

PROPER

223 Iowa 23, 272 N.W. 126, 130; Southern Motor Lines v. Creamer, Tex.Civ.App., 113 S.W.2d 624, 627.

PROPER PARTY. As distinguished from a necessary party, is one who has an interest in the subject-matter of the litigation, which may be conveniently settled therein; one without whom a substantial decree may be made, but not a decree which shall completely settle all the questions which may be involved in the controversy and conclude the rights of all the persons who have any interest in the subject of the litigation. See Kelley v. Boettcher, C.C.A.Colo., 85 F. 55, 29 C. C.A. 14; Tatum v. Roberts, 59 Minn. 52, 60 N.W. 848.

PROPERTY. That which is peculiar or proper to any person; that which belongs exclusively to one; in the strict legal sense, an aggregate of rights which are guaranteed and protected by the government. Fulton Light, Heat & Power Co. v. State, 65 Misc.Rep. 263, 121 N.Y.S. 536. The term is said to extend to every species of valuable right and interest. McAlister v. Pritchard, 230 S.W. 66, 67, 287 Mo. 494. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with it. Mackeld. Rom. Law, § 265. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things or subjects. Transcontinental Oil Co. v. Emmerson, 298 Ill. 394, 131 N.E. 645, 647, 16 A.L.R. 507. The exclusive right of possessing, enjoying, and disposing of a thing. Barnes v. Jones, 139 Miss. 675, 103 So. 773, 775, 43 A.L.R. 673; Tatum Bros. Real Estate & Investment Co. v. Watson, 92 Fla. 278, 109 So. 623, 626. The highest right a man can have to anything; being used for that right which one has to lands or tenements, goods or chattels, which no way depends on another man's courtesy. Jackson ex dem. Pearson v. Housel, 17 Johns. 281, 283.

The right of property is that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe. It consists in the free use, enjoyment, and disposal of all a person's acquisitions, without any control or diminution save only by the laws of the land. 1 Bl.Comm. 138; 2 Bl.Comm. 2, 15; Great Northern Ry. Co. v. Washington Elec. Co., 197 Wash. 627, 86 P.2d 208, 217.

The word is also commonly used to denote everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal; everything that has an exchangeable value or which goes to make up wealth or estate. It extends to every species of valuable right and interest, and includes real and personal property, easements, franchises, and incorporeal hereditaments. Samet v. Farmers' & Merchants' Nat. Bank of Baltimore, C.C.A.Md., 247 F. 669, 671; Globe Indemnity Co. v. Bruce, C.C.A. Okl., 81 F.2d 143, 150.

Absolute property. In respect to chattels personal property is said to be "absolute" where a man has, solely and exclusively, the right and also

the possession of movable chattels. 2 Bl.Comm. 389. In the law of wills, a bequest or devise "to be the absolute property" of the beneficiary may pass a title in fee simple. Fackler v. Berry, 93 Va. 565, 25 S.E. 887, 57 Am.St.Rep. 819. Or it may mean that the property is to be held free from any limitation or condition or free from any control or disposition on the part of others. Wilson v. White, 133 Ind. 614, 33 N.E. 361, 19 L. R.A. 581.

Common property. A term sometimes applied to lands owned by a municipal corporation and held in trust for the common use of the inhabitants. Also property owned jointly by husband and wife under the community system. See Community.

Community property. See that title.

Ganancial property. See that title.

General property. The right and property in a thing enjoyed by the *general owner*. See Owner.

Literary property. See Literary.

Mixed property. Property which is personal in its essential nature, but is invested by the law with certain of the characteristics and features of real property. Heirlooms, tombstones, monuments in a church, and title-deeds to an estate are of this nature. 2 Bl.Comm. 428, 3 Barn. & Adol. 174; 4 Bing. 106; Minot v. Thompson, 106 Mass. 585.

Personal property. In broad and general sense, everything that is the subject of ownership, not coming under denomination of real estate. A right or interest in things personal, or right or interest less than a freehold in realty, or any right or interest which one has in things movable. Elkton Electric Co. v. Perkins, 145 Md. 224, 125 A. 851, 858. The term is generally applied to property of a personal or movable nature, as opposed to property of a local or immovable character, (such as land or houses,) the latter being called "real property," but is also applied to the right or interest less than a freehold which a man has in realty. Boyd v. Selma, 96 Ala. 144, 11 So. 393, 16 L.R.A. 729; In re Bruckman's Estate, 195 Pa. 363, 45 A. 1078.

That kind of property which usually consists of things temporary and movable, but includes all subjects of property not of a freehold nature, nor descendible to the heirs at law. 2 Kent, Comm. 340.

Personal property is divisible into (1) corporeal personal property, which includes movable and tangible things, such as animals, ships, furniture, merchandise, etc.; and (2) incorporeal personal property, which consists of such rights as personal annuities, stocks, shares, patents, and copyrights. Sweet.

Private property. As protected from being taken for public uses, is such property as belongs absolutely to an individual, and of which he has

the exclusive right of disposition; property of a specific, fixed and tangible nature, capable of being had in possession and transmitted to another, such as houses, lands, and chattels. *Homochitto River Com'rs v. Withers*, 29 Miss. 21, 64 Am.Dec. 126; *Scranton v. Wheeler*, 21 S.Ct. 48, 179 U.S. 141, 45 L.Ed. 126.

Property tax. In English law, this is understood to be an income tax payable in respect to landed property. In America, it is a tax imposed on property, whether real or personal, as distinguished from poll taxes, and taxes on successions, transfers, and occupations, and from license taxes. *Garrett v. St. Louis*, 25 Mo. 510, 69 Am.Dec. 475; *In re Swift's Estate*, 137 N.Y. 77, 32 N.E. 1096, 18 L.R.A. 709.

Public property. This term is commonly used as a designation of those things which are *publici juris*, (*q. v.*), and therefore considered as being owned by "the public," the entire state or community, and not restricted to the dominion of a private person. It may also apply to any subject of property owned by a state, nation, or municipal corporation as such.

Qualified property. Property in chattels which is not in its nature permanent, but may at some times subsist and not at other times; such for example, as the property a man may have in wild animals which he has caught and keeps, and which are his only so long as he retains possession of them. 2 Bl.Comm. 389. Any ownership not absolute.

Real property. Land, and generally whatever is erected or growing upon or affixed to land. *Lanpher v. Glenn*, 37 Minn. 4, 33 N.W. 10. Also rights issuing out of, annexed to, and exercisable within or about land; a general term for lands, tenements, and hereditaments; property which, on the death of the owner intestate, passes to his heir. *Ralston Steel Car Co. v. Ralston*, 112 Ohio St. 306, 147 N.E. 513, 516, 39 A.L.R. 334. In respect to property, *real* and *personal* correspond very nearly with *immovables* and *movables* of the civil law. *Guyot, Répert. Biens*.

Separate property. See that title.

Special property. Property of a qualified, temporary, or limited nature; as distinguished from absolute, general, or unconditional property. Such is the property of a bailee in the article bailed, of a sheriff in goods temporarily in his hands under a levy, of the finder of lost goods while looking for the owner, of a person in wild animals which he has caught. *Stief v. Hart*, 1 N.Y. 20, 24.

PROPINQUI ET CONSANGUINEL. Lat. The nearest of kin to a deceased person.

PROPINQUIOR EXCLUDIT PROPINQUUM; PROPINQUUS REMOTUM; ET REMOTUS REMOTIOREM. Co.Litt. 10. He who is nearer excludes him who is near; he who is near, him who is remote; he who is remote, him who is remoter.

PROPINQUITY. Kindred; parentage.

PROPIOR SOBRINO, PROPIOR SOBRINA. Lat. In the civil law. The son or daughter of a great-uncle or great-aunt, paternal or maternal. Inst. 3, 6, 3.

PROPIOS, PROPRIOS. In Spanish law. Certain portions of ground laid off and reserved when a town was founded in Spanish America as the unalienable property of the town, for the purpose of erecting public buildings, markets, etc., or to be used in any other way, under the direction of the municipality, for the advancement of the revenues or the prosperity of the place. 12 Pet. 442, note.

Thus, there are *solares*, or house lots of a small size, upon which dwellings, shops, stores, etc., are to be built. There are *suertes*, or sowing grounds of a larger size, for cultivating or planting; as gardens, vineyards, orchards, etc. There are *ejidos*, which are quite well described by our word "commons," and are lands used in common by the inhabitants of the place for pasture, wood, threshing ground, etc.; and particular names are assigned to each, according to its particular use. Sometimes additional *ejidos* were allowed to be taken outside of the town limits. There are also *proprios* or municipal lands, from which revenues are derived to defray the expenses of the municipal administration. *Hart v. Burnett*, 15 Cal. 554.

PROPONE. In Scotch law. To state. To *propone* a defense is to state or move it. 1 Kames, Eq. pref.

In ecclesiastical and probate law. To bring forward for adjudication; to exhibit as basis of a claim; to proffer for judicial action.

PROPONENT. The propounder of a thing. Thus, the proponent of a will is the party who offers it for probate (*q. v.*).

PROPORTIONATE. Adjusted to something else according to certain rate of comparative relation. *Hochsprung v. Stevenson*, 82 Mont. 222, 266 P. 406, 408.

PROPORTUM. In old records. Purport; intention or meaning. *Cowell*.

PROPOSAL. An offer; something proffered. An offer, by one person to another, of terms and conditions with reference to some work or undertaking, or for the transfer of property, the acceptance whereof will make a contract between them. *Eppes v. Mississippi, G. & T. R. Co.*, 35 Ala. 33. Signification by one person to another of his willingness to enter into a contract with him on the terms specified in the offer. *Salisbury v. Credit Service, Del.Super.*, 199 A. 674, 681.

In English practice. A statement in writing of some special matter submitted to the consideration of a chief clerk in the court of chancery, pursuant to an order made upon an application *ex parte*, or a decretal order of the court. It is either for maintenance of an infant, appointment of a guardian, placing a ward of the court at the university or in the army, or apprentice to a trade; for the appointment of a receiver, the establishment of a charity, etc. *Wharton*.