

## **Legal, Obscure and Archaic Terms found in Ancient Land Records**

*Based on: Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern (Revised Fourth Edition, 1968) and other sources extracted from Part IX of: "Using the Records of the East and West Jersey Proprietors" by Joseph R. Klett*

Acre (or English Acre) – A unit of area equal to 43,560 square feet. See Chain and Rod below. An acre equals ten square chains or 160 square rods. A square mile is 640 acres.

Acreage Right (or Land Right) – The share of a land division granted in proportion to the proprietary shares held.

Administrator, Administratrix (often abbreviated Admr) – The person to whom authority to administer and dispose of the estate of a deceased person has been granted by the appropriate court. Compare with Executor.

Alien (or Aliene, Alienate) – To transfer or make over to another; to convey.

Allowances – A deduction of acreage reserved for a specific purpose, such as a public road, highway or right-of-way. In colonial New Jersey, the King's Highways were by law to be six rods (ninety-nine feet) in breadth. If a highway was a property boundary (which was typical), then the allowance would be half this measure, or 49.5 feet.

Appurtenances – That which belongs to something else, as in the rights of way, outbuildings, gardens and orchards, etc., belonging to a property.

Assigns (or Assignees) – Those to whom property or a right has been transferred (as compared to heirs, who hold hereditary rights).

Associates – In early New Jersey, a group of settlers and/or landowners (such as in Elizabeth-Town) who corporately administer local land distribution, etc. See also Charter, Corporation.

Attachment – The act or process of seizing property by judicial order and bringing the same into the custody of the law. See also Lien.

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Bequeath (or Devise) – To give property to another by will. Technically, “bequeath” is used for personal property and “devise” is used for real property.

Bequest (or Devise) – Something bequeathed (or devised); see Legacy.

Bondsman – see Surety.

Caveat – Latin for “let him beware.” Relative to property records, a warning and written notice that surveyed land was previously appropriated (i.e., is already owned), resulting in a resurvey. See also Certificate of Mislocation.

Certificate of Mislocation – Following a resurvey of lands (see Caveat above), a certificate documenting that an earlier survey was proven to contain acreage previously appropriated and crediting the deficient acreage back to the person with the inferior (later) title.

Chain – A measure used by surveyors, typically being twenty-two yards (sixty-six feet) in length. The meaning derives from the (100-link) measuring chains used by surveyors. An area one chain wide by ten chains long equals an acre (see above; see also Link). The use of “chain” can vary by region and time period. Early land descriptions in West Jersey are known to use “chain” to mean a measure of two rods (thirty-three feet) as opposed to four rods.

Charter – A legal instrument by which a sovereign power assures certain rights, liberties or powers. In early New Jersey, charters were granted by the governor to the settlers of new towns. See also Associates, Corporation.

Concession – A grant of privileges by the government.

Condemnation – The process by which the property of a private owner is taken for public use without his consent, i.e., by forced sale.

Confirmation (or Confirmatory Grant, Confirmatory Patent) – A conveyance of property to ensure title (see below), given when a previous conveyance of title is or might be questionable or voidable.

Consideration – The cause, motive, price, or impelling influence which induces a contracting party to enter into a contract or transaction.

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Typically, the sale price paid by the grantee to the grantor; sometimes “love and affection” for a family member.

Conveyance – see Deed.

Corporation – In early New Jersey, an incorporated municipality. See also Associates, Charter.

Deed (or Conveyance, Indenture) – A signed writing whereby title to property is transferred from one to another. Under normal circumstances, deeds will contain only the signature of the grantor (seller). “Indenture” is derived from the practice of cutting or indenting the edges of multiple copies of the document (so they would tally with each other) in instances where the conveyance was from multiple persons. See Part VI.

Devise – see Bequeath.

Devisee – The person to whom lands or other real property are devised or given by will.

Distrain – To take, as a pledge, property of another and keep it until he performs his obligation or until the property is taken by the sheriff. See also Foreclose, Replevin.

Dividend – The share allotted to each of several persons entitled to part of a division of profits or property. See Part VI.

Division – see Partition.

Dower – The provision which the law makes for a widow out of the lands or tenements of her husband, for her support and the nurture of her children.

Easement (or Right-of-Way) – The right of one person or body to use the land of another person for a special purpose.

Ejectment – A legal action to recover possession of land as well as damages resulting from not being able to possess it. See also Eviction, Richard Roe, Trespass.

Eviction – The act of dispossessing a person of lands (in pursuance of a court judgment).

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Enfeoff – To make a gift of tangible inherited property; to invest with a property or fee.

Equity – The monetary value of a property beyond any mortgage debt or liabilities existing on it (see Mortgage, etc., below).

Estate – The nature and extent of an owner's rights with respect to his or her property. Also, all of one's possessions, especially all of the property and debts left by a deceased person.

Et Al – Latin for "and others."

Et Cetera (abbreviated etc. or &c) – Latin for "and the rest"; used in land records to omit lengthy and/or repeated legal text, well-known titles of honor, and so on.

Et Ux(or) – Latin for "and wife."

Executor, Executrix (often abbreviated Exr) – The person appointed to carry out the directions and requests made in a last will and testament, including the disposition of property. Compare with Administrator.

Fallow Land – Barren or unproductive land; land plowed but not sown or left uncultivated/untilled for a year or more.

Fathom – Typically a nautical measure of six feet in length; however, occasionally used as a land measurement meaning a square fathom or thirty-six square feet.

Fee (also Feud, Fief) – A property or estate of inheritance. See also Enfeoff.

Fee Simple – A condition in which the owner is entitled to the entire property with unconditional power of disposition during his life; property clear of any condition or restrictions to particular heirs is held in fee simple.

Foreclose – To terminate the rights of a mortgagor in the property covered by the mortgage (see Mortgage, etc., below; also Distrain, Replevin).

Franchise – A special privilege conferred by the government (on an individual or corporation) which does not belong to citizens generally in the common right. See also Patent.

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Freehold – An estate in land or other real property of uncertain duration (i.e., for life or in fee simple); ownership, as compared to a leasehold.

Freeholder – Originally, a person having title to real property or a specified number of acres.

Furlong – A unit of length equal to 660 feet, or 40 rods/perches (see below). Derived from “furrow long,” meaning the distance that an ox can plow before being rested and turned.

Gore – In old English law, a small, narrow strip of land. Modern usage applies to small, triangular pieces of land such as may be left between surveys and boundary lines which do not meet/close.

Grantee – The person(s) to whom a grant (sale) is made; i.e., the buyer.

Grantor – The person(s) by whom a grant (sale) is made; i.e., the seller.

Habendum – The portion of a land conveyance beginning with the words “To have and to hold...,” being the language that defines the extent of the ownership of the property.

Hawkings – Business or peddling rights belonging to a property.

Headlands – see Upland.

Headright – A grant of property given in fulfillment of certain conditions relating especially to settlement and developing land.

Heir – A person legally recognized to succeed to the property of another person; one who inherits property.

Hereditament – Something inherited or capable of being inherited. See also Inheritance, Legacy.

Highways – see Allowances.

Houselot, Homelot – A property containing a dwelling house, typically within a town settlement, as compared to outlying meadow (see below). See also Messuage.

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Huntings – Hunting rights belonging to a property.

Husbandman – A farmer; originally a tenant who cultivates leased ground.

Improved Land – Land used for the purpose of husbandry whether tillage, meadow or pasture (see definitions).

Indenture – see Deed.

Inheritance – Something that has descended to an heir, whether by will or otherwise. See also Hereditament, Legacy.

John Doe, John Den, John Stiles, Richard Roe, Richard Fen, Richard Miles – Fictitious names used to represent unknown persons in legal proceedings for the purpose of making argument or illustration. Often used in ejectment cases when the plaintiff's lessee or other party is unknown or uncertain.

Joint Tenancy – see Tenancy.

Kill – Dutch for small river or creek. King's Highways – see Allowances.

Land Warrant – see Warrant.

Landmark – A survey mark or monument set in a property line to fix its boundary or the boundary between properties. In colonial surveys, these were frequently piles of stones or marks made on trees.

Lease – Any agreement which gives rise to the relationship of landlord and tenant.

Leasehold – An estate in realty held under a lease; i.e., the right of a tenant for a fixed period of time (as compared to a freehold).

Legacy (or Bequest) – Something disposed of specifically by will, as compared to any inheritance as a legal heir.

Legatee – The person to whom a legacy is given. A residuary legatee inherits the residue or remainder of an estate after all other legacies are disposed of.

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Lessee – The person (tenant) to whom a lease is made.

Lessor – The person who grants a lease; i.e., the owner of the property (landlord).

Letters of Administration, Letters Testamentary (or sometimes Letters Testimonial) – Legal papers granted by a court to either the Administrator or Executor (see above) of an estate, respectively.

License – A grant of permission, e.g. to pursue a business. The term is also occasionally used in early New Jersey land records relative to permission to make a purchase, including a purchase of territory from the Indians.

Lien – A charge or claim for payment of debt or obligation attached as an incumbrance on a property. See also Attachment.

Life Rights or Life Estate – Property ownership whose duration is limited to the natural life of the party holding it.

Link – One hundredth of a chain; i.e., 7.92 inches.

Manucaptor (or Mainpernor) – A person obligated to appear (in court) on behalf of someone under arrest. Similar to bail.

Marsh (sometimes “Marrish”) – An area of low-lying wet land.

Meadow (or Lowland) – A tract of low or level land yielding grasses which are good for hay. See also Upland.

Messuage – A dwelling house with its outbuildings and adjoining lands.

Metes and Bounds – The boundary lines of land with their distances and angles.

Mislocation – see Certificate of Mislocation.

Moiety – One equal half part of a property (whether partitioned or not). Two joint tenants each hold a moiety.

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Morgen – A German and Dutch measure of land equating to roughly two English acres (see above); used frequently in the Bergen settlement in East Jersey.

Mortgage – A conveyance intended to secure the performance of some act (usually the payment of money) and to become void when prescribed terms (e.g., the repayment of loaned money) are satisfied. Typically, this means temporary/partial ownership by the lender, who may take title to the property if the terms of the mortgage are not satisfied as prescribed.

Mortgagee – The person who takes or receives a mortgage; i.e., the one who is granted temporary/partial ownership of the property until the terms are met.

Mortgagor – The person who, having all or some part of the title to a property, by written instrument pledges that property for some particular purpose (e.g., to borrow money).

Neck – A narrow stretch of land (as an isthmus, cape, promontory or mountain pass); also, a narrow body of water between two larger bodies, i.e., a strait.

Order – A directive from a court or other authority to perform an action (e.g., a directive from a proprietary board to issue a dividend or grant a warrant). See Part VI.

Ordinary – A judicial officer with powers in regard to wills, probate, administration, guardianship, etc. In colonial New Jersey, the governor was called the Ordinary General. An ordinary also means a tavern or eating house where regular meals are served.

Partition (or Division) – The dividing of land held by joint tenants (owners) so that they may hold and dispose of their respective parts separately. "Partition" is typically used to refer to a voluntary, not mandated, dividing of property whereas "division" is more frequently used to refer to a parceling of property by commissioners appointed by a court. However, the two terms are often used interchangeably.

Pasture – Ground for the grazing of domestic animals, and including the grass growing upon it.

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Patent – A grant of a privilege, property, right or authority made to one or more individuals by the government or sovereign entity. See Part VI; see also Franchise.

Patroon – The proprietors of certain manors established in the Dutch colony of New Netherland.

Per Stirpes – The standard method of inheritance and division of property, meaning “by root or stock,” whereby the shares of the heirs are based on the share which a predeceased ancestor (typically parent) would have inherited as compared to equal division among living heirs. In other words, if a property is bequeathed to four children and one dies, the heirs of the deceased child divide a fourth part as opposed to having a share equal to the three heirs in the older generation.

Perch – see Rod.

Plantation – A large cultivated estate.

Plat – see Survey.

Planter – A farmer; owner of a plantation.

Pole – see Rod.

Propriety – Property, or a share of property along with the shareholder’s rights.

Quitclaim (or Release) – A discharge of claim or title to a property. The grantor of a quitclaim releases and transfers interest in the property, but does not represent that he/she has a right to it.

Quit-rent – A rent paid by the tenant of a freehold (i.e., on purchased property) to the grantor by which the tenant goes quit and free, that is, discharged from any other rent. See Part VI.

Release – see Quitclaim.

Replevin – An action brought to recover property unlawfully taken. See also Distrain, Foreclose.

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Residuary Legatee – see Legatee.

Resurvey – see Caveat, Certificate of Mislocation.

Return of Survey – see Survey.

Richard Roe, Richard Fen, Richard Miles – see John Doe, etc.

Right-of-Way – see Easement.

Riparian – Relating to land under water or below the high tide line.

Road Return – The record of a survey of the right-of-way for a public road, typically mentioning property owners and/or buildings or other landmarks.

Rod (or Perch, Pole) – A lineal measure of 16.5 feet; four rods equals one chain (see above). All three terms are sometimes used to mean a square rod, which is  $1/160^{\text{th}}$  of an acre or 272.25 square feet of land.

Rood – A unit of area usually equal to 1/4 acre.

Seisin (or Seizin) – Right to immediate possession (in accordance with the nature of the property).

Stirpes – see Per Stirpes.

Surety (or Bondsman, Fellow Bondsman) – One who undertakes to pay money or to do any other act in the event that the principal party responsible fails to do so. Similar to the co-signor of a loan.

Survey – The process by which a parcel of land is measured and its contents ascertained, and the resulting document (also called a plat or plot) recording the boundaries and quantity of land. A return of survey is a certificate issued in fulfillment of a warrant or claim for an allotment of land.

Survivorship – When a person becomes entitled to property by surviving another person (e.g., a spouse) who had an interest in it.

Tenant – One who holds or possesses lands or tenements by any kind of right or title, whether in fee, for life, for years, at will, or otherwise.

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Tenancy – The estate of a tenant. “Joint tenancy” is an estate arising from the purchase by or grant to two or more persons. “Tenancy in common” means that each tenant has a right to occupy the whole in common with his cotenants. A joint tenant can acquire the interest of the other joint tenant by right of survivorship (see above); however, tenants in common do not have this right.

Tenement – Property held by a tenant; everything of a permanent nature on a property. Typically used to mean houses and other buildings.

Testament – A disposition of personal.

Testate – Having died leaving a testament and last will.

Testator, Testatrix – One who makes or has made a testament or last will.

Tillage – Cultivated or tilled land. Compare with Fallow Land.

Title – The right to or ownership in land; the means whereby the owner of lands has legal possession of his property.

Town Grant, Town Lot, Townlands – Lands granted within a planned settlement or additional lands granted to established settlers. In early New Jersey settlements, town lots contained a few acres and a proportion of meadow land was granted to each settler outside the town. See also Headright.

Trespass – Doing an unlawful act or lawful act in an unlawful manner to the injury/damage of another person or his property (see also Ejectment).

Unappropriated (or Undiscovered) Land – Land for which there has been no severance of title from the proprietors.

Undivided Right – A right or title held by two or more tenants in common or joint tenants before partition; a right held jointly (by the same title), whether equal or unequal in value or quantity.

Upland (or Headlands) – The higher part of a region or tract (see also Meadow).

Venue (or Visne) – The geographical division (neighborhood, place or

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county) where an injury is declared to have been done or fact declared to have happened.

Vendue – A sale, generally at public auction.

Warrant (or Land Warrant) – An authority to lay out a parcel of land in compensation for a claim or right (e.g., of a proprietary shareholder), or a part thereof.

Yeoman – In English law, a commoner; a freeholder under the rank of gentleman.