
CAPITAL, adj. Affecting or relating to the head or life of a person; entailing the ultimate penalty. Principal; leading; chief; as "capital burgess." 10 Mod. 100.

Capital Assets

Capital Gains

Capital Impairment

Capital Increase
An increase not attributable to earnings. In re Luoders' Estate, 337 Pa. 155, 10 A.2d 415, 417.

Capital Investment

Capital Outlay

Capital Punishment

Capital Recovery
Collection of charged-off bad debt where
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Comprehensive Study of The Law of the Land
Part X: Amendment 5
Sunday, September 21, 2014 1 p.m. — 3 p.m
Blog Talk: Mhhs—Eyes Wide Open
Chat Room OR Call In: 347 945-5899


Capital Stock
The term has various meanings. It may mean: amount fixed by charter to be subscribed and paid in or secured to be paid in by shareholders. State ex rel. Corinne Realty Co. v. Becker, 320 Mo. 908, 380, 8 S.W.2d 970, 971. Amount of stock that corporation may issue. Schwemer v. Fry, 212 Wis. 88, 249 N.W. 62, 90 A.L.R. 308; amount subscribed, contributed or secured to be paid in. Haggard v. Lexington Utilities Co., 260 Ky. 261, 84 S.W. 2d 84, 87; Person v. Board of State Tax Com’rs, 184 N.C. 549, 115 S.E. 336, 346; capital. Central Illinois Public Service Co. v. Swartz, 284 Ill. 762, 769.

Southern Package Corporation v. State Tax Commission, 195 Miss. 864, 15 So.2d 436; fund employed in carrying on business or enterprise. Chicago, M., St. P. & P. R. v. Harmon, 89 Mont. 1, 295 P. 762, 769; liability of the corporation to its shareholders, after creditors’ claims have been liquidated, Department of Treasury of Indiana v. Crowder, 214 Ind. 252, 15 N.E.2d 89, 91; valuation of the corporation as a business enterprise. Commonwealth v. Columbia Gas & Electric Corporation, 336 Pa. 209, 8 A.2d 404, 410.

Capital Stock Tax

Capital Surplus

Criminal— n. One who has committed a criminal offense; one who has been legally convicted of a crime; one ad-


CRIMINAL, adj. That which pertains to or is connected with the law of crimes, or the administration of penal justice, or which relates to or has the character of crime. Charleston v. Beller, 45 W.Va. 44, 30 S.E. 152; Van Riper v. Constitutional Government League, 1 Wash.2d 635, 96 P.2d 588, 591, 125 A.L.R. 1100. The word is defined as of the nature of or involving a crime; more generally, of the nature of a grave offense; wicked. Van Riper v. Constitutional government League, 1 Wash.2d 635, 591, 125 A.L.R. 1100.

Criminal Act
A term which is equivalent to crime; or is sometimes used with a slight softening or glossing of the meaning, or as importing a possible question of the legal guilt of the deed. The intentional violation of statute designed to protect human life is criminal act. State v. Agnew, 202 N.C. 755, 164 S.E. 578, 579.

Criminal Action
The proceeding by which a party charged with a public offense is accused and brought to trial and punishment is known as a "criminal action." Pen.Code Cal. § 683. A criminal action is (1) an action prosecuted by the state as a party, against a person charged with a public offense, for the punishment thereof; (2) an action prosecuted by the state, at the instance of an individual, to prevent an apprehended crime, against his person or property. Code N.C. 1883, § 129, C.S. § 395.

Criminal Assault and Battery
An accused may be guilty of a "criminal assault and battery" if he intentionally does an act which by reason of its wanton and grossly negligent character exposes another to personal injury and in fact causes injury. State v. Linville, 150 Kan. 617, 95 P.2d 332, 334.

Criminal Case
An action, suit, or cause instituted to pun-


Criminal Charge

Criminal Court
One where criminal cases are tried and determined, not one where civil cases are tried, or persons charged with criminal offenses are held for action by proper authority. Hobart v. First Criminal Judicial Dist. of Court of Bergen Cou-V, 10 N.J.Misc. 723, 160 A. 674, 675.

Criminal Information
A criminal suit brought, without interposition of a grand jury, by the proper officer of the king or state. Cole, Cr.Int.; 4 Bla.Com. 398.

Criminal Instrumentality Rule
Where the wrong is accomplished by a crime, the crime and not the negligent act of the party which made it possible is the "proximate cause". Foutch v. Alexandria Bank & Trust Co., 177 Tenn. 348, 149 S.W.2d 76, 85.

Criminal Intent
The intent to commit a crime; malice, as evidenced by a criminal act; an intent to deprive or defraud the true owner of his property. People v. Borden’s Condensed Milk Co., 165 App.Div. 711, 151 N.Y.S. 547, 549; State v. Howard, 162 La. 719, 111 So. 72, 76.

Criminal Malversation
Criminal Motive

"Criminal motive" is the inducement, existing in the minds of persons, causing them to intend, and afterward to commit, crime. State v. Richardson, 197 Wash. 157, 84 P.2d 699, 703.

Criminal Procedure

The method pointed out by law for the apprehension, trial, or prosecution, and fixing the punishment, of those persons who have broken or violated, or are supposed to have broken or violated, the laws prescribed for the regulation of the conduct of the people of the community, and who have thereby laid themselves liable to fine or imprisonment or other punishment. 4 Amer. & Eng. Enc. Law, 730.

Criminal Proceeding

One instituted and conducted for the purpose either of preventing the commission of crime, or for fixing the guilt of the person already committed and punishing the offender; as distinguished from a "civil" proceeding, which is for the redress of a private injury. Mossew v. United States, C.C.A. N.Y., 266 F. 18, 22, 11 A.L.R. 1261. Strictly, a "criminal proceeding" means some step taken before a court against some person or persons charged with some violation of the criminal law. McGoldrick v. Downs, 184 Misc. 168, 53 N.Y.S.2d 333, 336.

Compensation

Indemnification; payment of damages; making amends; making whole; giving an equivalent or substitute of equal value; that which is necessary to restore an injured party to his former position; consideration or price of a privilege purchased; equivalent in money for a loss sustained; equivalent given for property taken or for an injury done to another; giving back an equivalent in either money which it is but the measure of value, or in actual value otherwise conferred; recompense in value; recompense or reward for some loss, injury, or service, especially when it is given by statute; remuneration for the injury directly and proximately caused by a breach of contract or duty; remuneration or satisfaction for injury or damage of every description; that return which is given for something else. An act which a court orders to be done, or money which a court or other tribunal orders to be paid, by a person whose acts or omissions have caused loss or injury to another, in order that thereby the person damnedified may receive equal value for his loss, or be made whole in respect of his injury. Railroad Co. v. Denman, 10 Minn. 280 (Gil. 208); Hughson Condensed Milk Co. v. State Board of Equalization, 23 Cal.App.2d 281, 73 P.2d 290, 292.

"Compensation" is a misleading term, and is used merely for lack of a word more nearly expressing the thought of the law which permits recovery for an imponderable and intangible thing for which there is no money equivalent. Stutsman v. Des Moines City Ry. Co., 180 Iowa, 524, 163 N.W. 580, 585.

The word "compensation," as used in Workmen's Compensation Acts, means the money relief afforded an injured employee or his dependents according to the scale established and for the persons designated in the act, and not the compensatory damages recoverable in an action at law for a wrong done or a contract broken. Christensen v. Morse Dry Dock & Repair Co., 214 N.Y.S. 732, 740, 216 App. Div. 274.

As used in Workmen's Compensation Acts, "compensation" is distinguishable from "benefits"; the former applying to an allowance where the employee is only injured, and the latter applying in case of death. Terry v. General Electric Co., 232 N.Y. 120, 133 N.E. 373, 374. The term "compensation" may include filnteral benefits. Donoho v. Atlantic Basin Iron Works, 206 N.Y.S. 494, 495, 210 App. Div. 535. But see Barber v. Estey Organ Co., 100 Vt. 72, 135 A. 1, 2; Industrial Commission v. Hammond, 77 Colo. 414, 236 P. 1006, 1008.

In the constitutional provision for "just compensation" for property taken under the power of eminent domain, this term means a payment in money. Any benefit to the remaining property of the owner, arising from public works for which a part has been taken, cannot be considered as compensation. Railroad Co. v. Burkett, 42 Ala. 83. As compared with consideration and damages, compensation, in its most careful use, seems to be between them.

Consideration is amends for something given by consent, or by the owner's choice. Damages are amends exacted from a wrong-doer for a tort. Compensation is amends for something which was taken without the owner's choice, yet without commission of a tort. Thus, one should say, consideration for land sold; compensation for land taken for a railway; damages for a trespass. But such distinctions are not uniform. Land damages is a common expression for compensation for lands taken for public use. Abbott.

"Compensation" is distinguishable from "damages," inasmuch as the former may mean the sum which will remunerate an owner for land actually taken, while the latter signifies an allowance made for individual injury. Droge v. Min. & Mex. Ry. Co., 154 Mo. 137, 53 S.W. 157, 55 L.R.A. 781.
The ordinary meaning of the term "compensation," as applied to officers, is remuneration, in whatever form it may be given, whether it be salaries and fees, or both combined. State v. Bland, 91 Kan. 160, 136 P. 947, 949. It is broad enough to include other remuneration for official services; State ex rel. Emmons v. Farmer, 271 Mo. 306, 196 S. W. 1106, 1108; such as mileage or traveling expenses Leckency v. Post Printing & Publishing Co., 65 Colo. 443, 176 P. 490, 492; and also the reimbursement of amounts expended. Compare, however, People v. Chapman, 225 N.Y. 700, 122 N.E. 240; McCoy v. Handlin, 35 S.D. 487, 153 N.W. 361, 371, L.R.A.1915E, 858, Ann.Cas.1917A, 1046. But the term is not necessarily synonymous with "salary." See People v. Wemple, 115 N.Y. 302, 22 N.E. 272; Com. v. Carter, 21 Ky.L.Rep. 1509, 55 S.W. 701; Crawford County v. Lindsay, 11 Ill.App. 261; Kilgore v. People, 76 Ill. 548.

A "reasonable compensation" is that which will fairly compensate the laborer when the character of the work and the effectiveness and ability entering into the service are considered. Chapman v. A. H. Averill Machinery Co., 28 Idaho, 121, 152 P. 573, 575. Compensation is not synonymous with "pension," which is ordinarily a gratuity from the government or one of its subordinate agencies in recognition of, but not in payment for, past services. Dickey v. Jackson, 181 Iowa 1155, 165 N.W. 387, 389.

The Civil, Scotch, and French Law Recognition—set off. The meeting of two debts due by two parties, where the debtor in the one debt is the creditor in the other; that is to say, where one person is both debtor and creditor to another, and therefore, to the extent of what is due to him, claims allowance out of the sum that he is due. Bell; 1 Kames, Eq. 395, 396.

In order for "compensation" to take place, the two debts must exist simultaneously and have as their object the payment of a sum of money or a certain quantity of consumable things of one and the same kind, and the debts must be equally liquidated and demandable. Blanchard v. Bank of Morgan City & Trust Co., La.App., 185 So. 120. Compensation is of three kinds—legal, or by operation of law; compensation by way of exception; and by reconvention. Stewart v. Harper, 16 La.An. 181; Blanchard v. Cole, 8 La. 158; 8 Dig. 16, 2; Code, 4, 31; Inst. 4, 6, 30; Burge, Suret. b. 2, c. 6, p. 181; La.Civ.Code, arts. 2203-2208 (Civ.Code, arts. 2207-2211).

Deprived—To take. The term has this meaning in a constitutional provision that no person shall be "deprived of his property" without due process of law, and denotes a taking altogether, a seizure, a direct appropriation, dispossession of the owner. Brown v. City of Atlanta, 167 Ga. 416, 145 S.E. 855, 857. It connotes want of consent. Scandell v. State, 104 S.E. 587, 571, 115 S.C. 168, 13 A.L.R. 1268.

Grand Jury—A jury of inquiry who are summoned and returned by the sheriff to each session of the criminal courts, and whose duty is to receive complaints and accusations in criminal cases, hear the evidence adduced on the part of the state, and find bills of indictment in cases where they are satisfied a trial ought to be had. They are first sworn, and instructed by the court. This is called a "grand jury" because it comprises a greater number of jurors than the ordinary trial jury or "petit jury." At common law, a grand jury consisted of not less than twelve nor more than twenty-three men, and this is still the rule in many of the states, though in some the number is otherwise fixed by statute; thus in Oregon and Utah, the grand jury is composed of seven men; in South Dakota, not less than six nor more than eight; in Texas, twelve; in Idaho, sixteen; in Washington, twelve to seventeen; in North Dakota, sixteen to twenty-three; in California, nineteen; in New Mexico, twenty-one. See Ex parte Bain, 121 U.S. 1, 7 S.Ct. 781, 30 L. Ed. 849; In re Gardiner, 64 N.Y.S. 760, 31 Misc. 364; Finley v. State, 61 Ala. 204;


Indictment—An accusation in writing found and presented by a grand jury, legally convoked and sworn, to the court in which it is impaneled, charging that a person therein named has done some act, or been guilty of some omission, which, by law, is a public offense, punishable on indictment. Kennedy v. State, 86 Tex.Cr.R. 450, 216 S.W. 1086; State v. Engler, 217 Iowa 138, 251 N.W. 88.

A presentment differs from an indictment in that it is an accusation made by a grand jury of their own motion, either upon their own observation and knowledge, or upon evidence before them; while an indictment is preferred at the suit of the government, and is usually framed in the first instance by the prosecuting officer of the government, and by him laid before the grand jury, to be found or ignored. An information resembles its form and substance an indictment, but is filed at the mere discretion of the proper law officer of the government, without the intervention or approval of a grand jury, and an affidavit is a charge made and preferred by an individual. 2 Story, Const. §§ 1784, 1786; People v. Foster, 198 Cal. 112, 243 P. 667, 670.

In Scotch law. The form of process by which a criminal is brought to trial at the instance of the lord advocate. Where a private party is a principal prosecutor, he brings his charge in what is termed the "form of criminal letters."

Joint Indictment

When several offenders are joined in the same indictment, as when principals in the first and second degree, and accessories before and after the fact, are all joined in the same indictment. 2 Hale, P.C. 173; Brown.

INDICTMENT DE FELONY EST CONTRA PACEM DOMINI REGIS, DRONAM ET DIGNITATEM SUAM, IN GENERE ET NON IN INDIVIDUO; QUIA IN ANGLIA NON EST INTERREGNUM. Jenk. Cent. 205. Indictment for felony is against the peace of our lord the king, his crown and dignity in general, and not against his individual person; because in England there is no interregnum.

Infamous—Shameful or disgraceful. Stevens v. Wilber, 136 Or. 599, 300 P. 329, 330.
Infamous Crime

A crime which entails infamy upon one who has committed it. Butler v. Wentworth, 84 Me. 25, 24 A. 456, 17 L.R.A. 764. The term “infamous” e., without fame or good report—was applied at common law to certain crimes, upon the conviction of which a person became incompetent to testify as a witness, upon the theory that a person would not commit so heinous a crime unless he was so depraved as to be unworthy of credit.

These crimes are treason, felony, and the crimen _Nisi._ Abbott. A crime punishable by imprisonment in the state prison or penitentiary, with or without hard labor, is an infamous crime, within the provision of the fifth amendment of the constitution that “no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury.” Mackin v. U. S., 117 U.S. 348, 6 S.Ct. 777, 29 L. Ed. 909; Brede v. Powers, 263 U.S. 4, 44 S.Ct. 8, 68 L.Ed. 132. It is not the character of the crime but the nature of the punishment which renders the crime “infamous.” Weeks v. United States, C.C.A.N.Y., 216 F. 292, 298, L.R.A. 1915B, 651. But see Drazen v. New Haven Taxicab Co., 95 Conn. 500, 111 A. 861, 864. Whether an offense is infamous depends on the punishment which may be imposed therefor, not on the punishment which was imposed. United States v. Moreland, 258 U.S. 433, 42 S.Ct. 368, 370, 66 L.Ed. 700; De Jianne v. U. S., C.C.A.N.J., 282 F. 737, 740; Le Clair v. White, 117 Me. 335, 104 A. 516, 517. Under the constitution of Rhode Island, a crime, to be “infamous,” must come within the “crimen falsi,” such as forgery, perjury, subornation of perjury, offenses affecting the public administration of justice, or such as would affect civil or political rights, disqualifying or rendering a person incompetent to be a witness or juror. State v. Bussay, 38 R.I. 454, 96 A. 337, 339. By the Revised Statutes of New York the term “infamous crime,” when used in any statute, is directed to be construed as including every offense punishable with death or by imprisonment in a state prison, and no other.

Presentment—Criminal Practice. The written notice taken by a grand jury of any offense, from their own knowledge or observation, without any bill of indictment laid before them at the suit of the government. 4 Bl. Comm. 301; Bennett v. Kalamazoo Circuit Judge, 183 Mich. 200, 150 N.W. 141, 142, Ann.Cas.1916E, 223. Presentments are also made in courts-leet and courts-baron, before the stewards. Steph. Comm. 644.


In an extended sense, the term includes not only presentments properly so called, but also inquisitions of office and indictments found by a grand jury. 2 Hawk. Pl. Cr. c. 25, § 1. An informal statement in writing, by the grand jury, representing to the court that a public offense has been committed which is triable in the county, and that there is reasonable ground for believing that a particular individual named or described therein has committed it. Eason v. State, 11 Ark. 482; State v. Kiever, 90 Md. 165, 44 A. 1043. An accusation of crime, made by a grand jury from their own knowledge or from evidence furnished them by witnesses or by one or more of their members. In re Report of Grand Jury of Baltimore City, 152 Md. 616, 137 A. 370, 372.
7 Lawful Questions:

1. What is the first order as it relates to the People of the 5th Bill of Rights?
2. Does this happen prior to arrest pursuant to the 5th Bill of Rights?
3. What must be obtained prior to any action?
4. Are there any exceptions to the initial procedures of the 5th Bill of Rights?
5. Can anyone be charged with the same crime twice?
   - What is that called?
6. What is it that the People cannot be compelled to do in any criminal case?
   - Give an example of how the people are compelled to do this today?
7. Is there any deprivation that can be imposed on the People pursuant to the 5th Bill of Right?
   - What is protected?
   - Give an example of something that is protected?
   - What might you call that which is protected?

Group Discussion Question

The purpose of the 4th Bill of Rights is to secure People from who and overall assure them of what?

Supreme Laws for Review:

"The Court is to protect against encroachment of constitutionality or secured liberty. It is equivalent to a compulsory production of papers, to make the non - production of them a confession of the allegations which is pretended they will prove. The seizure of compensatory production of a man's private papers to be used in evidence against him is equivalent to compelling him to be a witness against himself, violation of the fifth amendment, and in a prosecution for a crime, penalty or forfeiture is equally within the prohibition of the fifth amendment." Boyd v. United States 116 USR 616

"The Fifth Amendment provides that no person shall be compelled in any criminal case to be a witness against himself. The Amendment not only protects the individual against being involuntarily called as a witness against himself in a criminal prosecution but also privileges him not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings." Lefkowitz v. Turley, 94 S.Ct. 316, 414 U.S. 70 (1973).

"...where the Fifth Amendment privilege against self-incrimination is involved ... this court has always construed its protection to ensure that an individual is not compelled to produce evidence which later may be used against him as an accused in a criminal action... The protection does not merely encompass evidence which may lead to criminal conviction, but includes information which would furnish a link in the chain of evidence that could lead to prosecution, as well as evidence which an individual reasonably believes could be used against him in a criminal prosecution." Hoffman v. United States, 341 U.S. 479, 486, 71 S.Ct. 814, 95 L.Ed. 1, 18(1951)

"The right to travel is a part of the 'liberty' of which the citizen cannot be deprived without the due process of law under the Fifth Amendment" Kent v. Dulles, 357 U.S. 116, 125, 78 S.Ct. 1113, 1118 (1958).