

LAWYERS

Lawyers

Because law is complex and because most people are involved in legal actions only rarely, professionals are needed to study law and handle legal matters for other people. Lawyers advise individuals and organizations on the requirements of law, draft legal documents, and plead cases in court.

Another name for lawyer is attorney. Strictly speaking, an attorney is one who acts for another, an appointed agent. Someone so appointed who is not a lawyer is sometimes called an attorney-in-fact, as distinguished from an attorney-at-law.

Some lawyers maintain a general practice to assist the public in all matters of ordinary law. But many lawyers, because of the complexity of the field, become specialists in such areas as tax law, administrative law, family law, labor law, corporation law, criminal law, contract law, or other branches.

A substantial number of lawyers form partnerships, or law firms, because by law they are not usually permitted to form corporations. The reason for this is that shareholders in a corporation have limited liability, or legal responsibility, for the actions of the corporation, but lawyers are supposed to be fully liable for their actions. They may be deprived of their licenses to practice law if they fail to represent their clients properly. In some states lawyers may now form special corporations to take advantage of federal income tax provisions, but in these corporations the lawyer-shareholders have unlimited liability, just as in a partnership. (*See also* Corporation.)

Because so much of American public and private life revolves around law and the court systems, there are far more lawyers per person in the United States than in any other country: a total of about 756,000 in 1990, which is believed to be more lawyers than in the rest of the world's nations combined. Although no clear proof is available, American lawyers seem to have a higher economic and social status than lawyers elsewhere perhaps because of greater diversity of opportunities. In Communist countries, lawyers are few in number, and the courts are run, in part at least, by laymen. In China, civil cases are often decided by groups of people drawn from the neighborhood.

Careers in Law

Legal education varies from country to country. In England, law can be studied in college and a bachelor's degree is awarded, usually after four years. But additional training is required to become an experienced, practicing lawyer. The graduate is articulated, or apprenticed, to one or more senior lawyers for at least a year before being licensed to practice as a solicitor. Solicitors may not represent clients in court; only barristers may do that. There are associations of barristers who control the admission of candidates to argue cases in the courts. This situation of having the legal profession divided into solicitors and barristers is called a split bar. Some other European countries also have a split bar. In France, for example, only a special group of lawyers *avocats*, meaning "advocates" are licensed to argue in court.

In the United States, lawyers are required to be college graduates and to attend a law school for three years. Upon graduating from law school, the student receives the degree of *Juris Doctor* (doctor of law). In addition, the law school graduate must pass an examination before being admitted to the bar. (The legal profession is called the bar because, when the profession was developing in England many centuries ago, there was a fence in courtrooms separating the judges' area from the rest of the room. This fence was called the bar, and it became customary to say that a lawyer was called to the bar, meaning he was called upon to practice his profession.)

Whereas in England, the practice of law is regulated by associations of barristers, in the United States it is governed by the courts. Bar associations in the United States may discipline a lawyer or recommend disbarment, but the courts have the final say in the disposition of the matter.

The field of law is so vast that lawyers, in addition to going into private practice or joining law firms, find employment in other ways. Some work exclusively for corporations. Others work in all branches at every level of government. Each government department usually has a full-time legal staff. A legal education is also useful in other occupations. About 10 percent of the chief executive officers of large corporations are lawyers. Most politicians and many bankers, stockbrokers, and businessmen have had a legal education.

Thomas M. Stanton

Law Terms

acquittal. The action taken by a jury when, upon trial, they find that the accused is not guilty and enter a verdict accordingly.

administrator. A person appointed by probate court to manage and to distribute the estate of a person who has died without a will; distinguished from an executor.

affidavit. A written statement which is sworn to before an officer who has authority to administer an oath.

alias. A description of the defendant that results from adding to his real name other names by which he is known.

alibi. Proof offered by one accused of a crime that he was in a different place from that at which the crime was committed at the time it was committed.

alien. A resident of a country who was born outside that country and who has not become a naturalized citizen.

arraignment. The calling of a prisoner before a judge (sitting in his courtroom) to answer the accusations contained in an indictment.

arson. Under common law, the malicious burning of the house owned by another person; under statutes, the house need not be one owned by another person.

assault. Force unlawfully directed or applied to another under circumstances of personal violence.

assignment. Transfer of a property right or title to some particular person under an agreement, usually in writing.

attachment. Preliminary legal seizure of property to force compliance with a decision which may be obtained in a pending suit.

bailment. Delivery of possession of, but not title to, tangible personal property by one person to another under an agreement that it will be held in trust for a special purpose and that it will be returned when the purpose has been accomplished.

bankruptcy. The condition of being unable to pay one's debts as they become due.

bench warrant. An order issued by a judge for the attachment or arrest of a person.

bequest. A gift by will of personal property. A bequest is the same as a legacy.

blue laws. A name applied to certain laws, originally in force in the New England states, which were extremely rigorous.

brief. A written or printed argument furnished to the court by an attorney which sets forth the pertinent facts of the case being tried and the laws applicable to it.

carte blanche. Unlimited authority granted by one person to another to impose conditions which will be binding upon the person granting such authority.

chattel. Personal property, movable or immovable, which is less than a freehold; for example, a book, a coat, a pencil, growing corn, a lease.

codicil. A written instrument that adds to or qualifies a last will and testament.

common law. The body of law which includes both the unwritten law of England and the statutes passed before the settlement of the United States.

confiscation. Appropriation of private property for public use without compensation.

contempt of court. Any willful disobedience to, or disregard of, a court order or any misconduct in the presence of a court; punishable by fine or imprisonment or both.

contract. An agreement between two or more competent persons to do or not to do some lawful act for a consideration.

copyright. The exclusive privilege of printing, publishing, and vending copies of writings or drawings.

corespondent. A term sometimes applied to a third person, who is accused of committing unlawful acts with the defendant, by the party seeking a divorce from the defendant.

corporation. A fictitious legal person which has rights and duties independent of the rights and duties of real persons and which is legally authorized to act in its own name through duly appointed agents.

decree. The judgment or sentence of a court of equity which corresponds to the judgment of a court of law.

deed. A written document for the transfer of land or other real property from one person to another. A quitclaim deed conveys only such rights as the grantor has. A warranty deed conveys specifically described rights which together comprise good title.

de facto. A term used to denote a thing done in fact but without strict legal authority as contrasted with *de jure*, which denotes a thing done according to law.

de jure. For discussion, *see de facto*.

dower. The provision which the law makes for the support of a widow during her lifetime out of income produced by the real estate owned by her husband during the marriage. This provision for the support of a widow is usually favored over the claims of her deceased husband's creditors.

easement. A right enjoyed by the owner of one parcel of land, by reason of this ownership, to use the land of another for a special purpose.

endorsement (also **indorsement**). The act of transferring title to a written negotiable instrument by having the temporary owner write his name on the back of the document.

equity. A system of law designed to furnish remedies for wrongs which were not legally recognized under the common law of England or for which no adequate remedy was provided by the common law.

escrow. A written agreement between two parties providing that a third party hold money or property until the conditions of the agreement are met.

estate. A term commonly used to denote the sum total of all types of property owned by a person at a particular time, usually upon his death.

evidence. In law, all facts, testimony, and documents presented for the purpose of proving or disproving a question under inquiry.

executor. In law, the person designated by a testator in his will to carry out the terms of that instrument.

ex officio. Term used to designate powers exercised by public officials by virtue or because of the office they hold.

ex parte. Term used to designate action taken by one party in the absence of the opposite party, usually after giving notice.

ex post facto. Term used to designate action taken to change the effect given to a set of circumstances. This action relates back to a prior time and places this new effect upon the same set of circumstances existing at that time.

extradition. The surrender by one state to another of a person charged with a crime. This surrender is made in response to the demand of the latter state that the accused be returned to face the charge.

felony. A serious crime, such as murder, larceny, or robbery, punishable by death or by imprisonment in a state or federal penitentiary.

fine. Payment of money demanded of a person convicted of a crime or a misdemeanor; the fine is imposed by a court as punishment.

fixture. An article which was once a chattel but which has now become a part of the real estate because the article is permanently attached to the soil or to something attached to the soil.

foreclosure. The legal process by which the mortgagor's equitable or statutory right to redeem mortgaged property is terminated.

forgery. The act of making or altering a written instrument for the purpose of fraud or deceit; for example, signing another person's name to a check.

freehold. An interest in land which permits the owner to enjoy possession of real estate during his life without interference from others.

garnishment. The process by which a judgment creditor seizes money, which is owed to his judgment debtor, from a third party known as a garnishee.

grand jury. At common law, a group of persons consisting of not less than twelve nor more than twenty-four who listen to evidence and determine whether or not they should charge the accused with the commission of a crime by returning an indictment. The number of members on a grand jury varies in different states.

guarantee. In law, a contract under which one person agrees to pay a debt or perform a duty if the other person who is bound to pay the debt or perform the duty fails to do so.

habeas corpus. An order signed by a judge directing a sheriff or other official, who has a person in his custody, to bring that person before the court to determine whether or not he should be released from custody.

hearsay. That kind of evidence which is not entirely within the personal knowledge of the witness but is partly within the personal knowledge of another person.

heir. At common law, this term was restricted to lawfully born children who could inherit land from an ancestor; under statutes, it includes all those who have the right to inherit from a deceased person.

honorarium. Money or other valuable property given in gratitude for services rendered; for example, payments to ministers for presiding at weddings.

indemnity. An agreement whereby one party agrees to secure another against an anticipated loss or damage.

indictment. A formal written charge against a person which is presented by a grand jury to the court in which the jury has been sworn.

injunction. A court order which restrains one of the parties to a suit in equity from doing or permitting others who are under his control to do an act which is unjust to the other party.

ipso facto. By the fact itself or by the very nature of the case.

joint tenancy. A method by which one person mutually holds legal title to property with other persons in such a way that when one of the joint owners dies his share automatically passes to the surviving joint owners by operation of law.

judgment. The declaration, by a court, of the rights and duties of the parties to a lawsuit which has been submitted to it for decision.

larceny. Illegal taking and carrying away of personal property belonging to another with the purpose of depriving the owner of its possession.

lease. An instrument conveying the possession of real property for a fixed period of time in consideration of the payment of rent.

libel. In law, a false defamation expressed in writing, printing, or picture which injures the character or reputation of the person defamed or which exposes him to public ridicule; distinguished from slander.

lien. In law, the right to retain the lawful possession of the property of another until the owner fulfills a legal duty to the person holding the property, such as the payment of lawful charges for work done on the property.

manslaughter. The unlawful killing of a human being without malice or premeditation; distinguished from murder, which requires malicious intent.

misdemeanor. A crime less serious than a felony which is punishable by fine or imprisonment in a city or county jail rather than in a penitentiary.

murder. For discussion, see manslaughter.

notary public. An official authorized by the state to attest or certify legal documents.

option. A contract whereby one person purchased the right for a certain time, at his election, to purchase property at a stated price.

patent. A grant made by the government to one or more individuals entitling them to exercise some privilege not granted to others during the period they are so authorized to exercise that privilege.

perjury. The offense of willfully making a false statement when one is under oath to tell the truth.

per se. By or of itself; for example, slander per se, where the words spoken are obviously defamatory and the injured party is not required to prove damage to his character.

per stirpes. Term used to designate a system of inheritance under which children take among them the share which their parent would have taken had he survived the decedent. Thus the children are said to claim their shares by representing their parent.

power of attorney. An instrument by which one person authorizes another to act for him in a manner which is as legally binding upon the person giving such authority as if he personally were to do the acts.

precedent. The body of judicial decisions in which were formulated the points of law arising in any case.

prima-facie evidence. Evidence that is sufficient to raise a presumption of fact or to establish the fact in question unless rebutted.

probate. In law, the process of proving before a probate court that a will has been properly executed according to the statutory requirements.

pro rata. Term used to designate the system of distributing the assets of an estate in equal proportion among all the members of the same class of beneficiaries.

replevin. A proceeding employed by a party to regain possession of personal property which was illegally taken from him.

sedition. Conduct which is directed against a government and which tends toward insurrection but does not amount to treason. Treasonous conduct consists of levying war against the United States or of adhering to its enemies, giving them aid and comfort.

slander. In law, a false defamation (expressed in spoken words, signs, or gestures) which injures the character or reputation of the person defamed; distinguished from libel.

subpoena. An order directed to an individual commanding him to appear in court on a certain day to testify in a pending lawsuit.

summons. The proceeding to commence an action in a court of law which consists of a notice to the defendant requiring him to serve an answer to the complaint.

testator. One who has made a last will and testament.

title. The sum total of legally recognized rights to the possession and ownership of property.

tort. In law, a wrong or injury which does not grow out of a breach of contract and for which one is entitled to damages; for example, fraud, slander, or libel.

trespass. In law, an unlawful intentional intrusion upon another's property or person.

venue. The county in which the facts are alleged to have occurred and in which the trial will be held.

verdict. The unanimous decision made by a jury and reported to the court on matters lawfully submitted to them in the course of the trial of a case.