) Grain crops.

migrant laborer. A laborer who travels from place to place, often with the seasons, for work, usually connected with the farm, particularly the cultivation and gathering of vegetables and the harvesting of fruit crops.

migration. Moving from one place to another, especially from one country to another. A movement by a group of people, for example, the Mormons to Utah in the Nineteenth Century. An ineffectual

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attempt by a corporation to migrate to a sovereignty other than the state of its creation. 36 Am J2d For Corp § 11.

See **immigration**.

migratory birds. Birds which migrate with the change in season, sometimes many thousand miles. 35 Am J2d Fish § 32.

migratory divorce seeker. One who changes his residence or domicil to a state for the purpose of securing a divorce and residing in the state the required length of time for such purpose, but without any intention of remaining in the state permanently or indefinitely. 24 Am J2d Div & S § 252.

milch cow. A dairyman's cow, a cow kept primarily for the milk she produces.

mile. A measure of distance equaling 5280 feet, and often referred to as the "land mile," because it is more common to landmen whose business is on land. *Steamboat Co. v Fessenden*, 79 Me 140, 146.

See **nautical mile**.

mileage. The distance between two points. The distance covered on a trip. The total of miles which a motor vehicle has been driven, as indicated by speedometer or odometer. An allowance to a public officer for expense of travel. 43 Am J1st Pub Of § 369. An allowance to a sheriff, constable, or similar officer, or the deputy of either, by way of compensation for the miles they travel in the performance of their duties. 47 Am J1st Sher § 100. An allowance to a juror calculated upon the number of miles traveled as required for attendance as a juror. 31 Am J Rev ed Jur § 65. An allowance of travel expense made to a witness in attendance at a trial. 58 Am J1st Witn § 878. An allowance of travel expense to an officer in the armed forces. 36 Am J1st Mil § 80.

mileage basis. A basis for the apportionment between states or taxing districts of taxes on the property of a transportation or communication company. 51 Am J1st Tax §§ 879 et seq.

mileage books. Small books of a size convenient for the pocket issued by railroad companies to be purchased and used by passengers as tickets for transportation, each page, or perforated section, good for a specified number of miles of travel, to be removed from the book and taken up by the train conductor as used.

Such books are frequently issued at a lower rate per mile than is charged for single trip tickets. 9 Am J2d Car § 811. The tickets contained in the book, being used on the basis of mileage covered, are to be distinguished from commutation tickets which are good for a specified number of trips between named stations or points. *Pennsylvania R. Co. v Towers*, 245 US 6, 62 L Ed 117, 38 S Ct 2.

mileage tickets. See **mileage books.**

miles. A soldier; a knight. Singular of **milites.**

milieu. The middle.

militare. See **feudum militare.**

military. Pertaining to the Armed Forces, to war, to warfare. The Armed Forces.

See **martial law.**

Military Academy. The United States Military Academy at West Point. A classification given many private schools for boys, usually graduating students with the equivalent of a high school diploma, the classification being based upon military training given in the institution.

Military Appeals. See **Court of Military Appeals.**

military blockade. See **blockade.**

military bounty. A bounty paid for the purpose of inducing the enlistment of men in the military forces. 12 Am J2d Bount §§ 2, 4, 6.

military causes. Causes falling within the jurisdiction of military courts and tribunals.

military cemetery. A cemetery established in a foreign nation for the burial of members of the Armed Forces of the United States who were killed in action or died in the service of the United States in such country.

See **national cemetery.**

military commission. A tribunal for the trial and punishment of a military offense committed in time of war, for the trial of which no provision is made by statute. A commission of the state created under statutory authority to set up martial law in districts of the state in which insurrection and rioting exist, for the trial and punishment of offenders against such law in the district. 36 Am J1st Mil § 87.

military court. A court of the military; a court-martial.

military depot. See **military post.**

military draft. The enforcement by the government of its constitutional right to require all citizens of sufficient age and capacity to enter the military service of the country. *Lanahan v Birge*, 30 Conn 438, 443. A contingent or body of men for the armed forces called at one time under the selective draft.

See **selective draft.**

military enterprise. A martial undertaking, involving the idea of a bold, arduous, and hazardous attempt. *Wiborg v United States*, 163 US 632, 650, 41 L Ed 289, 296. Sometimes synonymous with military expedition but susceptible of a broader interpretation. 56 Am J1st War § 222.

military equipment. Supplies, facilities, accouterments, etc. of the Armed Forces. 36 Am J1st Mil § 16.

military establishment of the United States. The armed forces of the country represented by the army, navy, marine corps, and such other military bodies as Congress may see fit to establish. *United States v Dunn*, 120 US 249, 30 L Ed 667, 7 S Ct 507.

military expedition. A march or voyage of a body of men made with martial or hostile intentions or military in its character. *United States v Ybanez (CC Tex)* 53 F 536, 538. A journey or voyage by a company or body of persons, having the position or character of members of an armed service or services, for a specific warlike purpose; the body and the outfit or equipment of a body on a journey for a specific warlike purpose. 56 Am J1st War § 222.

See **military enterprise.**

military feuds. Feuds or fiefs held by knight-service under the feudal system.

military government. That government which is established by the military authorities upon the occupation of the enemy's territory, such government having the right to displace the pre-existing authority, and to assume to such extent as it may

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deem proper, the exercise by itself of all the powers and functions of government. 56 Am J1st War § 205.

military governor. The chief executive of a state, appointed by the President of the United States during a time of war and when the usual civil authority of that state cannot be duly maintained. 24 Am J1st Gov § 2.

military jurisdiction. Power and authority of a threefold character.

Under the Constitution of the United States, there are three kinds of military jurisdiction: one to be exercised both in peace and war; another to be exercised in time of foreign war without the boundaries of the United States, or in time of rebellion and civil war within states or districts occupied by rebels treated as belligerents; and a third to be exercised in time of invasion or insurrection within the limits of the United States, or during rebellion within the limits of states maintaining adhesion to the United States, when the public danger requires its exercise. The first may be called jurisdiction under military law, and is found in acts of Congress prescribing rules and articles of war, or otherwise providing for the government of the national forces. The second

may be distinguished as military government, superseding, as far as may be deemed expedient, the local law, and exercised by the military commander, under the direction of the President, with the express or implied sanction of Congress. The third may be denominated martial law proper. *Ex parte Milligan* (US) 4 Wall 2, 18 L Ed 281.

Military Justice Code. See **Code of Military Justice**.

military lands. Areas of the public domain reserved for military or naval purposes. *Pan American Petroleum & Transport Co. v United States*, 273 US 456, 71 L Ed 734, 47 S Ct 416. Public lands held for allotment to veterans of the armed services as a reward for military service.

military law. The Code of Military Justice and other statutory provisions for the government of persons in the Armed Forces, to which may be added the unwritten or common law of the usages and customs of military service. 36 Am J1st Mil § 12.

See **martial law**.

military occupation. An incident of war; the occupation of hostile territory, displacing the pre-existing authority, and assuming, to such extent as may be proper, the exercise by the occupying power of all the powers and functions of government. *Dooley v United States*, 182 US 222, 45 L Ed 1074, 21 S Ct 762.

military offense. A violation or infraction of military law, such as desertion, sleeping on duty, etc. A violation of a rule prescribed by the commander of the forces of an occupying power.

military officer. See **officer of the armed forces**.

military or naval forces. Armed forces of the United States.

As to the meaning of the term as used in § 3 of the Federal Espionage Act, see Anno: 148 ALR 1445.

military outfit. See **outfit**.

military pension. See **pension**.

military personnel. Members of the Armed Forces.

military post. A place where troops are assembled; where military stores, animate or inanimate, are kept or distributed; where military duty is performed or military protection afforded; where something, in short, more or less closely connected with arms or war is kept or is to be done. 36 Am J1st Mil § 6.

See **military station**.

military quota. See **quota**.

military rank. See **rank**.

military reservation. A federal enclave established under authority of law as a land area to be devoted to military purposes. *Burgess v Montana*, 8 Mont 57, 19 P 558.

military search and seizure. Search and seizure by persons in military service.

During a state of war or after martial law has been declared, officers engaged in the military service may lawfully arrest anyone who, from information before them, they have reasonable cause to believe is engaged in opposing the Government, and

may order a house to be forcibly entered and searched when there are reasonable grounds for supposing such person may be there concealed. No more force, however, can be used than is necessary to accomplish the purpose. 47 Am J1st Search § 5.

military service. Service in any of the armed forces of the United States in war or in peace. 36 Am J1st Mil §§ 20 et seq.

military state. A totalitarian nation, the existence of which depends upon the maintenance of armed forces to preserve the government by keeping the people in a state of subjection.

The army of the British Government is sometimes referred to as the "military state."

military station. A place or department where a military duty is to be discharged. The synonym of the word "depot," a place where military stores or supplies are kept, or troops assembled. United States v Caldwell (US) 19 Wall 264, 22 L Ed 114. A military post. 36 Am J1st Mil § 6.

See **military post**.

military tenure. Land tenure by knight-service.

military testament. A soldier's or sailor's will; a will excepted from compliance with formalities required to be observed in the execution of wills generally. 57 Am J1st Wills § 661.

military training. The training of members of the armed forces. Training in military science and tactics given in a university or college which has accepted the benefits of a Federal Land Grant. 15 Am J2d Colleges § 24.

military tribunal. See **military court**.

military wedding. A slang term for a wedding under duress of threatened prosecution for seduction or bastardy.

milites. Knights who formed a part of the royal army, in virtue of their feudal tenures. See 1 Bl Comm 404.

militia. A body of armed citizens trained to military duty, who may be called out in certain cases, but may not be kept in service, like standing armies, in time of peace. 36 Am J1st Mil § 42.

See **active militia; National Guard; state militia**.

militibus. See **de militibus**.

militus. See **feudum militus**.

milk. A food so vital that it has been the subject of regulation in all jurisdictions to preserve quality and purity of the product.

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milk control. The regulation of the distribution of milk and the fixing of prices. 3 Am J2d Agri § 27.

milk co-operative. A co-operative association of milk producers. Elliott v Adeckes, 240 Minn 113, 59 NW2d 894.

milk cow. See **milch cow**.

milk dealer. One who buys and sells milk or one who sells milk obtained from his own cows. 22 Am J1st Food § 69.

milk depot. A place at which a dairy or milk dealer receives milk from the producer, sometimes where it is stored pending processing in a dairy. Anno: 31 ALR 187, s. 38 ALR 1506.

milk of magnesia. A proprietary medicine. State v F. W. Woolworth Co. 184 Minn 51, 237 NW 817, 76 ALR 1202.

mill. A factory or manufacturing establishment. 58 Am J1st Workm Comp § 117.

By the conveyance of a "mill" eo nomine, no other land passes in fee except the land under the mill and its overhanging projections. But the term may include the free use of the head of water existing at the time of its conveyance, or any other easement which has been made with it, and which is necessary to its enjoyment. Morgan v Mason, 20 Ohio 344.

Mill Act. A statute providing for the appropriation of sites for the utilization of water power, upon payment of compensation for the taking. 56 Am J1st Wat § 21.

Millbank Prison. A prison at Westminster, England, where persons who had been sentenced to be transported were temporarily confined.

milled money. Coined money.

Miller Act. A federal statute enacted in 1935, as a successor to the Heard Act of 1894, providing that before any contract, exceeding \$2,000 in amount, for the construction, alteration, or repair of any public building or public work of the United States, is awarded to any person, such person shall furnish to the United States a performance bond for its protection and a payment bond for the protection of all persons supplying labor and material in the prosecution of the work provided for in the contract. 40 USC §§ 270a-270d.

Miller-Tydings Act. A federal statute, enacted in 1937, constituting an amendment to the Sherman Anti-Trust Act, declaring in effect that the fixing by agreement of the minimum resale price of commodities shall not be deemed unlawful by reason of anything contained in the anti-trust act, whenever such agreements are lawful where the resale is made. 15 USC § 1.

millimeter. A linear measure of the metric system, equivalent to 0.3937 inches.

milliner. One who designs, makes, or deals in ladies' hats. Woods v Keyes, 14 Allen (Mass) 236.

milling-in-transit. The privilege of a shipper of grain, particularly wheat, to have the shipment stopped for milling at some point upon the route as to which a through rate was determined, and have the shipment continued to destination under the through rate in the form of the flour produced by the milling of the grain. 13 Am J2d Car § 318.

mill man's lien. The common-law lien for his labor that one who saws logs of another into lumber or shingles has, on the general principle that persons who have bestowed labor upon an article or done some other act in reference to it by which its value is enhanced have a right to detain it until they are reimbursed for their expenditure and labor. 34 Am J1st Logs § 101.

mill race. An artificial channel conducting water to be utilized for power.

mill saw. A circular saw used in sawing logs into lumber. Batchelder v Shapleigh, 10 Me 135.

millsite location. The appropriation, under authority of law and the rules of the land department, of land for the accommodation and use of a mill or reduction works to be operated in connection with a mine. 36 Am J1st Min & M § 73.

mina. An ancient measure of weight.

minable coal. Coal so situated that it may be mined profitably by judicious methods. Anne: 28 ALR2d 1031.

minae. Threats; menaces.

minare. To mine.

Minatur innocentibus qui parcit nocentibus. He who spares those who are guilty menaces those who are innocent.

mind. The seat of reason. The ability to will, to direct, to permit, or to assent. McDermott v Evening Journal, 43 NJL 488, 492. The direction of one's thinking.

mind and memory. A term of art much used by the legal profession.

At common law, "mind" and "memory" are convertible terms on the reasoning that without memory there can be no mind, and the person would be the mere recipient of a succession of present sensations, like the lowest type of animal life. Re Forman's Will (NY) 54 Barb 274, 286.

See **sound mind and memory.**

mind reader. One who professes to know the unspoken and otherwise uncommunicated thoughts of another.

mine. An underground working for the excavation of minerals, consisting of pits, shafts, levels, tunnels etc. 36 Am J1st Min & M § 2. A term broad enough to include open cuts and quarries, by which substances such as coal, clay, ironstone, and limestone are extracted from the earth. 36 Am J1st Min & M § 2.

But the word does not comprehend every possible excavation by which mineral matters are brought to the surface. It appears to be definitely settled, for example, that a gas well or an oil well cannot be regarded as a mine. Nor does a pile of tailings taken from another excavation constitute a mine. 36 Am J1st Min & M § 2.

See **mining.**

mine development. Work in opening a mine for the purpose of removing minerals from the earth.

mine development costs. As a deduction from gross income, payments made, or debts incurred, for the development of a natural deposit of minerals after existence of minerals in commercially marketable quantities has been disclosed. Internal Revenue Code § 616.

mine dump. A pile of waste material removed from a mine in the process of taking out mineral, often of great size. 36 Am J1st Min & M § 179.

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mine exploration costs. A deduction from gross income of costs paid or incurred in exploring for minerals other than oil or gas. Internal Revenue Code §§ 615, 617.

mine layout. A mining and railroad term for switching facilities for moving cars to and from the tipple. Raymond City Coal & Transp. Corp. v New York Cent. R. Co. (CA6 Ohio) 103 F2d 56.

See **tipple.**

mine patent. See **tunnel location.**

mine prop. A piece of timber in the form of a post, used in a mine as a support for the roof. 36 Am J1st Min & M § 147.

miner. One who mines, particularly one engaged directly in the occupation of extracting coal or ore from the earth. Anno: 11 ALR 155.

The meaning of the word "miner" must depend on the construction given in the particular jurisdiction. *Watson v Lederer*, 11 Colo 577, 19 P 602.

See **gin men**.

mineral. Broadly, a natural inorganic substance forming a part of the soil or crust of the earth. 36 Am J1st Min & M § 4. Any natural substance having sufficient value to be mined, quarried, or extracted for its own sake or its own specific use. 36 Am J1st Min & M § 4. Any inorganic substance which can be taken from the land, inclusive of oil and natural gas. *Scott v Laws*, 185 Ky 440, 215 SW 81, 13 ALR 369. A term inclusive of, not only coal and iron, but also oil and natural gas, diamonds, floor spar, gypsum, granite, shale, freestone, and other substances, but not sand, gravel, or clay. 36 Am J1st Min & M §§ 5, 35.

In its ordinary and common meaning, the word is a comprehensive one and includes every description of stone and rock deposit, whether containing metallic or non-metallic substances; and where minerals are reserved in a conveyance, if the ordinary meaning of the word is to be changed or restricted, the language used must be reasonably clear to show that intent. *Jeffrey v Spruce-Boone Land Co.* 112 W Va 360, 164 SE 292, 86 ALR 866.

As to whether a conveyance or reservation of minerals is inclusive of minerals recoverable only by open pit mining, see Anno: 1 ALR2d 787.

mineral deed. A conveyance of a landowner's interest in minerals lying beneath the surface. 24 Am J1st Gas & O § 28. A conveyance by an owner of land of minerals therein, figuratively severing the minerals from the surface and vesting title to them in the grantee. 36 Am J1st Min & M § 32.

mineral industry. An industry in the production and fabrication of metals. 13 USC §§ 131, 132.

mineralizer. A substance which combines with a metal in the soil or crust of the earth to form ore. *Armstrong v Lake Champlain Granite Co.* 147 NY 495, 42 NE 186.

mineral land. Land made valuable by the deposits therein of mineral or minerals useful in the arts or essential in manufacturing. *Northern P. R. Co. v Soderberg*, 183 US 526, 47 L Ed 575, 23 S Ct 365.

mineral lease. See **mining lease**.

mineral reservation. The reservation in a deed of the minerals or a specific mineral in the land conveyed, in effect a reservation of a part of the fee. *Kiersey v Hirsch*, 58 NM 18, 265 P2d 346, 43 ALR2d 929.

mineral royalty. A royalty under a kind of lease recognized by the coal industry paid on the quantity of mineral mined, with the requirement that a stipulated amount be mined within a stated period of time, or, upon a failure to do so, to pay a certain amount of money equal to the income that would have been received by the landowner had the mineral been mined.

Such payments are royalties and are not to be considered as rentals. *Logan Coal & Timber Asso. v Helvering* (CA3) 122 F2d 848.

See **mining royalty**.

minerals in place. See **in place**.

minerator. A miner.

miner's inch. A unit of measurement of the rate of discharge of water, known in some of the Western states, being the amount of water that flows through an orifice one inch square in a vertical position and under a standard head prescribed by custom or by statute. *New Brantner Extension Ditch v Kramer*, 57 Colo 218, 141 P 498.

As fixed by California statute, the standard miner's inch of water shall be equivalent or equal to one and one-half cubic inches of water per minute measured through any aperture or orifice. This makes a miner's inch equivalent to one-fortieth of a second foot. Before the adoption of the statute a miner's inch was the quantity of water passing through an orifice one inch square under a four inch pressure, which would make the inch equivalent to one-fiftieth of a cubic foot per second. *Lillis v Panoche Land & Water Co.* 32 Cal App 668, 163 P 1040.

miners' rules and customs. A body of rules and customs developed by the miners of the western part of the country, constituting a large body of unwritten law to be given effect in all cases wherein they do not conflict with the statutes. 36 Am J1st Min & M § 76.

mingling. The mingling of the logs of one person with the logs of another in the course of a flood during floating operations. 34 Am J1st Logs § 101.

See commingling of funds; commingling of goods.

miniature golf course. A place of amusement consisting of a small area for the playing of golf in a modified form. Anno: 74 ALR 406.

miniature railroad. An amusement device, particularly appealing to children, consisting of a railroad of narrow gauge upon which rides may be had in small coaches pulled by a small locomotive. 4 Am J2d Amuse § 90.

Minima poena corporalis est major qualibet pecuniaria. The smallest corporal punishment is greater than any pecuniary one.

Minime mutanda soot quite certain interpretationem habuerunt. Those matters shall least be changed which have attained a certain interpretation or construction.

The language of this maxim and certain other maxims which are related to it, carries the idea of an observance, an interpretation, a construction, and to some extent a judicial one, as evidenced by the word "interpretationem." *O'Donnell v Glenn*, 9 Mont 452, 23 P 1018.

miniments. Same as **muniments**.

minimis non carat lex. See **de minimis non carat lex**.

minimization of damages. The duty of the plaintiff to take reasonable action to avoid enhancing the damages caused by the defendant. 22 Am J2d Damg § 30. Taking advantage of such means or

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opportunities as are reasonably available to an injured employee for the purpose of restoring earning capacity, which means co-operating with employer, physician, the industrial board or commission, and, if necessary, the courts. Anno: 105 ALR 1479.

See **mitigation of damages**.

minimum area restrictions. Provisions in zoning ordinances prescribing the minimum side or rear yard areas, the percentage of the area of a lot that may be occupied by the building, or the minimum area of lots to be occupied by residences in particular districts. 58 Am J1st Zon § 52.

minimum contacts test. A test of jurisdiction established by the United States Supreme Court under which a state court is permitted to acquire personal jurisdiction over a nonresident, although he is not personally served with process within the state, where he has had such a substantial connection with the forum state that traditional notions of fair play and substantial justice are not offended by exercise of the forum's jurisdiction over the case. *International Shoe Co. v Washington*, 326 US 310, 90 L Ed 95, 66 S Ct 154 161 ALR 1057. The theory whereby the validity of a state tax on the income of a foreign corporation is to be determined according to whether it has certain minimum contacts with the taxing state, so that imposition of the tax does not offend traditional notions of fair play and justice. Anno: 67 ALR2d 1328; 3 L Ed 2d 1787.

minimum cost restriction. The amount fixed by a restrictive covenant as the lowest limit in cost of construction of any house to be erected upon the premises conveyed by the deed in which the covenant appears, thereby prohibiting the grantee or his successors in interest from erecting a house at a cost in a lesser amount. 20 Am J2d Cov §§ 260 et seq.

minimum damage limitation. Statutory provision prohibiting the allowance of damages in an amount lower than the prescribed amount for infringement of a copyright. 17 USC § 101(d).

minimum en route instrument flight rule altitude. An air traffic rule prescribed by the Federal Aviation Agency. 14 CFR §§ 600.1 et seq.

Minimum est nihilo proximum. The least or smallest is next to nothing.

minimum fee schedule. A schedule of fees for legal services adopted by a bar association, such constituting at least persuasive evidence of what constitutes a reasonable fee for such services. Anno: 143 ALR 719, s. 56 ALR2d 45, § 11[c].

minimum-height restriction. The restriction contained in a covenant of a deed to the effect that no structure less than a certain height prescribed will be erected upon the premises conveyed by the deed in which the covenant appears, thereby prohibiting the erection of a building of a height less than that prescribed. 20 Am J2d Cov § 265.

minimum jurisdictional amount. A constitutional or statutory limitation on jurisdiction which deprives a court of jurisdiction where the amount or value in litigation is less than a specified amount. 20 Am J2d Cts § 154.

minimum number. A limitation placed by statute upon the number of signers of a nominating petition. 25 Am J2d Elect § 171. A limitation placed by statute upon the number of signers of a petition for a special election. 26 Am J2d Elect § 189.

minimum premium. A premium in an amount fixed by the bylaws or board of directors of a building and loan association as the minimum of the charge to be made a member for the privilege of obtaining a loan from the association. 13 Am J2d B & L Assoc § 55.

minimum price. A price communicated by a landowner to his broker as the lowest price at which he will sell, irrespective of what the listing price may be. 12 Am J2d Brok § 110. A price, often referred to as an upset price, fixed by the court in a foreclosure proceeding below which the property may not be sold at the foreclosure sale. 37 Am J1st Mtg § 864. The minimum amount for which property must sell at an execution sale, being fixed by statute at a designated proportion of the appraised value. 21 Am J2d Exec § 227. A price, fixed as a condition of an auction sale, below which the property will not be sold. 7 Am J2d Auct § 18. A reserved price, which it is proper and not unusual in judicial sales, as in other sales at auction, for the court or trustee who conducts the sale to fix, which fixed minimum price must be equalled or exceeded by the highest bid in order that such bid may be accepted and reported. 30A Am J Rev ed Jud S § 93. A price regulation by law aimed at curbing harmful competition. *Nebbia v New York*, 291 US 502, 78 L Ed 940, 54 S Ct 505, 89 ALR 1469.

minimum rent. (Mining law.) Same as **minimum royalty**.

minimum residence. A requirement imposed as a condition of poor relief or welfare. 41 Am J1st Poor L §§ 23, 24. A requirement imposed as a condition of voting at an election. 25 Am J2d Elect § 66.

minimum sentence. The lightest sentence permitted by statute for one convicted of a particular offense or as an habitual criminal. *State v Malusky*, 59 ND 501, 230 NW 735, 71 ALR 190.

minimum share. An exemption from inheritance or succession taxation, based upon an amount fixed by statute, at or below which no tax is imposed. 28 Am J Rev ed Inher T § 296.

minimum wage laws. Statutes establishing a minimum for the amount of wages to be paid employees in certain industries and lines of work. 31 Am J Rev ed Lab §§ 813 et seq.

minimus. The least; the smallest.

mining. Extracting coal or ore from the earth. The actual cutting or hewing of the mineral in a mine and its removal to the surface. Anno: 11 ALR 154. Including the ordinary treatment and processes normally applied by mine owners to obtain the commercially marketable mineral product. *United States v Cannelton Sewer Pipe Co.* 364 US 76, 4 L Ed 2d 1581, 80 S Ct 1581. A term sometimes deemed inclusive of the taking of clay, ironstone, and limestone from quarries, even the taking of such substances and coal from quarries or open pits. 36 Am J2d Min & M § 2.

By statute enacted in Indiana in the year 1889, it was declared that the word should be deemed to include the sinking of gas wells. See *State of Indiana ex rel. Corwin v Indiana & Ohio Oil, Gas & Mining Co.* 120 Ind 575, 22 NE 778.

See **miner; placer mining; right to coal.**

mining by outstroke. The hoisting or removal of ore from a mine through a shaft or opening in an adjoining mine. *Speck v Cottonwood Coal Co.* (CA9 Mont) 116 F2d 489.

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mining claim. A parcel of public mineral land which has been appropriated under the statutes by a prospector who has discovered a precious metal or other valuable mineral thereon. 36 Am J1st Min & M § 69.

A mining claim, perfected under the law, is property in the highest sense of that term, which may be bought, sold and conveyed, and will pass by descent. *Quigley v Gillett*, 101 Cal 462, 469, 35 P 1040.

See **adverse claim; discovery; lode claim; mining location.**

mining district. A section of country usually designated by name and described or understood as being confined within certain natural boundaries, in which gold or silver or both are found in paying quantities, and which is worked therefor, under rules and regulations prescribed by the miners therein; as the White Pine mining district, the Humboldt mining district, etc. *United States v Smith* (CC Or) 11 F 487, 490.

mining land. See **mineral land.**

mining lease. A lease of land which grants to the lessee the right to mine and remove coal and minerals from the premises. 36 Am J1st Min & M §§ 39, 40. Sometimes difficult of distinction from a grant of minerals in place. 36 Am J1st Min & M § 43.

See **mineral deed.**

mining license. An incorporeal right to take ore or minerals from the land of another—a mere privilege, existing contemporaneously with a like right in the grantor, carrying with it no estate or possessory right in the land. 36 Am J1st Min & M § 63.

mining lien. A special lien for the security of a person furnishing labor or materials toward the development of a mine. *Berentz v Belmont Oil Mining Co.* 148 Cal 577, 84 P 47.

mining location. Precisely, the act of appropriating a mining claim on the public domain. Often regarded and treated as a synonym of mining claim. 36 Am J1st Min & M § 69.

See **mining claim; tunnel location.**

mining partnership. A partnership formed between co-owners of mines or minerals in place for the development or working of the same or between parties having an interest merely in the operation of a mine, or in carrying on mining operations without actually owning the mine itself; a partnership of a special kind, having some of the features of a cotenancy. 36 Am J1st Min & M § 157.

mining penalty. A statutory penalty imposed on a mine owner for mining within a specified distance of the line of the adjoining owner. *Wilson v Shrader*, 73 W Va 105, 79 SE 1083. Any penalty imposed for the violation of a statute regulating the business of mining. 36 Am J1st Min & M § 156.

mining right. The right to enter upon and occupy a specific piece of ground for the purpose of working it, either by underground excavations or open workings, to obtain from it the minerals or ores which may be deposited therein.

By implication, the grant of such a right carries with it whatever is incident to it and necessary to its beneficial enjoyment. See *Smith v Cooley*, 65 Cal 46, 2 P 880.

mining royalty. An amount payable by the lessee to the lessor under a mining lease, based upon the amount of mineral taken from the mine for the term of the lease or a period thereof. 36 Am J1st Min & M §§ 48 et seq.

See **mineral royalty.**

minis. See **de minis.**

minister. One who, having been ordained in the ministry, undertakes to perform certain services for another. *First Presbyterian Church v Myers*, 5 Okla 809, 50 P 70. A clergyman or pastor. The head of a department of the government of the United Kingdom.

See **public minister.**

ministerial. Subservient or subsidiary; mandatory as opposed to judicial or discretionary; pertaining to an act or duty performed in accordance with legal authority, rather than with regard to propriety, judgment etc. *Antin v Union High School Dist.* 130 Or 461, 280 P 664, 66 ALR 1271.

ministerial act. An act which does not involve the exercise of judgment. An act the performance of which involves nothing of discretion, official or otherwise, performance being required by direct and positive command of the law. 34 Am J1st Mand § 70. An act which a person performs under a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, and without regard to or exercise of his own judgment upon the propriety of the act being done. *Galey v Board of Comrs.* 174 Ind 181, 91 NE 593. An Act in the performance of a duty defined and prescribed by law with such precision and certainty as to leave nothing to the exercise of discretion or judgment. *Rains v Simpson*, 50 Tex 495.

ministerial duty. An official duty wherein the officer has no room for the exercise of discretion, official or otherwise, the performance being required by direct and positive command of the law. 34 Am J1st Mand § 70. A duty of an officer in respect to which nothing is left to his discretion; a duty absolute, certain, and imperative, involving merely execution of a specific act arising from fixed and designated facts. *State ex ref. Sewer Dist. v Ellis*, 163 Neb 86, 77 NW2d 809.

ministerial function. In one sense, a ministerial duty of a public officer. In another sense, a private function of a municipal corporation, as distinguished from a public or governmental function of such a body. *Bedtke v Chicago*, 240 111 App 493, 498.

ministerial officer. An officer who is neither a judicial officer nor an executive officer and whose duties are mainly of a ministerial nature, that is, duties involving little or no discretion. 43 Am J1st Pub Of § 258.

ministerial powers. Powers of a public officer which require no exercise of judgment or discretion. Powers of a trustee which are directory, there being no scope for discretion in any of the details of their exercise. 54 Am J1st Trusts § 291.

ministerial trust. Same as **dry trust**.

minister of the gospel. See **minister**.

ministrant. (Ecclesiastical law.) A party who cross-examined a witness.

ministri regis. Ministers of the king.

ministry. The work of a pastor or clergyman. The profession of a clergyman. The ministers, as heads of departments of the government of the United Kingdom considered collectively.

minor. An infant, a person who has not reached the age, usually 21 years, at which the law recognizes a general contractual capacity. 27 Am J1st Inf § 2.

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minor aetas. Under age; minority; infancy.

Minor ante tempus agere non potest in casu proprietatis, nee etiam convenire. A minor under age cannot act in the case of property, nor even enter into a contract.

minora regalia. Minor royal rights or prerogatives.

These were principally the rights and prerogatives of the king which had to do with his revenue. The British constitution vested these rights or prerogatives in the king in order to support his dignity and maintain his power, being a portion which each subject contributes of his property, in order to secure the remainder. See 1 Bl Comm 241, 281.

minori aetate. See **administration minori aetate; durante minore aetate**.

minor fault rule. See **major and minor fault rule**.

minority. A status created by law; the status of an infant. 27 Am J1st Inf § 2. The period during which one is an infant. The lesser of two factions in a political or other body of persons. A group or class of persons for whom the protection of the Bill of Rights is intended; persons of a race or religion other than the predominant race or religion in the state or political subdivision.

A characteristic feature of our constitutional system lies in the power of a single individual successfully to resist the claims of the whole community when he is in the right. *McKeon v Bisbee*, 9 Cal 137.

minority interest. Shares of stock in a corporation which are not sufficient in number to elect directors or otherwise control the action to be taken by the corporation. 18 Am J2d Corp § 496.

minority opinion. An opinion written or approved by one or more, but less than a majority, of the members of the court; to be distinguished from the opinion of the court. 20 Am J2d Cts § 71.

minority representation. A system of voting whereby a part of the voters, although constituting no more than a minority may nevertheless obtain representation by an officer of political principles to their liking, such representation being procured by methods of voting such as cumulative, limited, or restrictive voting. 26 Am J2d Elect §§ 273 et seq.

minority stockholders. Stockholders of a corporation insufficient in reference to the number of shares held in the aggregate to elect directors or otherwise control the management of the corporation. 18 Am J2d Corp § 496.

Minor jurare non potest. A minor cannot make oath.

Minor minorem custodire non debet; alios enim praesumitur male regere qui seipsum regere nescit. A minor ought not to have the custody of a minor; because he is presumed to govern others poorly who does not understand how to govern himself.

Minor non tenetur respondere durante minori aetati; nisi, in causa dotis, propter favorem. A minor is not held responsible during his minority, unless, by reason of grace or favor, in the matter of dower.

minor offenses. See **petty offenses.**

minor of tender years. Apparently, any minor; not the equivalent of child of tender years.

As the expression is used in pleadings in various connections, as in answers of guardians ad litem appointed for minors in probate proceedings, it may embrace as well minors of twenty years as twenty months. *Meyer v King*, 72 Miss 1, 16 So 245.

See **child of tender years.**

minor or major fault rule. See **major or minor fault rule.**

Minor, qui infra aetatem 12 annorum fuerit, utlagari non potest, nee extra legem poni, quia ante talent aetatem, non est sub lege aliqua, nee in decenna. A minor who is under the age of twelve years cannot be outlawed, nor be placed outside the law, because before such age, he is not under any law, nor in a decennary.

Minor septemdecim annis non admittitur fore executorem. A person under the age of seventeen years is not permitted to be an executor.

mint. Verb: To coin money. Noun: A place for the coining of money; the United States Mint. *Bronson v Rodes* (US) 7 Wall 229, 247, 19 L Ed 141, 145. Any one of several aromatic plants used in medicines and flavoring extracts, such as peppermint. Adjective: New, particularly in the case of money or stamps.

See **assayer of the mint.**

mintage. A charge made for coining money.

mint julep. A refreshing and stimulating alcoholic beverage, prepared by combining whisky, sugar, and mint leaves, and served in glasses filled with chipped ice.

minus. Less; reduce by taking away a specific number.

Minus solvit, qui tardius solvit; nam et tempore minus solvitur. He does not pay who pays too late; for he is not discharged by lapse of time.

minus sufficiens in literatura. Deficient in letters. See 1 Bl Comm 390.

minute. Noun: A division of time; one sixtieth part of an hour. Verb: To make a note of something said or done. *Hinshaw v State*, 147 Ind 334, 377, 47 NE 157.

See **minutes**.

minutes. A record of the proceedings of the court. 27 Am J2d Eq § 250. A memorandum of what happened or occurred in court during a proceeding in a particular case. 20 Am J2d Cts § 52. Short notes made by a clerk in the course of proceedings of the court, to be extended later in preparation of the record. *Hoehne v Trugillo*, 1 Colo 161; otherwise known as rough minutes or skeleton minutes. *Johnson v Commonwealth*, 80 Ky 377, 379. The record of the proceedings and testimony before the grand jury in a particular case. *People v Quinn*, 24 Misc 2d 111, 201 NYS2d 582. The record of a

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proceeding by an administrative agency acting judicially. 2 Am J2d Admin L §§ 441 et seq. The record of the business transacted at a meeting of the stockholders of a corporation. 18 Am J2d Corp § 174. The record of the acts of the board of directors of a corporation at a meeting. 19 Am J2d Corp § 1132. The record of the proceedings of an association or club. 6 Am J2d Asso & C § 58.

See **judge's minutes**.

minute book. A book in which the proceedings of a court are entered by the clerk of the court; a book in which the proceedings of a corporation's meetings are entered by the secretary. Any book or record containing minutes.

See **minutes**.

minute tithes. Small tithes.

minutio. (Civil law.) A diminution; a reduction; a subtraction.

mica. Same as **mise**.

misadventure. An accident. Bad luck.

See **homicide by misadventure**.

misae. Costs of suit; expenses.

misallege. To state, cite, or quote erroneously.

misapplication of funds. The conversion of funds. As a specific offense, the conversion by a bank officer of funds of the bank to the use of the officer or a third person, something beyond a mere act of official administration. 10 Am J2d Banks § 224.

See **misappropriation of funds**.

misapprehension. See **mistake**.

misappropriation. A conversion of property.

misappropriation of funds. An abstraction of cash, or a source of cash. 50 Am J1st Surety § 336. The failure of a person to account for or return a fund committed to him for a specific purpose. Anno: 17 ALR2d 1021.

The word is held not to apply to the payment of an extravagant price for services or materials properly appertaining to the business of the corporation. *Dean v Shingle*, 198 Cal 652, 246 P 1049.

See **misapplication of funds**.

misbehaviour. Improper conduct. Intentional wrongdoing rather than mere error in judgment. *Smith v Cutler* (NY) 10 Wend 589.

misbirth. A miscarriage; an abortion.

misbranded. Characterizing an article which carries a false or misleading label, especially where the falsity is such as to defraud the public. *United States v 90-5 Barrels*, 265 US 438, 68 L Ed 1094, 44 S Ct 529.

See **misbranding**.

misbranding. An offering for sale of an article under the name of another article, the offering for sale of an imitation of another article, and the offering for sale in package form of an article which does not bear a label containing the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. 21 USC § 343; 35 Am J2d Food § 27.

A brand is a false brand whether it was intentionally erroneous or erroneous because of culpable negligence. *Hatcher v Dunn*, 102 Iowa 411, 71 NW 343.

See **mislabeling**.

miscarriage. Abortion; a premature birth. *Anderson v Commonwealth*, 19 Va 665, 58 SE2d 72, 16 ALR2d 942. The expulsion of the foetus at a period of utero-gestation so early that it has not acquired the power of sustaining an independent life. More precisely, the termination of pregnancy between the 16th and 28th week. 1 Am J2d Abort § 1. In reference to the application of the statute of frauds to an oral contract to answer for the miscarriage of another:—the default of a third person upon his debt or obligation for which the promisor had undertaken to answer. 49 Am J1st Stat of F § 65.

miscarriage of justice. A decision inconsistent with substantial justice. *Kotteakos v United States*, 328 US 750, 90 L Ed 1557, 66 S Ct 1239. The result of a case in which essential rights of a party were disregarded or denied. *People v Musumeci*, 133 Cal App 2d 354, 284 P2d 168.

miscasting. A mistake in the audit of an account.

miscegenation. The intermarrying, cohabiting, or interbreeding of persons of different races. A criminal offense under the statutes of a few jurisdictions, principally in the intermarriage of white persons with negroes or persons having a specified percentage of negro blood. 35 Am J1st Mar § 146; 36 Am J1st Misceg § 2.

miscegenetic marriage. A marriage in violation of statute prohibiting the intermarriage of persons of certain different races, particularly persons of the white and black races.

mischarge. See **misdirection**.

mischievous. Conduct resulting in injury or annoyance to another.

See **malicious mischief**.

miscognizant. Without knowledge of; ignorant of.

misconception. A misunderstanding. A mistake in interpretation of a statement. *Walden v Skinner*, 101 US 577, 25 L Ed 963.

misconduct. Improper conduct. A transgression of some established and definite rule of action, where no discretion is left, except what necessity may demand; a violation of definite law; a forbidden act. *Citizens' Ins. Co. v Marsh*, 41 Pa 386, 394. Intentional wrongdoing. *Smith v Cutler* (NY) 10 Wend 589.

misconduct in office. See **official misconduct**.

misconduct of attorney. Professional misconduct or misconduct outside professional dealings which shows one to be unfit for the profession and would have disqualified him from admission to the bar. 7 Am J2d Attys § 25. Immoral practices which demonstrate unfitness to practice law and would affect adversely the administration of justice. *Re Gorsuch*, 76 SD 191, 75 NW2d 644, 57 ALR2d 1355.

See **misconduct of counsel; professional misconduct**.

misconduct of counsel. The conduct of counsel for one party which prevents the adverse party from having a fair trial, consisting in improper remarks, comments, or arguments, wilfully and intentionally offering inadmissible evidence, propounding improper questions to witnesses, uncalled-for abuse of witnesses, etc. 39 Am J1st New Tr §§ 3 et seq.

See **professional misconduct of attorney**.

misconduct of judge. Improper or unjudicial conduct on the part of the judge in the course of the trial of a case, for example improper remarks tending to

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prejudice the minds of the jury against one of the parties, absence from courtroom, etc. 39 Am J1st New Tr §§ 48 et seq.

misconduct of jury. Conduct on the part of the jury which impairs the trial from the standpoint of fairness and propriety, such as obtaining and acting upon information outside the evidence adduced at the trial, acting on the personal knowledge of a juror or jurors, expressions of prejudice, partiality, or antagonism toward one of the parties, separation without authority, etc. 39 Am J1st New Tr §§ 70 et seq.

misconduct of physician. Professional misconduct or conduct apart from the practice. of the profession which demonstrates immorality, personal characteristics, and disposition rendering a person unfit for the practice of medicine. 41 Am J1st Phys & S §§ 49, 54, 57.

See **professional misconduct**.

miscontinuance. A continuance or postponement improperly ordered by the court.

misconveyance by carrier. See **misdelivery**.

miscreant. An evil person. An unbeliever; a person who entertained doctrines subversive of moral obligation or the Christian religion.

A statute under William the Third provided that if any person with an understanding of Christianity wrote or taught or made speeches denying its truth he thereby rendered himself incapable of holding any office of trust; that for a second offense he should be unable to sue, act as guardian, executor, legatee or purchaser of land and suffer three years' imprisonment without bail. See 4 Bl Comm 44.

misdelivery. The delivery of goods by a carrier to some person other than the one to whom they were consigned. 13 Am J2d Car § 415.

misdemeanant. A person who has committed a misdemeanor.

misdemeanor. Customarily, an indictable offense not amounting to a felony, but sometimes including offenses not punishable by indictment. Commonwealth v Cano, 389 Pa 639, 133 A2d 800, cert den and app dismd 355 US 182, 2 L Ed 2d 186, 78 S Ct 267.

The distinction between misdemeanors and felonies now commonly adopted, frequently by statute, is that offenses punishable by death, or by imprisonment in, the state prison or penitentiary, are felonies, whereas all others, including those punishable by imprisonment in the county jail, are misdemeanors. Roberson v United States (CA5 Ala) 249 F2d 737, 72 ALR2d 434, Bert den 356 US 919, 2 L Ed 2d 715, 78 S Ct 704 (under Alabama law); Eckhardt v People, 126 Colo 18, 247 P2d 673. It is also to be observed that in some jurisdictions, there is a classification, particularly in reference to violations of the Motor Vehicle Law, where the breach is deemed, neither a misdemeanor nor a felony, but an "offense."

misdescription. An error in describing a party to an action; a matter of no consequence if the party is otherwise properly designated. 39 Am J1st Parties § 109. An error in a conveyance in respect of the description of the subject matter. 23 Am J2d Deeds §§ 155 et seq.

misdirection. An error on the part of the court in the charge or instructions given the jury.

mise. A plea of the general issue in a writ of right. 41 Am J1st PI § 141. The costs or expenses of a litigation.

mise en escript. Put in writing.

miserabile depositum. (Civil law.) A deposit made under stress of necessity; as, in the case of great peril such as fire or flood.

Misera est servitus ubi jus est vagum aut incognitum. Wretched is the thralldom where the law is either uncertain or unknown. See 1 Bl Comm 416.

misericordia. Mercy.

misericordia communis. A fine imposed upon a community or a county.

misfeasance. The improper doing of an act which a person might lawfully do. Greenberg v Whitcomb Lumber Co. 90 Wis 225, 63 NW 93. The unlawful and injurious exercise of lawful authority, or the doing of a lawful act in an unlawful manner. Alias v Rumson, 115 NJL 593, 181 A 175, 102 ALR 648. The performance of a duty or act which one ought or has a right to do but in a manner such as to infringe upon the rights of others. Anno: 20 ALR 104.

misfeasance in office. The performance by a public officer in his official capacity of a legal act in an improper or illegal manner. State ex rel. Hardie v Coleman, 115 Fla 119, 155 So 129, 92 ALR 988. A common-law offense, generally termed "official misconduct," and composed of the commission of a series of unlawful acts. State v Bolitho, 103 NJL 246, 261, 136 A 164, 172.

misfeasant. A person guilty of misfeasance; a trespasser.

misfeasor. Same as **misfeasant**.

misfire. The failure of a cartridge to explode and propel the bullet when the trigger of the firearm is pulled. The ignition of the gas in the combustion chamber of an internal combustion engine at the wrong time or in an ineffective manner.

misfortune. Ill luck; ill fortune; calamity; the suffering of a loss. *Anthony & Co. v Karbach*, 64 Neb 509, 90 NW 243.

mishering. A freedom or exemption from amercement.

mishersing. Same as **mishering**.

misjoinder of causes of action. The impropriety in joining in one complaint, declaration, or petition distinct causes of action which should not be joined because of the want of consistency between them, because they do not affect all defendants named in the action, because they do not arise out of the same transaction, or because of other circumstance precluding joinder under the practice in the particular jurisdiction. I Am J2d Actions §§ 100 et seq. A term sometimes used to characterize the improper blending of two or more causes of action in one count of a complaint, declaration, or petition. 41 Am J1st Pl § 107.

misjoinder of parties. The defect of having made parties of record to an action persons who are neither necessary nor proper parties. 39 Am J1st Parties § 118.

miskenning. An error in quoting or citing.

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miskering. Same as **mishering**.

mislabeling. Affixing to an article offered for sale a label which is false or misleading in such particular as to deceive the public in reference to the weight, quantity, or measure of the article. 56 Am J1st Wts & L § 64. Affixing to a package of food a label which incorrectly states the identity, composition, quality, strength, or purity of the article. 22 Am J1st Food § 36. Affixing to the wrapper or container of a drug, or accompanying a drug with, a label which is false or misleading in any particular. 25 Am J2d Drugs § 30.

See **misbranding**.

mislaid goods. See **mislaid property**.

mislaid property. Property located in a place of which the owner has no recollection, although he put the property in such place voluntarily and intentionally. 1 Am J2d Aband § 2. Property placed by the owner in a location which he has forgotten, albeit he selected it intentionally as a place where he might later pick up the property. 34 Am J2d Aband § 3.

misleading. Leading into error. Deceiving.

As used in a statute forbidding corporations from taking a name so clearly resembling that of an existing corporation as to be misleading, the word is not synonymous with "confusing," but it means calculated to lead astray or lead into error persons who are contemplating or who are engaged in transactions with an existing corporation. *Diamond Drill C. Co. v International Diamond Drill C. Co.* 106 Wash 72, 179 P 120.

mismanagement. Improper management or inefficient management, particularly on the part of an officer, agent, trustee, or other person in a fiduciary capacity. Violation of the rules established by charter or bylaws or a culpable lack of prudence on the part of the officers of a corporation in whom the duty of management is vested. 19 Am J2d Corp § 1332.

misnomer. A mistake in a name; the giving of an incorrect name to a person in an accusation, indictment, pleading, or instrument. *Culpepper v State*, 173 Ga 799, 161 SE 623, 79 ALR 217. A mistake in the name of the plaintiff or defendant in a

writ or process. Anno: 124 ALR 86 et seq. A mistake in the name of a party to an action, whether an individual or a corporation. 39 Am J1st Parties § 109. A mistake in the designation of a party or parties to a deed. 23 Am J2d Deeds § 51. In reference to a corporation, something more than a mere variation in words and syllables; such an interpolation, omission, or alteration of words as to constitute a failure to distinguish the corporation from all others. 18 Am J2d Corp § 144.

mispleading. The commission of essential error in pleading a cause of action or defense. *Lovett v Pell* (NY) 22 Wend 369, 375.

misprision. Contempt of the state, particularly in neglect of duty, obstruction of justice, or the concealment of crime. In loose usage, error or mistake. *Merrill v Miller*, 28 Mont 134, 72 P 423; *Barone v Barone*, 207 Or 26, 294 P2d 611.

misprision of felony or treason. The common-law offense of failure to inform the authorities as to a treason or felony that one has witnessed or that has come to his knowledge; the failure to prevent a felony from being committed. 21 Am J2d Crim L § 7. The federal offense of failure to disclose a felony coupled with some positive act of concealment, such as suppression of evidence, harboring of a criminal, intimidation of witnesses, or other positive act designed to conceal from the authorities the fact that a crime has been committed. *Bratton v United States* (CA10 Okla) 73 F2d 795. The concealment or failure promptly to disclose and make known to the President or some Judge of the United States, or to the Governor or some judge or justice of a particular state knowledge of the commission of any treason against the United States, such concealment or failure to disclose being that of one owing allegiance to the United States. 18 USC § 3.

misreading. The perpetration of a fraud upon a person who signs an instrument by purporting to read the contents to him, but by reading something very different. *First Nat. Bank of Sturgis v Deal*, 55 Mich 592, 593.

misrecital. A misstatement of a fact or facts.

misrepresentation. The statement of an untruth. A misstatement of fact, which, if accepted, leads the mind to an apprehension of a condition other and different from that which exists. 37 Am J2d Fraud § 2. In application for insurance:—a statement as a fact of something which is untrue, and which the insured states with the knowledge that it is untrue and with an intent to deceive, or which he states positively as true without knowing it to be true, and which has a tendency to mislead, where such fact in either case is material to the risk. 29 Am J Rev ed Ins § 698.

missed charge. An unexploded charge of explosive. 22 Am J2d Explos § 26.

missed hole. A hole drilled in a rock quarry or mine and charged with dynamite or other explosive, which has failed to explode. *Stears v Reidy*, 33 Ill App 246, 247.

missile. A thrown object.

Missing Persons Act. Statute providing for the disposition of the property of a person by administration in the probate court where such person has been absent so long and under such circumstances pertaining to his disappearance and continued absence that he is reasonably and fairly presumed to be dead. 1 Am J2d Absent § 3. A federal statute relative to persons presumed to have been killed in action in the armed service and to certain other persons in government service. 50 USC Appx §§ 1001-1017.

missing ship. A ship which is presumed to have been lost because of her long absence without having been heard from.

missio. (Civil law.) A sending; a putting.

missio in bona. (Civil law.) The putting a creditor in possession of his debtor's goods under an execution.

missio iudicum in consilium. (Civil law.) The sending out of the judges to determine upon their decision.

missionary. One sent by a religious society to labor for the propagation of the faith, particularly in a foreign country or in a neglected field in this country. Anno: 17 ALR 1052. In a broader sense, a person who labors for a cause whether in the social, commercial, or political field.

Mississippi River flood control. See **flood control; Flood Control Act.**

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missive. See **letter; message.**

Missouri Compromise. The provisions in the act of Congress passed in 1820 admitting the state of Missouri into the Union, whereby slavery was prohibited north of latitude 36° 30' n., excepting in that state.

misstaicus. A messenger.

misstatement. A statement which is in error.

mistake. An erroneous mental conception which influences a person to act or omit to act. *Nye v Sochor*, 92 Wis 40, 65 NW 854. From the standpoint of relief in equity, some unintentional act, omission, or error, arising from ignorance, surprise, imposition, or misplaced confidence. *Scurry v Cook*, 206 Ga 876, 59 SE2d 371. As ground for relief by reformation of instrument, an unintentional act, omission, or error arising from ignorance, surprise, imposition, or misplaced confidence. *Britton v Metropolitan Life Ins. Co.* 165 NC 149, 80 SE 1072.

See **unilateral mistake.**

mistake of fact. An active mistake, consisting in the belief of existence of a matter or thing which is nonexistent, or vice-versa, or a passive mistake, consisting of unconsciousness, ignorance, or forgetfulness of a fact material to the transaction. *Kowalke v Milwaukee Electric R. & Light Co.* 103 Wis 472, 79 NW 762. A ground for cancellation of an instrument whether the instrument relates to an executory agreement or to one that has been executed, providing it affects the substance of the contract and is not a mere incident of the agreement. *Steinmeyer v Schroepfel*, 226 Ill 9, 80 NE 564. As ground for relief in equity by reformation of instrument:—(1) an unconscious ignorance or forgetfulness of a fact past or present and material to the contract; or (2) a belief in the present existence of a thing material to the contract which does not exist, or in the past existence of such a thing which has not existed. 45 Am J1st Reform Inst § 47. In the making of a payment:—a mistaken belief that the money was due the payee, when in truth it was neither legally nor morally due. 40 Am J1st Paym § 189.

mistake of law. An erroneous conclusion by one having a full knowledge of the facts as to their legal effect. *Birkhouser v Schmitt*, 45 Wis 316. An erroneous opinion or inference arising from an imperfect or incorrect exercise of the judgment upon the facts as they really are. *Kowalke v Milwaukee Electric R. & Light Co.* 103 Wis 472, 79 NW 762.

mistake of law and fact. A mistake of fact induced by a mistake of law, as in making a payment. 40 Am J1st Paym § 90.

mistery. A trade; a calling; a business.

mistress. A woman who is the head of a household or of an institution such as an orphanage. A female who engages in sexual intercourse with a certain man for an extended period of time, sometimes receiving support money from him.

mistrial. The effect of prejudicial error which cannot be corrected or obviated by any action taken by the court. The equivalent of no trial; a nugatory proceeding.

Where a jury is discharged without a verdict, the proceeding is properly known as a mistrial; and where a verdict is set aside because it ought not to stand, the result is the same. The proceeding has miscarried, and the consequence is not a trial but a mistrial. *Fisk v Henarie* (CC Or) 32 F 417, 427.

misuse. See **misuser.**

misuser. The use of the privileges and franchises conferred upon a corporation in such manner as to defeat the ends for which the corporation was established. 19 Am J2d Corp § 1618. A wilful abuse or improper neglect of corporate privileges and franchises. 19 Am J2d Corp § 1619. The use of a franchise contrary to the conditions prescribed therein, 36 Am J2d Franch § 54, such as a refusal to comply with a rate ordinance. 36 Am J2d Franch § 18. The wrongful use or the failure to use a power. *Erie & North-East Railroad Co. v Casey*, 26 Pa 287, 318. The use of property for a purpose for which it was not designed. 18 Am J2d Conversion § 48. Use of dedicated land for any purpose other than that for which it was dedicated. 23 Am J2d Ded § 67.

mitigate. Verb: To lessen in severity or burden. To reduce: as, where the crime of murder may be reduced to manslaughter by the production of evidence of the defendant's insanity. See *Sinclair v State*, 161 Miss 142, 132 So 581, 74 ALR 241. Noun: The reduction of damages or punishment by reason of extenuating facts or circumstances.

mitigation of damages. Broadly, every fact tending to decrease the damages allowable in an action. 22 Am J2d Damg § 200. More precisely, those facts which tend to show that the conceded or assumed cause of action does not entitle the plaintiff to as large an amount of damages as otherwise would be recoverable. 22 Am J2d Damg § 200.

There are three typical situations within the more limited definition:—(1) that the plaintiff reasonably could have avoided a part or all the consequences of the defendant's wrongful act; (2) that the plaintiff received a benefit as a result of the defendant's wrongful act; and (3) that in cases where the defendant's conduct is material to the damages recoverable, his conduct was not as wrongful as plaintiff claims. 22 Am J2d Damg § 200.

mitigation of punishment. Lessening the punishment to be inflicted upon a convicted criminal out of consideration of circumstances such as former good behavior, the background of the defendant, the payment of damages by the defendant to the injured person, etc. 21 Am J2d Crim L §§ 584 et seq.

mitiori sensu. See **in mitiori sensu.**

mitior sensus. A more favorable meaning or interpretation.

Mitius imperanti melius paretur. The more gently a person commands, the better he is obeyed.

mittendo tenorem recordi. See **de mittendo tenorem recordi.**

mitter. To put; to send; to permit.

mitter à large. To permit to go at large.

mitter avant. To set before; to produce, as, to produce in court.

mittere. To send; to put; to permit; to discharge; to release.

mittere in confusum. To put into hotchpot.

See **hotchpot.**

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mitter le droit. To pass a right; as if a man be disseised, and release to his disseisor all his right, the disseisor acquires a new right, which changes the quality of his estate, and renders that lawful which before was tortious or wrongful. See 2 Bl Comm 325.

mitter l'estate. To pass an estate; as where one of two coparceners releases all her right to the other, thus passing the fee-simple of the whole. See 2 Bl Comm 324.

mittimus. A warrant of commitment to jail or prison. *Biddle v Shirley* (CA8 Kan) 16 F2d 566.

mixed action. An action appertaining in some degree to both real and personal actions, and therefore properly referable to neither of such classes. To illustrate, an action for the recovery of the possession of real property and damages for waste committed by the defendant. *Thayer v Shorey*, 287 Mass 76, 191 NE 435, 94 ALR 307.

mixed ambiguity. An ambiguity partaking of the nature of both a latent and a patent ambiguity. 30 Am J2d Ev § 1073.

mixed blood. Characterizing a person whose ancestors were of different races of men.

mixed blood Indian. Any Indian having an identifiable admixture, however small, of white blood. *United States v First Nat. Bank*, 234 US 245, 58 L Ed 1298, 34 S Ct 846.

mixed contract. A contract in which the values of the respective considerations are unequal.

mixed estate. A ground rent lease for ninety-nine years, renewable forever. *Jones v McGruder* (DC Md) 42 F Supp 193.

mixed gift. A gift in which there is included both real and personal property.

mixed government. A government partaking of the attributes of a democracy, a monarchy and an aristocracy at the same time.

mixed insurance company. An insurance company which embodies the characteristics of both a mutual company and a stock company. *State v Willett*, 171 Ind 296, 86 NE 68. An insurance company that has, at least in part, the nature of both stock and mutual companies, a certain portion of the profits being divided among the stockholders and a distribution of other accumulated funds made among the persons insured. *Pink v Town Taxi Co.* 138 Me 44, 21 A2d 656.

mixed jury. A jury composed of both men and women. 31 Am J Rev ed Jur § 101. A jury composed of persons of different races. 31 Am J Rev ed Jur § 99. An English jury which was composed of men half of whom were of the same nationality as the foreigner who was a party to the action and the other half Englishmen.

mixed larceny. Same as **compound larceny.**

mixed marine policy. A time and voyage policy wherein the voyage is designated by the policy, but the risk is limited to a specified time. 29 Am J Rev ed Ins § 324.

mixed marriage. A marriage between persons of different races.

See **miscegenation.**

mixed nuisance. A nuisance which is both public and private in its effects—public, because it violates public rights, and injures many persons, or all the community; and private, in that it also produces special injury to private rights. 39 Am J1st Nuis §§ 6, 7.

mixed penal law. A law concerned with both the thing to be declared a crime or offense and the punishment.

mixed powers. The mingling of powers normally divided between the executive, legislative, and judicial departments of government. The existence in one department of government of powers generally similar to those of another department, for example, the blending in the legislative powers of the United States of the judicial power of trying impeachments. 16 Am J2d Const L § 214.

mixed property. That kind of property which is not altogether real or altogether personal, but a compound of both, for example, heirlooms, tombstones, keys to a house, fixtures, etc. 42 Am J1st Prop § 28.

mixed question of law and fact. In loose usage, a question, the determination of which involves both law and fact.

There is really no such thing. What is sometimes so misnamed is a question which depends for its solution upon a question or questions of law and a question or questions of fact; but every such complicated proposition, when analyzed, is resolved into its elements of well-defined questions either of law or of fact, to be decided either by the judge or by the jury. *State v Hayes*, 162 La 917, 923, 111 So 327.

mixed tithes. Those tithes which consisted of natural products which had been nurtured and preserved in part by the care of man, such as of wool, milk, pigs, etc.

One tenth of these products had to be paid in gross, while in respect to personal tithes, only a tenth of the net gains or profits had to be paid. See 2 Bl Comm 24.

mixed train. A railroad train which combines both freight and passenger service. *Arizona Eastern Railroad Co. v State*, 29 Ariz 446, 242 P 870.

mixed war. A kind of war which can be carried on only between a nation on the one side and private individuals on the other. *People v McLeod* (NY) 1 Hill 377, 25 Wend 483.

mixing. See **commingling of funds; commingling of goods.**

mixtion. Confusion,—the mingling of the goods of different owners.

M'Naghten Test. The right and wrong test of criminal responsibility, the terminology being taken from the title of an English Case. *M'Naghten's Case*, 10 Clark & F 200, 8 Eng Reprint 718.

See **right and wrong test.**

moat. A ditch filled with water surrounding a fortified town or castle, forming an added protection against invaders.

mob. A large and aggravated riot. Anno: 52 ALR 563. A riotous assemblage. An unorganized assemblage of many persons intent on unlawful violence either to persons or property. Anno: 13 ALR 770, s. 23 ALR 300, 44 ALR 1142, 52 ALR 563. Three or more persons assembled together with intent to do any unlawful act with force and violence against the person or property of another, or to do any unlawful act against the peace, or who, being law-

fully assembled, shall agree with each other to do any unlawful act, and shall make any movement or preparation therefor. *Blakeman v City of Wichita*, 93 Kan 444, 144 P 816.

Blackstone defines the term as the riotous assembling of twelve persons, or more, and not dispersing upon proclamation. See 4 Bl Comm 142.

mobile home. A house resting upon wheels, or so constructed that wheels may easily be placed under it, for easy transportation along the highway to another location.

mobile station. A radio-communication station capable of being moved. *United States v Betteridge* (DC Ohio) 43 F 53.

mobilia. Latin for movables.

Mobilia inhaerent ossibus domini. Movables cling to the bones of their owner. *Holbrook v Ford*, 153 Ill 633, 39 NE 1091.

Mobilia non habent situm. Movables have no situs. *Wyeth Hardware & Co. v H. F. Lang & Co.* 127 Mo 242, 29 SW 1010.

Mobilia personam sequuntur. See **mobilia sequuntur personam.**

mobilia sequuntur personam. Movables follow the person.

Personal property, no matter how ponderous or unwieldy, in legal contemplation changes location with every change of the owner's domicil. 16 Am J2d Confl L, § 29.

mob violence. The characteristic of mob action.

See **mob.**

mock. To deride; to laugh at; to ridicule; to treat with scorn and contempt. *State v Warner*, 34 Conn 276, 279. To imitate in fun or jest.

mock marriage. A marriage performed by way of a jest, with no intention of entering into a contract of marriage or assuming the marital relationship, rights, and duties. Anno: 11 ALR 215.

mode. Manner or method, especially in reference to practice and procedure. *Beers v Haughton* (US) 9 Pet 329, 360, 9 L Ed 145, 157.

model. A style or design, especially of an automobile. A plan or design for the production and reproduction of works of art. 17 USC § 5(g). A copy or imitation of an object. *State v Fox*, 25 NJL 566, 602. Someone or something to be admired and imitated. One who wears clothing or jewelry by way of exhibiting it to prospective buyers.

model act. A statute proposed by the National Conference of Commissioners of Uniform State Laws for adoption in the various states as a uniform law.

For particular acts, see the concrete titles, such as **Administrative Procedure Act; Nuclear Facilities Liability Act.**

model training school. A school conducted in connection with a normal school or college of education for use in teacher training. *School Dist. v Bryan*, 51 Wash 498, 99 P 28.

moderamen inculpatae tutelae. (Roman law.) The regulation of excusable protection; that is, lawful self-defense.

moderata misericordia. A writ to prevent an excessive amercement or fine.

moderata misericordia capienda. See **de moderata misericordia capienda.**

Moderate castigavit. He moderately chastised; that is, in a reasonable manner.

moderate speed. Speed, whether of a motor vehicle, train, or ship, which is not excessive under the circumstances or in violation of statute or ordinance. 8 Am J2d Auto § 716.

As applied to navigation, the rule by which to determine whether a given rate of speed is moderate or excessive, in view of the particular circumstances of the occasion, is that such speed only is moderate as will permit the steamer seasonably and effectually to avoid collision by slackening speed, or by stopping and reversing, within the distance at which an approaching vessel can be seen. *Macham v New York* (CC NY) 35 F 604, 609.

moderator. One who conducts a meeting, particularly one for discussion of propositions and courses of action to be taken, such as the synod or assembly of a religious body. Primarily, the presiding officer at a town meeting. *Wheeler v Carter*, 180 Mass 382, 386, 62 NE 471.

Modica circumstantia facti jus mutat. A trifling circumstantial fact may change the law.

modicam castigationem adhibere. To administer moderate chastisement. See 1 Bl Comm 445.

modification. See **alteration; amendment; change.**

modification of alimony. A modification of a judgment for alimony. 24 Am J2d Div & S § 655.

modification of award. A change effected by board, commission, or court of an award of workmen's compensation. 58 Am J1st Workm Comp § 499.

modification of contract. A change in the terms of a contract by a new or secondary agreement. 17 Am J2d Contr § 458.

modification of custody. The modification of an order awarding custody of a child or children to one of the parties in a suit for divorce. 24 Am J2d Div & S § 812.

modification of judgment. A change in the terms, rather than the reversal of, a judgment. 5 Am Jur 2d A & E § 937. Correcting a judgment to make it speak the truth of what was decided. Changing the terms of a judgment upon sufficient grounds presented therefor. 30A Am J Rev ed Judgm § 656.

modification of lease. A change in the conditions of a lease by agreement subsequent to the execution of the lease. 32 Am J1st L & T § 147.

modification of statute. See **amendatory statute.**

modification of support. The modification of a judgment or decree for support of spouse or child. 24 Am J2d Div & S §§ 655, 844.

modify. To change or vary, not to create.

A power given to modify or abolish implies the existence of the subject matter to be modified or abolished. When exercised to modify, it does not destroy identity, but effects some change or qualification in form or qualities, powers or duties,

purposes or objects, of the subject matter to be modified, without touching the mode of creation. *State v Lawrence*, 12 Or 297, 7 P 116.

See **expressions beginning modification.**

modius. A measure; a Roman dry measure equal to a little less than two imperial gallons.

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modo ad hunc diem. See **et modo ad hunc diem.**

modo decimandi. See **de modo decimandi.**

modo et forma. In the manner and form. *Krause v Board of School Trustees*, 162 Ind 278, 283, 70 NE 264.

modus. (Civil law.) Mode; manner; method; form; a measure.

Modus dat legem donationi. The form provides the law for the gift.

modus decimandi. Manner of tithing.

Any means whereby the general law of tithing was altered, and a new method of taking tithes was introduced, was called a "modus decimandi," or special manner of tithing. It was commonly called by the simple name of a "modus." See 2 Bl Comm 29.

modus de non decimando. A manner or custom of not paying tithes.

Where particular persons or lands had become discharged or exempted by immemorial usage or custom from the payment of tithes they thus acquired a prescriptive immunity from such payment, which was called a "modus de non decimando." See 2 Bl Comm 29.

Modus de non decimando non valet. A modus or prescriptive exemption from the payment of tithes is not valid.

This was the rule as to lay tenants, but spiritual persons or corporations, such as monasteries, abbots, bishops, and the like were always capable of having their lands totally discharged of tithes by various means. See 2 Bl Comm 31.

Modus et conventio vincunt legem. The form and the agreement control the law. *Merchants' Bank v State Bank (US)* 10 Wall 604, 19 L Ed 1008, 1018.

modus habilis. A proper manner.

modus injuriae. The means of injury. *Terrell v Chesapeake & Ohio Railway Co.* 110 Va 340, 66 SE 55.

Modus legem dat donationi. It is the form which gives validity to a gift. See 2 Bl Comm 310.

modus levandi fines. The manner of levying fines.

modus operandi. The method of operation.

modus tenendi. The manner of holding,—the character of the tenure.

modus transferendi. The manner of transferring.

modus vacandi. The manner of vacating or relinquishing.

modus vivendi. The mode of living.

moenia. See **intra moenia.**

moerda. The ancient Teutonic word for murder. 4 Bl Comm 194.

Mohammedanism. A religion founded by Mohammed, who is regarded by its followers known as Moslems as the true prophet, based upon a belief in one God, Allah, 'out accepting Jesus Christ as a prophet, although lesser than Mohammed. Hale v Everett, 53 NH 9.

moiety. A part; a fraction of a thing.

See **advowson of the moiety; taking by moieties; undivided interest.**

Moiety Act. An act of Congress providing for the forfeiture of smuggled goods and for an equal division of them between the informer and the government. United States v Auffmordt (DC NY) 19 F 893.

molding. An ornament on the cornice, eaves or surface of a building, becoming involved in litigation where it encroaches on the adjoining premises. 1 Am J2d Adj L § 123.

molendinum. A mill for grinding grain.

molestation. Interference with a church service or other meeting. Annoyance of, or interference with, a person, particularly where the victim is a child.

molestation clause. A provision in a separation agreement that the husband will not disturb, molest, or visit the home of the wife, except as business relations may require a visit. 24 Am J2d Div & S § 923. A comparable clause wherein the wife covenants that she will not molest, disturb, or speak disparagingly of the husband. Verdier v Verdier, 133 Cal App 2d 325, 284 P2d 94; Smith v Smith, 225 NC 189, 34 SE2d 148, 160 ALR 460.

molitura libera. The liberty of having one's grain ground at a certain mill without cost.

molliter. Gently; softly; easily.

molliter manu. Gently with the hand.

molliter manus imponere. To lay hands gently. State v Durham, 141 NC 741, 53 SE 720.

Molliter manus imposuit. He gently laid hands upon him.

molutus. Ground.

momentary delivery. A colorable delivery of property to vest title in the vendee. 37 Am J2d Frd Conv § 49.

momentary seisin. Seisin for an instant; sufficient to endow the wife of the man seized. 25 Am J2d Dow § 29

momentum. A moment of time; an instant. The product of the mass of a moving object and its linear velocity.

monarch. A king.

monarchy. A government entrusted in the hands of a single person. See 1 Bl Comm 49.

monasterium. A monastery; a church.

monastery. A place of residence for monks and other persons who have retired from the world or desire for the time to lead the contemplative life.

moneta. Coined metal; money, the term deriving from the temple of Juno Moneta wherein Roman money was coined.

Moneta est justum medium et mensura rerum commutabilium, nam per medium monetae fit omnium rerum conveniens, et justa aestimatio. Money is the just medium and measure of merchantable goods, for through the medium of money

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a convenient and proper estimate of all things is made.

Monetandi jus comprehenditur in regalibus quae nunquam a regio sceptro abdicantur. The right of coining money is included among those royal prerogatives which are never renounced by the royal scepter.

monetary loss. A loss measurable in money.

money. Currency; current funds. *Reese v First Nat. Bank* (Tex Civ App) 196 SW2d 48, 171 ALR 516, error ref n r e. Cash or coin. *Re Rogers*, 91 NJ Eq 294 109 A 16. Cash, including both coin and paper. 36 Am J1st Money § 2. In a specific sense, that which is coined or stamped by public authority as a medium of exchange and has its value fixed by public authority. 36 Am J1st Money § 2. The medium of exchange recognized by the custom of merchants and the laws of the country. 36 Am J1st Money § 2. In a general or comprehensive sense, wealth, commodities, everything transferrable in commerce. 36 Am J1st Money § 2. A generic term covering everything which by common concept represents property and passes currently from hand to hand without necessity for inquiry as to title. 11 Am J2d B & N § 11. A term of flexible meaning in a will, having either a restricted or a wide significance, according to the context of the will in which it occurs and those surrounding circumstances which the court is bound to consider in construction, sometimes meaning wealth or property, particularly personal property. 57 Am J1st Wills § 1349.

See **pin money; ready money; suit money.**

money claims. Claims or demands for money arising out of express or implied contracts. All rightful claims, whether founded upon contract, tort or penalties given by statute. *Dittman Boot & Shoe Co. v Mixon*, 120 Ala 206, 210, 24 So 847.

money counts. Money had and received money lent, and money paid. 1 Am J2d Actions § 13.

money demand. See **money claims.**

money deposit. A deposit of money or its equivalent in check, draft, etc. *National Surety Co. v Canon*, 62 Colo 401, 163 P 284.

moneyed capital. Capital in money employed in a business the object of which is the making of a profit by the use of such money as money. 51 Am J1st Tax § 271.

moneyed corporation. A corporation organized for profit. Anno: 22 ALR2d 1026, § 2. A commercial or business corporation rather than a charitable corporation. In the popular sense, a bank or finance company.

The term is defined by New York statute to mean every corporation having banking powers, or having the power to make loans upon pledges or deposits, or authorized by law to make insurances. *Platt v Wilmot*, 193 US 602, 611, 48 L Ed 809, 813, 24 S Ct 542.

money had and received. One of the common counts in assumpsit. 1 Am J2d Actions § 13.

An action originally for the recovery of debt, favored because more convenient and flexible than the common-law action of debt, has been gradually expanded as a medium for recovery upon every form of quasi-contractual obligation in which the duty to pay money is imposed by law independent of contract express or implied in fact. *Stone v White*, 301 US 532, 81 L Ed 1265, 57 S Ct 851.

money in court. See **deposit in court.**

money judgment. A judgment calling for the payment of a sum of money of one party to the other. A judgment which can be fully satisfied by a payment of money. *Fuller v Aylesworth* (CA6 Mich) 75 F 694, 700.

money land. Money held under trust to convert it to land.

money lender. A person who lends money as a business, particularly a person who makes small loans upon chattel security and salary assignments. 40 Am J1st Pawnb § 11.

money lent. One of the common counts in assumpsit. 1 Am J2d Actions § 13.

money made. Money collected by a sheriff or other officer under a writ of execution. In a more common sense, money earned by work or accumulated by way of taking a profit on an investment.

money of adieu. Earnest-money paid to bind a bargain, whereupon the parties bade each other adieu.

money of estate. A peculiar expression, the meaning of which may be explained by proof of a trade usage or custom. *Howe v Hartness*, 11 Ohio St 449.

money on hand. Sometimes including bank deposits, sometimes not. 57 Am J1st Wills § 1354.

money only. A phrase expressive of legal rather than equitable relief. Anno: 154 ALR 113.

money order. An instrument issued by an authorized officer of a bank and directed to another bank, evidencing the fact that the payee may demand and receive upon indorsement and presentation to the bank the amount stated on the face of the instrument, liability for payment resting solely on the issuing bank. 10 Am J2d Bks § 545. Broadly, any order for the payment of money, including a check or bank draft. *McDougall v Lueder*, 389 Ill 141, 58 NE2d 899, 156 ALR 1059. A telegraphed order for the payment of money, being a convenient method of transmitting money to a person at a distance.

See **post-office money order.**

money paid. One of the common counts in assumpsit. 1 Am J2d Actions § 13.

money paper. Commercial paper, investment paper, and commodity paper. UCC §§ 3-104, 7-104, 8101, Comment 2.

money rent. Rent payable in money. 32 Am J1st L & T § 61.

moneys. The plural of money and nothing more. Mann v Mann (NY) 14 Johns 1.

Mongolian. A person of the yellow race. A native of Inner Mongolia or of Outer Mongolia.

monition. A citation in a suit in admiralty. 2 Am J2d Adm § 153. A notice in a proceeding in rein for the forfeiture of property, citing the owners and all other persons claiming any right, title, or interest in the property seized to appear and show cause on or before a day named why forfeiture of the property should not be decreed in accordance with the prayer of the libel or information. 36 Am J2d Forf & P § 36. Notice of a proceeding in prize court, summoning all persons interested to show cause against the condemnation of the property as prize of war, such notice being issued and published upon the filing of the libel. 56 Am J1st War § 185.

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monocracy. A government with a single ruler.

monocrat. The ruler of a monocracy.

monogamy. The state or condition of a person who has but one spouse at a time.

monomachy. Single combat; a combat between two persons; a duel.

monomania. Partial or illusional insanity. People v Hubert, 119 Cal 216, 51 P 329; Commonwealth v Rogers, 48 Mass (7 Met) 500. Insanity upon one subject.

monomaniac. A person insane on a particular subject, sane upon all other matters. 29 Am J Rev ed Ins Per § 3.

Monopolia dicitur, cum unus solus aliquod genus mercaturae universum emit, pretium ad suum libitum statuens. A monopoly is said to exist when one person alone buys the whole of some sort of merchandise, fixing the price to his own fancy.

monopolium. Same as **monopoly**.

monopoly. Broadly, the sole power of dealing in an article or doing a specified thing, either generally or in a particular place. 36 Am J1st Monop etc. § 2. A means of suppressing competition by the unification of interest or management or through agreement and concert of action. 36 Am J1st Monop etc. § 2.

monopoly of any part. An expression of the Federal Antitrust Act; a monopoly of any part of interstate or foreign trade or commerce. Lorain Journal Co. v United States, 342 US 143, 96 L Ed 162, 72 S Ct 181; United States v Paramount Pictures, 334 US 131, 92 L Ed 1260, 68 S Ct 915.

monopoly of trade. The acquisition of an exclusive right to, or the exclusive control of, a trade. 36 Am J1st Monop etc. § 2.

monoxide. See **carbon monoxide**.

monoxide poisoning. See **carbon monoxide poisoning**.

Monroe Doctrine. A principle established as a policy of the United States, asserting its right to resist any European interference with the affairs of the governments of the American republics.

The doctrine took its name from President Monroe, although it appears that John Quincy Adams, the Secretary of State in President Monroe's cabinet formulated the doctrine for enunciation.

monster. A plant or creature terribly deformed. A human-being by birth, but in some part resembling a lower animal.

"A monster . . . hath no inheritable blood, and cannot be heir to any land, albeit it be brought forth in marriage; but, although it hath deformity in any part of its body, yet if it hath human shape, it may be heir." 2 Bl Comm 246.

monstrans de droit. A showing or setting forth of the right by the defendant in an action at common law under an information for trespass upon lands of the commonwealth. *Commonwealth v Hite*, 33 Va (6 Leigh) 588.

monstrans de faits. A showing of deeds; a profert of deeds.

monstraverunt. See **writ of monstraverunt.**

monte. A game of chance played with cards of different colors, the gamble being on the color of a card to be dealt from a deck.

montes pietatis. Rocks of benefaction,—pawn-shops.

They were probably so called because they were, as they still are, in many cases, patronized for the most part by poor persons.

month. A division of time, to be computed by the calendar, unless a contrary meaning is indicated by the statute or contract under construction. 52 Am J1st Time § 11. A calendar, rather than a lunar month. *McGinn v State*, 46 Neb 427, 65 NW 46 (constitutional provision respecting effective date of statute). For the purpose of computation of time of payment, a calendar month. 11 Am J2d B & N § 291; 40 Am J1st Paym § 13. As the term is used in a lease, a calendar month, as distinguished from a lunar month. 32 Am J1st L & T § 138. A calendar month for the purposes of a statute fixing the period of time for taking an appeal. 4 Am J2d A & E § 296.

monthly reporting policy. An insurance policy containing the requirement of monthly reports by the insured to the insurer of the value of the property covered under the policy, its exact location, and all other specific insurance in force on such property. Anno: 13 ALR2d 718; 29A Am J Rev ed Ins § 975.

monticolis Walliae. See **de monticolis Walliae.**

month to month tenancy. See **tenancy from month to month.**

monument. A tombstone. 31 Am J2d Ex & Ad § 322. A memorial to a deceased person, usually but not necessarily at his grave; a shaft or stone, not a building. *Fancher v Fancher*, 156 Cal 13, 103 P 206. Something more imposing than a mere gravestone. *Fancher v Faucher*, 156 Cal 13, 103 P 206. A marker of stone or metal of a point of historical interest, particularly a battlefield. 26 Am J2d Em D § 63. A physical object on the ground, natural or artificial, such as tree, stone, fence, etc., establishing or tending to establish a boundary line. *Delphey v Savage*, 227 Md 373, 177 A2d 249.

As the expression is used in a will providing for the erection of a "suitable monument" to the memory of the testator, the word "suitable" gives play to the discretion of the executors in the selection of the monument, its form and style, with reference to the amount of money set apart for the purpose. See *Fancher v Fancher*, 156 Cal 13, 103 P 206.

Monumenta quae nos recorda vocamus sunt veritatis et vetustatis vestigia. Those monuments which we call records are the marks of truth and antiquity.

moonlighting. The pursuit by a public officer or public employee of employment or occupation apart from that of his public office or employment. Anno: 88 ALR2d 1235.

moonshine. An alcoholic liquor which has been illicitly, illegally, and clandestinely made. *Everhart v State*, 194 Tenn 272, 250 SW2d 368; *State v Wills*, 91 W Va 659, 114 SE 261, 24 ALR 1398. Whiskey which has been illicitly distilled or produced; whiskey unlawfully and illegally manufactured. *State v Charette*, 75 Mont 78, 242 P 343.

moor. To fasten and hold a vessel to anchor or pier by cable or chain. To tie floating logs to a structure, natural or artificial, on shore of the stream. 34 Am J1st Logs § 74.

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moorage. A fee for the privilege of mooring a vessel. *Wharf Case (Md)* 3 Bland 361, 373.

moored vessel. A vessel at anchor or secured by cable.

Moore v Littel. A famous New York case, reported in 41 NY 33, holding that by virtue of a statute of the jurisdiction, where there is a person in being who would have immediate right to the possession of the land if the intermediate or precedent estate were presently terminated, the remainder is vested and not contingent, notwithstanding the estate may be defeated by subsequent events.

The specific holding is that under a conveyance to one for life and after his decease to his heirs and assigns forever, the remainder is vested. *Moore v Littel*, 41 NY 66.

mooring. A place to moor a vessel.

See **moor**.

mooring in good safety. Placing a vessel in position to discharge her cargo. 29 Am J Rev ed Ins § 330.

moot case. A case involving only abstract questions; a case without relevancy to any controversy between the parties. *Reserve Life Ins. Co. v Frankfather*, 123 Colo 77, 225 P2d 1035, 39 ALR2d 146.

See **moot question**.

moot court. A practice or simulated court where law students conduct fictitious suits.

moot question. An abstract or academic question. A hypothetical question. 1 Am J2d Actions § 56. A question which does not rest upon existing facts or rights; a question as to which in reality there is no actual controversy existing; a question which involves no right actually asserted and contested. 5 Am J2d A & E § 762. A question not arising on the facts presented in the case, but existing only in the light of hypothetical circumstances. *Associated Press v NLRB*, 301 US 103, 81 L Ed 953, 57 S Ct 650. A question which has lost significance because of a change in the condition of affairs between the parties, whether before or after the commencement of the action. 1 Am J2d Actions § 56. In another sense of the term, a debatable point which has never been decided, at least not in the jurisdiction.

mora. A delay; a pause; a hindrance.

See **ex mora; in mora**.

mora debitoris. See **ex mora debitoris**.

moral. Adjective: Upright; virtuous, especially in matter of sex. Noun: A principle for determining that which is right and that which is wrong.

moral and social duty. See **moral obligation.**

moral certainty. See **proof to a moral certainty.**

moral character. See **bad moral character; character; good moral character.**

moral coercion. Importunity or overpersuasion in stressing the necessity of action or inaction, sometimes amounting to undue influence. 25 Am J2d Dur § 36. A form of duress. 13 Am J2d Cane Inst § 28. Imposition, oppression, undue influence or the taking of undue advantage of the business or financial stress or extreme necessity or weakness of another. *Lafayette Dramatic Productions v Ferentz*, 305 Mich 193, 9 NW2d 57, 145 ALR 1158.

moral compulsion. See **moral coercion.**

moral consideration. A consideration which is good only in conscience.

The idea that in every case where a person is under a moral obligation to do an act, as to relieve one in distress by personal exertions, or to spend money, a promise to that effect would bind him in law, is not supported by principle or precedent. It is a just rule of morality, sanctioned by the highest authority that a man should do towards others what he might reasonably expect from them under like circumstances. But a promise to fulfil the moral obligation created by this rule would not be enforced in any court of justice. Municipal laws will not decide what honor and gratitude ought to induce. It must be left to the forum of conscience. *Cook v Bradley*, 7 Conn 57.

moral duress. See **moral coercion.**

moral duty. See **moral obligation.**

moral eviction. The conduct of a landlord in rendering the premises unfit for the occupation of the tenant, without actually taking possession of any part of the land, as by introducing women of ill fame into other parts of the house. *Campbell v Shields*, 11 How Pr 365.

moral evidence. Evidence which is not demonstrative in character but of probative value in instructing the trier of the facts upon the issues of fact.

moral fraud. A fraud or deceit which involves moral wrong.

moral hazard. An expression of the insurance business; the chance or risk of the insured destroying the property, or permitting it to be destroyed, for the purpose of collecting the insurance.

In the law of fire insurance, the term is but another name for a pecuniary interest in the insured to permit the property to burn. Statistics, experience, and observation all teach that the moral hazard is least when the pecuniary interest of the insured in the protection of the property against fire is greatest, and that the moral hazard is greatest when the insured may gain most by the burning of the property. *Syndicate Ins. Co. v Bohn* (CA8 Neb) 65 F 165.

moral insanity. Such mental disease as destroys the ability to distinguish between right and wrong in a particular act; a perversion of the moral sense. 29 Am J Rev ed Ins Per § 3.

morality. That which teaches men their duty, and the reason of it; the rule which teaches us to live soberly and honestly. The virtues of justice, prudence, temperance, and fortitude. *Lyon v Mitchell*, 36 NY 235, 238.

moral law. The law, in a very broad sense of the term "law," of conscience.

Judge Dillon, in his *Commentary on the Laws and Jurisprudence of England and America*, says: "Not less wondrous than the revelations of the starry heavens, and much more important, and to no class of men more so than lawyers, is the moral law which Kant found within himself, and which is likewise found within, and is consciously recognized by, every man. This moral law holds its dominion by divine ordination over us all, from which escape or evasion is impossible. This moral law is the eternal and indestructible sense of justice and of right written by God on the living tablets of the human heart and revealed in his Holy Word." *Moore v Strickling*, 46 W Va 515, 33 SE 274.

morally wrong. See **wrong**.

moral mania. The same as moral insanity.

moral obligation. A duty arising from or connected with what was once a legal liability or from the

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receipt of benefit of a material or pecuniary nature. 17 Am J2d Contr §§ 132 et seq. An obligation arising from ethical motives, or a mere conscientious duty, unconnected with any legal obligation, perfect or imperfect, or (under the later cases) with the receipt of benefit by the promisor of a material or pecuniary nature. 11 Am J2d B & N § 219; 17 Am J2d Contr § 130. An obligation which, although lacking any foundation cognizable in law, springs from a sense of justice and equity that an honorable person would have, but not from a mere sense of doing benevolence or charity. *People v Westchester County Nat. Bank*, 231 NY 465, 132 NE 241, 15 ALR 1344.

As the term "moral and social duty" is used in the law pertaining to privileged communications, it has been defined as a duty recognized by English people of ordinary intelligence and moral principle but at the same time not a duty enforceable by legal proceedings, whether civil or criminal. The question is "would the great mass of right-minded men in the position of the defendant have considered it their duty, under the circumstances, to make the communication." See *Watt v Longsdon (Eng)* 1 K. B. 130, 69 ALR 1005.

See **moral consideration**.

moral restraint. A restraint upon the actions of a person, not by the exertion of physical power or the giving of directions, orders, or commands, merely by his conformity to wishes or desires of another. 25 Am J1st Hab C § 24.

moral turpitude. Baseness, vileness, or depravity in the private and social duties which a man owes to his fellowmen or to society in general. *Huff v Anderson*, 212 Ga 32, 90 SE2d 329, 52 ALR2d 1310; *Re Henry*, 15 Idaho 755, 99 P 1054; *State v Malusky*, 59 ND 501, 230 NW 735, 71 ALR 190. Something immoral in itself, irrespective of the fact that it is punished by law. *Ex parte Mason*, 29 Or 18, 43 P 651.

The term "crime involving moral turpitude" as found in the Immigration Act connotes something more than "illegal" or "criminal". It implies an act which is contrary to the accepted and customary standard of right and duty between man and man prevailing in the United States. The test is not dependent upon a classification between felonies and misdemeanors nor upon a distinction between infamous and not infamous offenses. *Jordan v DeGeorge*, 341 US 223, 95 L Ed 886, 71 S Ct 703, reh den 341 US 956, 95 L Ed 1377, 71 S Ct 1011.

morandae solutionis causa. For the sake of delaying payment.

Mora reprobatur in lege. Delay is disapproved in the law.

morari. To delay; to hinder; to pause.

moratoria. Plural of **moratorium**.

moratorium. A period during which an obligor has a legal right to delay meeting an obligation. Anno: 137 ALR 1380. Legislation extending the time for payment of indebtedness. 3 Am J2d Agri § 30. Legislation providing in some manner for the temporary relief of debtors, particularly of those in the Armed Service, during the existence of war. Anno: 137 ALR 1380, 147 ALR 1311. The suspension of remedies against lessees. 32 Am J1st L & T § 1034.

moratory interest. Interest allowed in an action for breach of contract or tort for the unlawful detention of money found to be due. 22 Am J2d Damg § 179.

moratory statute. A statute granting a moratorium. Anno: 137 ALR 1380.

moratory tables. Same as **mortality tables**.

Moratur in lege. He delays or pauses in law; that is, he demurs.

morbosus. Sickly; diseased; worn out.

morbus santicus. (Civil law.) An illness which incapacitated a person from attending to his business.

more colonico. In a husbandlike manner.

more definite and certain. Relief sought by motion in reference to a pleading that is not sufficiently full, definite, and certain to enable the adverse party to prepare a responsive pleading or to prepare for trial, sought by the adverse party on motion addressed to the defective pleading. 41 Am J1st Pl § 359.

more necessary public use. A comparative presented in certain eminent domain cases.

Where land which has already been appropriated to a public use is sought to be condemned for "a more necessary public use," there are cases holding that the new use must be an absolute public necessity, but other cases hold that there may be a new taking if it be simply for a greater public good. *Butte, Anaconda & Pacific Railway Co. v Montana Union Railway Co.* 16 Mont 504, 41 P 232.

more or less. A phrase qualifying a statement of an absolute and definite amount, 46 Am J1st Sales § 155, for the purpose of providing against slight, accidental variations. *M. W. Kellogg Co. v Standard Steel Fabricating Co.* (CA10 Okla) 189 F2d 629, 26 ALR2d 1090. An expression used as an estimate of an otherwise designated quantity, to be interpreted broadly or narrowly according to the context in which it appears. 17 Am J2d Contr § 282. A term in a bill of lading leaving it open to the carrier to make a showing of the whole situation with respect to the quantity received for transportation and the quantity delivered, in determining the liability for deficiency at destination. Anno: 67 ALR2d 1043, § 5; 13 Am J2d Car § 283. Words, which, as applied to quantity of land, are intended to cover some slight or unimportant inaccuracy in description. 12 Am J2d Bound § 75. An expression used in connection with a designation of courses and distances in a boundary, to be disregarded if not controlled or explained by references to monuments, markers, or other expressions of intention, and to be given meaning and effect when so controlled and explained. *Inglson v Olson*, 199 Minn 422, 272 NW 270, 110 ALR 167; *Sowles v Minot*, 82 Vt 344, 73 A 1025. A term which, when included in a deed in describing the property conveyed according to a certain number of acres, serves to confine the land conveyed to land within boundaries designated in the description. 23 Am J2d Deeds § 240.

There is no doubt of the general proposition that where the words "more or less" are used as an estimate of an otherwise designated quantity and the object of the parties is the sale or purchase of a particular lot, as a pile of wood or coal, the cargo of a particular ship, or a certain parcel of land, the words used in connection with the estimated quantity are susceptible of a broad construction, and the

contract will be interpreted as applying to the particular lot or parcel, provided it is otherwise sufficiently identified. *Pine River Logging & Improv. Co. v United States*, 186 US 279, 46 L Ed 1164, 22 S Ct 920. If the agreement is to manufacture, furnish, or deliver certain property not then in existence, or to be taken from a larger quantity, the addition of the words "more or less" will be given a narrow construction and held to apply only to such accidental or immaterial variations in quantity as would naturally occur in connection with such a transaction. *Pine River Logging & Improv. Co. v United States*, 186 US 279, 46 L Ed 1164, 22 S Ct 920.

more specific statement. Relief sought in reference to statement of cause of action or defense on a motion by the adverse party addressed to the pleading.

more than ordinarily legitimate. An anomalous expression which might well be dropped from the language of courts and lawyers.

A child is thus characterized by Blackstone, where, if a man dies and his widow soon marries, and then a child is born at such time that it might naturally be the child of either husband. In such a case, the child may, upon arriving at the age of discretion, choose either of the two men as his father. See 1 Bl Comm 456.

morganatic marriage. Under the law of some countries, a man's marriage to a woman of lower rank who does not share his rank nor enjoy full legal rights as a wife.

morgangiva. A gift made to a bride on the morning of her wedding.

Morgan Plan Company. A company which, while engaged in lending money, does so on a basis distinguishing it quite clearly from an institution operating in competition with a national bank. *First Nat. Bank v Louisiana Tax Com.* 289 US 60, 77 L Ed 1030, 53 S Ct 511, 87 ALR 840.

morgengeba. Same as **morgangiva**.

morgue. A place where the bodies of unidentified dead persons are kept and exposed to view for the purpose of identification or that they may be claimed by their friends. *Koebler v Pennewell*, 75 Ohio St 278, 288. Also the place where the body of a person whose death raises a suspicion of murder or foul play is kept pending an inquest.

Mormon. The name of a religious body founded by Joseph Smith in 1830, otherwise known as the Church of Jesus Christ of Latter-Day Saints. A member of the Mormon Church.

Mormon divorce. An invalid divorce consisting of an agreement by the parties to the marriage, with the consent of the church, to dissolve the marital relation. *Hilton v Roylance*, 25 Utah 129, 69 P 660.

Mormon marriage. A marriage by means of the sealing ceremony entered into before a proper official by members of the Mormon Church competent to contract marriage. *Hilton v Roylance*, 25 Utah 129, 69 P 660.

moron. Broadly, a person so retarded mentally as to be stupid. Technically, one whose mental performance is not above that of a child between the ages of seven and twelve. *State v Driver*, 88 W Va 479, 107 SE 189, 15 ALR 917, 921.

morphine. A principal alkaloid of opium; a narcotic, *People v Clark*, 7 Ill 2d 163, 130 NE2d 195, the two usual forms of which are morphine hydrochloride and morphine sulphate.

Morphine hydrochloride is a chemical combination of morphine and hydrochloric acid and morphine sulphate is a chemical combination of sulphuric acid and morphine. It is generally held that, in an indictment for selling such drugs, the word

"morphine" is sufficiently specific to charge the selling of any of these compounds. *Jefferson v State*, 34 Okla 56, 244 P 460; *Hoffman v United States* (CA8 Minn) 20 F2d 328.

Morris Plan bank. A bank of a particular type, organized and operating for the primary purpose of enabling wage earners of good character to obtain credit on an instalment basis. *Morris Plan Co. v Currie* (Sup App T) 161 NYS 292. A company which, while engaged in lending money, does so on a basis distinguishing it quite clearly from an institution operating in competition with a national bank. *First Nat. Bank v Louisiana Tax Com.* 289 US 60, 77 L Ed 1030, 53 S Ct 511, 87 ALR 840.

Morris Plan Company. Same as **Morris Plan bank**.

mors. Death.

Mors dicitur ultimum supplicium. Death is called the extreme penalty or the extremity of punishment.

Mors omnia solvit. Death dissolves, unbinds, or releases everything.

mort. Death.

mortal. Death-producing; coming to an end eventually by death. Man as a creature who must die. *State v Baker*, 122 Kan 552, 253 P 221.

mortality. The matter of being mortal. The death rate in a country, a state, a locality, or a family or other group of persons.

mortality tables. Statistical tables which show the probable expectancy or continuance of life of a normal person according to sex and age. 30 Am J2d Ev § 894.

mortal sin. A sin which exposes to death ultimately, unless forgiven. *State v Baker*, 122 Kan 552, 253 P 221.

mortal wound. A fatal wound. 26 Am J1st Homi § 265. A wound which is death-producing. *State v Baker*, 122 Kan 552, 252 P 221.

mort civile. Civil death,—the cessation of all of a person's legal rights and capacities.

mort d'ancestor. The death of an ancestor; a writ of assize to recover land from an abator of which the demandant's father or mother, brother or sister, uncle or aunt, nephew or niece had died seised. See 3 Bl Comm 185.

Morte donantis donatio confirmatur. A gift is confirmed by the death of the donor.

mortgage. In the ancient sense, an estate in mortuo vadio or dead pledge. At common law, a qualified estate under a conditional conveyance given by way of security for the performance of an obligation, usually one for the payment of money. In the modern sense, a security or lien for the performance of an obligation. 36 Am J1st Mtg § 2. A conveyance of property to secure the performance of some obligation, the conveyance to be void on the due performance of the obligation. 36 Am J1st Mtg § 2.

mortgageable property. Property which can be subjected to a mortgage, the term usually being used

in reference to personal property and chattel mortgages. 15 Am J2d Chat Mtg § 21.

mortgage-bond. A bond which is secured by a mortgage.

mortgage clause. Same as **mortgagee clause**.

mortgage company. See **loan company**.

mortgage coupon bond. See **coupon bond**.

mortgage debentures. Debentures by which specific funds or property are pledged as security. Barton Nat. Bank v Atkins, 72 Vt 33, 45, 47 A 176. A paradoxical expression if the definition of debenture as a bond secured, at best, by a pledge of income be accepted.

See **debenture**.

mortgage deed. A deed given by way of security; a mortgage.

mortgagee. The person to whom a mortgage is made.

A mortgagee is held to be a "purchaser" within the meaning of a statute entitling the widow of a nonresident alien to the same rights in her husband's property as a resident, except as against a "purchaser" from her husband. Estate of Gill, 79 Iowa 296, 44 NW 553.

mortgagee clause. A clause in a policy of insurance covering property which provides for the payment of the proceeds of the policy in the event of a loss to the mortgagee under a mortgage on the insured premises, to the extent of the amount of the mortgage. 29 Am J Rev ed Ins § 728.

mortgagee in possession. A mortgagee in possession of the property mortgaged to him.

An expression adopted by courts and law writers as a convenient phrase to describe the condition of a mortgagee who is in possession of mortgaged premises under such circumstances as to make the satisfaction of his lien a prerequisite to his being dispossessed, even in jurisdictions where the mortgage itself can confer no possessory right either before or after default; but the authorities are in some confusion as to what these circumstances are. It has been said that the possession must be "lawfully" acquired, or "without force;" that it must be taken under the mortgage, and because of it; that it need not be under the mortgage, nor with a view thereto; that it must be with the consent of the mortgagor, express or implied, etc. But there is probably no case limiting the right of a mortgagee to hold property of which he is in lawful possession to a case where such possession was with the consent of the mortgagor. Stouffer v Harlan, 68 Kan 135, 74P610.

mortgage of goods. A chattel mortgage, a mortgage of personal property.

mortgage of patent. A mortgage of a patent right, the recording of which in the Patent Office, in accordance with the federal statute, is the equivalent of delivery of possession.

mortgagor. A person who mortgages his property to another; the maker of a mortgage.

mortgage pool. A trust created by the owners of several or even many mortgages in transferring the instruments to a trustee to hold for the benefit of the transferrers. Anno: 107 ALR 1458.

mortgage tax. A tax imposed with reference to the recording of a mortgage. 51 Am J1st Tax § 1257.

morth. (Saxon.) Murder.

morthlaga. A murderer.

morthlage. Murder. mortician. An undertaker.

mortification. Extreme embarrassment; humiliation. Mental suffering constituting an element of damages for false imprisonment. 32 Am J2d False Imp § 114. Decay, particularly of the body or a part thereof.

mortis causa. By reason of death; in expectation of death.

Mortis momentum est ultimum vitae momentum. The moment of death is the last moment of life. *Terrill v Public Administrator*, (NY) 4 Bradf 245, 250.

mortmain. Literally, the dead hand. Property held out of circulation.

To alienate land in mortmain was to convey it to a corporation, aggregate, ecclesiastical or temporal. *Perm v Carey*, 65 US 465, 16 L Ed 701, 708.

At one time in England, all purchases of land by corporations were said to be purchases in mortmain. Various reasons have been advanced for this. One given by Blackstone is that purchases made by corporations were usually made by ecclesiastical corporations, the members of which having taken the vows of a religious order were reckoned as dead persons in law. See 1 Bl Comm 479.

mortmain statutes. Statutes having the purpose of preventing an uneconomic accumulation of property in control of corporations, either lay or ecclesiastical. *Perin v Carey* (US) 24 How 465, 16 L Ed 701, 708. The British statutes, 15 Rich. II, ch. 5 (in Am J2d Desk Book Document 107) and 9 George II, ch. 36.

The purpose of the British mortmain act, 9 George 2, chap. 36, was to prevent property from falling into "dead" or unserviceable hands, such as a charitable use was deemed to be. *Yates v Yates* (NY) 9 Barb 324, 333.

mortua manu. See **in mortua manu**.

mortuary. A place to which dead bodies may be taken for keeping before burial or cremation. A kind of ecclesiastical heriot in the form of a customary gift claimed by and due to the minister in many parishes on the death of a parishioner. See 2 Bl Comm 425.

mortuary tables. Same as **mortality tables**.

mortuo vadio. See **estate in mortuo vadio**.

mortuum vadium. Dead pledge. A landed security known to the common law; a feoffment on condition that the feoffor might re-enter if he paid to the feoffee a certain sum of money at a certain date. 36 Am J1st Mtg § 12.

mortuus. Dead.

Mortuus est. He is dead.

Mortuus exitus non est exitus. A dead issue is not an issue; a child born dead is no child.

mortuus sine prole. Dead without issue.

Moslem. See **Mohammedanism.**

mos pro lege. Custom instead of law. mosquito regulation. A health regulation respecting

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water in which the larvae of the mosquito may be nourished. *Territory v Araujo*, 21 Hawaii 56.

Mos retinendus est fidelissimae vetustatis. A custom of truest antiquity should be preserved.

most favored nation clause. The clause of a treaty between two nations under which either of the parties or its diplomatic or consular representative is entitled to all the rights and privileges of those of the nation most favored by a treaty made with it by the other party. 4 Am J2d Ambss § 19.

mostrencos. (Spanish.) Estrays; waifs.

most significant contract theory. A recently formulated principle of conflict of laws, that in determining the law applicable to the execution, interpretation, validity, and performance of a contract, the court shall look to the law of the place which has the most significant contacts with the matter in dispute. 16 Am J2d Confl L § 42.

mote. A very small particle. (Saxon.) A meeting; a court; a popular assembly.

mot en mot. See **de mot en mot.**

motel. A structure in several separate units, located along the highway or close to a highway, at which motorists may obtain lodging with parking space and, in some instances, meals. A place of accommodation where lodgings are available for hire, with a minimum of personal service furnished by the proprietor. *Schermer v Fremar Corp.* 36 NJ Super 46, 114 A2d 757.

mothball fleet. Ships of the Navy taken out of service but held to await necessity for further service.

mother. The female parent.

mother country. In popular usage, England. More precisely, in reference to any part of the United States, the country from whose dominion such part was taken, for example, the status of Mexico in reference to California. 29 Am J2d Ev § 50.

mother-in-law. The mother of one's husband or of one's wife.

mother's natural guardianship. The succession of the mother to the guardianship of her natural children upon the death of her husband and their father, upon his abandonment of the family, or upon his removal from the guardianship of the children by the court. 25 Am J1st G & W § 7.

mother's pension. A means whereby mothers who are without means of support for their children may maintain the family relation not subject to the disgrace attendant on support furnished under the poor law; a provision for the payment of a definite sum, to be fixed by some public agency or court, for the mother and each child, leaving the mother free to spend the money in her own way. *State ex rel. Stearns County v Klasen*, 123 Minn 382, 143 NW 984.

mother state. The state from which the state of the forum was formed, for example, the status of Virginia in reference to West Virginia. *Martin v Baltimore & O. R. Co.* 151 US 673, 38 L Ed 311, 14 S Ct 533.

motion. The means of presenting a proposition in a meeting conducted according to parliamentary procedure. An application, normally incidental to an action, made to a court or judge for the purpose of obtaining an order or rule directing something to be done in favor of the applicant. 37 Am J1st Motions § 3.

For particular motions, see the specific relief demanded, such as **more specific statement; judgment on the pleadings, nonsuit, etc.**

motion costs. The cost pertaining to the bringing on and hearing of a motion. 20 Am J2d Costs § 9.

motion of court. See **own motion.**

motion picture. See **moving picture.**

motion day. A day appointed by the court for the hearing of motions.

motion man. The status of one working premises as a licensee under license granted by the owner, particularly one working a quarry. *Rockport v Rockport Granite Co.* 177 Mass 246, 254.

motion of course. A motion which the opposite party cannot resist without supporting affidavits.

motivation test. A test applied in determining the application of a guest statute to a paying passenger in a motor vehicle, according to whether or not the expectation of payment or compensation was "the" or "the sole" motivating factor for the furnishing of the transportation. *McCann v Hoffman*, 9 Cal 2d 279, 70 P2d 909.

motive. The reason which leads the mind to desire a result. *Baker v State*, 120 Wis 135, 97 NW 566. The moving cause which induces action, having wholly to do with desire. 26 Am J1st Homi § 36. The power which impels to action for a definite result; that which leads or tempts the mind to indulge in a criminal act. 21 Am J2d Crim L § 85. The object and purpose of contracting parties. 17 Am J2d Contr § 246.

motive power. The power to move something, such as a vehicle, a bus a railroad train, or an airplane. 44 Am J1st RR § 402.

motor. A source of power; the engine of a motor vehicle.

motorboat. Literally a boat or small craft having a motor or engine for power. For the purposes of regulations prescribed by federal statute, every vessel propelled by machinery and not more than 65 feet in length, except tugboats or towboats propelled by steam, including a boat temporarily or permanently equipped with a detachable motor. 46 CFR § 24.10-17.

Motorboat Act. A federal statute regulating the operation of motorboats in order to promote safety in recreational boating and to encourage uniformity of regulation among the states and the federal government. 12 Am J2d Boats § 4.

See **Boating Act.**

motorbus. See **bus.**

motorcar. An automobile. A self-propelled car running on a railroad track.

motor carrier. A carrier by motor vehicle. A carrier operating one or more motor vehicles for the purpose of carrying passengers or freight or both, for hire and profit, over the public highways as a transportation roadbed. *Barbour v Walker*, 126

Okla 229, 259 P 552. The term includes both a common carrier by motor vehicle and a contract carrier by motor vehicle. Section 303(a) of the Motor Carrier Act of 1935; Interstate Commerce Com. (DC Okla) 41 F 268.

Motor Carrier Act. A comprehensive federal statute applicable to motor carriers transporting passen-

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gers or property in interstate or foreign commerce. 49 USC §§ 301 et seq.

motor carrier transportation agent. A person who acts as an intermediary between the public and a motor carrier in arranging for transportation. *Francis v Allen*, 54 Ariz 377, 96 P2d 277, 126 ALR 190.

motorcycle. A two-wheeled automotive vehicle having one or two riding saddles and sometimes having a third wheel for the support of a sidecar. 7 Am J2d Auto § 2. Not a motor-driven car. Anno: 138 ALR 420; 38 ALR2d 882.

motor-driven car. An automobile. An automobile having a body and cover for the convenience and protection of persons riding in it. 29A Am J Rev ed Ins § 1239.

motorman. A person who operates a streetcar, being in control of the motive power and brakes and under responsibility of maintaining a lookout for persons on the tracks.

motor number. The number given a motor vehicle by the manufacturer, such being normally embossed upon the engine or motor.

motor train. A railroad motorcar with or without trailers attached, but operated as a train. Anno: 45 ALR2d 438.

motor transportation. The business of carrying passengers or freight in powered vehicles.

motor transportation company. A corporation which provides or furnishes transportation service for hire for the public in general. *Affiliated Service Corp. v Public Utilities Com.* 127 Ohio St 47, 186 NE 703, 103 ALR 264.

motor truck. See **motor vehicle; truck.**

motor vehicle. An automobile; any vehicle powered by a motor, such as a truck or bus. *State v Ridinger (Mo)* 266 SW2d 626, 42 ALR2d 617. Any vehicle propelled by power, other than muscular power, except a traction engine or such motor vehicle as runs only upon rails or tracks. *People v Smith*, 156 Mich 173, 120 NW 581. For some purposes, a tool or implement. 31 Am J2d Exemp § 62.

Motor Vehicle Theft Act. A federal statute, commonly known as the Dyer Act, making it an offense to transport in interstate or foreign commerce a motor vehicle, knowing the same to have been stolen, or to receive, conceal, store, barter, sell, or dispose of a motor vehicle which constitutes interstate or foreign commerce, knowing the same to have been stolen. 7 Am J2d Auto § 305.

moulding. Same as **molding.**

mountain time. The time in one of the belts designated for the determination of standard time, such belt being characterized by the Rocky Mountains located therein.

See **standard time.**

mourant. Dying.

movable freehold. A term applied facetiously to land likely to be gained or lost to the owner by the recession or encroachment of the sea or by change in the course of a stream. *Holman v Hodges*, 112 Iowa 714, 84 NW 950.

movable rights. Rights in movables; rights in personal property.

movable property. Personal property, including negotiable instruments. 6 Am J2d Attach § 150.
See **movables**.

movables. Movable property which attends a man's person wherever he goes such as money, clothing, furniture, boats, automobiles, etc. 42 Am J1st Prop § 24. Broadly, personal property.

move. To change position. To change the position of something. To change one's residence or domicil. *Barstow v Stone*, 10 Colo App 296, 52 P 48. To make a motion; to do whatever things are necessary to be done to obtain an order which the moving party desires that the court should make. *O'Hanion v Great Northern Railway Co.* 76 Mont 128, 245 P 518.

See **motions; removal**.

movement freedom. See **freedom of movement**.

movement of traffic. The movement of vehicles upon a street or highway. 25 Am J1st High §§ 204 et seq.

movent. A moving party, a party who makes a motion. movie. A moving picture.

moving building. The operation of moving a building from one location to another, usually, but not necessarily, accomplished with the building remaining intact throughout the operation.

A building may, be "removed," as a building, that is, as a standing building, intact, but that is not the only way. It may be "removed," within the common understanding, by taking the material and reconstructing, or rebuilding it at another locality. *Board of Education v Townsend*, 63 Ohio St 514, 59 NE 223.

moving company. A company engaged in the business of moving goods, particularly household goods and furniture, either short distances or long distances the same company often being engaged also in the storage or warehouse business. Having the status of a common carrier where it holds itself out as engaged in the business for all who choose to employ it. 13 Am J2d Car § 17.

moving in commerce. Being transported or moved in commerce. Not inclusive of the holding of sheep at a commercial stockyard, not for immediate shipment, but for fattening and sale, either locally or at a distant place, at some future time. *Kirk v St. Joseph Stock Yards Co.* (CA8 Mo) 206 F2d 283, 40 ALR2d 980.

moving papers. The affidavits submitted in support of a motion. 37 Am J1st Motions § 14.

moving picture. A form of entertainment; a form of theatrical performance. The casting of photographs or other representations upon a screen in such rapid succession as to create the illusion of moving people or things, usually accompanied in present times by the reproduction of sound. 4 Am J2d Amuse § 2.

moving picture censorship. See **copyright**.

moving picture booker. One employed by a motion picture distributing agency to keep records of films sent from out of the state to the agency, to supervise the supplying of such films to exhibitors, and to direct their transportation. Republic Pictures Corp. v Kappler (CAS Iowa) 151 F2d 543, 162 ALR 228, affd 327 US 757, 90 L Ed 991, 66 S Ct 523, reh den 327 US 817, 90 L Ed 1040, 66 S Ct 804.

moving picture license. A license required by a municipal corporation of one exhibiting moving pictures as a business. 4 Am J2d Amuse § 30.

moving picture show. An entertainment offered to the public by way of an exhibition of moving pictures. A place where motion pictures are exhibited

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for the purpose of amusement and entertainment; a public place of amusement. State v Morris, 28 Idaho 599, 155 P 296.

See **moving picture.**

moving picture rights. The right to reproduce in a moving picture, with or without sound, a substantial part of the story told in a literary work. Anno: 23 ALR2d 267.

moving picture theater. A theater in which the entertainment offered consists of moving pictures.

See **moving picture show.**

moyen. Same as **mesne.**

m.p. Abbreviation of melting point, used in scientific works.

M.P. Abbreviation of Military Police. Abbreviation of member of parliament.

m.p.h. Abbreviation of miles per hour.

Mr. Abbreviation of mister.

Mrs. The title preceding the name of a married woman.

ms. Abbreviation of manuscript.

MS. Abbreviation of motor ship.

M.S. Abbreviation of Master of Science.

M.S.T. Abbreviation of mountain standard time.

mud guards. Rear wheel protectors on motor vehicles, otherwise known as splash guards, to prevent so far as practicable, the throwing of dirt, water, or other materials on pedestrians and other vehicles, particularly the windshields of following vehicles. 7 Am J2d Auto § 159.

muffler. Equipment on the motor of a motor vehicle to prevent excessive noise from the exhaust. 7 Am J2d Auto § 158. Required equipment upon the engine of a motorboat; under some statutes. 12 Am J2d Boats § 12.

mugging. The practice of photographing persons arrested for crime. An assault by throwing an arm around the neck of the victim, usually upon an approach from behind, the purpose being to overpower the victim so that he can be robbed.

mulatto. In the popular sense of the term, a person with mixed white and Negro blood. Precisely, one born of a white parent and a Negro parent. *Daniel v Guy*, 19 Ark 121, 131.

It is contrary to the laws of nature for both parents of a mulatto to be persons of the white race. 10 Am J2d Bast § 43.

mulct. Noun: A fine imposed for an offense; a penalty. *Cook v Marshall County*, 119 Iowa 384, 93 NW 378. Verb: To take by fraud or deceit.

Mulcts damnus famae non irrogat. A fine does not inflict damage upon a person's reputation.

mulct tax. A fine or penalty imposed for the purpose of suppressing certain trades or traffic in certain commodities upon which it is assessed, and as a punishment for engaging in such traffic; as where such a tax is laid on cigarettes in order to suppress the traffic in them. *Cook v Marshall County*, 119 Iowa 384, 93 NW 378. A tax imposed upon person and premises for selling intoxicating liquor in violation of law. 30 Am J Rev ed Intox L § 443.

mule. The hybrid offspring of a jackass and a mare of the horse family. An animal most valuable to the United States Army and to the American farmer prior to the advent of powered vehicles and implements.

See **hinny**.

mulier. A matron. The status at common law of a woman after her marriage to the father of her son born out of wedlock. See 2 Bl Comm 248.

mulier puisne. The status of the younger son born in wedlock of parents whose older son was born out of wedlock. 2 Bl Comm 248.

Muller Rule. The rule that if one with full knowledge of the evil propensities of a dog or other animal either wantonly excites it or voluntarily and unnecessarily puts himself in the way of the animal, he cannot recover from the harbinger for an injury resulting from an attack by the dog or other animal. Anno: 66 ALR2d 930, 968; 4 Am J2d Am § 107.

Malta conceduntur per obliquum quae non conceduntur de directo. Many things are permitted indirectly which are not permitted directly.

Malta fidem promissa levant. Many promises weaken confidence. *Brown v Castles*, 65 Mass (11 Cush) 346, 350.

Malta ignoramus quae nobis non laterent si veterum lectio nobis fait familiaris. We are ignorant concerning many things which would not be obscure to us if the reading of the ancients were familiar to us.

Malta in jure communi contra rationem disputandi pro communi utilitate introducta sunt. Many things have been introduced into the common law which are contrary to logical reason, for the sake of the common welfare.

Malta multo exercitatione facilius quam regulis percipies. You perceive many things much more easily by practice than by rule.

Malta non vetat lex, quae tamen tacite damnavit. There are many things which the law does not forbid, which it nevertheless tacitly condemns.

Malta transeunt cum universitate quae non per se transeunt. Many things pass with the whole which do not pass by themselves.

multifactual statement. A statement of two or more distinct facts, sometimes of fact, argument, and conclusion interwoven. Securities & Exchange Com. v Micro-Moisture Controls (DC NY) 21 FRD 164.

multifariousness. The joining or uniting in a declaration, bill, or complaint of two or more matters which are independent of, or unconnected with, one another. Roney v Chicago Title & Trust Co. 354 Ill 144, 188 NE 194. A term loosely applied to the joinder as defendants or plaintiffs of persons without a common interest in the litigation. Essen v Adams, 342 Mo 1196, 119 SW2d 773, 118 ALR 1393. The joining in a statute of dissimilar and discordant subjects. Boise City v Baxter, 41 Idaho 368, 238 P 1033.

multimember district. A legislative district entitled to two or more members of the legislative body. 25 Am J2d Elect § 25.

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Multi multa; nemo omnia novit. Many persons know many things; no one knows all things.

multiphase. Operating in two or more phases, particularly a flow of electricity. Harrison v Detroit, Y. A. A. & J. R. Co. 137 Mich 78, 100 NW 451.

multiple agency. See **dual agency.**

multiple banking. Banking conducted by means of bank holding companies. 10 Am J2d Banks § 16.

multiple bill of exceptions. One bill embracing several exceptions. 4 Am J2d A & E § 428.

multiple damages. See **double damages; treble damages.**

multiple deeds. The deeds of two or more persons required in the fulfillment of the vendor's obligation under a land contract. 55 Am J1st V & P § 317.

multiple defendants. Two or more defendants in one action.

multiple dwelling. An apartment house; a flat. A tenement house. Any structure for the accommodation of two or more families or households in separate living units.

Multiple dwelling as violation of restrictive covenant using word "house". See Anno: 14 ALR2d 1425.

multiple evidence. Evidence having probative value in more than one phase; sometimes admitted for one specific purpose to which it is confined. Green v Atlantic Coast Line Railroad Co. 136 SC 337, 343, 134 SE 385.

multiple family house. See **multiple dwelling.**

multiple interest. The penalty for usury; interest in twice the amount of the interest received from the victim. 55 Am J1st Usury § 144.

multiple issues. Two or more issues in one case.

multiple liability restriction. A clause in a contract for the renewal of a bond which limits the extent of the liability of the surety. 12 Am J2d Bonds § 46.

multiple libels. A method of proceeding for condemnation of misbranded drugs. 21 USC § 334(a).

multiple licensing. Licensing requirements respecting the same trade, imposed by both municipal and state authorities. 41 Am J1st Plumb § 5.

multiple parties. Two or more parties on one side.

multiple poinding. Double distress,—a Scotch proceeding akin to the modern interpleader, whereby a person in possession of money or goods may have the same distributed to the various claimants who are entitled thereto..

multiple proceedings. See **multiplicity of suits.**

multiple publication rule. The rule that there is a cause of action in favor of the defamed person in every state in which libel is published. Anno: 58 ALR2d 654 § 3.

multiple residence. See **multiple dwelling.**

multiple sclerosis. A disease of the nervous system evidenced by muscular weakness and tremors. Anno: 68 ALR2d 171-176.

multiple sentence. A sentence of one convicted as habitual criminal, providing a penalty equal to double or treble the penalty imposed for the first offense. Anno: 58 ALR 99, s. 82 ALR 379, 116 ALR 236.

multiple signers. Two or more persons signing as makers of a promissory note.

multiple-stage taxes. Sales taxes applicable to the various transactions in the progress of goods from producer or manufacturer to ultimate consumer, such, for example, as sales by or to wholesalers. 47 Am J1st Sales T § 1.

multiple taxation. See **double taxation.**

multiple venue. The venue of a criminal prosecution for an offense which began in one district and ended in another. Anno: 5 L Ed 2d 974.

multiplex. A newly-coined word for a multiple dwelling. The system by which two or even several telephone or telegraph messages may be transmitted over one wire at the same time.

Multiplex et **indistinctum parit confusionem; et questioner quo simpliciores, et lucidiores.** Multiplicity and indistinctness produce confusion; and the more simple questions are, the more lucid they are.

Multiplicita transgressione crescat poenae inflictio. The infliction of punishment should increase with the repetition of the offense.

multiplicates. Two or more copies of a document.

multiplication. The reproduction of copies of literary, artistic, or intellectual works. 18 Am J2d Copyr § 1.

multiplicity of suits. A ground of injunctive relief; something beyond the mere number of suits. 28 Am J Rev ed Inj § 50.

The mere number of actions which might otherwise be brought does not, in and of itself, constitute a ground for equitable jurisdiction, nor is there any fixed number of actions which will constitute a multiplicity of suits so as to require or justify the assumption of equitable jurisdiction. In order for equity to act on the ground of avoidance of a multiplicity of actions, there must exist in the situation presented to the court something more than the mere number of actions to be avoided, such as the necessity of relief against repeated wrongs, and in any event there must be a community of right, interest, or issues in an action in equity. 27 Am J2d Eq § 48.

multiseller. A gambling device. 24 Am J1st Gaming § 28.

multistate corporation. A corporation incorporated under the laws of more than one state. Re Lyon, 144 App Div 104, 128 NYS 1004.

Multitudinem decem faciunt. Ten make a multitude.

Multitudo errantium non parit errori patrocinium. The multitude of erring persons does not furnish an excuse for error.

Multitudo imperitorum perdit curiam. A multitude of unskillful practitioners ruin a court.

multitude of suits. A number of suits, but to be distinguished from multiplicity of suits from the standpoint of equity jurisdiction. 27 Am J2d Eq § 48.

multiversity. A word newly coined for a university containing many schools, colleges, and depart-

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ments, and attended by an overwhelming number of students.

multi will. A will executed by more than one testator; a joint will.

multo fortiori. With much more force; much more forcibly.

Multo utilius est pauca idonea effundere, quam multis inutilibus homines gravari. It is much more useful to bring forth a few worthy things than that men should be burdened with many useless things.

multure. A payment which was made in grain for the grinding of grain.

mund. (Saxon.) Peace.

mundbrye. (Saxon.) A breach of the peace.

munera. Plural of moons.

municeps. (Roman law.) A citizen of a town; a person qualified to hold office.

municipal. Pertaining to the internal government of a state or nation; pertaining to a town or city or to its local government. 37 Am J1st Mun Corp § 3. Belonging to a city, town, or place having the right of local government; belonging to or affecting a particular state or separate community; local; particular; independent.

The word is usually applied to what belongs to a city, but has a more extensive meaning, and is in legal effect the same as public or governmental, as distinguished from private. *Cook v Portland*, 20 Or 580, 27 P 263.

The word strictly applies only to what belongs to a city. The word is derived from the Latin word "municipium," meaning a city. In modern times, however, the word municipal has expanded in its meaning and it extends to that which pertains to the state as well as that which pertains to the city, as distinguished from that which is international. *Winspear v Holman*, 37 Iowa 542, 544.

municipal affairs. The internal business affairs of an incorporated town or city.

An exhaustive account of matters which have been held to come within this definition and of others which have been held not to come within it, will be found in the opinion of Timlin, J., in *State, ex rel. Mueller v Thompson*, 149 Wis 488, 137 NW 20.

municipal aid. The aid or assistance of a municipality given to a private enterprise, usually to cause it to locate therein. Aid formerly extended to a railroad company for the purpose of obtaining railroad service or connections. 44 Am J1st RR § 50.

municipal aid bonds. See **aid bonds; private object.**

municipal bond. A public security; a bond issued by a municipality. An evidence of indebtedness issued as one of a series of instruments issued at the same time by a city, town, or other corporate public body, negotiable in form, payable at a designated future time, and intended for sale in the market with the object of raising money for a municipal improvement the expense of which is beyond the immediate recourses of reasonable taxation, and payment of which of necessity or reason should be distributed over a period of years. 43 Am J1st Pub Sec § 6.

municipal bounty. See **local bounty.**

municipal bylaw. A term used in England and to some extent in this country for what is better known as a municipal ordinance. 37 Am J1st Mun Corp § 142.

municipal commissioners. See **commissioners of municipality.**

municipal contract. A public contract. A contract entered into by a municipal corporation. 38 Am J1st Mun Corp §§ 493 et seq.

municipal corporation. A body politic and corporate constituted by the incorporation of the inhabitants of a city or town for the purposes of local government thereof. A city or town or the local government thereof. Anno: 108 ALR 577 (within meaning of tax exemption statute.) A territorial or political subdivision established by the state for the purpose of administering local government. *Lane v Minnesota State Agri. Soc.* 62 Minn 175, 64 NW 382. The body politic created by organizing the inhabitants of a prescribed area, under the authority of the legislature, into a corporation with all the usual attributes of a corporate entity, but endowed with a public character by virtue of having been invested by the legislature with subordinate legislative powers to administer local and internal affairs of the community, and established as a branch of the state government to assist in the civil government of the state. 37 Am J1st Mun Corp § 3.

This term includes a county in that it also is a subdivision of the state. *Williams v Wylie*, 217 SC 247, 60 SE2d 586, 21 ALR2d 717.

See **municipal purposes.**

municipal corporation by prescription. A municipal corporation which has exercised its powers so long without objection upon the part of the state government that, although no charter is in existence, it is presumed that it was duly incorporated in the first place and that the charter has been lost. 37 Am J1st Mun Corp § 10.

municipal corporation de facto. The kind of municipal corporation which results when the people of a city, town or village have attempted to incorporate themselves under a statute which authorized such action, and have actually used and exercised the franchise of a municipal corporation by virtue of such proceedings, although the proceedings were so irregular that the validity of the corporation can be successfully attacked in a proceeding brought for that purpose by the state. 37 Am J1st Mun Corp § 13.

municipal corporation proper. A conventional municipal corporation as distinguished from a municipal corporation de facto or a quasi municipal corporation.

municipal corporations acts. General laws under which cities and towns may be incorporated and governed.

municipal court. A local court created by statute, the jurisdiction of which is usually limited as to territorial ambit, and often as to the subject matter of litigation, sometimes being confined to that of a police court for the enforcement of municipal ordinances and regulations. State, ex rel. Stark v McArthur, 13 Wis 383, 386, but which may be extended, the state constitution permitting, to constitute general jurisdiction. 20 Am J2d Cts § 30.

municipal debt limit. See **limitation of indebtedness.**

municipal debt readjustment. A proceeding by an insolvent public debtor under the Bankruptcy Act

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to preserve assets and obtain a composition of indebtedness. 9 Am J2d Bankr §§ 1411 et seq.

municipal domicil. Domicil in a city or other municipality. 25 Am J2d Dom § 12.

municipal election. An election of municipal officers or of such municipal officers as are to be elected at one time.

municipal franchise. A franchise granted by a municipality.

See **franchise.**

municipal functions. Powers and duties bestowed and imposed upon a city for the specific benefit and advantage of the urban community embraced within the corporate boundaries. Lob v Jacksonville, 101 Fla 429, 134 So 205, 79 ALR 459.

municipal hospital. A hospital maintained by a municipality.

municipality. An incorporated city, village, or town.

See **municipal corporation.**

municipal judge. The judge of a municipal court.

municipal law. In the most narrow sense of the term, the law pertaining to municipal corporations. In a more accurate sense, the law of a municipality, a state, even the nation, as distinguished from international law.

Strictly, this expression denotes the particular customs of one single municipium or free town, but it may with propriety be applied to any one state or nation, which is governed by the same laws and customs, and thus understood, it is properly defined to be a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong. See 1 Bl Comm 44.

See **civil law.**

municipal lighting plant. A public utility owned or operated by a city, village, or town for the generation and sale of electric power.

municipal note. A note for money borrowed by a municipal corporation, usually payable and issued to a single investor and maturing at a date earlier than a bond issue. 43 Am J1st Pub Sec § 11.

municipal offense. An offense committed against a particular state of the Union or against a separate community. Cook v Portland, 20 Or 580, 27 P 263.

municipal officer. An officer whose duties and functions relate exclusively to the local affairs of a municipal corporation, and in whose conduct and administration of his office the municipality alone is interested. 37 Am J1st Mun Corp § 233. With less refinement, an officer elected or appointed as an officer of a municipality, albeit he has many duties involving the enforcement of state law. 42 Am J1st Pub Of § 21.

municipal order. Same as **municipal warrant**.

municipal ordinance. See **ordinance**.

municipal power. A matter of a grant of authority by the legislature, except as a degree of local sovereignty is granted by home rule provisions of the Constitution or where there prevails in the jurisdiction the principle of recognizing inherent right of local self-government with respect to municipal matters. 37 Am J1st Mun Corp § 111.

municipal purposes. Corporate purposes of a municipal corporation; purposes and activities designed primarily for the exclusive or principal benefit of the inhabitants of a particular municipality. 51 Am J1st Tax § 387. Public or governmental purposes, as contradistinguished from private purposes.

A corporation created for municipal purposes is a corporation created for public or governmental purposes, with political powers to be exercised for the public good in the administration of civil government, whose members are citizens, not stockholders. Cook v Portland, 20 Or 580, 27 P 263.

See **corporate act**.

municipal records. The books of record of the transactions of towns, city councils, and other municipal bodies, either executive or legislative in nature. 45 Am J1st Recds § 3.

municipal securities. Bonds issued by cities and towns.

See **municipal bond**.

municipal warrant. An order drawn by one municipal officer on another, in the disbursement of the funds of the municipality and payment of its indebtedness. A means of drawing money from the treasury. 43 Am J1st Pub Sec § 10.

See **warrant**.

municipal waterworks. A waterworks owned and operated by a municipal corporation. 56 Am J1st Watwk § 24.

municipia. (Roman law.) Plural of municipium.

municipium. (Roman law.) A town the inhabitants of which were Roman citizens, but were governed by their own magistrates and laws; a free town.

muniment. The evidence or writing whereby a man is enabled to defend the title to his estate. *United States v Lancaster* (CC Ga) 44 F 885.

muniment of title. A document evidencing title. A title deed or other original document which, taken with other documents, shows a chain of title. 55 Am J1st V & P § 178.

See **title deeds**.

munitions. Supplies for waging war or equipping a military force, especially weapons and ammunition. 56 Am J1st War § 157.

munus. A gift; a feudal grant.

mur. A wall.

murage. A payment of money in lieu of **murorum operatio**.

mural monuments. Monuments built in walls.

mural painting. A painting on a wall or ceiling.

murder. A technical term or word of art which can be defined with particularity only by resort to the specific statute in the jurisdiction involved. *Re Kirby*, 162 Cal 91, 121 P 370. At common law, the killing of one human being by another with malice aforethought, either express or implied, that is, with deliberate intent or formed design to kill. 26 Am J1st Homi § 11; *Wiley v State*, 19 Ariz 346, 170 P 869; *Commonwealth v Buzard*, 365 Pa 511, 76 A2d 394, 22 ALR2d 846. The intentional killing of a human being without legal justification or excuse and under circumstances insufficient to reduce the crime to manslaughter. 26 Am J1st Homi § 11.

murder in the first degree. Murder with malice aforethought, the unique characteristic of which is deliberation or premeditation, a design or purpose to take life. 26 Am J1st Homi § 38.

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murder in the second degree. The killing of a person by intent but without premeditation or deliberation, or, as otherwise stated, without malice aforethought or express malice. 26 Am J1st Homi § 38. Roughly stated, any offense of murder not in the first degree. Murder without express malice or a state of facts justifying or excusing the killing or reducing the offense to manslaughter. Often defined by statute as the killing of a person perpetrated by any act imminently dangerous to others and evidencing a depraved mind regardless of human life, although without any premeditated design to effect the death of any person. 26 Am J1st Homi § 43.

murdrare. To murder.

murdre. Murder.

murdritor. A murderer.

murdrum. The ancient Teutonic name which was applied to an amercement which the vill in which a moerda or secret killing was committed, was liable to pay; or, if the vill was too poor, the whole hundred was amerced. See 4 Bl Comm 194.

mure. Same as **mur**.

murorum operatio. A feudal service consisting of labor in the repair and construction of walls and fortifications.

Murphy bed. A wall bed; a folding bed. *Murphy Wall Bed Co. v Levin*, 57 Ont LR 105, 14 BRC 395, [1925] 3 DLR 107.

murrey. Blood color.

murthrum. Murder.

musculoskeletal conditions. Physical disabilities, such as those of shoulder, elbow, hip, knee, leg and foot. Anno: 2 ALR2d 309 § 4; 22 Am J2d Damg § 124.

museum. A place for the exhibition of articles of interest, whether by way of entertainment or instruction.

musical composition. A tune or melody represented in characters depicting notes, pitch, time, etc. on a staff which are to be followed by player of instrument or singer. A proper subject of copyright. 18 Am J2d Copyr § 36.

An intellectual creation which first exists in the mind of the composer; he may play it for the first time upon an instrument. It is not susceptible of being copied until it has been put in a form which others can see and read. The copyright law has not provided for the protection of the intellectual conception apart from the thing produced. *White-Smith Music Publishing Co. v Appolo Co.* 209 US 1, 17, 52 L Ed 655, 662, 28 S Ct 319.

musical instrument. A contrivance by which musical sounds are produced. *Dunbar v Spratt-Snyder Co.* 208 Iowa 490, 226 NW 22, 63 ALR 1016.

music broadcast. See **broadcasting.**

music school. A school for instruction in the use of musical instruments or in singing.

must. Indicating compulsion. Ordinarily a mandatory word. 50 Am J1st Stat § 28. In a statute, calling for substantial rather than literal compliance. *Herron v Harbour*, 75 Okla 127, 182 P 243, 29 ALR 905 (statute prescribing the form of an acknowledgment).

A statutory provision may be directory, rather than mandatory, in nature, notwithstanding use of the word "must." *Re Johnson* (ND) 75 NW2d 313, 55 ALR2d 1049.

muster. To bring together for a purpose, particularly that of military service or service as seamen on a vessel. The gathering together of men by military order at military camp for the purpose of selecting, and of subsequently training, those who on examination appear to possess the necessary qualifications for military service. *Bannister v Soldiers Bonus Board*, 43 RI 346, 112 A 422, 13 ALR 589. Precisely, the final selection of a person called for military duty as a person fit for service, and the actual enrollment of such person in the military service. 36 Am J1st Mil § 8.

Being derived from the Latin word "monstrare," meaning "to show," the word "muster" by itself may doubtless be applied to a parade of soldiers already enrolled, armed, and trained, but the addition of the preposition of motion removes all ambiguity, and "mustering into the service," or "mustering in," clearly implies that the persons mustered are not already in the service. *Tyler v Pomeroy*, 90 Mass (8 Allen) 480, 498.

A soldier is said to be "mustered into service" when he is actually called, or ordered, into actual military service. Such service begins on the date when the man is sworn in and becomes a soldier. Anno: 9 ALR 25.

mustered into federal service. Actual enrollment in the armed service of the United States Government; something more than being called for military duty and sent to a training camp for physical examination with the possibility of rejection as physically

unfit for military service, without ever having been placed on a muster role. *Bannister v Soldiers Bonus Board*, 43 RI 346, 112 A 422, 13 ALR 589.

mustered into service. See **muster; mustered into federal service.**

mustering out. The discharge or separation of a person from service in the Armed Forces.

mustering-out pay. A lump-sum payment paid to a member of the Armed Forces upon his discharge or separation from the service. 56 Am J1st Vet & V A § 4.

muster-roll. A roll or list of the men mustered for service.

mustizo. The issue of a Negro and an Indian. *Miller v Dawson*, 13 SC Eq (Dud) 174, 176.
See **mestizo.**

mutation. A change; an exchange; a transfer; a conveyance. In biology, a change in inheritable characteristics, occurring suddenly, as by radiation.

mutation of libel. The amendment of the libel in an admiralty suit.

mutatio nominis. (Civil law.) A change of name.

mutatis mutandis. Those things being changed which should be changed; the respective differences taken into consideration; changed according to circumstances; with the necessary changes.

Mutato nomine de to fabula narratur. The story was told of you under a different name.

mute. Adjective: Silent. Noun: A person without the power of speech.
See **standing mute.**

mutilate. To tear or destroy in part; to render imperfect.

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mutilated tickets. Railroad tickets which have been so handled or treated as to be deprived of some essential or material part. *Young v Central of Georgia R. Co.* 120 Ga 25, 47 SE 556.

mutilation of corpse. The wrong, for which civil liability is imposed, of wilfully, recklessly, wantonly, unlawfully, or negligently dismembering or disfiguring by cutting, scratching, or mishandling the body of a dead person. 22 Am J2d Dead B § 31. The criminal offense of dissecting or dismembering, without authority, the dead body of a person. 22 Am J2d Dead B § 49.

mutilation of instrument. Any physical act, falling short of the destruction of the instrument, whereby a written instrument is rendered imperfect. *Woodfill v Patton*, 76 Ind 575. Tearing or obliterating parts of a will. 57 Am J1st Wills §§ 493, 513.

mutiny. The usurpation by force, fraud, or intimidation of the command of a vessel from the master or other lawful officer in command, or the act of depriving him of authority and command on board, or the act of resisting or preventing him in the free and lawful exercise of his authority and command, or the act of transferring such authority and command to another not lawfully entitled thereto. 18 USC § 484.

The word is sometimes used as synonymous with the word "insurrection." *McCargo v New Orleans Ins. Co.* (La) 10 Rob 202.

Engaging in a sit-down strike and taking possession of the ship in defiance of the ship's officers are acts constituting at least prima facie evidence that the crew was guilty of mutiny. *Peninsular & Occidental S.S. Co. v NLRB* (CA5) 98 F2d 411.

mutual. The same on both sides of a transaction or relationship, whether it be a matter of affection, aversion, assistance, or advantage; reciprocal. *Sharon v Sharon*, 79 Cal 1, 16 P 345.

mutual account. An account in which items are debited and credited on both sides. 1 Am J2d Acctg § 5. With more elaboration, an account arising where there are mutual dealings between two persons and the account is allowed to run with a view to an ultimate adjustment of the balance; an account on which the items on either side belong and on which they operate to extinguish each other pro tanto, so that the balance on either side is the debt between the parties. 1 Am J2d Acctg § 5.

To render an account mutual within the meaning of the statute of limitations, there must be an alternate course of dealing between the parties, giving rise to cross demands upon which they might respectively maintain actions, and there must be a mutual agreement, express or implied, that the items of the account upon the one side and the other are to be set against each other. 34 Am J1st Lim Ac § 97.

mutual advantage rule. A rule for testing the status of a person in a particular situation.

Under this rule the true test of whether the user of an appliance is an invitee or licensee is whether the owner receives benefit or advantage from the permitted use; if so, the user is an invitee; if not, he is a licensee. *Arthur v Standard Engineering Co.* 89 App DC 399, 193 F2d 903, 32 ALR2d 408.

mutual assent. A meeting of the minds; consent. 17 Am J2d Contr § 18. Agreement. *Martin v Thrower*, 3 Ga App 784, 60 SE 825.

mutual benefit bailment. A bailment for compensation; a bailment in which the parties contemplate some price or compensation in return for benefits flowing from the fact of bailment. *Armored Car Service, Inc. v First Nat. Bank* (Fla App) 114 So 2d 431.

mutual benefit certificate. See **certificate of membership**.

mutual benefit society. A voluntary association or corporation formed and organized, aside from accompanying fraternal objectives, solely for the purpose of rendering financial aid or other assistance to their members, or certain designated beneficiaries of the latter, when visited by sickness, death, or other misfortune specifically designated. 36 Am J2d Frat O § 1.

The organization is commonly based upon the lodge system, with a graduated series of central or governing bodies, throughout which a representative form of government ordinarily prevails; that is, the directors, delegates, and other officers who have general charge and control of the property and business of the society and the management of its affairs are chosen by the members or their selected representative. 36 Am J2d Frat O § 1.

"Mutuality" is a term which designates payment for fraternal life insurance in exact proportion to its cost. If a fraternal benefit society lacks mutuality in payment for insurance afforded, it faces inevitable ruin. If some pay adequately and others do not, there is still want of mutuality and financial ruin of the society, though postponed, is none the less inevitable. *Jenkins v Talbot* (Ill) 170 NE 735.

mutual combat. A combat into which the parties enter willingly; a combat with the mutual intent to fight. *State v Moss*, 24 NM 59, 172 P 199.

mutual conditions. Concurrent conditions. Conditions such that the performance of one, which rests upon a party to a contract, is a condition precedent to the performance of the other as undertaken by the other party to the contract. 17 Am J2d Contr § 321.

mutual contract. A contract binding upon both parties, and which is capable of specific performance by each party against the other, or for damages for failure to perform the contract. *Jordan v Indianapolis Water Co.* (Ind App) 61 NE 12, 15.

Indeed, any valid contract is a mutual contract, since it is essential that it bind both parties.

mutual covenants. Covenants in the nature of mutual conditions, the performance of the one being a condition precedent to the obligation of performance of the other. 20 Am J2d Cov § 9.

mutual credit. A knowledge on both sides of an existing debt due to one party, and a credit by the other party, founded on, and trusting to such debt, as a means of discharging it. This definition is not quite broad enough to cover all the cases, where there being a connection between the demands, equity acts upon it, and allows a setoff under particular circumstances. Courts of equity deviate from the strict rule of mutuality when the justice of the particular case requires it. *Scott v Armstrong*, 146 US 499, 507, 36 L Ed 1059, 1062, 13 S Ct 148.

See **mutuality of parties and demands.**

mutual demands. Reciprocal demands existing between the same persons at the same time. 20 Am J2d Countcl § 74.

See **mutual credit; mutuality of parties and demands.**

mutual easements. Servitudes arising upon the acceptance by the grantee of a deed containing a cove-

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nant binding both grantor and grantee. *McFarland v Hanley* (Ky) 258 SW2d 3.

mutual fund. Another term for investment trust.

mutual insurance. Insurance under the policies of a mutual insurance company, that is, one operating on a mutual basis rather than for the purpose of profits benefiting stockholders.

See **mutual insurance company; reciprocal insurance.**

mutual insurance company. A cooperative enterprise wherein the members constitute both insurer and insured, where the members all contribute, by a system of premiums or assessments, to the creation of a fund from which all losses and liabilities are paid, and wherein the profits are divided among themselves in proportion to their interests. 29 Am J Rev ed Ins § 89. Better known, as an insurance company which is not a stock insurance company, that is, one operating on a mutual basis rather than one operating for a profit to be paid to stockholders.

mutuality. The condition of being mutual, two persons bearing the same relationship toward each other in reference to a particular right or obligation; sharing a common burden or enjoying a common benefit on the same basis. The essential of a binding contract.

mutuality of consent. A meeting of the minds in assent. *Caldwell v Cline*, 109 W Va 553, 156 SE 55, 72 ALR 1211.

mutuality of contract. A meeting of the minds of the parties, that is, mutual assent. 17 Am J2d Contr §18; 55 Am J1st V & P § 14.

See **mutuality of obligation.**

mutuality of demands. See **mutual credits; mutual demands; mutuality of parties and demands.**

mutuality of estoppel. The quality of reciprocity, neither party being bound unless the other party is bound.

An equitable estoppel operates neither in favor of, nor against, strangers, that is, persons who are neither parties nor privies to the transaction out of which the estoppel arose. 28 Am J2d Estop § 115.

mutuality of obligation. The characteristic of binding effect of a contract on both parties, 17 Am J2d Contr § 11; 46 Am J1st Sales § 61, or an undertaking on one side and a consideration on the other. 17 Am J2d Contr § 11; 49 Am J1st Spec Per § 34.

It is a rule of law that there must be mutuality in a contract; that is, it must be binding upon both parties at the same time, if it is to be deemed valid and enforceable as to either. *Butterick Publishing Co. v Whitcomb*, 225 Ill 605, 80 NE 247.

mutuality of parties and demands. A matter of demands between the same parties in the same capacity at the same time and mutuality as to the quality of the right. 20 Am J2d Council § 74.

The setoff or counterclaim must be such a demand that defendant, in his own name, or in the names of defendants sued, without bringing in the name of a stranger to the suit, may maintain an action upon it against a party, or all parties suing, as the case may be. Less than that is not mutuality. 20 Am J2d Council § 74.

Two persons are said to be mutually indebted when each of them owes a debt to the other. The debts may be simple contract, covenant or judgment,—but the demands must come under the classification of debts. A demand of damages for a tort is not a debt. *Caldwell v Ryan*, 210 Mo 17, 108 SW 533.

mutuality of remedy. Each party to a bilateral contract having the opportunity to compel performance of the promise to him. *Philadelphia Ball Club v Lajoie*, 202 Pa 210, 51 A 973. A doctrine asserted in cases of specific performance. The availability to both parties of the remedy of specific performance, or its equivalent in actual performance, at the time of the commencement of the suit or at the time of the decree. 49 Am J1st Spec Per §§ 35-37.

mutual life insurance company. A life insurance company which, while operating upon an old line basis with fixed premiums, cash surrender values, and policies issued strictly on an actuarial basis, has no stockholders its insureds, as members, taking the place of stockholders, is operated on the distinctive basis that net profits from operation shall inure entirely to members or insureds in the form of annual dividends.

See **mutual benefit society**.

mutually indebted. See **mutual credits; mutual demands; mutuality of parties and demands.**

mutual mistake. A mistake which is reciprocal and common to all of the parties to a transaction. 27 Am J2d Eq § 33. A mistake of fact common to both parties to a contract, by reason of which each party has done what neither intended. *Buol Machine Co. v Buckens*, 14 Conn 639, 153 A2d 826. A mistake which is reciprocal and common to both parties to an instrument, each alike laboring under the same misconception in respect to the terms of the instrument. 45 Am J1st Reform Inst § 56. A mistake of all parties to an instrument, on account of which the instrument does not conform to or express their intention or agreement, as where by mistake some material part of a deed is omitted or the instrument is drawn to convey a different interest or a greater or lesser estate than was agreed upon by the parties. 23 Am J2d Deeds § 155.

mutual negligence. See **contributory negligence**.

mutual, open, and current account. A mutual account which has not been closed, settled, or stated, but in which the inclusion of further dealings between the parties is contemplated. 34 Am J1st Lim Ac § 96.

mutual promises. The promises of contracting parties, the promise by one party being the consideration for the promise by the other. 17 Am J2d Contr § 104.

mutual subscriptions. The promises of persons subscribing to a fund for the accomplishment of a common object which can only be accomplished through their aggregate efforts, the obligation of each constituting a sufficient consideration for the obligation of another. 50 Am J1st Subscr § 14.

mutual tax exemption. An exemption from taxation created by a contact between states relative to the property of the one state in the other state. Anno: 134 ALR 1417, 1423.

mutual telephone company. An association or corporation conducting a telephone business or maintaining and servicing certain telephone lines, not for profit, merely for the purpose of maintaining telephone service for its members. 52 Am J1st Teleg & T § 8.

mutual trust. See **reciprocal trust**.

mutual utility. See **co-operative utility**.

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mutual wills. Sometimes called twin wills. Wills executed pursuant to an agreement between two or more persons to dispose of their property in a particular manner, each in consideration of the other. Anno: 169 ALR 12, 13. Wills executed with a common intention on the part of the testators, irrespective of whether there is a contract between them. Anno: 169 ALR 12, 13.

Mutual wills may be in separate instruments or in the same instrument. Anno: 169 ALR 13.

See **reciprocal wills**.

mutuant. The person making a loan of the chattel under a mutuum.

See **mutuum**.

mutuari. To borrow.

mutuary. A term of the Roman or Continental law which applies to the person receiving a chattel or chattels delivered in the relation known as a mutuum. 8 Am J2d Bailin § 37. The person to whom the chattel is lent under a mutuum.

See **mutuum**.

mutuel. See **pari-mutuel**.

mutuo. See **ex mutuo**.

mutus. Dumb; mute.

mutus et surdus. Dumb and deaf.

mutuum. A relation known to the Roman or Continental law; a loan of a chattel for consumption or appropriation by the person receiving the article to his own use. 8 Am J2d Bailm § 37.

my creditors. A phrase inclusive of both individual and partnership creditors. *Moody v Downs*, 63 NH 50.

myelitis. Inflammation of the spine. *Wabash Western Railway Co. v Friedman*, 41 Ill App 270, 273.

my estate. An expression having reference, as it appears in a will, to the estate of the testator in probate. 28 Am J1st Inher T § 504.

my hand. See **witness my hand.**

my hand and seal. See **witness my hand and seal.**

my just debts. See **just debts of decedent.**

mynute. Midnight.

my personal estate. The property owned personally by the person, without reference to whether it is real estate or personal property. Davison v Sparrow (App) 44 Ohio Ops 226, 58 Ohio L Abs 529, 97 NE2d 694.

myself. See **self.**

myself note. A promissory note payable to the maker's own self.

mystery. Something unknown; something kept secret. A person's trade, art, or occupation; such as merchant, mercer, tailor, painter, clerk, schoolmaster, husbandman, or the like. State v Bishop, 15 Me 122, 124.

mystic testament. A term apparently peculiar to the state of Louisiana, referring to a so-called secret will for the execution of which there are statutory requirements distinctive to such form of will, concerning the closing of the instrument by folding it or the placing of the instrument in an envelope and the signing, sealing, and attestation of the folded instrument or envelope. Lewis' Heirs v His Executor, 5 La 387, 393.

mythological name. A name taken from mythology, especially mythology of the ancient Greeks. Hygeia Distilled Water Co. v Hygeia Ice Co. 72 Conn 646, 45 A 957.