IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE COUNCIL, INC., et al., *Plaintiffs*, v. U.S. DEPARTMENT OF THE INTERIOR, et al., *Defendants*.	18-CV-4596 (VEC)
NATIONAL AUDUBON SOCIETY, et al., *Plaintiffs*, v. U.S. DEPARTMENT OF THE INTERIOR, et al., *Defendants*.	18-CV-4601 (VEC)
STATE OF NEW YORK, et al., *Plaintiffs*, v. U.S. DEPARTMENT OF THE INTERIOR, et al., *Defendants*.	18-CV-8084 (VEC)

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July 2011	Robert S. Anderson & Jill Birchell, Prosecuting Industrial Takings of Protected Avian Wildlife, U.S. Att'ys' Bull.	1357-1376
1990	Black's Law Dictionary 1225 (6th ed.)	1377-1378
July 2, 2008	Note No. 005 from Canadian Embassy to State Department	1379-1381
2012	Antonin Scalia & Bryan A. Garner, Reading the Law: The Interpretation of Legal Texts	1382-1398
1934	Webster's Second New International Dictionary	1399-1411
	U.S. Fish and Wildlife Service, Threats to Birds: Migratory Birds Mortality—Questions and Answers	1461-1463
2008	*The Queen v. JD Irving* (New Brunswick Provincial Court)	1696-1704
1913	Webster's Revised Unabridged Dictionary of the English Language	1705-1707

The Department of State acknowledges receipt of diplomatic note No. 0005, dated July 2, 2008, from the Embassy of Canada, concerning U.S.-Canada cooperation on migratory bird issues under Articles II and III of the August 16, 1916, Convention for the Protection of Migratory Birds in the United States and Canada, which states:

"The Embassy of Canada presents its compliments to the Department of State of the United States of America and is gratified by the continuing U.S.-Canada cooperation on migratory bird issues, as contemplated by the August 16, 1916 Convention for the Protection of Migratory Birds in the United States and Canada, as amended December 14, 1995 ("the Convention").

"In Article II of the Convention, the Parties agreed that, to ensure the long-term conservation of migratory birds, migratory birds shall be managed in accordance with the following conservation principles, to: manage migratory birds internationally; ensure a variety of sustainable uses; sustain healthy migratory bird populations for harvesting needs; provide for and protect habitat necessary for the conservation of migratory birds; and restore depleted populations of migratory birds.

"Article II of the Convention establishes that the means to pursue these principles may include, but are not limited to: monitoring, regulation, enforcement and compliance; co-operation and partnership; education and information; incentives for effective stewardship; protection of incubating birds; designation of harvest areas; management of migratory birds on a population basis; use of aboriginal and indigenous knowledge, institutions and practices; and development, sharing and use of best scientific information.

DIPLOMATIC NOTE

"Article II further provides, inter alia, that subject to laws, decrees or regulations to be specified by the proper authorities, the taking of migratory birds may be allowed at any time of the year for scientific, educational, propagative, or other specific purposes consistent with the conservation principles of the Convention. Furthermore, Article V of the Convention provides that the taking of nests or eggs of migratory birds may be allowed for specific purposes consistent with the principles of the Convention under such laws and regulations as the Parties deem appropriate.

"In Article III of the Convention, the Parties agreed to meet regularly to review progress implementing the Convention and that such review would address issues important to the conservation of migratory birds, including the status of migratory bird populations, the status of important migratory bird habitats, the effectiveness of management and regulatory systems and other issues deemed important by either Party. The Article further provides that the Parties may conclude special arrangements to conserve and protect species of concern.

"Taking into account these provisions of the Convention, the Parties have specifically reviewed the issues of the incidental take of migratory birds, nests or eggs, caused by activities including, but not limited to, forestry, agriculture, mining, oil and gas exploration, construction and fishing activities, and concluded that these issues have increasingly become a concern for the long-term conservation of migratory bird populations in accordance with Article II of the Convention.

"In order to support the long term conservation of migratory birds, Canada is considering an approach to the management of incidental take that would identify conservation measures. These conservation measures may include reporting requirements and actions to avoid, minimize or mitigate the effects on migratory bird populations of activities that have the potential to incidentally take, kill or injure migratory birds or that can damage or destroy nests or eggs. Canada is considering making the authorization of incidental take contingent on compliance with approved conservation measures. Both Parties have concluded that this management approach is consistent with the Convention, and in particular, Article II."

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Canada's note and this affirmative reply establish a mutually held interpretation of the Government of Canada and the Government of the United States with respect to the Convention.

Department of State,

Washington, JUL 10 2008

Region 3 OLE Supervisor Call Notes

(b)(6),(b)(7)(C) Feb 2, 2018 and Feb 26, 2018

Review Secretary Priorities: SAC [redacted] accomplishments will be drafted under each of the Sec. priorities. I understand some of these priorities are quite vague but LE still needs to pay attention to them and do the best we can to support them. See attached.

Secretary's re-alignment of DOI: Many questions remain. They may begin to change some regional structures this FY. Secretary of Interior said that no one is going to lose their job. Complete re-organization will take several years to accomplish. See attached most updated draft regional map with boundaries. Obviously this could change.

DOJ/M-Opinion: DOI deciding whether to codify the M-opinion in regulation, or may provide guidance to field from Director's office. Until then, OLE has no authority to investigate or charge incidental take cases of MBTA. (b)(5) [redacted]

Keep in mind the Principle Deputy Director is viewing this change as one that makes the MBTA a hunting statute only. In most cases, we should consider whether the subjects intent was to take the migratory bird into his/her possession as a significant factor. If they intended to possess it, MBTA applies. If there was no intention to possess the bird after take, MBTA may not apply. Many of these factors need to be considered at the time of investigation. Please communicate with supervisors if questions arise. More guidance to come in the near future.

Poison cases when even the placing the poison is a violation of law may not meet the standard.

We can respond to oil spill because of potential to ESA species. Once on scene, if only mig birds impacted we are being advised to leave.

We cannot be working on any kind of MBTA compensatory mitigation plans.

Specific scenario questions must be directed through INV to the Solicitor office.

CD-B63, MBTA civil settlement agreements. Do not follow this guidance in this directive for issues involving migratory birds or eagles, it will be replaced soon. SAC (b)(6),(b)(7)(C) [redacted] is unsure if the CD will be rescinded or updated at this time.

Implement BGEPA as normal: But field must brief SACs and SACs need to brief up the chain in advance of any prosecution action being taken.

(b)(7)(E) [redacted]

USFWS
Office of Law Enforcement

RE: MBTA and Industrial Take

The U.S. Fish and Wildlife Service (FWS) strives to conserve migratory birds through communication and coordination with other federal agencies, states, tribes, non-governmental organizations, local agencies, businesses, and private citizens. Bird conservation includes compliance with the Migratory Bird Treaty Act (MBTA).

The MBTA implements four bilateral treaties (with Canada, Mexico, Japan, and Russia) that require the parties to protect migratory birds. The MBTA states: "Unless and except as permitted by regulations . . ., it shall be unlawful at any time, by any means or in any manner . . . to take . . . [or] kill . . . any migratory bird [covered by one of the treaties]." Protected bird species are killed through intentional, unintentional, and incidental acts.

The MBTA, in the early days of migratory bird protection, was used by what is now the FWS as an enforcement tool to stop the widespread practices of market hunting and gross over-harvest of migratory waterfowl and other migratory birds. Unregulated hunting of these species for meat, millinery and other uses were believed to be a primary direct cause of profound declines of populations of many migratory bird species. The MBTA prohibitions were, and continue to be, broad – prohibiting any unauthorized take of a migratory bird, with no requirement that the government prove the defendant intended to kill a migratory bird. The wisdom of this broad prohibition is obvious to anyone who has enforced the MBTA and knows it would be difficult to apprehend violators if all they had to do to avoid prosecution was claim they did not know it was illegal to kill the migratory bird.

The conservation need for this focus slowly declined over succeeding decades as regulation of this commercial take and improved conservation practices recovered many affected species. However, as biologists and enforcement officials saw the prevalence of market hunting of migratory birds decrease, they began to perceive the increasing prevalence of the take of migratory birds by activities not necessarily intended kill migratory birds (or perhaps, in many instances, the awareness of the impact of these activities increased rather than the activities themselves). They began to document the numbers of migratory birds killed annually by activities such as oil and gas exploration and production, unregulated and/or abused pesticides, exposed toxic chemicals associated with mining operations, and electric distribution. They recognized that many of these negative impacts to migratory birds could be mitigated, if not eliminated, by reasonable and non-cost-prohibitive adjustments. FWS enforcement officials, in consultation with migratory bird biologists, incrementally began to seek to conserve migratory birds by enforcing the prohibitions of the MBTA on entities known to be causing the unauthorized take of migratory birds through means other than hunting – including activities of industry not intended to kill birds.

Beginning at least as early as 1971, DOJ has brought enforcement cases against entities whose actions incidentally take or kill birds. DOJ relied on prior case law establishing that the MBTA is a strict-liability statute—that is, the government does not need to prove a particular mental state (such as intent) to make a case. The majority of these cases have been successful; when

defendants have challenged application of the MBTA's prohibitions to incidental taking and killing of birds, most courts have held the broad language of the prohibitions encompasses incidental taking and killing of birds.

Despite the wide range of activities that can potentially incidentally kill birds, FWS and DOJ have been careful to bring enforcement actions only in limited circumstances, such as when an entity has been repeatedly warned of the take, and has refused to take available measures to minimize it, or when large numbers of birds are killed (e.g., Exxon Valdez). The fact that prosecution is possible, however, has provided an incentive for those engaged in activities that may take birds to attempt to reduce or eliminate that take, and FWS has worked closely with a number of industries to identify best practices for reducing bird mortality.

That said, in contrast to intentional take, for which FWS has used its authority to permit take for various purposes (such as sport hunting, scientific collecting, control of agricultural pests), FWS has not developed regulations that comprehensively address incidental taking and killing of birds. Therefore, FWS has generally relied on enforcement discretion, rather than express authorizations of take subject to legally enforceable conditions, to address incidental taking and killing of birds.

The mission of the Office of Law Enforcement (OLE) (as found in the program's Strategic Plan) is "to protect wildlife resources". OLE enforcement priorities direct investigations to focus on those illegal activities having the greatest negative impact on federally protected species. Further, such priorities also focus law enforcement activities towards investigations that protect wildlife resources outside the authority and/or capability of state or local conservation law enforcement bodies. Service officers categorize and prioritize enforcement work to resolve high priority investigations dealing with wild populations of federally protected species of fish, wildlife, or plants that have a significant scope or impact on populations of such species.

OLE officers devote the highest level of time and effort to resolving violations where the unlawful take of federally protected species, including migratory birds, or the destruction/modification of their habitats by contaminants or industrial hazards occurs. Examples of such investigations include intentional or unintentional poisoning, pesticide applications, oil spills, cyanide leach pits, or other industrial or agricultural toxins that results in an unlawful take of such species or their habitat. When the OLE receives information of the possible take of migratory birds in a non-hunting setting, Service officers document the species and severity of each incident, document the use of best management practices and related laws or regulations, work with other Service divisions and individual companies when applicable, and ultimately consult with the appropriate office of the Department of Justice to finally adjudicate unlawful activities.

Each investigation where non-hunting take has occurred is unique due to the broad range of industrial and agricultural activities that may be involved in the taking of migratory birds. Over time however, investigations involving the unlawful take of migratory birds has resulted in compliance and implementation of best management practices.

When we updated our OLE Strategic Plan for 2016 – 2020, we specifically included a section on Energy Development and Conservation. The United States has embarked on a dual quest to secure energy independence and reduce its reliance on traditional nonrenewable energy sources

(coal, gas, oil). Progress on these goals, however, brings a variety of threats to wildlife. Service law enforcement, for example, has worked for decades to promote the use of bird/bat-friendly technology and avian safeguards by oil and gas producers and the electric utility industry. We are shepherding in a new era of promoting responsible renewable energy development by working with the wind, solar, and other renewable energy industries to minimize impacts on wildlife. We will investigate and hold companies accountable when they ignore Service endorsed guidance and violate conservation laws.

Agency Enforcement Practice

Since at least the early 1970s, FWS and the Department of Justice (DOJ) have brought enforcement cases outside the traditional hunting/poaching context. Over the last 40+ years, we have investigated hundreds of activities or hazards that kill birds in the incidental-take context: oil pits, power-line electrocutions, contaminated waste pools, pesticide applications, and oil spills (*e.g.*, Exxon Valdez, Deepwater Horizon), etc. After investigation, the Federal Government has brought a number of criminal cases for MBTA incidental-take violations. FWS has been judicious in exercising its enforcement authority over incidental take—with respect to hazards or activities that chronically take birds, FWS has generally pursued criminal prosecution only after notifying the industry of the problem, working with it to find solutions, and proactively educating each industry about ways to avoid or eliminate the take of migratory birds.

We have provided guidance to our field investigators on investigating possible violations of the Migratory Bird Treaty Act (MBTA) arising from the take of federally protected birds in connection with the actions and facilities of industry and agriculture. Each investigation presents unique factual and evidentiary factors. Their guidance constitutes recommendations of providing notice, encouraging compliance and an opportunity to correct their activity before charging, rather than a mandatory or complete list of procedures to be followed in each specific instance:

- Determine the species of bird(s) at issue and whether additional Federal statutes and regulations (Endangered Species Act, Bald and Golden Eagle Protection Act) may apply. Additionally, determine the severity of the take, how often birds are being taken (if possible) and whether the birds are species of conservation concern.
- Determine and document what contacts (whether written, electronic or oral) the individual or company may have had with Federal or other regulatory entities including but not limited to the Service, regarding migratory birds, particularly as to the location or activity at issue. Federal agencies like the Environmental Protection Agency, Army Corps of Engineers and Bureau of Land Management, or state agencies, may have issued relevant permits or guidance.
- Determine and obtain the state and local laws, regulations, permits or other authorizations, and best management practices (and the basis thereof) for the industrial or agricultural activities at issue. Assess whether the company is complying with applicable legal requirements (including permit conditions) and/or adhering to relevant best management practices.
- Coordinate with other Service divisions on present and future correspondence with the company as appropriate.

- Where possible, work with the company or individual and with other Service divisions to facilitate communication of appropriate guidance to help eliminate any future take of migratory birds by placing the company or individual on notice of the issue(s) relating to the take of migratory birds, unless such notice would compromise appropriate investigative techniques. Provide the company or individual the opportunity to take remedial action to halt and/or minimize the take. Document those communications and the relevant actions taken, or not taken, by the company or individual following notice.
- Work closely with the appropriate office of the Department of Justice, U.S. Attorney's Office and consult with, if needed, the Environmental Crimes Section of the Department of Justice.
- With limited exception, these recommendations are intentionally general in nature. Development of a complete list of specific investigative steps or techniques is not possible due to the uniqueness of individual investigations and the broad range of industrial and agricultural activities that may be involved in the take of migratory birds.

OLE recognizes that the take of some migratory birds may occur even when individuals and companies consult with the Service and others, comply with best management practices and follow Service recommendations. OLE has focused investigative efforts on bird take that is foreseeable, avoidable and/or proximately caused. Investigations focused on individuals or companies that failed to utilize conservation measures or otherwise minimize negative impacts on migratory birds.

KEY POINTS
Migratory Bird Treaty Act

- Makes it "unlawful **at any time, by any means, or in any manner** to … take, capture [or] kill … any migratory bird" without a permit.

- The Service may issue permits allowing the take of migratory birds only for certain specific purposes, such as controlling depredation and scientific collecting.

- MBTA protects more than 1,000 bird species native to the United States.

Industry Liability under the MBTA

- MBTA is a strict liability statute. Killing migratory birds without a valid permit issued by the Service is illegal, regardless of intent.

- Unintended take of migratory birds occurs in many vastly different situations. In some situations, take can be avoided or minimized. In others, reasonable ways to reduce take may not be readily available.

- Examples of unintended industrial take of birds include:

    - Electrocution by electric power distribution and transmission lines
    - Death in oil production pits and ponds

- Collision with wind turbines, powerlines, and communications towers
- Entrapment in heating devices at oil production sites
- Poisoning due to agricultural use of pesticides
- Entrapment of birds in long-line fishing nets
- Deaths linked to the use of cyanide and other chemicals at mining operations
- Deaths linked to lighting at sports fields and other facilities
- Deaths linked to feeding on euthanized pets and livestock at landfills and other above-ground disposal sites
- Deaths linked to waste disposal practices at chemical plants, manufacturing facilities and other industrial operations

Enforcement of MBTA

- The Service follows a standard enforcement model in dealing with industries whose operations kill protected birds. This model has been functional for well over three decades. Unique fact patterns are involved in virtually every situation in which this type of take occurs, making it impossible to develop a "one size fits all" policy with respect to MBTA enforcement.

- Policy and regulations must deal in a "black and white" universe. The Service believes that MBTA enforcement with respect to industrial take is being effectively addressed without such written guidance.

- Specifically, the Service has developed a standard enforcement model for dealing with industry that accommodates different fact patterns and recognizes that access to reasonable remedial measures will vary from situation to situation.

- Under this model, the Service:
  - Investigates and documents industrial take of migratory birds
  - Fosters relationships with companies/industry groups that seek to reduce impacts on birds
  - Weighs stewardship efforts and voluntary compliance in making decisions about pursuing legal action
  - Seeks civil or criminal prosecution when companies do not use available measures to reduce bird mortality and thus kill birds with disregard for their actions and the law

- This model has been functional for well over three decades.

- Its use has secured millions of dollars' worth of voluntary remedial action by affected industries (without the expense of going to court) and significant reductions in migratory bird deaths at industrial sites where proven measures are available to protect birds.

- It appropriately utilizes the judgment of investigators, solicitors, and criminal prosecutors in a decision-making process.

- This process ensures that civil and criminal actions for this type of violation are pursued within a framework that recognizes both the benefits of industry to the Nation's economy and our statutory mandate to protect migratory birds.

- The Service recognizes that some birds may be killed even if ALL reasonable measures to prevent such deaths are taken. But it is important that industries continue to work toward eliminating the take of migratory birds.

- Prosecutions focus on companies that kill birds with disregard for their actions and the law – especially when conservation measures are available but have not been used.

- The **maximum** penalty for violating the MBTA is a fine of $15,000 and six months imprisonment. Actual fines and penalties assessed will vary considerably.

- Higher fines and penalties can be involved if the birds killed are bald or golden eagles or a species protected under the Endangered Species Act.

Partnerships with Industry

- The Service is committed to working with industries to help identify ways to reduce their impact on migratory birds.

- Examples include the Service's work with industry to develop voluntary guidelines for the wind power industry; our long standing working relationship (more than 30 years) with APLIC (Avian Power Line Interaction Committee) to develop the "Suggested Practices" document to provide guidance to the electric industry on how to eliminate/minimize take of migratory birds by electrocution on electric distribution systems and its sister document which provides guidance to the same group on how to eliminate/minimize avian collisions with distribution and transmission lines; and long-standing liaison (also dating back for decades) with the oil and gas industry to promote the use of known safeguards to keep birds from coming into contact with oil and other contaminants at oil production sites.

---------- Forwarded message ----------
From: [redacted]@fws.gov>
Date: Tue, Jan 9, 2018 at 11:11 AM
Subject: Fwd: Update on M-Opinion on MBTA
To: FW2 ES Project Leaders Plus <fw2_es_pl_plus@fws.gov>

Clarification from MB related to the new MBTA M-opinion.

****
[redacted]
Deputy ARD for Ecological Services
Southwest Region, USFWS
[redacted]@fws.gov
Work: [redacted]
Cell: [redacted]
****

---------- Forwarded message ----------
From: [redacted]@fws.gov>
Date: Tue, Jan 9, 2018 at 9:53 AM
Subject: Update on M-Opinion on MBTA
To: [redacted]@fws.gov>, [redacted]@fws.gov>, [redacted], [redacted]@fws.gov>, [redacted]@fws.gov>

Good Morning,

I wanted to touch base with you folks as you are in contact with many of your field supervisors. Migratory Bird Program had a call where we discussed the M-Opinion. Results of the call were:

1) Opinion is clear that incidental take is not covered. Only take where the purpose or intent is taking and/or killing. No exceptions.
2) We are working to produce something written that can be communicated to folks who inquire about current permits we offer that traditionally covered incidental take that are not covered now due to the M-Opinion. Specifically communication to current permit holders and those that inquire soon.
3) Current strategy is to be proactive and produce communication that promote best practices and provide those best practices to folks that will "lawfully" take migratory birds in the course of their activities.
4) Mitigation is not required and any and all projects that currently or would have required some mitigation is no longer required and can only be voluntary. Thus voluntary conservation actions are encouraged and gladly accepted.
5) The MB program is actively updating website, service manual chapters, fact sheets, IPaC language, etc.
6) for existing federal partners MOU - EO 131863 is still in place and work to minimize impacts to migratory birds is still in place.
7) All inquiries still need to be routed to EA and media inquiries to Interior_press@ios.doi.gov

I know that isn't much, but that is all I have. The opinion is pretty cut and dry. MBTA only covers take that is with specific intent to kill or take migratory bird species. We ran through every scenario possible on the call and the end result is that if it is an otherwise lawful activity it is not covered under MBTA.

[redacted]

Chief, Division of Migratory Birds
U.S. Fish and Wildlife Service, Region 2
500 Gold Avenue, SW
Albuquerque, NM 87102
Office: [redacted]

[redacted]

Assistant Field Supervisor
Texas Coastal Ecological Services Field Office
P.O. Box 81468
Corpus Christi, TX 78468-1468
[redacted]

[redacted]

Conversation Contents

Migratory Bird Treaty Act M-Opinion

"Ford, Jerome" <jerome_ford@fws.gov>

From: "Ford, Jerome" <jerome_ford@fws.gov>
Sent: Tue Dec 26 2017 07:11:43 GMT-0700 (MST)
To: "FWS Directorate & Deputies" <fwsdirectanddep@fws.gov>
CC: "Johnson, Mike J" <Mike_J_Johnson@fws.gov>, Tom Cooper <tom_cooper@fws.gov>, "Richkus, Ken" <Ken_Richkus@fws.gov>, Sarah P Mott <Sarah_P_Mott@fws.gov>, Laurel Barnhill <laurel_barnhill@fws.gov>, Scott Carleton <scott_carleton@fws.gov>, Casey Stemler <Casey_Stemler@fws.gov>, Pamela Toschik <pamela_toschik@fws.gov>, Nanette Seto <Nanette_Seto@fws.gov>, Amedee Brickey <amedee_brickey@fws.gov>, Eric Taylor <eric_taylor@fws.gov>, Brian W Smith <Brian_W_Smith@fws.gov>, James Dubovsky <james_dubovsky@fws.gov>, Todd Sanders <Todd_Sanders@fws.gov>, Paul Padding <Paul_Padding@fws.gov>, James Kelley <james_r_kelley@fws.gov>
Subject: Migratory Bird Treaty Act M-Opinion

Team,

I am sure that you have heard about the M-Opinion (https://www.doi.gov/solicitor/opinions) regarding the MBTA. All we have and know at the moment is what is included in the note from Greg Sheehan. I urge you to remain vigilant and direct all inquiries as Greg's note indicated. Please do not extend yourselves beyond the instructions within the note. If you have immediate questions, then please do not hesitate to give me a call. We will discuss further during our next Migratory Birds Leadership Team call.

I hope that you all are having a happy holiday season.

Jerome

--
Jerome Ford
Assistant Director
Migratory Bird Program
FWS Aviation Executive
202-208-1050
jerome_ford@fws.gov

To: Greg Sheehan[Greg_J_Sheehan@fws.gov]; Jason Larrabee[jason_larrabee@ios.doi.gov]
Cc: Todd Willens[todd_willens@ios.doi.gov]; Jorjani, Daniel[daniel.jorjani@sol.doi.gov]; Ann Navaro[ann.navaro@sol.doi.gov]
From: Lawkowski, Gary
Sent: 2017-12-22T13:44:17-05:00
Importance: Normal
Subject: MBTA Materials
Received: 2017-12-22T13:44:28-05:00
MBTA Cover Memo.pdf
Migratory Bird Treaty Act One Pager.pdf

Please find attached a one-page background document on the MBTA and the new M-opinion, as well as the cover memo that will be signed and finalized along with the opinion.
Feel free to distribute internally as appropriate. These are not intended for public release.

Please let me know if these documents provide the background and guidance you are looking for in advance of the the opinion.

Sincerely,

Gary Lawkowski
Counselor to the Solicitor
Department of the Interior
Gary.Lawkowski@sol.doi.gov
202-208-7340

TO: Secretary
Deputy Secretary
Assistant Secretary for Land and Minerals Management
Assistant Secretary for Fish and Wildlife and Parks

FROM: Principal Deputy Solicitor Exercising the Authority of the Solicitor Pursuant to Secretary's Order 3345

DATE: December 22, 2017

SUBJECT: Incidental Take Under the Migratory Bird Treaty Act

Today, the Acting Solicitor for the Department of the Interior issued a Solicitor's Opinion that is binding on all Departmental Offices, including the U.S. Fish and Wildlife Service, concerning incidental take under the Migratory Bird Treaty Act (MBTA). Based upon a thorough examination of the text, purpose, and history of the MBTA, as well as principles of constitutional avoidance, this opinion concludes that incidental take is beyond the scope of the criminal provisions of the MBTA.

This represents a change from the Department's prior legal interpretation and past practices. On January 10, 2017 the prior administration issued a Solicitor's Opinion reaching the opposite conclusion. The January 2017 opinion was suspended on February 6, 2017, along with three other Solicitor's Opinions that were written to support regulations, decisions, or national guidance or policies that the new administration decided to review. This review raised a number of significant concerns regarding the Department's prior interpretation of the MBTA. This is a difficult and complex area of the law, as evidenced by a deep split in the federal courts of appeals that have examined this issue, and good faith disagreements are to be expected. However, we believe that the relevant text of the MBTA is limited to affirmative actions that have as their purpose the taking or killing of migratory birds, that the history and purpose of the MBTA reflects an intention by Congress to focus on purposeful actions, such as hunting and poaching, and that the application of the MBTA to accidental or unintentional conduct raises serious constitutional concerns that federal agencies are obliged to avoid.

Going forward, this means that the Department and its offices will no longer pursue incidental take prosecutions under the MBTA, and that incidental take concerns under the MBTA will no longer serve as the basis for opening or pursuing an investigation, withholding a permit or other approval, or requesting or requiring mitigation. Current incidental take investigations under the MBTA will be discontinued. Over the coming weeks and months, we will review the Department's incidental take guidelines to ensure that they are consistent with this approach. We will also seek notice and comment on a proposed rule codifying this opinion.

This opinion does not change the Department's approach to incidental take under other federal laws, including the Bald and Golden Eagle Act and the Endangered Species Act.

Please feel free to contact the Solicitor's Office for further guidance as questions arise.

Migratory Bird Treaty Act One-Pager

Background

The Migratory Bird Treaty Act (MBTA) is a strict liability statute that criminalizes the killing or taking of a migratory bird. It was first enacted in 1918 in response to concerns about the over-hunting of migratory birds that fly back and forth between the United States and Canada from being hunted into extinction.

Since that time, the scope of the MBTA has been expanded to include treaties with Mexico, Japan, and the Soviet Union (now Russia), and to protect a litany of over 1000 bird species nearly every bird in North America. Beginning in the 1970s, the Department of Justice began prosecuting people and companies under the MBTA for the death of migratory birds as an unintended consequence of otherwise lawful activity, such as applying pesticides to crops or maintaining a wastewater pit.

This application of the MBTA has proven controversial. The strict liability nature of the law, along with the broad definition of "migratory bird," has led to concerns of vagueness, over breadth, and selective prosecution. In practice, the MBTA has also been used to justify voluntary guidelines that place additional regulatory burdens on select persons and industries.

Federal courts of appeals have split on the issue, with three generally denying that the MBTA reaches accidental conduct and two holding that it does. In January 2017, the prior administration issued a Solicitor's Opinion concluding that the MBTA does criminalize accidental conduct. This broad interpretation makes every American a potential criminal, from those who merely drive cars or own buildings with windows, to those who operate windmills or oil facilities.

Our Solicitor's Opinion reverses this interpretation, providing greater regulatory certainty by returning to the MBTA to its proper limits: prohibiting actions that have as their purpose the taking or killing of migratory birds.

Conservation

The History and Evolution of the Migratory Bird Treaty Act

The law has already saved billions of birds' lives. Here's how it's accomplished so much in its 100-year history.

By Jesse Greenspan
May 22, 2015

By Jesse Greenspan
May 22, 2015

Popular Stories

How to Make Hummingbird Nectar

How to Tell a Raven From a Crow

Learn to Identify Five Owls by Their Calls

Are Birds Actually Government-Issued Drones? So Says a New Conspiracy Theory Making Waves (and Money)

Hummingbird Feeding FAQs

Passed a century ago, the Migratory Bird Treaty Act prohibits the harming of just about all native birds, along with their nests and eggs. To this day it remains the primary tool for protecting non-endangered species. As threats to birds continue to evolve, so does the law itself.

Here's a look back at some of the key moments in the law's evolution to date.

Protect Seabirds by Saving Forage Fish

Seabirds rely on fish as their primary food source, but they often can't find enough to eat.

Take Action

1800s: With essentially zero regulations in place, market hunters decimate U.S. bird populations, in part so that well-to-do women can wear hats adorned with ornamental feathers. By the end of the century, Labrador Ducks and Great Auks are extinct, soon to be joined by Passenger Pigeons, Carolina Parakeets, and Heath Hens. Numerous other species stand on the brink. Outrage over these alarming trends leads to the formation of the first Audubon societies, as well as other conservation groups.

A woman wears a "Chanticleer" hat of bird feathers, circa 1912. Photo: George Grantham Bain Collection/Library of Congress

1900: Congress passes the Lacey Act, the first federal law to protect wildlife. It takes aim at market hunters by prohibiting them from selling poached game across state lines.

1913: Congress passes the Weeks-McLean Migratory Bird Act, which, in another broadside against market hunters, bans the spring shooting of migratory game and insectivorous birds and declares them to be under the "custody and protection" of the federal government. However, two district courts soon rule the act unconstitutional.

1916: The United States signs a treaty with Great Britain (acting on behalf of Canada, then part of the British Empire), in which the two countries agree to stop all hunting of insectivorous birds and to establish specific hunting seasons for game birds. The stated goal is to preserve those species considered beneficial or harmless to man.

1918: To implement the new treaty, Congress passes the Migratory Bird Treaty Act, which officially makes it a crime to "pursue, hunt, take, capture, kill," or "sell" a migratory bird or any of its parts, including nests, eggs, and feathers. The newly passed act eliminates "the necessity of watching the legislation of every state and of combating the numberless attempts to legalize the destruction of birds for private gain," according to famed ornithologist Frank M. Chapman (also the founder of Audubon magazine).

1920: The U.S. Supreme Court shoots down a challenge to the constitutionality of the Migratory Bird Treaty Act, ruling that it does not violate states' rights.

1936: Following up on its treaty with Great Britain, the United States signs a similar treaty with Mexico (it would go on to sign additional treaties with Japan and the Soviet Union in the 1970s). As a result, more birds are protected under the Migratory Bird Treaty Act, and habitat conservation and pollution abatement is encouraged.

1940: Congress passes the Bald Eagle Protection Act, the first federal legislation to ban hunting or otherwise disturbing America's national emblem (it would later be amended to include Golden Eagles). Modeled after the MBTA, it nonetheless fails to stem the Bald Eagle's decline at the hands of DDT poisoning.

1970s: For the first time, U.S. prosecutors begin charging not just hunters who violate the MBTA, but also oil and gas, timber, mining, chemical, and electricity companies. Though not directly targeting wildlife, these industries incidentally cause millions of bird deaths each year that could have been avoided with simple infrastructure modifications, according to the U.S. Department of Justice. In publicly available documents, the DOJ states that it will first notify companies of a violation and work with them to correct it. But if they "ignore, deny, or refuse to comply" with best management practices, then the "matter may be referred for prosecution."

For the first time, U.S. prosecutors begin charging not just hunters who violate the MBTA, but also oil and gas, timber, mining, chemical, and electricity companies.

1972: An amendment to the MBTA protects an additional 32 families of birds, including eagles, hawks, owls, and corvids (crows, jays, and magpies). Even more species have been added since, bringing the total number to 1,026—almost every native species in the United States. With such additions, the word "'migratory" in the act's title becomes largely symbolic—many birds that do not embark on actual migrations are still protected.

2000: A federal appeals court holds that private citizens (such as conservation groups) may sue the government over alleged violations of the Migratory Bird Treaty Act. Nonetheless, they remain unable to sue out-of-compliance private companies, which differs in that regard from the Endangered Species Act and many other environmental

laws.

2001: Just before leaving office, President Bill Clinton orders all relevant federal agencies, including the Department of Defense and the U.S. Forest Service, to take migratory bird conservation into account as part of their regular decision making.

2002: A federal district court rules that the U.S. Navy violated the MBTA during live-fire exercises in the northern Marianas Islands. Congress responds by exempting the incidental taking of birds during "military readiness activities."

2013: In a first, the Department of Justice enforces the MBTA against a wind farm operator, imposing $1 million in penalties for the killing of Golden Eagles and other protected birds at two sites in Wyoming. It follows this up a year later with $2.5 million in penalties against a second Wyoming wind farm operator. Actual enforcement of the MBTA against these problems tends to be sporadic.

2015: The U.S. Fish and Wildlife Service announces that it will rethink the MBTA's implemention to hold industries more accountable for the harm they do to birds. Specifically, the changes will address bird deaths due to open oil pits, power lines, gas flares, cell phone towers, and wind turbines—which combined kill millions of birds each year.

2017: The Trump Administration does away with the USFWS's potential rulemaking updates and issues a new interpretation of the law that provides a free pass to industries from bird deaths by no longer enforcing incidental takes. Also in 2017, Rep. Liz Cheney (R-WY) passed an amendment to the SECURE American Energy Act (H.R. 4239) that would permanently change liability under the Migratory Bird Treaty Act (MBTA) to no longer cover incidental takes. These changes would prevent any enforcement of industrial impacts, end accountability from oil spills, and remove incentives to protect birds, all of which Audubon opposes.

"Rep. Cheney is giving oil and gas companies and other industries a free pass to kill birds with impunity," said David Yarnold, Audubon's President and CEO, in an official statement.

HEINONLINE

Citation:
Robert S. Anderson; Jill Birchell, Prosecuting Industrial Takings of Protected Avian Wildlife, 59 U.S. Att'ys Bull. 65 (2011)

Content downloaded/printed from *HeinOnline*

Tue May 29 13:50:13 2018

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Prosecuting Industrial Takings of Protected Avian Wildlife

Robert S. Anderson
Senior Counsel
Environmental Crimes Section

Jill Birchell
Assistant Special Agent in Charge
Office of Law Enforcement
Southwest Region
U.S. Fish and Wildlife Service

I. Introduction

Millions of protected birds and bats are killed each year in the United States by interaction with industrial equipment that could easily be modified to minimize or eliminate such deaths. Nearly all of these creatures, from eagles to the smallest songbirds, are protected by one or more federal statutes, including the Migratory Bird Treaty Act, 16 U.S.C. §§ 703–711, the Endangered Species Act, 16 U.S.C. §§ 1531–1544, and the Bald and Golden Eagle Protection Act, 16 U.S.C. § 668. These laws, along with their regulations and interpretive case decisions, clearly establish federal criminal penalties for the un-permitted taking of protected avian wildlife by companies aware of the risk posed to such wildlife by their facilities that fail to adequately ameliorate the risk. Many such cases have been successfully prosecuted with outcomes benefitting the environment, thus creating a useful template for future litigation. Industrial avian takings cases will continue to be referred to U.S. Attorneys' offices for prosecution. This article provides AUSAs with the information needed to evaluate, prepare, and successfully litigate these cases.

II. Avian takings by industry

Birds and bats (which are mammals) have likely been killed by contact with industrial equipment for as long as such equipment has existed. Fatal interactions include the following:

- The U.S. Fish and Wildlife Service (FWS) estimates that tens of thousands of raptors and other birds that perch on power poles or transformers are electrocuted each year when their body parts touch two exposed "phases," or a phase and ground wire, completing an electric circuit (and sometimes causing a power outage). For decades, the electric power industry has acknowledged this problem, and the associated problem of avian death by collision with powerlines. A collaborative group including the FWS and electric industry has published guidelines for making such equipment "bird-safe" in the manual "Suggested Practices for Raptor/Avian Protection on Powerlines."
- Thousands of waterfowl and other birds are killed each year by contact with surface water associated with mining and fossil energy production facilities. Remediation measures, such as closed-loop drilling, pit netting, "bird-balls," hazing equipment, and simple grating are well-known to, and frequently employed by, the energy industry.

- Between 4 and 50 million songbirds are estimated to be killed each year by collision with communications towers in this country. Night-migrating songbirds are frequently disoriented by warning lights on the towers and can die by the hundreds after circling the structures and colliding with guy wires or falling exhausted to the ground. Simple modification of warning lights and better construction design can substantially minimize the loss of these migrants.
- The FWS estimates that approximately 440,000 birds (including eagles) are killed each year by approximately 22,000 wind turbines operating in the United States. Proven methods of reducing these takings include pre-construction biological surveys, careful siting, prey reduction on the ground within wind farms, use of advanced turbine designs, increased cut-in speeds, and the timing of turbine operation.
- Certain species of seabirds collide with powerlines on flights between inland nests and the ocean, or become disoriented by un-shielded lights, resulting in direct deaths or "fall out."

It is impractical to suggest that avian mortality associated with industrial equipment can ever be reduced to zero. However, "Best Management Practices" (BMPs) aimed at preventing or minimizing the take of protected avian wildlife are now generally well-understood by energy and mining industries. As discussed herein, the unpermitted taking of protected birds and bats in situations where companies are aware of the avian risk posed by equipment and facilities, but choose not to employ BMPs, can form the basis for prosecution and imposition of penalties and corrective sanctions on such companies and managers.

III. Prosecution intake of the industrial avian takings case

The FWS has primary responsibility for enforcement of laws protecting migratory and endangered birds and bats. Wildlife agents normally learn of industrial avian takings from citizen reports, industry self-reporting, or over-flights of oil and gas production facilities followed by ground checking. When avian carcasses are discovered and retrieved, cause of death is either obvious (especially in the case of oiling or electrocution), or determined via necropsy performed at the FWS Forensics Laboratory in Ashland, Oregon, a fully-accredited crime lab devoted to linking suspect, victim, and crime scene in wildlife cases. FWS agents generally notify the responsible company of the mortality and provide an opportunity to remedy the situation that caused the avian death. In some cases, the investigating agent will issue a Notice of Violation (NOV) that is handled through the Central Violations Bureau. If the company pays a collateral penalty and modifies its facilities or practices to correct the problem, the case will never reach a U.S. Attorney's office. The fine is generally $500 plus an additional $250 per bird or an additional $1,000 per eagle. However, if the company ignores the agent's notice of the avian taking and its cause or refuses to pay the NOV and remedy the problem, the matter may be referred for prosecution. The FWS referral will include detailed reports of the incident, company contact(s), interviews, and, if necessary, forensic analysis. The AUSA who is assigned this kind of case should consider the following issues when evaluating the referral:

- What species is/are involved? Nearly all avian species in the United States are protected under the Migratory Bird Treaty Act, including eagles (also protected by the Bald and Golden Eagle Protection Act). Endangered and threatened species are also protected under the Endangered Species Act. Knowing which species have been taken will inform the selection of charges, penalties, and permits/exemptions that apply to the conduct.

- What non-law enforcement contact has the company had with the FWS or other state/federal agencies in connection with the condition that has caused the avian taking? Some states have enacted specific regulations governing the siting and operation of energy and mining operations. Federal agencies, such as the Environmental Protection Agency or Bureau of Land Management, may have issued permits that indirectly relate to the equipment or site associated with the avian taking. The content of written or informal communication between government personnel and the subject company may affect the posture of the proposed prosecution by, for example, enhancing evidence of notice and the opportunity to cure or by raising estoppel issues. The referring law enforcement agent may not be aware of all such prior contacts between regulating agencies and the company at this early stage of the case.
- What is the current status of permits, prosecution policy, and caselaw interpretation related to the case? This area of the law is developing rapidly in the courts and regulating agencies. The AUSA is advised to contact the Environmental Crimes Section (ECS) for a discussion of the case prior to accepting or declining the referral. Initial contact can be made with the author of this article at 406-829-3322, or with ECS Assistant Chief Elinor Colbourn at 202-305-0205.

Avian wildlife is protected in this country under three primary statutes. In descending scope of species coverage, they are: (1) the Migratory Bird Treaty Act (MBTA), providing criminal penalties for the illegal take of over 1,000 native bird species; (2) the Endangered Species Act (ESA), providing criminal and civil penalties for the illegal take of about 70 native bird species (all of which also are covered by the MBTA); and (3) the Bald and Golden Eagle Protection Act (Eagle Act), providing criminal and civil penalties for the illegal take of its two eponymous species, both of which also are covered by the MBTA. Each is discussed below.

IV. The Migratory Bird Treaty Act

A. Relevant statutory provisions

The Migratory Bird Treaty Act provides that, unless and except as permitted by regulation, it shall be unlawful at any time, *by any means or in any manner*, to pursue, hunt, take, capture, kill, or attempt to take, capture, or kill, any migratory bird. 16 U.S.C. § 703 (2010) (emphasis added). "Migratory birds" are those defined pursuant to bilateral treaties between the United States and Great Britain, Mexico, Japan, and the Union of Soviet Socialist Republics (now Russia). 16 U.S.C. § 715j (2010). The MBTA protects nearly every bird species in North America, including waterfowl, songbirds, shorebirds, and raptors; the list of all protected species can be found at 50 C.F.R. § 10.12-13. Some birds protected by the MBTA are also listed within other statutes, such as bald and golden eagles (see Eagle Act description, below) and birds that are both migratory and endangered or threatened (see ESA description, below). "Take" is defined differently in all three statutes. In the MBTA, take means "to pursue, hunt, shoot, wound, kill, trap, capture, or collect" or to attempt to do so. 16 U.S.C. § 703(a) (2010). "Kill" is not further defined.

B. Penalties

The MBTA creates three distinct categories of criminal violations: (1) a strict-liability Class B misdemeanor violation for any "person . . . or corporation" that violates the take prohibitions of 16 U.S.C. § 703; (2) a specific-intent Class A misdemeanor violation for the placement of bait to aid in the taking (16 U.S.C. § 707(c)); and (3) a general-intent felony violation where the sale or barter of a

migratory bird or bird part, nest, or egg is involved (16 U.S.C. § 707(b)). Industrial takings of migratory birds are commonly charged under the strict liability Class B misdemeanor provision noted above. The maximum statutory penalty for a corporate defendant convicted of the misdemeanor violation is a $15,000 fine or twice the gross gain derived from the offense, *see* 18 U.S.C. § 3571(d) (2010), and five years of probation. The MBTA provides no civil penalty; violation of the statute is subject only to criminal sanction.

C. Fine disposition

The North American Wetlands Conservation Act authorizes the use of fines from the MBTA to be deposited into the North American Wetlands Conservation Fund (NAWC). 16 U.S.C. § 4406(b) (2010). This statute provides that "[t]he sums received under section 707 of this title (MBTA) as penalties or fines, or from forfeitures of property, are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 4407 of this title [NAWCA Allocations Section]." Therefore, plea agreements in these cases should notify the court of this provision and specify the Conservation Fund as the destination for fine monies.

D. Unit of prosecution

Industrial MBTA cases often involve multiple takings of several species of protected birds over a long period of time at different facilities. The FWS Forensics Laboratory cannot determine the precise date of death for most avian carcasses it receives. Prosecutors and agents are often left to decide how many separate charges should be filed—one per bird, one per species, one per incident, one per site? Virtually all of these parsings have been used in past cases. *See, e.g.*, *United States v. Apollo Energies*, 611 F.3d 679, 683 (10th Cir. 2010) (one count per inspection that discovered dead birds); *United States v. Corbin Farm Service*, 578 F.2d 259, 260 (9th Cir. 1978) (one count per transaction that resulted in bird deaths); *United States v. FMC Corp.*, 572 F.2d 902, 903 (2d Cir. 1978) (one count per species per day); *United States v. Rogers*, 367 F.2d 998, 999 (8th Cir. 1966) (one count per day); *United States v. Fleet Management, Ltd.,* No. 3:08- CR-00160 (N.D. Cal. 2010) (one count per discharge); *United States v. Exxon Corp.*, No. A90-015 CR (D. Alaska Feb. 27, 1990); *United States v Equity Corp.*, Cr. No. 75-51 (D. Utah Dec. 8, 1975) (one count per bird).

Most of these cases were resolved by plea agreement, without litigation regarding the unit of prosecution. Judicial analysis of this issue stems primarily from a 1978 district court decision. In *United States v. Corbin Farm Service*, 444 F. Supp. 510 (E.D. Cal. 1978), a pesticide manufacturer was charged with 10 MBTA violations after 10 migratory birds were killed following a single improper application of pesticide to an alfalfa field. The district court agreed that the charges were multiplicitous, finding that although the death of a single protected bird is a violation of the MBTA, the statute and congressional history were ambiguous on the subject of whether grouped deaths should be charged separately, invoking the rule of lenity to hold that the unit of prosecution under the MBTA is each act resulting in the death of one or more birds. *Id.*

E. Permits and exemptions

Regulations clothing the MBTA allow the FWS to issue permits to qualified applicants for falconry, raptor propagation, scientific collecting, special purposes (for example, rehabilitation, educational, migratory game bird propagation, and salvage), hunting, take of depredating birds, taxidermy, and waterfowl sale and disposal. 50 C.F.R. part 13 (General Permit Procedures) and 50 C.F.R. part 21 (Migratory Bird Permits).

Incidental take by industry. The MBTA authorizes the FWS to determine the type, means, and extent to which taking protected birds is compatible with the terms of the underlying treaties. However, FWS has not, to date, perceived authority to issue permits for "non-purposeful" takings that are incidental to conducting a lawful activity such as operating energy or mining facilities. Thus, each incidental taking of a bird protected only by the MBTA is a potential criminal violation of the Act, though permits for incidental takings of endangered/threatened birds and bats are available under the ESA and are currently being formulated under the Eagle Act (both of which are discussed below). Also, in February 2011 the FWS released "Draft Guidelines for Land-based Wind Energy Development" that are founded on a "5-tier approach" for assessing potential adverse effects to fish and wildlife and their habitats. These draft Guidelines "describe the information needed to identify, assess, mitigate, and monitor the potential adverse effects of wind energy projects on fish, wildlife, and their habitats, using a consistent and predictable approach, while providing flexibility to accommodate the unique circumstances of each project."

Incidental take by the military. In 2002, a federal court found that the Navy's live-fire training exercises in the Northern Marianas Islands, resulting in the take of migratory birds without a permit to do so, violated the MBTA and the Administrative Procedure Act. *See Center for Biological Diversity v. Pirie*, 191 F. Supp. 2d 161 (D.D.C. 2002), *vacated sub. nom. Center for Biological Diversity v. England*, 2003 WL 179848, at *1 (D.C. Cir. Jan. 23, 2003). Congress responded by creating the "Incidental Taking of Migratory Birds During Military Readiness Activities Amendment" (Incidental Take Amendment) Pub. L. No. 107-314, 16 Stat. 2509 (2002). The Incidental Take Amendment directs the Secretary to exercise his authority under 16 U.S.C. § 704(a) to prescribe regulations exempting the Armed Forces from the prohibitions of the MBTA for the incidental taking of migratory birds during military-readiness activities. *Id.* Regulations implementing the Incidental Take Amendment were promulgated on February 28, 2007. *See* 50 C.F.R. § 21.15. The regulations, like the statute, exempt only takings "incidental to" military-readiness activities. Other takings by the military are not exempted and are thus prohibited by the MBTA. *Id.* The lack of authority in the Incidental Take Amendment and its regulations for takings outside the scope of specifically defined military-readiness activities affirms the plain language of the prohibition against killing birds by any means or by any manner, unless expressly exempted.

F. MBTA application to industrial takings: caselaw development

Prior to 1970, the MBTA was used to prosecute hunters who violated the time, place, method, or bag-limit constraints of their hunting licenses. FWS agents issued NOVs to poachers and, in the few challenged cases, courts routinely declared that the unambiguous "any means, any manner" language of 16 U.S.C. § 703, lacking any scienter requirement, established a strict-liability violation requiring no proof of a hunter's knowledge or intent to violate the law.

In the early 1970s bird-preservation groups brought attention to the vast numbers of migratory birds poisoned after landing on oil industry "sump pits" in the Midwest. The government responded by bringing the first MBTA charges against oil companies. The companies either pleaded guilty or posed fairly weak challenges to the MBTA charges. The first serious challenge to the MBTA's application in a non-hunting case occurred in 1978, after the Sacramento U.S. Attorney's Office filed MBTA charges against a pesticide application company and three individuals whose misapplication of a pesticide to an alfalfa field killed ducks. *United States v. Corbin Farm Serv.*, 444 F. Supp. 510 (E.D. Cal. 1978), *aff'd on other grounds*, 578 F.2d 259 (9th Cir. 1978). The defendants claimed their activities did not violate the MBTA because poisoning is not expressly forbidden by the MBTA (as it is in the Eagle Act) and because they had no intent to kill birds. They argued that extending the statute to unintentional take would lead to

absurd results, like the prosecution of vehicle drivers who hit a bird or apartment dwellers with whose picture windows birds collide.

The district court upheld the charges on the basis of three conclusions echoed (if not uniformly adopted) in almost all later MBTA decisions. First, the *Corbin* Court noted that the MBTA's "any means, any manner" language is purposefully broad and unqualified. Had Congress wanted to limit takings violations, or impose a scienter requirement, as it did in another section of the MBTA related to unlawful sale of birds, it could have done so. Second, the MBTA protects so many different types of birds, many of which are never subject to hunting seasons, that Congress could not have intended the law to apply only to the illegal conduct of hunters. (The statute's specific contemplation of corporate defendants further supports this view.) Third, citing a Supreme Court decision affirming criminal liability where a food company had allowed its product to become contaminated by vermin, the court characterized the MBTA take violation as a "public welfare offense," imposing liability for acts committed without the intent to violate, where the violator is in a position to prevent the harm and the penalties are minor:

> [L]egislation applicable to such offenses, as a matter of policy, does not specify intent as a necessary element. The accused, if he does not will the violation, usually is in a position to prevent it with no more care than society might reasonably expect and no more exertion that it might reasonably exact from one who assumed his responsibilities. Also, penalties commonly are relatively small, and conviction does no grave damage to an offender's reputation. Under such considerations, courts have turned to construing statutes and regulations which make no mention of intent as dispensing with it and holding that the guilty act alone makes out the crime.

Corbin, 444 F. Supp. at 535-36 (citing *Morissette v. United States*, 342 U.S. 246, 256 (1952) (affirming criminal liability where a food company had allowed its product to become contaminated by vermin)). The court in *Corbin* continued to write:

> The instant case is one in which the guilty act alone is sufficient to make out the crime. When dealing with pesticides, the public is put on notice that it should exercise care to prevent injury to the environment and to other persons; a requirement of reasonable care under the circumstances of this case does not offend the Constitution. If defendants act with reasonable care or if they were powerless to prevent the violation, then a very different question would be presented.

Id. at 536.

Meanwhile, the U.S. Attorney's Office in Buffalo, New York filed MBTA charges against a pesticide manufacturing company in a significantly different factual setting. In *United States v. FMC Corp.*, 572 F.2d 902 (2d Cir. 1978), the defendant company maintained a wastewater pond on which birds landed, were poisoned, and died. Once the FWS notified it of the deaths, the company implemented a rudimentary Avian Protection Plan (APP) that was largely unsuccessful until the pond was replaced with a modern water treatment facility. MBTA charges filed against FMC were based partly on deaths occurring *after* the company undertook the APP. At trial, the jury was instructed to not consider the company's APP efforts as a defense: "Therefore, under the law, good will and good intention and measures taken to prevent the killing of the birds are not a defense. Therefore, if you find that the birds were killed by the products emitted from the FMC plant, then you must return a verdict of guilty . . . ." *Id.* at 904 (punctuation added).

On appeal, exactly one month after the *Corbin* court pronounced the MBTA applicable to pesticide mis-users, the Second Circuit employed similar logic, without a due care fulcrum, in an

untroubled affirmation of the MBTA's strict-liability application to a company that had tried to initially prevent, and later rectify, its hazardous activity. To the additional question of whether an "act" is necessary to make out a crime in this context, the court analogized to tort law, concluding that an omission in the face of a duty to act is the equivalent of an action and that, in any event, manufacturing a pesticide is an affirmative act. The *FMC* court said:

> Although FMC was not aware of the lethal-to-birds quality of the water in its pond . . . nevertheless it was aware of the danger of carbofuran to humans, a fact which caused FMC to wash down the carbofuran areas more frequently, which activity in turn pumped contaminated water into the pond. Imposing strict liability on FMC in this case does not dictate that every death of a bird will result in imposing strict criminal liability on some party. However, the statute does not include as an element of the offense "willfully, knowingly, recklessly or negligently;" implementation of the statute will involve only relatively minor fines; Congress recognized the important public policy behind protecting migratory birds; FMC engaged in an activity involving the manufacture of a highly toxic chemical; and FMC failed to prevent this chemical from escaping into the pond and killing birds. This is sufficient to impose strict liability on FMC.

Id. at 908 (punctuation added). The *FMC* court thus seemed to limit its liability finding to "ultrahazardous" activity, coupled with a reliance on prosecutorial and judicial discretion to keep cases and penalties within reasonable bounds.

The most well-known prosecution of industry for taking wildlife in the early 1990s arose out of the 1989 grounding of the vessel Exxon Valdez in Prince William Sound, Alaska, which released approximately 11 million gallons of crude oil. The spill killed as many as 300,000 migratory birds, including at least 250 bald eagles, as well as approximately 2,800 sea otters, 22 orcas, and numerous other wildlife species. Working together, the Alaska USAO and ECS prosecutors indicted Exxon Shipping (which operated the vessel) and Exxon Corporation (employer of the captain, Joseph Hazelwood) on various charges, including violations of the Clean Water Act, 33 U.S.C. §§ 1311(a), 1319(c)(1); the Refuse Act, 33 U.S.C. §§ 407, 411; the Migratory Bird Treaty Act, 16 U.S.C. §§ 703, 707(a); the Ports and Waterways Safety Act, 33 U.S.C. § 1232(b)(1); and the Dangerous Cargo Act, 46 U.S.C. § 3718(b). Exxon Corporation pleaded guilty to one count of violating the Migratory Bird Treaty Act; Exxon Shipping pleaded guilty to one count each of violating the Clean Water Act, the Refuse Act, and the Migratory Bird Treaty Act. They were jointly fined $25 million and were ordered to pay restitution in the amount of $100 million. *See United States v. Exxon Corp.*, No. A90-015 CR (D. Alaska, sentencing Apr. 24, 1991). (Captain Hazelwood was prosecuted by the State of Alaska, acquitted at trial of felony charges, found guilty of negligently discharging oil, and sentenced to a $50,000 fine and 1,000 hours of community service.)

Also in the early 1990s, three district courts convicted companies of MBTA violations where birds died as a result of exposure to cyanide-laced tailings or settling ponds associated with cyanide leaching mining processes. *United States v. Nerco-Delamar Co.*, No. CR 91-032-S-HLR (D. Idaho Apr. 21, 1992); *United States v. Echo Bay Minerals Co.*, No. CR N-90-52-HDM (D. Nev. Mar. 8, 1990); *United States v. Kennecott Communications Corp.*, No. N-90-16M (D. Nev. Mar. 8, 1990).

Two appellate decisions in the 1990s, resulting from citizen suits challenging Forest Service timber sales on the basis that tree removal would result in the deaths of protected birds, interpreted the MBTA more narrowly. In *Seattle Audubon Society (SAS) v. Evans*, 952 F.2d 297, 302-03 (9th Cir. 1991), the Ninth Circuit observed that the definition of "take" under the MBTA "describes physical conduct of the sort engaged in by hunters and poachers . . . ." The *SAS* court did not take issue with the earlier case

law, including expressly the *FMC* decision, acknowledging that "[c]ourts have held that the Migratory Bird Treaty Act reaches as far as direct, though unintended, bird poisoning from toxic substances." *Id.* at 303. Instead, the court distinguished the case before it to find that indirect takings through habitat modification (timber cutting) that might result in bird deaths are not covered by the MBTA. The court relied on a comparison of the definition of take under the ESA (directly addressing and includes habitat modification under the terms "harm" and "harass") to "take" under the MBTA, which does not expressly include habitat destruction, harm, or indirect takings. Six years later, in a civil suit alleging an MBTA violation in the Forest Service's authorization of timber harvest that might kill nesting birds, the Eighth Circuit Court of Appeals largely concurred with the Ninth Circuit's holding in SAS. *Newton Cnty. Wildlife Ass'n v. U.S. Forest Serv.*, 113 F.3d 110 (8th Cir. 1997). The Eighth Circuit said:

> In this case, the Wildlife Association alleges, and the Forest Service concedes, that logging under the timber sales will disrupt nesting migratory birds, killing some. The Wildlife Association argues that the sales therefore violate MBTA's absolute prohibition against killing or taking nesting birds unless the Forest Service obtains a permit under the Fish and Wildlife Service regulations implementing MBTA. We disagree. Initially, we note that MBTA's plain language prohibits conduct directed at migratory birds—"pursue, hunt, take, capture, kill, possess," and so forth. The government argues that the statute imposes "strict liability" on violators . . . . Strict liability may be appropriate when dealing with hunters and poachers. But it would stretch this 1918 statute far beyond the bounds of reason to construe it as an absolute criminal prohibition on conduct, such as timber harvesting, that *indirectly* results in the death of migratory birds. Thus, we agree with the Ninth Circuit that the ambiguous terms "take" and "kill" in 16 U.S.C. § 703 mean "physical conduct of the sort engaged in by hunters and poachers, conduct which was undoubtedly a concern at the time of the statute's enactment in 1918."

Id. at 115 (emphasis in original).

The potential applicability of the strict liability provisions of the MBTA to migratory bird deaths resulting from timber harvests continued to be addressed in private suits under the APA and courts responded by continuing to reason that timber harvesting activities do not constitute a prohibited taking under the MBTA. *See Curry v. U.S. Forest Serv.*, 988 F. Supp. 541, 549 (W.D. Pa. 1997) ("[T]he loss of migratory birds as a result of timber sales of the type at issue in this case do not constitute a 'taking' or 'killing' within the meaning of the MBTA.") (citing *Newton Cnty. Wildlife Ass'n v. U.S. Forest Serv.*, 113 F.3d 110 (8th Cir. 1997)); *Mahler v. U.S. Forest Serv.*, 927 F. Supp. 1559, 1579, 1583 (S.D. Ind. 1996) ("The MBTA does not apply to other activities that result in unintended deaths of migratory birds . . . . The better reading of the statute is to find that the prohibitions apply only to activity that is intended to kill or capture birds or to traffic in their bodies and parts."); *Citizens Interested in Bull Run, Inc. v. Edrington*, 781 F. Supp. 1502, 1510 (D. Or. 1991) (finding that the MBTA definition of take describes physical conduct of the sort engaged in by hunters and poachers).

Meanwhile, at least two district courts found that a violation of the MBTA would result from timber harvesting, even though it is not a hunting-related activity, but only where that harvesting is shown to directly kill migratory birds (for example, crush them as the trees fall as opposed to reducing populations over time due to the habitat loss). *Sierra Club v. Martin*, 933 F. Supp. 1559 (N.D. Ga. 1996) (finding plaintiffs seeking injunctive relief had shown a likelihood of success on the merits of their underlying MBTA claim where the Forest Service authorized timber harvest that would result in the deaths of thousands of migratory songbirds), *rev'd on other grounds*, 110 F.3d 1551 (11th Cir. 1997) (finding the MBTA did not apply to federal government agencies); *Sierra Club v. USDA*, No. 94-CV-4061-JPG (S.D. Ill. Sept. 25, 1995) (remanding a Management Plan to the Forest Service for further

consideration of whether the plan would violate the MBTA where the Plan allowed logging during the nesting season).

In 1998 the Environment and Natural Resources Division led the first MBTA/Eagle Act prosecution based on electrocution of avian wildlife. *United States v. Moon Lake Electric Ass'n, Inc.*, 45 F. Supp. 2d 1070 (D. Colo. 1999). Moon Lake is an electric cooperative based in Utah that operated about 2,400 electrical distribution poles and lines in a remote area of northwestern Colorado serving a treeless oil field with a high concentration of rodents and corresponding density of raptors, including golden eagles, ferruginous hawks, and great horned owls. These raptors perched and roosted on Moon Lake's poles, which featured exposed, horizontally-arrayed phase wires posing an avian electrocution hazard. After several raptors were electrocuted by this equipment, FWS notified Moon Lake of its potential liability under the MBTA/Eagle Act and the need to retrofit or otherwise modify their equipment to prevent future avian deaths. The company demurred, electrocutions continued, and the government filed MBTA and Eagle Act criminal charges. Moon Lake sought dismissal of the charges, claiming that neither of the statutes apply to unintentional conduct outside the realm of sport-hunting violations. The company supplemented the well-worn arguments made ten years earlier in *FMC* and *Corbin* with the recent opinions in logging cases noted above.

District Judge Babcock wrote the most exhaustive opinion on the industrial takings issue to date, examining the MBTA's language and legislative history, analyzing each argument raised by Moon Lake, and considering the indirect-take opinions issued in the Eighth and Ninth Circuits since *FMC* and *Corbin*. (He also noted a 1997 Tenth Circuit opinion dealing with possession of migratory bird parts by an individual specifically joining six other circuits in affirming the strict liability nature of § 703 offenses. *United States v. Corrow*, 119 F.3d 796 (10th Cir. 1997)). Judge Babcock rejected the indirect-take, habitat modification decisions as inapposite and disagreed with the Ninth Circuit's analysis in *SAS*, to the extent it could be read as restricting the MBTA's application to hunting activities. In rejecting the windshield/skyscraper *reductio ad absurdum* arguments raised by Moon Lake, he did not rely on the "due care" pillar of *Corbin*, the "inherently dangerous" justification in *FMC*, or the "prosecutorial discretion" safeguard mentioned in both. Instead, Judge Babcock cited the fundamental requirement that the government must prove "proximate cause" even in strict liability cases.

Thus, the court reasoned, "(b)ecause the death of a protected bird is generally not a proximate consequence of driving an automobile, piloting an airplane . . . or living in a residential dwelling with a picture window, such activities would not normally result in liability under (the MBTA misdemeanor provisions), even if such activities would cause the death of protected birds." *Moon Lake*, 45 F. Supp. 2d at 1085. As a district court decision, of course, this opinion is without precedential value in subsequent appellate litigation, though it is cited in the most recent Tenth Circuit opinion on the issue, discussed below.

Following *Moon Lake*, the MBTA's strict liability take prohibition was applied to a potash mining company whose operations resulted in brine-filled ponds that killed migratory birds. *United States v. Miss. Potash*, No. CR-03-1941 (D.N.M. Sentencing Sept. 27, 2004). Federal courts in Arizona and New Mexico applied the MBTA strict-liability provisions to companies that caused the deaths of migratory birds through exposure to toxic waters created through copper mining operations. *United States v. Phelps Dodge Tyrone Mining Co.*, CR-05-1900 (D.N.M. Sept. 26, 2005); *United States v. Phelps Dodge Morenci, Inc.*, 4:04-CR-01629 (D. Ariz. Dec. 14, 2004). Each of these cases was resolved by plea agreement, without substantive litigation on the issues raised here.

G. Recent lower court outcomes

In February 2009 a district court judge in New Mexico reversed the conviction, before a Magistrate Judge, of an oil company that had killed at least 34 migratory birds in an poorly-maintained overflow pit. *United States v. Ray Westall Operating, Inc.*, No. CR 05-1516-MV (D.N.M. Feb. 25, 2009). The court's ruling was based on a finding that the MBTA's "any means/any manner" language is ambiguous, was intended to apply only to actions directed at migratory birds, such as hunting, and would lead to absurd windshield/skyscraper results if applied to industry. In July 2009 the Wyoming U.S. Attorney's Office negotiated a pre-indictment plea agreement with PacifiCorp, requiring it to plead guilty to 34 MBTA counts in connection with the electrocution of over 200 eagles on its electric distribution and transmission facilities in Wyoming. PacifiCorp, which was deemed to have reneged on an APP it negotiated with the FWS some years earlier, paid a $500,000 fine, $900,000 in restitution/community service, and is required to spend over $9 million implementing an Environmental Compliance Plan (ECP) during its probationary sentence. *United States v. PacifiCorp*, No. 09-cr-174B (D. Wyo. July 10, 2009). In August 2009, Exxon-Mobil pleaded guilty to MBTA counts brought by the ECS and U.S. Attorney's Office in Colorado, related to its poisoning of about 85 migratory birds on oil and gas well sites and production facilities in five states. *United States v. Exxon-Mobil*, Case No 97-mj-01097 (D. Colo. Aug. 12, 2009). Exxon-Mobil was fined $400,000 and made $200,000 in community service payments. The company will spend approximately $3 million to implement an ECP that is part of its probationary conditions.

In October 2009 a magistrate judge in Louisiana refused to accept the guilty plea of an oil company to MBTA charges involving the deaths of pelicans that had become trapped in the outer casing of a wellhead operated by the company. *United States v. Chevron USA, Inc.*, 2009 WL 3645170, at *5 (W.D. La. Oct. 30, 2009). Chevron had self-reported the event and, prior to charging, rectified the hazard by installing a steel grate to prevent future entrapments. The opinion in this case plows no new ground: the magistrate concluded that MBTA charges are inapplicable to industry actions whose danger to migratory birds is unforeseeable, that the statute was aimed at people who "hunt and trap migratory birds," and that absurd results, like windshield/skyscraper prosecutions, could result from unfettered application of the strict-liability provisions to all migratory bird takings.

On November 7, 2007 the container ship M/V Cosco Busan struck a support tower of the San Francisco-Oakland Bay Bridge while trying to depart the harbor in heavy fog. The collision released over 50,000 gallons of fuel oil into San Francisco Bay, contaminating widespread beaches and fisheries, and killing at least 2,000 migratory birds, including Brown Pelicans, Marbled Murrelets, and Western Grebes. Several factors contributed to the collision and spill, including impairment of the ship's pilot and certain malfunctioning or non-existent safety systems. After the collision, the company created false and forged documents with the intent to deceive the Coast Guard. The U.S. Attorney's Office for the Northern District of California and ECS prosecutors worked together to indict the pilot and ship management company on charges including violation of the Oil Pollution Act of 1990 (OPA 90, 33 U.S.C. §§ 270–2761), obstruction of justice, false statement, and MBTA. Ultimately, the company pleaded guilty to violating OPA 90 and to felony obstruction and false statement charges, agreeing to pay a $10 million criminal penalty, $2 million of which was devoted to funding marine environmental projects in San Francisco Bay. The plea agreement also required the company to implement a comprehensive ECP to include heightened training and voyage planning for its vessels engaged in trade in United States waters. The pilot of the vessel pleaded guilty to violating OPA 90 and the MBTA and was sentenced to 10 months in prison, 1year of supervised release, and 200 hours of community service. *United States v. Fleet Management, Ltd.,* No. 3:08- CR-00160 (N.D. Cal. Feb. 19, 2010).

H. *United States v. Apollo Energies, Inc.*, 611 F.3d 679 (10th Cir. 2010)

The inconsistent lower-court interpretations of the MBTA's applicability to takings at oil company facilities discussed above were countered, in October 2010, with the first appellate decision directly addressing the issue. In *United States v. Apollo Energies, Inc.*, 611 F.3d 679 (10th Cir. 2010), two oil drilling companies (Apollo and Walker) were charged with MBTA violations after the deaths of migratory birds in "heater-treaters," which are louvered cylindrical devices used to separate oil from water during pumping operations. The FWS had discovered over 200 protected birds dead in such devices several years earlier, notified the area's oil industry of the problem, and established a grace period during which the devices could be remediated and no charges would be filed. The takings at issue involving Apollo and Walker occurred after the grace period ended. Walker established at trial that it had not received notice of the heater-treater problem from the FWS. Nevertheless, both companies were convicted in magistrate court and the convictions were affirmed by the district court.

The defendant companies appealed to the Tenth Circuit, posing generally the same arguments used by other defendants discussed in this article. They argued that the MBTA is purely a hunting statute; the strict-liability standard is either incorrect or inapplicable to the passive operation of industrial facilities; and due process requires reversal due to statutory vagueness, causal attenuation, and lack of prior warning to Walker about the heater-treater problem. The Tenth Circuit addressed each of these issues in turn, upholding the conviction of Apollo and reversing one of the two counts against Walker. The panel began by swiftly affirming the strict liability nature of MBTA take violations, citing the *Corrow* case mentioned above. *Id.* at 684. Noting that the acts criminalized by the MBTA "may be legion, but they are not vague," *id.* at 689, the court turned aside the defendants' claims that the statute failed to provide notice of what conduct constitutes a crime. The court agreed with the conclusion in *Moon Lake* that an MBTA take conviction requires proof a defendant was on notice that an otherwise innocuous act, such as operating heater-treaters, would proximately cause a taking in violation of the statute. The panel approved the district court's finding that the government had proved " 'proximate causation' or 'legal causation' beyond a reasonable doubt" by "showing that trapped birds are a reasonably anticipated or foreseeable consequence of failing to cap the exhaust stack and cover access holes to the heater/treater." *Id.* at 689-90. The provision of notice and an opportunity to cure prior to charging was an integral part of the panel's due process/proximate cause analysis. It reversed one MBTA count against Walker on a finding that he was not aware of problems with heater-treaters in the oil industry or in his operations at the time the bird underlying that count was found dead in his equipment. *Id.* at 691.

The *Apollo* decision supports the government's approach to industrial avian takings that has developed over the past two decades: provide notice to industry of the risks posed by facilities and equipment, encourage compliance through remediation, adaptive management and, where possible, permitting, and reserve for prosecution those cases in which companies ignore, deny, or refuse to comply with a BMP approach to avian protection in conducting their business.

V. The Bald and Golden Eagle Protection Act

A. Prohibitions and definitions

The Bald and Golden Eagle Protection Act provides, in relevant part, "[w]hoever . . . without being permitted to do so . . . shall knowingly, or with wanton disregard for the consequences of his act, take . . . any bald eagle . . . or golden eagle . . . shall be (subject to Class A misdemeanor penalty)." 16 U.S.C. § 668(a) (2011). The word "whoever" includes associations, partnerships, and corporations. *Id.* § 668(c). To "[t]ake" under the Eagle Act is defined as "to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb . . . ." *Id.* Significant to this discussion, "disturb" was

defined by regulation at 50 C.F.R. § 22.3 in 2007 as "to agitate or bother a bald or golden eagle to a degree that causes . . . injury to an eagle, a decrease in productivity, or nest abandonment . . . ."

The most notable initial difference between the MBTA and Eagle Act is that the latter does not create a strict liability offense: it applies only to those who act "knowingly, or with wanton disregard for the consequences" of their acts. *See* S. REP. NO. 92-1159, at 4, reprinted in 1972 U.S.C.C.A.N. 4285, 4289 (the defendant "must be conscious from his knowledge of surrounding circumstances and conditions that conduct will naturally and probably result in injury" to a protected bird).

B. Penalties

The Eagle Act is the only federal wildlife protection statute that imposes increased sanctions for repeat offenders. Initial violation of the statute is a Class A misdemeanor, with a maximum punishment for organizational defendants of five years probation and a $250,000 fine. 16 U.S.C. § 668(a), modified by 18 U.S.C. § 3571(c)(5) (2011). Second and subsequent violations are Class E felonies under 18 U.S.C. § 3559(a)(5), for which an organizational defendant may be sentenced to five years probation and a fine of up to $500,000, per 18 U.S.C. § 3571(c)(3). A defendant may be subject to the felony penalty enhancement for second and subsequent counts charged in a single indictment. *Deal v. United States*, 508 U.S. 129 (1993).

The Eagle Act provides that one-half of any fine imposed for a violation of the statute, but not to exceed $2,500, *shall* be paid to the person or persons giving information that leads to the conviction. This provision has not yet been employed in corporate takings cases but remains a live option in future investigations involving civilian tipsters. The Eagle Act sets forth a $5,000 maximum civil penalty for each violation. 16 U.S.C. § 668(b) (2011).

C. Other sanctions

The Eagle Act is the only wildlife statute that specifically allows federal agencies to cancel a livestock grazing lease, license, permit, or other agreement issued to a defendant who has violated the Act. *See id.* § 668. This provision is a Congressional response to the placement, by livestock operators, of poisons intended to kill predators but that also kill eagles and other raptors.

D. Unit of prosecution

The statute provides that the commission of any act prohibited by this section with respect to a bald or golden eagle shall constitute a separate violation of this section. *Id.* § 668(a).

E. Permits and exceptions

The FWS issues permits under the Eagle Act to take, possess, and transport bald and golden eagles for scientific, educational, and Indian religious purposes, depredation, and falconry (golden eagles) and to take eagle nests when necessary to protect human safety or the eagles. No permit authorizes the sale, purchase, barter, trade, importation, or exportation of eagles, or their parts or feathers. The regulations governing eagle permits can be found in 50 C.F.R. part 13 (General Permit Procedures) and 50 C.F.R. part 22 (Eagle Permits).

Non-purposeful take of eagles. Bald eagles were removed from ESA coverage in 2007 after their populations were deemed to be sufficiently recovered. (Golden eagles were never listed under the ESA.) De-listing removed the historical source of FWS authority for issuing incidental take permits for bald eagles and their nests, considered necessary in some circumstances. In 2009 the FWS promulgated

the Final Eagle Permit Rule, providing for the issuance of permits allowing limited take of bald and golden eagles when the take is associated with, but not the purpose of, an otherwise lawful activity, and cannot practicably be avoided. 50 C.F.R. § 22.26. The regulation also authorizes permits to be issued for ongoing or "programmatic" take but establishes a higher standard for permitting such take. The higher standard requires that the take be "unavoidable after implementing advanced conservation practices." *Id.* The permits will authorize limited, non-purposeful take of eagles by authorizing individuals, companies, government agencies (including tribal governments), and other organizations to disturb or otherwise take eagles in the course of conducting lawful activities, such as operating utilities and airports. Most permits issued under the new regulations would authorize disturbance: in limited cases, a permit may authorize the physical take of eagles, but only if every precaution is first taken to avoid the need for physical take.

Eagle nests. Section 22.27 authorizes the FWS to issue permits allowing the intentional take of eagle nests where necessary to alleviate a safety hazard to people or eagles, to ensure public health and safety, where a nest prevents use of a human engineered structure, and where the activity or mitigation for the activity will provide a net benefit to eagles. Removal of eagle nests would usually be allowed only when it is necessary to protect human safety or the eagles.

Eagles and wind power. The FWS and wind power industry have known for some time that wind turbines in the western United States pose a significant mortality risk to eagles, especially golden eagles. In response to this problem, the FWS has worked closely with the wind industry to develop permitting and guidance, on issues from site selection to operation that will harmonize the twin goals of promoting renewable energy development and enforcing statutorily-mandated protections for eagles. In February 2011 the FWS issued draft "Eagle Conservation Plan Guidance," explaining the FWS's approach to issuing programmatic eagle take permits and providing guidance to applicants and biologists for conservation practices and adaptive management necessary to meet standards required for issuance of these permits and to be in compliance with the Eagle Act. This draft guidance focuses on wind energy (additional modules for other types of industry are planned) and provides a five-tiered approach to siting, construction, monitoring, and operation of wind energy projects, as well as offsetting conservation measures, compliance with which will be required before any eagle take permits under the new Rule will be issued. These regulations also require the FWS to ensure that any permit for take of eagles is "consistent with the goal of increasing or stabilizing breeding populations." Because the best available scientific assessment of golden eagle populations indicates that some golden eagle populations are not stable and some are declining, the FWS has set regional take thresholds for golden eagles that are zero or close to zero in some areas of the west and southwest. Thus, eagle permits are going to be least available in the areas of highest demand—where wind energy developments are currently operating or slated for development in the western United States.

F. Application to avian takings by industry

The legislative history of the Eagle Act's amendment in 1972 contains specific discussion between senators and Department of the Interior officials about how the law would be applied to "protect eagles from electrocution." *Bald Eagle Protection Act: Hearings on S. REP. NO. 2547, H.R. REP. NO. 12186, and H.R. REP. NO. 14731 Before the Subcomm. on the Env't of the S. Comm. on Commerce*, 92nd Cong. 22-24 (1972). The only reported decision directly addressing this issue affirmed such an application. *United States v. Moon Lake Electric Ass'n, Inc.*, 45 F. Supp. 2d 1070, 1074 (D. Colo. 1999). As noted in the *Moon Lake* decision, the Eagle Act was modeled after the MBTA and Congress' intention that it be applied to conduct beyond hunting is reflected in the inclusion of the terms "poison," "molest," and "disturb" in its list of prohibited activities. *See id.* at 1085-86.

VI. The Endangered Species Act

A. Relevant statutory provisions

The Endangered Species Act makes it a Class A misdemeanor to knowingly and unlawfully "take" an endangered species. 16 U.S.C. §§ 1538(a)(1)(B), 1540(b)(1) (2011).

- The word "take" is defined more broadly under the ESA than under the MBTA or Eagle Act to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." *Id.* § 1532(19).
- FWS regulations define "harass" as "an intentional or negligent act or omission that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns that include but are not limited to, breeding, feeding, or sheltering." 50 C.F.R. § 17.3 (2011).
- The regulations also define "harm" to include "an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." 50 C.F.R. § 17.3 (2011).

The mens rea requirement of "knowingly" requires proof of defendant's knowledge of the facts that constitute the offense, not proof of an intention to violate the ESA or knowledge that a particular species is listed under its provisions. The Department's "McKittrick Policy" requires the government to establish that the defendant knew the biological identity of the animal taken, which can pose a prosecution obstacle in cases involving protected species that are visually similar to unprotected species, such as grizzly bears (that can be mistaken for unlisted black bears) and wolves (that can be mistaken for unlisted coyotes).

B. Penalties

The maximum penalty that can be imposed on a corporate defendant under the ESA for taking an endangered species is five years probation and a $100,000 fine or twice the pecuniary gain or loss caused by the offense. 16 U.S.C. § 1540(b)(1) (2011); 18 U.S.C. § 3571(b), (e) (2011); *but see United States v. Eisenberg*, 496 F. Supp. 2d (E.D. Pa. 2007) (ESA amendment subsequent to enactment of Criminal Fine Improvements Act of 1987 prevents increase in maximum fine under the latter). Lesser criminal penalties apply to the unpermitted taking of threatened species. Civil, administrative monetary penalties also may be assessed by the Department of the Interior for knowingly taking either endangered or threatened species: a maximum fine of $25,000 for endangered species; $12,000 for threatened species. 16 U.S.C. § 1540(a)(1) (2011). A $500 strict liability civil penalty also may be assessed. *Id.*

C. Permits and exceptions

A person or organization may apply for an "incidental take permit" under the ESA, authorizing the taking of an endangered species without penalty "if such taking is incidental to and not the purpose of, the carrying out of an otherwise lawful activity." *Id.* § 1539(a)(1)(B). An entity may seek an Incidental Take Permit (ITP) from the FWS by filing an application that includes a Habitat Conservation Plan (HCP), designed to minimize and mitigate harmful effects of the proposed activity on endangered species. *Id.* § 1539(a)(2)(A)(i)–(iv). If the FWS issues an ITP, it monitors the project for compliance with the terms and conditions of the HCP as well as the effect of the permitted action and the efficacy of the conservation program. 65 Fed. Reg. 35, 242, 253-56 (June 1, 2000).

D. Application to avian takings by industry

Few criminal cases for avian takings are brought under the ESA, likely because the statute covers fewer species than the MBTA, provides for civil sanctions and incidental take permits, and requires the government to prove a "knowing" mental state for criminal conviction. Civil litigation has, however, fleshed out ESA's application to "indirect take" of endangered species by industry. *See, e.g.*, *Babbit v. Sweet Home Chapter Of Communities for a Great Or.*, 515 U.S. 687 (1995) (affirming that "harm" applies to indirect takings of listed species, as by habitat modification such as logging that actually kills or injures a specimen). More specifically, a recent district court decision in a citizen suit seeking injunctive relief against a wind power company whose project could harm an endangered bat species contains an excellent discussion of the ESA's application in this area, as well as a fascinating exploration of wind power-avian interaction. *Animal Welfare Inst. v. Beech Ridge Energy*, 675 F. Supp. 2d 540 (D. Md. 2009). *Beech Ridge* echoes previous opinions, including *Sweet Home*, to find that "take" is defined expansively under the ESA and includes an activity reasonably certain to imminently harm, kill, or wound a listed species. In this case, that meant the operation of wind turbines in a location likely to contain endangered Indiana bats that could be killed by contact with the rotors. Read in conjunction with other decisions cited in this article, including *Moon Lake* and *Apollo Energies*, *Beech Ridge* foreshadows the eventual criminal prosecution under the ESA, MBTA, or Eagle Act of a wind power company that knowingly fails to implement a BMP approach in developing a project that poses a credible risk to protected avian wildlife.

The most recent criminal case involving industrial taking of avian species listed under the ESA is *United States v. Kaua'i Island Util. Coop.*, Case No. 10-00296-JMS (D. Haw. Dec. 2, 2010). In *KIUC*, a long investigation by the company and government revealed that immature Newell's shearwaters flying between inland nests and the ocean frequently collided with company powerlines or fell to the ground and were killed after becoming disoriented by unshielded utility lights. The Newell's shearwater is listed as threatened under the ESA and is also protected as a migratory bird under the MBTA. The company's research indicated its lines and lights were killing over 100 shearwaters each year. Prosecution of the case was delayed for several years, during which the company conducted limited remediation and engaged in half-hearted efforts to obtain an ITP/HCP from the FWS. Ultimately, ECS successfully presented a 19-count indictment charging the utility with violations of the ESA and MBTA. In December 2010, pursuant to a plea agreement, the company pleaded guilty to one ESA and one MBTA count, paid a fine of $40,000, and made a community service payment of $225,000 to the National Fish and Wildlife Foundation, earmarked for the preservation of protected seabirds on Kauai. During 18 months of probation, the utility is required to modify and reconfigure power lines, monitor avian deaths, and apply for an ITP/HCP.

VII. Getting to yes

Prosecuting industrial avian takings cases in the typical fashion—indictment (or information/notice of violation), discovery, motions, and trial/plea—can lead to frustrating outcomes, including small penalties, limited remedial orders, and, sometimes, rejection by the judiciary. The author's experience suggests that pre-indictment negotiation of these cases is often more productive. Such an approach involves the following steps:

- Intake of reports by the investigating agency. As suggested in the *Apollo* decision described above, ensure the issues of notice and causation and failure to remediate are adequately supported. If not, suggest further investigation or notice by the agency.

- If prosecution appears justified by the facts and USAM guidelines, send a target letter to the company, suggesting a meeting where the parties can exchange information about the conditions leading to avian takings on company facilities. Counsel for the company and relevant field managers should attend the initial meeting, along with the prosecutor(s) and investigator(s). The goal of the meeting is to explain the provisions of the relevant statutes and prior relevant cases and agreements and to explore the factual background leading to the meeting. Frequently, corporate counsel is not aware, prior to receiving the target letter, that notice has been provided to field personnel or managers by the agency concerning the conditions leading to avian takings. It is unusual to negotiate the precise terms of a potential settlement of the case at this early stage of negotiations.
- Ground-check information received from the defendant company. In some cases, the company may be encouraged to hire a third-party consultant to conduct an audit of the avian mortality risks and past avian deaths associated with its facilities. Sometimes, this audit will expand beyond the initial jurisdiction of investigation. For example, in *United States v. Exxon-Mobil*, Case No 97-mj-01097 (D. Colo. Aug. 12, 2009), the company was initially approached about mortalities in two states, and eventually found problems on facilities in five states, all of which were included in the resulting plea agreement and remediation.
- Begin to develop a pre-charging plea agreement. If birds or bats listed as endangered or threatened have been taken, the company may wish to initiate the ITP/HCP process with the FWS to cover its future takings of all avian wildlife. (As noted herein, such permits are not available under the MBTA and are just beginning to emerge under the Eagle Act.) In the absence of dead, endangered, or threatened species, or a tangible risk to such species, the AUSA will likely suggest a single MBTA or Eagle Act violation for every group of takings logically separated by time or geography. Fine and community service payments are negotiated based on the particular facts of the case, with an eye to prior resolutions and the benefit of counsel from ECS. An ECP, made a condition of probation and discussed below, is a typical feature of these settlements.

VIII. Sentencing considerations

In cases involving only the take of migratory birds or threatened species—Class B misdemeanors—the advisory Sentencing Guidelines do not apply. U.S. SENTENCING GUIDELINES MANUAL § 1B1.9 (2011). Organizational defendants convicted of Class A misdemeanor crimes for taking eagles or endangered species would be subject to Chapter 8 of the Guidelines, except for the fine calculation, because these violations are sentenced under § 2Q2.1 that is exempted from Part C of Chapter 8. *See id.* § 8C2.1. This means that the prosecutor must negotiate or argue sentencing issues, including fine amounts, using the factors set forth in 18 U.S.C. § 3553. The Alternative Fines Act, authorizing the imposition of a fine of up to twice the gross gain resulting from the offense conduct, may also play a role in plea negotiations and sentencing. *Id.* § 3571(d).

A. Community service payments

Title 18, United States Code, Section 3563(b) provides that conditions of probation must be "reasonably related" to the factors set forth in 18 U.S.C. § 3553(a)(1), which requires the sentencing court to consider the "nature and circumstances of the offense." "A court in determining the particular sentence to be imposed, shall consider . . . the nature and circumstances of the offense . . . [and] the need

for the sentence imposed . . . to promote respect for the law . . . to afford adequate deterrence to criminal conduct . . . [and] to protect the public from further crimes of the defendant . . . ." *Id.* Section 3563(b)(12) allows the discretionary imposition of "work in community service as directed by the court," though it does not define "community service" or provide guidance on the kinds of activities that would satisfy the requirement. The Sentencing Guidelines suggest that community service is to be "reasonably designed to repair the harm caused by the offense," adding in the commentary that

> [a]n organization can perform community service only by employing its resources or paying its employees or others to do so . . . . However, where the convicted organization possesses knowledge, facilities, or skills that uniquely qualify it to repair damage caused by the offense, community service directed at repairing damage may provide an efficient means of remedying harm caused.

U.S. SENTENCING GUIDELINES MANUAL § 8B1.3 (2011).

Environmental offenses often involve harm that cannot be directly remedied: as Monty Python proved so eloquently, a dead bird cannot be brought back to life, no matter how beautiful its plumage. The commentary to § 8B1.3 suggests that community service of other than the nature described in that guideline could be acceptable if "such community service provided a means for protective or corrective action directly related to the offense and therefore served one of the purposes of sentencing set forth in 18 U.S.C. § 3553."

The concepts embodied in these statutes and Guidelines, along with the court's authority under 18 U.S.C. § 3563(b)(22) to require a defendant to "satisfy such other conditions as the court may impose" provide a foundation for requiring community service in avian takings cases. Community service can take the form of both monetary payments and remediation requirements. Such payments are usually directed to the National Fish and Wildlife Foundation (NFWF), a charitable, nonprofit corporation established pursuant to 16 U.S.C. §§ 3701–3709. Its purposes include the acceptance and administration of "private gifts of property for the benefit of, or in connection with, the activities and services of the U.S. Fish and Wildlife Service" and the performance of "such other activities as will further the conservation and management of the fish, wildlife, and plant resources of the United States and its territories and possessions for present and future generations of Americans." *Id.* § 3701(b)(1), (2). The NFWF is empowered to "do any and all acts necessary and proper to carry out" these purposes, including, specifically, solicitation, acceptance, and administration of "any gift, devise or bequest . . . of real or personal property." *Id.* § 3703(c)(1), (7).

B. The environmental compliance/avian protection plans

As mentioned in this article, voluntary APPs are becoming fairly common among companies that perceive a risk to avian wildlife posed by their operations. APPs were initially developed for the electric power distribution industry, gradually migrated to the oil and gas industry, and are now being used in the wind power area. Earlier this year the FWS continued its collaborative efforts to help wind developers address the problem by issuing Draft Guidelines for Land-Based Wind Energy Development and Draft Eagle Conservation Plan Guidance, discussed in Part V.E.

A standard condition of probation in every federal case is the prohibition against committing further violations during the probationary period. The method used to achieve this goal in avian takings cases is the ECP, the militarized version of the voluntary APP. The ECP is a written document prescribing steps the defendant company must take to prevent future avian mortality on its facilities. The ECP is often prepared by a third-party consulting firm (at the company's expense), which should conduct a thorough audit of the company's facilities and history of avian takings and describe specific actions,

(such as netting, hazing, prompt closure of reserve pits, etc.) to be taken by the defendant during probation. Close coordination between the defendant company and FWS, including voluntary self-reporting and adaptive management, including amendment of the ECP as necessary during probation, is common. The ECP is reviewed by the prosecution team prior to presentation to the court. Failure of the company to comply with the terms and requirements of the ECP can form the basis for revocation of probation. The plea agreement normally provides that the FWS will not refer for prosecution takings that occur during the probationary period, so long as the company is in compliance with the ECP.

IX. Conclusion

The pesticide threat to migratory bird populations warned of in Rachel Carson's 1962 book, "Silent Spring," has been replaced by hazards from equipment and facilities considered essential to everyday life and eventual energy independence. Over the past fifty years, the regulatory regimes of the MBTA, Eagle Act, and ESA have developed to complement the environmental protections that industry is rightfully expected industry to observe for our air and water. Energy and mining companies are gradually coming to understand that, in addition to preventing pollution, they also must employ BMPs to minimize the take of protected avian wildlife at their facilities. One way to encourage compliance in this area is for wildlife agents and prosecutors to bring criminal charges in cases where the facts and law justify such a response. Federal policies favoring protection of wildlife and encouraging development of renewable energy need not be in conflict when energy companies act as good neighbors to the environment. The challenge for the prosecutor is determining which takings are unavoidable, causally attenuated, or permitted by regulators and thus not actionable; and which are unpermitted, foreseeable to, proximately caused by, and inadequately addressed by industry, making them amenable to punitive sanctions. Given their still-unusual nature and the potential for long-term benefit to the environment, these cases can be both challenging and very rewarding to the prosecutor and district in which they are brought.

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ABOUT THE AUTHORS

❑**Robert S. Anderson** is a Senior Counsel in the Environmental Crimes Section and is stationed in the U.S. Attorney's Office at Missoula, Montana. He has prosecuted federal wildlife crimes for the Department of Justice for twenty years. Mr. Anderson is a long-time participant in Interpol's Wildlife Crime Working Group and has taught widely in the United States and abroad, including a yearly summer class at Vermont Law School. He authored an article titled "The Lacey Act: America's Premier Weapon in the Fight Against Unlawful Wildlife Trafficking", PUB. LAND L. REV. Vol. 16 (1995), and co-authored "Wildlife Crime: Important Cases, Many Tools, Good Results," published in the United States Attorneys' Bulletin in December 1999 and the Vermont Journal of Environmental Law.

❑**Jill Birchell** is a Special Agent with the U.S. Fish and Wildlife Service and works as the Assistant Special Agent in Charge of the Southwest Region for the Service's Office of Law Enforcement in Albuquerque, New Mexico. Ms. Birchell has been a Service officer for twenty-four years. She has worked in four Service Regions from Alaska to Washington, D.C. and has spent most of her career investigating wildlife crimes in Alaska. She also served as a Special Assistant U.S. Attorney for wildlife prosecutions as a collateral duty in Alaska. Since moving to the Southwest Region she has helped oversee a variety of investigations, including many involving bird takings by industry.✠

The authors would like to thank Albert M. Manville, II, Ph.D., C.W.B., Senior Wildlife Biologist and National Avian-Structural Lead, Bird Strike, Bycatch, Policy, and International Issues for the Fish and Wildlife Service Division of Migratory Bird Management in Arlington, Virginia for lending his expertise and statistics for this article.

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SIXTH EDITION

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THE PUBLISHER'S EDITORIAL STAFF

Coauthors

JOSEPH R. NOLAN

Associate Justice, Massachusetts Supreme Judicial Court

and

JACQUELINE M. NOLAN-HALEY

Associate Clinical Professor,
Fordham University School of Law

Contributing Authors

M. J. CONNOLLY
Associate Professor (Linguistics),
College of Arts & Sciences, Boston College

STEPHEN C. HICKS
Professor of Law, Suffolk University
Law School, Boston, MA

MARTINA N. ALIBRANDI
Certified Public Accountant, Bolton, MA

ST. PAUL, MINN.
WEST PUBLISHING CO.
1990

Provisional seizure. A remedy known under the law of Louisiana, and substantially the same in general nature as attachment of property in other states.

Proviso /prəváyzow/. A condition, stipulation, limitation, or provision which is inserted in a deed, lease, mortgage, or contract, and on the performance or nonperformance of which the validity of the instrument frequently depends; it usually begins with the word "provided."

A limitation or exception to a grant made or authority conferred, the effect of which is to declare that the one shall not operate, or the other be exercised, unless in the case provided.

A clause or part of a clause in a statute, the office of which is either to except something from the enacting clause, or to qualify or restrain its generality, or to exclude some possible ground of misinterpretation of its extent.

A "proviso" is used to limit, modify or explain the main part of section of statute to which it is appended. Saginaw County Tp. Officers Ass'n v. City of Saginaw, 373 Mich. 477, 130 N.W.2d 30, 32. The office of a "proviso" in a statute is to restrict or make clear that which has gone before. Allen v. Burkhart, Okl., 377 P.2d 821, 827. A clause engrafted on a preceding enactment for the purpose of restraining or modifying the enacting clause or of excepting something from its operation which would otherwise have been within it. Stoller v. State, 171 Neb. 93, 105 N.W.2d 852, 856. A proviso is sometimes misused to introduce independent pieces of legislation. Cox v. Hart, 260 U.S. 427, 43 S.Ct. 154, 157, 67 L.Ed. 332. Its proper use, however, is to qualify what is affirmed in the body of the act, section, or paragraph preceding it, or to except something from the act, but not to enlarge the enacting clause. And it cannot be held to enlarge the scope of the statute.

Exception and proviso distinguished. *See* Exception.

Proviso est providere præsentia et futura, non præterita /prəváyzow èst pròvədíriy prəzénsh(iy)ə èt f(y)ətyúrə, nòn prətéhrətə/. A proviso is to provide for the present or future, not the past.

Provisor /prəváyzər/. In old English law, a provider, or purveyor. Also a person nominated to be the next incumbent of a benefice (not yet vacant) by the pope. He that hath the care of providing things necessary; but more especially one who sued to the court of Rome for a provision.

Proviso, trial by. In old English practice, a trial brought on by the defendant, in cases where the plaintiff, after issue joined, neglects to proceed to trial; so called from a clause in the writ to the sheriff, which directs him, in case two writs come to his hands, to execute but one of them. The defendant may take out a *venire facias* to the sheriff, which hath in it these words, *Proviso quod,* etc., provided that if the plaintiff shall take out any writ to that purpose, the sheriff shall summon but one jury on them both.

Provocation. The act of inciting another to do a particular deed. That which arouses, moves, calls forth, causes, or occasions. Such conduct or actions on the part of one person towards another as tend to arouse rage, resentment, or fury in the latter against the former, and thereby cause him to do some illegal act against or in relation to the person offering the provocation. *See also* Procurer.

Provocation which will reduce killing to manslaughter must be of such character as will, in mind of average reasonable man, stir resentment likely to cause violence, obscure the reason, and lead to action from passion rather than judgment. There must be a state of passion without time to cool placing defendant beyond control of his reason. Provocation carries with it the idea of some physical aggression or some assault which suddenly arouses heat and passion in the person assaulted.

Provoke. To excite; to stimulate; to arouse. To irritate, or enrage.

Provost-Marshal. In military law, the officer acting as the head of the military police of any post, camp, city or other place in military occupation, or district under the reign of martial law. He or his assistants may, at any time, arrest and detain for trial, persons subject to military law committing offenses, and may carry into execution any punishments to be inflicted in pursuance of a court martial.

Proxeneta /pròksəníytə/. Lat. In the civil law, a broker; one who negotiated or arranged the terms of a contract between two parties, as between buyer and seller; one who negotiated a marriage; a match-maker.

Proximate. Immediate; nearest; direct, next in order. In its legal sense, closest in causal connection. Armijo v. World Ins. Co., 78 N.M. 204, 429 P.2d 904, 905. Next in relation to cause and effect.

Proximate cause. That which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces injury, and without which the result would not have occurred. Wisniewski v. Great Atlantic & Pac. Tea Co., 226 Pa.Super. 574, 323 A.2d 744, 748. That which is nearest in the order of responsible causation. That which stands next in causation to the effect, not necessarily in time or space but in causal relation. The proximate cause of an injury is the primary or moving cause, or that which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury and without which the accident could not have happened, if the injury be one which might be reasonably anticipated or foreseen as a natural consequence of the wrongful act. An injury or damage is proximately caused by an act, or a failure to act, whenever it appears from the evidence in the case, that the act or omission played a substantial part in bringing about or actually causing the injury or damage; and that the injury or damage was either a direct result or a reasonably probable consequence of the act or omission.

The last negligent act contributory to an injury, without which such injury would not have resulted. The

Canadian Embassy Ambassade du Canada

Note No. 0005

The Embassy of Canada presents its compliments to the Department of State of the United States of America and is gratified by the continuing U.S.-Canada cooperation on migratory bird issues, as contemplated by the August 16, 1916 Convention for the Protection of Migratory Birds in the United States and Canada, as amended December 14, 1995 ("the Convention").

In Article II of the Convention, the Parties agreed that, to ensure the long-term conservation of migratory birds, migratory birds shall be managed in accordance with the following conservation principles, to: manage migratory birds internationally; ensure a variety of sustainable uses; sustain healthy migratory bird populations for harvesting needs; provide for and protect habitat necessary for the conservation of migratory birds; and restore depleted populations of migratory birds.

Article II of the Convention establishes that the means to pursue these principles may include, but are not limited to: monitoring, regulation, enforcement and compliance; co-operation and partnership; education and information; incentives for effective stewardship; protection of incubating birds; designation of harvest areas; management of migratory birds on a population basis; use of aboriginal and indigenous knowledge, institutions

and practices; and development, sharing and use of best scientific information.

Article II further provides, inter alia, that subject to laws, decrees or regulations to be specified by the proper authorities, the taking of migratory birds may be allowed at any time of the year for scientific, educational, propagative, or other specific purposes consistent with the conservation principles of the Convention. Furthermore, Article V of the Convention provides that the taking of nests or eggs of migratory birds may be allowed for specific purposes consistent with the principles of the Convention under such laws and regulations as the Parties deem appropriate.

In Article III of the Convention, the Parties agreed to meet regularly to review progress implementing the Convention and that such review would address issues important to the conservation of migratory birds, including the status of migratory bird populations, the status of important migratory bird habitats, the effectiveness of management and regulatory systems and other issues deemed important by either Party. The Article further provides that the Parties may conclude special arrangements to conserve and protect species of concern.

Taking into account these provisions of the Convention, the Parties have specifically reviewed the issues of the incidental take of migratory birds, nests or eggs, caused by activities including, but not limited to, forestry, agriculture, mining, oil and gas exploration, construction and fishing activities, and concluded that

these issues have increasingly become a concern for the long-term conservation of migratory bird populations in accordance with Article II of the Convention.

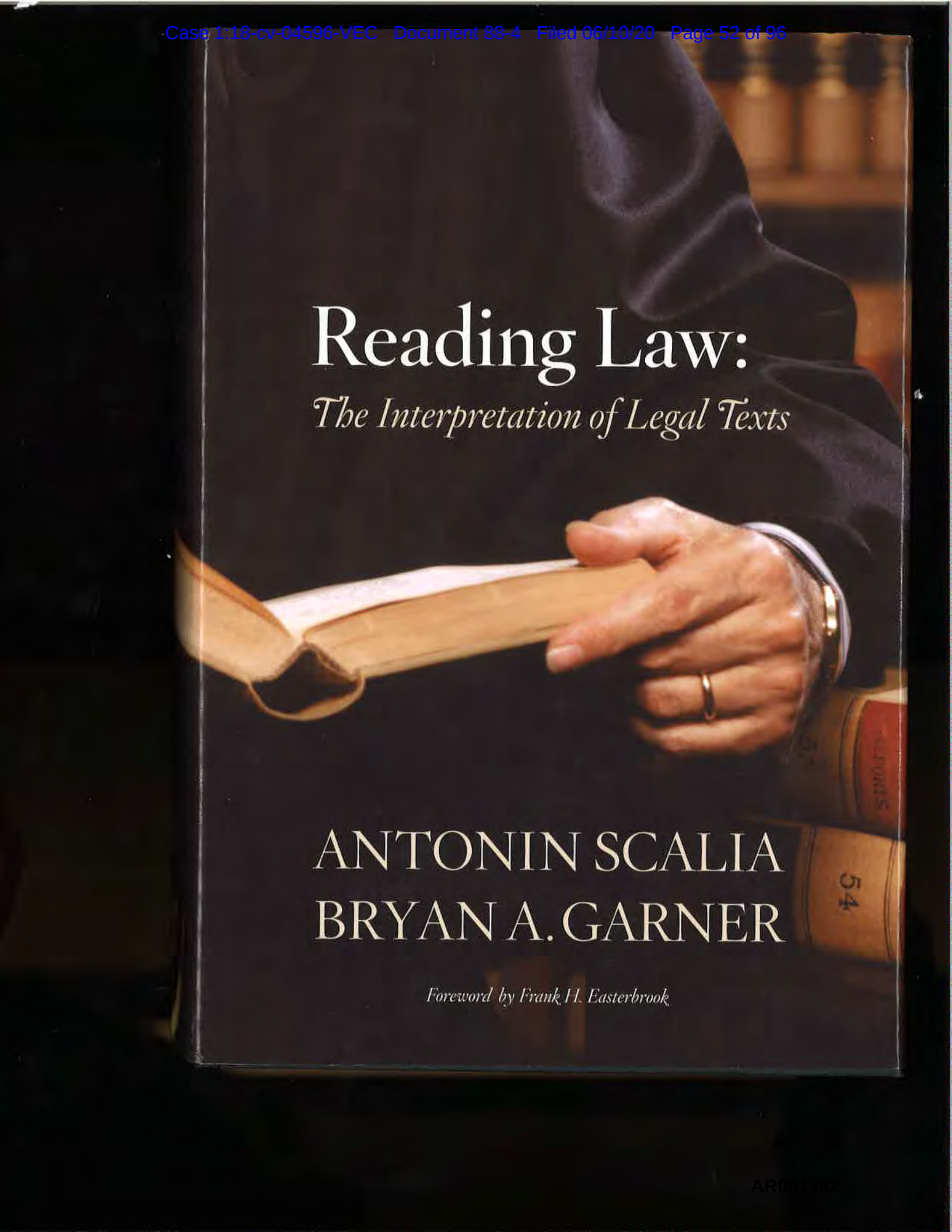
In order to support the long term conservation of migratory birds, Canada is considering an approach to the management of incidental take that would identify conservation measures. These conservation measures may include reporting requirements and actions to avoid, minimize or mitigate the effects on migratory bird populations of activities that have the potential to incidentally take, kill or injure migratory birds or that can damage or destroy nests or eggs. Canada is considering making the authorization of incidental take contingent on compliance with approved conservation measures. Both Parties have concluded that this management approach is consistent with the Convention, and in particular, Article II.

This note and your affirmative reply establishes a mutually held interpretation of the Government of Canada and the Government of the United States with respect to the Convention.

The Embassy of Canada avails itself of this opportunity to renew to the Department of State of the United States of America the assurances of its highest consideration.

Washington, D.C.
July 2, 2008

Canadian Embassy - Ambassade du Canada
WASHINGTON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The Interpretation of Legal Texts
ANTONIN SCALIA
BRYAN A. GARNER
Foreword by Frank H. Easterbrook

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2. Supremacy-of-Text Principle

The words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.

> "We have not traveled, in our search for the meaning of the lawmakers, beyond the borders of the statute."
>
> *United States v. Great Northern Ry.*, 287 U.S. 144, 154 (1932) (per Cardozo, J.).

When deciding an issue governed by the text of a legal instrument, the careful lawyer or judge trusts neither memory nor paraphrase but examines the very words of the instrument. As Justinian's *Digest* put it: *A verbis legis non est recedendum*[1] ("Do not depart from the words of the law").

Of course, words are given meaning by their context, and context includes the purpose of the text. The difference between textualist interpretation and so-called purposive interpretation is not that the former never considers purpose. It almost always does. The subject matter of the document (its purpose, broadly speaking) is the context that helps to give words meaning—that might cause *draft* to mean a bank note rather than a breeze. And even beyond that, it can be said more generally that the resolution of an ambiguity or vagueness that achieves a statute's purpose should be favored over the resolution that frustrates its purpose. But the textualist insists on four limitations:

First, the purpose must be derived from the text, not from extrinsic sources such as legislative history or an assumption about the legal drafter's desires.

Second, the purpose must be defined precisely, and not in a fashion that smuggles in the answer to the question before the decision-maker. Assume a text that requires the losing litigant to pay the winner's attorney's fees; and assume further that the interpretive question is whether expert-witness fees are included. It

1 *Cf. Digest* 32.69 pr. (Marcellus). *Cf.* also Unif. Statute & Rule Construction Act § 19 (1995) ("*Primacy of Text*. The text of a statute or rule is the primary, essential source of its meaning.").

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7. Fixed-Meaning Canon

Words must be given the meaning they had when the text was adopted.

"Words must be read with the gloss of the experience of those who framed them."
United States v. Rabinowitz, 339 U.S. 56, 70 (1950) (Frankfurter, J., dissenting).

Words change meaning over time, and often in unpredictable ways.[1] Queen Anne is said (probably apocryphally) to have commented about Sir Christopher Wren's architecture at St. Paul's Cathedral that it was "awful, artificial, and amusing"—by which she meant that it was awe-inspiring, highly artistic, and thought-provoking. All three words have since undergone what linguists call *pejoration*: Their meanings have degenerated so that they now bear mostly negative connotations. It would be quite wrong for someone to ascribe to Queen Anne's 18th-century words their 21st-century meanings. To do so would be to misunderstand—or misrepresent—her meaning entirely.

Although courts routinely apply legal instruments to novel situations over time, their meaning remains fixed. Properly understood, originalism is an age-old idea in our jurisprudence for private and public documents alike.[2] But it applies mostly to older documents that continue in effect: Those are the ones whose operative terms are most likely to have undergone semantic shift. The

1 *See* James Bradstreet Greenough & George Lyman Kittredge, *Words and Their Ways in English Speech* 234–61 (1901). *See also* Charles Barber, *Linguistic Change in Present-Day English* 109 (1964); E.H. Sturtevant, *Linguistic Change: An Introduction to the Historical Study of Language* 85 (1917).

2 *E.g.*, Anton Friedrich Justus Thibaut, *An Introduction to the Study of Jurisprudence* 45 (Nathaniel Lindley trans., 1855) ("If the meaning of a word has changed in different times, that meaning is to be preferred which was common when the law, in which the word is found, was promulgated."); Thomas M. Cooley, *A Treatise on the Constitutional Limitations Which Rest upon the Legislative Power of the States of the American Union* 59 (1868) ("We cannot understand [constitutional] provisions unless we understand their history."); Reed Dickerson, *Statutes and Constitutions in an Age of Common Law*, 48 U. Pitt. L. Rev. 773, 779–80 (1987) (noting that "[t]he textual integrity of a constitutionally authorized statute can only be preserved by adhering to the connotations it generated at the time of its enactment."); Frank H. Easterbrook, *The Role of Original Intent in Statutory Construction*, 11 Harv. J.L. & Pub. Pol'y 59, 61 (1988).

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people's choice, but by judicial decree it is no longer a subject on which the people can seek to persuade one another and vote.

The conclusive argument in favor of originalism is a simple one: It is the only objective standard of interpretation even competing for acceptance. Nonoriginalism is not an interpretive theory—it is nothing more than a repudiation of originalism, leaving open the question: How does a judge determine when and how the meaning of a text has changed? To this question the nonoriginalists have no answer—or rather no answer that comes even close to being an objective test. For example, one apologist for semantic morphing states that "dynamism occurs when certain values are important enough to the statutory interpreter that they trump legislative primacy."[42] But what is important enough to one statutory interpreter may not be important enough to another. We know of no other nonoriginalist "test" that is not similarly mercurial. The choice is this: Give text the meaning it bore when it was adopted, or else let every judge decide for himself what it should mean today.

A caveat: Proper application of the fixed-meaning canon requires recognition of the fact that some statutory terms refer to defined legal qualifications whose definitions are, and are understood to be, subject to change. Giving a bad name to originalism was the 1925 Illinois case of *People ex rel. Fyfe v. Barnett*,[43] which dealt with an 1887 statute that read as follows: "The . . . commissioners . . . shall prepare a list of all *electors* between the ages of twenty-one and sixty years, possessing the necessary legal qualifications for jury duty, to be known as the jury list."[44] Because women were not *electors* in 1887 (they did not get the vote in Illinois until 1913), the Illinois Supreme Court held that only men could be on the jury list.[45] That decision was incorrect. The statutory definition of

42 Lawrence M. Solan, *The Language of Statutes: Laws and Their Interpretation* 131 (2010).

43 150 N.E. 290 (Ill. 1925).

44 Illinois Jury Commissioners' Act, 1887 (amended 1899) (as quoted in *id.* at 291).

45 150 N.E. at 291–92 (emphasis added). *See Commonwealth v. Welosky*, 177 N.E. 656 (Mass. 1931) (likewise holding that women remained ineligible). *But see Commonwealth v. Maxwell*, 114 A. 825 (Pa. 1921) (correctly holding that women became eligible).

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31. Associated-Words Canon

Associated words bear on one another's meaning (*noscitur a sociis*).

The Latin phrase *noscitur a sociis* means "it is known by its associates"—a classical version, applied to textual explanation, of the observed phenomenon that birds of a feather flock together. The associated-words canon could refer to the basic principle that words are given meaning by their context (see § 2)—and some authorities use this canon at that broad level of generality.[1] But we mean something more specific. When several nouns or verbs or adjectives or adverbs—any words—are associated in a context suggesting that the words have something in common, they should be assigned a permissible meaning that makes them similar. The canon especially holds that "words grouped in a list should be given related meanings."[2]

Take a line from Shakespeare's *The Tempest*, first published in 1623, in which Gonzalo says that he would not have "treason, felony, sword, pike, knife, gun, or need of any engine."[3] The mere listing provides helpful context for the meaning of *engine*, which today is considered a broad term with an entirely neutral meaning. The editors of the modern Folger edition of the play translate *engine* as "military weapon." And the *Oxford English Dictionary* details the violent associations of the term from its first use in about 1300 through the 19th century: "A machine or instrument used in warfare. Formerly sometimes applied to all offensive weapons, but chiefly and now exclusively to those of large size and having mechanism, e.g. a battering-ram, catapult, piece of ordnance, etc."[4]

If someone were to argue that *pike*, in Gonzalo's list, might refer to a freshwater fish or that *engine* might refer to the locomotive

1 *See* D.C. Pearce, *Statutory Interpretation in Australia* 48 (1981).

2 *Third Nat'l Bank in Nashville v. Impac Ltd.*, 432 U.S. 312, 322 (1977) (per Stevens, J.) (correctly stating the doctrine but, in our view, misapplying its import).

3 2.1.176–77.

4 5 *Oxford English Dictionary* 250 (2d ed. 1989).

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49. Rule of Lenity

Ambiguity in a statute defining a crime or imposing a penalty should be resolved in the defendant's favor.

> "Blurred signposts to criminality will not suffice to create it."
> *United States v. C.I.O.*,
> 335 U.S. 106, 142 (1948) (Rutledge, J., concurring).

The rule of lenity—sometimes cast as the idea that "[p]enal statutes must be construed strictly"[1] and sometimes as the idea that if two rational readings are possible, the one with the less harsh treatment of the defendant prevails[2]—was termed by Jeremy Bentham "the subject of more constant controversy than perhaps of any in the whole circle of the Law."[3]

The rule originally rested on the interpretive reality that a just legislature will not decree punishment without making clear what conduct incurs the punishment and what the extent of the punishment will be; or at least on the judge-made public policy that a legislature *ought* not to do so. Chief Justice John Marshall explained it this way in 1820:

> The rule that penal laws are to be construed strictly . . . is founded on the tenderness of the law for the rights of individuals; and on the plain principle that the power of punishment is vested in the legislative, not in the judicial department. It is the legislature, not the Court, which is to define a crime, and ordain its punishment.[4]

Some authorities consider the rule to be based on constitutional requirements of fair notice and separation of powers (federal courts have no power to define crimes[5]). But application of the rule of

1 1 William Blackstone, *Commentaries on the Laws of England* 88 (4th ed. 1770).

2 *McNally v. United States*, 483 U.S. 350, 359–60 (1987) (per White, J.).

3 Jeremy Bentham, *A Comment on the Commentaries: A Criticism of William Blackstone's Commentaries on the Laws of England* 141 (1776; Charles Warren Everett ed., 1928).

4 *United States v. Wiltberger*, 18 U.S. (5 Wheat.) 76, 95 (1820) (per Marshall, C.J.).

5 *See United States v. Bass*, 404 U.S. 336, 348 (1971) (per Marshall, J.) ("[B]ecause of the seriousness of criminal penalties, and because criminal punishment usually

Appendix A

A Note on the Use of Dictionaries

> "When [lawyers and judges] look up a word in a dictionary—and they often do—they are as likely as not to select a poor dictionary."
>
> —Max Radin, "A Juster Justice, a More Lawful Law," in *Legal Essays in Tribute to Orrin Kip McMurray* 537, 538 (Max Radin & A.M. Kidd eds., 1935).

Lord Macmillan was hardly overstating the case in 1938 when he said that "one of the chief functions of our courts is to act as an animated and authoritative dictionary."[1] The reason is that with legal interpretation, inevitably "[t]he words used by one set of persons have to be interpreted by another set of persons."[2] So it is understandable that so-called judicial dictionaries have been assembled over the years—sometimes vast compilations of judicial pronouncements about what a given word or phrase means. In that genre, the leading American text is the 132-volume set of *Words and Phrases* (permanent edition updated yearly); the leading British text is the 3-volume *Stroud's Judicial Dictionary* (6th ed. 2000).

Unsurprisingly, in their work as part-time lexicographers, judges frequently have occasion to consult the work of professional lexicographers. In § 6, we criticized an appellate judge for relying on a "nonscholarly" dictionary—the 1980 edition of the *Oxford American Dictionary* (see p. 75). In lexicographic circles, that book is known to have been hastily put together by two editors on short notice, and very much on the cheap. The main part of the dictionary runs to only 816 pages. The look and feel of the book do not impress the user as being scholarly. By *scholarly* we mean weighty. Not superficial. Chock-full of erudition. Later editions of that dictionary, by contrast, are better works of scholarship.

Consider an illuminating example of how an uncritical approach to dictionaries can mislead judges—an example akin to

1 Lord Macmillan, *Law and Other Things* 163 (1938).

2 *Id.*

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one we have already considered. Let us say that you are a judge called on to decide whether fighting cocks qualify as *poultry* under a recent statute that gives a tax deduction for any person who "rears poultry." And assume, for the purposes of this hypothetical decision, that cockfighting is not illegal in your jurisdiction. You consult a dictionary for whatever light it might shine on this definitional issue. But which one? If you are linguistically naive, you might suppose that dictionaries are all basically the same. You have in your office five dictionaries of not-too-distant vintage whose definitions are as follows:

- **1951:** "domestic fowls collectively, as chickens, turkeys, guinea fowls, ducks, and geese."[3]
- **1956:** "domestic fowls, generally or collectively, as hens, ducks, etc."[4]
- **1975:** "domestic fowls, as chickens, ducks, turkeys, and geese."[5]
- **1999:** "chickens, turkeys, ducks, and geese; domestic fowl."[6]
- **2003:** "domestic fowls collectively."[7]

You might be tempted to reason from these definitions that (1) fighting cocks are raised in pens and are not found in the wild—and to that extent are "domesticated"; (2) the definitions stress generality and collectiveness, so this type of fowl would seem to qualify; and (3) fighting cocks as a matter of fact are chickens, and chickens are explicitly mentioned in three of the five definitions.

And if you so reasoned, you would arrive at an incorrect result mainly because of the unreliable, rather threadbare definitions you have consulted.

---

3 *The American College Dictionary* 949 (1951).

4 *Funk & Wagnalls New College Standard Dictionary* 919 (1956).

5 *The Doubleday Dictionary for Home, School, and Office* 568 (1975).

6 *The Concise Oxford Dictionary* 1121 (10th ed. 1999).

7 *The Times English Dictionary and Thesaurus* 920 (2d ed. 2003).

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The all-important element found in unabridged dictionaries—and even in the better desktop dictionaries—is that poultry is used for food. These definitions are much superior because they are fuller and more explanatory:

- **1934:** "any domesticated birds which serve as a source of food, either eggs or meat."[8]
- **1971:** "domesticated birds kept for eggs or meat."[9]
- **1987:** "domesticated fowl collectively, esp. those valued for their meat and eggs, as chickens, turkeys, ducks, geese, and guinea fowl."[10]
- **1993:** "Domestic fowl; birds commonly reared for meat, eggs, or feathers in a yard, barn or other enclosure, as chickens, ducks, geese, turkeys, or guinea-fowl (usu. excluding game-birds, as pigeons, pheasants, etc.). Also, such birds as a source of food."[11]
- **2007:** "domestic fowls raised for meat or eggs; chickens, turkeys, ducks, geese, etc. collectively."[12]
- **2011:** "domesticated fowl, such as chickens, turkeys, ducks, or geese, raised for meat or eggs."[13]

Because these definitions give a much different view of the word's scope, they would almost certainly prevent a judge from coming to the false conclusion that fighting cocks qualify as poultry.

Hence a comparative weighing of dictionaries is often necessary.[14] In one case, the Supreme Court of the United States had to decide whether *modify* in a telecommunications statute meant

8 *Webster's Second New International Dictionary* 1934 (1934).

9 *Webster's Seventh New Collegiate Dictionary* 665 (1971) (same definition in 11th ed. 2003).

10 *Random House Dictionary of the English Language* 1515 (2d ed. 1987).

11 2 *The New Shorter Oxford English Dictionary* 2312 (4th ed. 1993).

12 *Webster's New World College Dictionary* 1127 (4th ed. 2007).

13 *American Heritage Dictionary of the English Language* 1380 (5th ed. 2011).

14 *See* Michael B.W. Sinclair, *Guide to Statutory Interpretation* 137 (2000) ("[I]f you use a dictionary, use more than one and check editions from the date of enactment as well as current.").

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"to change moderately" or "to change fundamentally."[15] The petitioners cited only a single dictionary supporting the fundamental-change sense—the notoriously permissive *Webster's Third New International Dictionary* (1961)—when all the other cited dictionaries supported the moderate-change sense.[16] The Court properly rejected the idea that the out-of-step definition created a genuine ambiguity.[17]

But courts must take care in such analyses. Occasionally most dictionaries will define a word inadequately—without accounting for its semantic nuances as they may shift from context to context—and a given dictionary will improve on the others. When that is so, the more advanced semantic analysis will be preferable.

The primary principles to remember in using dictionaries are these:

- A dictionary definition states the core meanings of a term. It cannot delineate the periphery.
- Because common words typically have more than one meaning, you must use the context in which a given word appears to determine its aptest, most likely sense.
- You must consult the prefatory material to understand the principles on which the dictionary has been assembled. The ordering of senses provides a classic example. Although many people assume that the first sense listed in a dictionary is the "main" sense, that is often quite untrue.[18] Some dictionaries list senses from oldest in the language (putting obsolete or archaic senses first) to newest. Others list them according to current frequency. Using a dictionary know-

15 *MCI Telecomms. Corp. v. AT&T Co.*, 512 U.S. 218 (1994) (per Scalia, J.) (interpreting 47 U.S.C. § 203(b)(2)).

16 *Id.* at 225–26.

17 *Id.* at 226–28.

18 *See Muscarello v. United States*, 524 U.S. 125, 128 (1998) (per Breyer, J.) (erroneously suggesting that the first meaning listed in the *Oxford English Dictionary* is the "primary meaning," as opposed to the oldest). *Cf. Mississippi Poultry Ass'n, Inc. v. Madigan*, 992 F.2d 1359, 1369 (5th Cir. 1993) (Reavley, J., dissenting) ("I cannot imagine that the majority favors interpreting statutes by choosing the first definition that appears in a dictionary."), *aff'd on reh'g*, 31 F.3d 293 (5th Cir. 1994) (en banc).

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ledgeably requires a close reading of the principles discussed at the outset.

- Dictionaries tend to lag behind linguistic realities—so a term now known to have first occurred in print in 1900 might not have made its way into a dictionary until 1950 or even 2000. If you are seeking to ascertain the meaning of a term in an 1819 statute, it is generally quite permissible to consult an 1828 dictionary.
- Historical dictionaries, such as *The Oxford English Dictionary* (20 vols.; 2d ed. 1989; updated online) or the out-of-print *Century Dictionary* (12 vols.; last revised 1914), are the most reliable sources for historical terms. But they are often least useful for very recent shifts in meaning.

Among contemporaneous-usage dictionaries—those that reflect meanings current at a given time—the following are the most useful and authoritative for the English language generally and for law. Note, however, that *The Oxford English Dictionary* is also useful for each period because it shows the historical development of word-senses.

1750–1800

English Language

1755: Samuel Johnson, *A Dictionary of the English Language*, 2 vols. (appearing also in a second edition of 1756, a third of 1765, and a fourth of 1773; the final edition in Johnson's lifetime was the fifth edition of 1784)

1757: Nathan Bailey, *A Universal Etymological English Dictionary* (14th ed.—issued in many editions of roughly comparable quality)

1760: Thomas Dyche & William Pardon, *A New General English Dictionary* (12th ed.—issued in many editions of roughly comparable quality)

1775: John Ash, *The New and Complete Dictionary of the English Language*, 2 vols.

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Law

1771: Timothy Cunningham, *A New and Complete Law Dictionary*, 2 vols. (2d ed. 1771; 3d ed. 1783)

1772: Giles Jacob, *A New Law Dictionary* (9th ed. 1772; 10th ed. 1782)

1792: Richard Burn, *A New Law Dictionary*, 2 vols.

1797–1798: William Marriot, *A New Law Dictionary*, 4 vols. (an updating of Cunningham[19])

1801–1850

English Language

1806: Noah Webster, *A Comprehensive Dictionary of the English Language* (an abridged dictionary containing brief definitions of only the most common terms)

1818: Samuel Johnson, *A Dictionary of the English Language*, 5 vols. (H.J. Todd ed.)

1828: Noah Webster, *An American Dictionary of the English Language*, 2 vols. (an unabridged dictionary)

1850: John Boag, *A Popular and Complete English Dictionary*, 2 vols.

Law

1803: Thomas Potts, *A Compendious Law Dictionary*

1816: Thomas Walter Williams, *A Compendious and Comprehensive Law Dictionary*

1829: James Whishaw, *A New Law Dictionary*

1835: Thomas Edlyne Tomlins, *The Law-Dictionary*, 2 vols. (also in 1809 and 1820 editions)

1839: John Bouvier, *A Law Dictionary*, 2 vols. (1st ed.)

1847: Henry James Holthouse, *A New Law Dictionary* (Henry Penington ed., Am. ed.)

19 *See* Bryan A. Garner, Introduction to William Marriot, *A New Law Dictionary* (1797; repr. 2011) (demonstrating that Marriot's work was not a new dictionary, but only a new edition of Cunningham).

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1850: Alexander M. Burrill, *A New Law Dictionary and Glossary*

1851–1900

English Language

1860: Joseph Worcester, *A Dictionary of the English Language* (or other editions during the period)

1882: Robert Gordon Latham, *A Dictionary of the English Language*, 2 vols. (an updating of Johnson)

1882: James Stormonth, *A Dictionary of the English Language*

1882: Noah Webster, *A Dictionary of the English Language* (or other editions during the period)

1895: *The Century Dictionary and Cyclopedia*, 10 vols.

1897: Robert Hunter & Charles Morris, *The Universal Dictionary of the English Language*, 4 vols.

Law

1859: Alexander M. Burrill, *A Law Dictionary and Glossary* (2d ed.)

1860: J.J.S. Wharton, *Law Lexicon, or Dictionary of Jurisprudence* (2d Am. ed.)

1879: Benjamin Vaughn Abbott, *Dictionary of Terms and Phrases Used in American or English Jurisprudence*, 2 vols.

1883: John Bouvier, *A Law Dictionary*, 2 vols. (15th ed.)

1883: Stewart Rapalje & Robert L. Lawrence, *A Dictionary of American and English Law*, 2 vols.

1890: William C. Anderson, *A Dictionary of Law*

1891: Henry Campbell Black, *A Dictionary of Law*

1893: J. Kendrick Kinney, *A Law Dictionary and Glossary*

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1901–1950

English Language

1903: *The Century Dictionary and Cyclopedia*, 10 vols. (or other editions during the period)

1933: *The Oxford English Dictionary* (the first complete edition was called *The New English Dictionary*[20])

1934: *Webster's Second New International Dictionary*

1943: *Funk & Wagnalls New Standard Dictionary of the English Language*, 2 vols. (rev. ed.)

Law

1901: Walter A. Shumaker & George Foster Longsdorf, *The Cyclopedic Dictionary of Law*

1910: Henry Campbell Black, *A Law Dictionary*, (2d ed. 1910; 3d ed. [retitled *Black's Law Dictionary*] 1933)

1911: J.J.S. Wharton, *Wharton's Law Lexicon* (W.H. Aggs ed., 11th ed.)

1919: Benjamin W. Pope, *Legal Definitions*, 2 vols.

1940: *Bouvier's Law Dictionary* (William Edward Baldwin ed.) (or other editions during the period)

1951–2000

English Language

1961: *Webster's Third New International Dictionary* (a dictionary to be used cautiously because of its frequent inclusion of doubtful, slipshod meanings without adequate usage notes[21])

---

20 *See* Edward Jenks, *The New Jurisprudence* 90 (1933) ("As a matter of fact, a copy of the *New Oxford Dictionary* has become an almost essential feature of the libraries of most of the English higher tribunals, for the purpose of assisting them in the interpretation of statutes.").

21 *See generally Dictionaries and* That *Dictionary* (James Sledd & Wilma R. Ebbitt, eds., 1962). *See also MCI Telecomms. Corp. v. AT&T Co.*, 512 U.S. 218, 228 n.3 (1994) (per Scalia, J.) (noting that "[u]pon its long-awaited appearance in 1961, *Webster's Third* was widely criticized for its portrayal of common error as proper

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1969: *American Heritage Dictionary of the English Language* (2d ed. 1980; 3d ed. 1996; 4th ed. 2001)

1987: *The Random House Dictionary of the English Language* (2d unabridged ed.)

1989: *The Oxford English Dictionary* (2d ed.)

1993: *Merriam-Webster's Collegiate Dictionary* (10th ed.; 11th ed. 2003)

1996: *Webster's New World College Dictionary* (3d ed.; 4th ed. 2007)

Law

1969: James A. Ballentine, *Ballentine's Law Dictionary* (William S. Anderson ed., 3d ed.)

1970: Max Radin, *Law Dictionary* (Lawrence G. Greene ed., 2d ed.)

1990: *Black's Law Dictionary* (4th ed. 1951; 5th ed. 1981; 6th ed. 1990; 7th ed. 1999)

1995: Bryan A. Garner, *A Dictionary of Modern Legal Usage* (2d ed.)

1996: *Merriam-Webster's Dictionary of Law*

2001–present

English Language (up-to-date editions)

The Oxford English Dictionary (online edition)

American Heritage Dictionary of the English Language

Merriam-Webster's Collegiate Dictionary

The New Oxford American Dictionary

The New Shorter Oxford English Dictionary

Webster's New World College Dictionary

The Cambridge Guide to English Usage

Garner's Modern American Usage

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usage," and citing as an instance "its approval (without qualification) of the use of 'infer' to mean 'imply'").

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Law

2009: *Black's Law Dictionary* (9th ed.)

2011: *Merriam-Webster's Dictionary of Law* (2d ed.)

2011: *Garner's Dictionary of Legal Usage* (3d ed.)

When using modern desktop dictionaries, be sure you have the current edition; they are periodically updated and improved.

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Appendix B

A Glossary of Legal Interpretation

absurdity doctrine: The doctrine that a provision may be either disregarded or judicially corrected as an error (when the correction is textually simple) if failing to do so would result in a disposition that no reasonable person could approve (§ 37).

ambiguity: 1. An uncertainty of meaning based not on the scope of a word or phrase but on a semantic dichotomy that gives rise to any of two or more quite different but almost equally plausible interpretations. **2.** Loosely, VAGUENESS. ● We adhere to sense 1 in this text.

antiformalism: An interpretive method that encourages a judge to consider nontextual sources such as purpose, legislative intent, and public policy, thereby giving the courts more discretion to make or create law.—**antiformalist,** n. Cf. FORMALISM.

application: The process by which a decision-maker ascertains the legal category under which the facts at issue should be placed and hence the rule of law that is to govern them.

artificial-person canon: The doctrine that the word *person* includes corporations and other entities, but not the sovereign (§ 44).

associated-words canon: The doctrine that associated words bear on one another's meaning (§ 31). See *noscitur a sociis*.

bicameralism: A system of government with two legislative or parliamentary chambers, both of which must pass a bill before it can become law.

borrowed-statute doctrine: The proposition that if a legislature enacts a statute copied (borrowed) from another jurisdiction, it also borrows the existing settled construction of the statute in the lending state. ● We believe the proposition to be false (see § 54 [prior-construction canon]).

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SPRINGFIELD, MASS., U.S.A.
1935

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rative after discarding supernatural or extraordinary incidents. ... Head of ...

‖**ca'put mun'di** ... — an epithet applied to Rome. capital, of the world; — an epithet applied to Rome.

‖**ca'put suc'ce·da'ne·um** (sŭk'sē·dā'nē·ŭm). [L., substituted head.] A swelling formed upon the presenting parts of the fetus during labor.

capy-. For some words beginning in *capy-*, see those in CAPI-.

cap'y·ba'ra (kăp'ĭ·bä'rȧ), *n.* Also **cap'i·ba'ra**. [Pg. *capybara*, Sp. *capibara*, of Tupian origin; cf. Tupi *capivara*, *capybara*. Cf. CAVIA.] **1.** A large South American rodent (*Hydrochoerus capybara*) living on the margins of lakes and rivers and largely aquatic in habit. It is the largest existing rodent, being over four feet long and half that in height. In form it somewhat resembles the Guinea pig, to which it is related. It has partly webbed feet, no tail, and coarse rough fur. Its flesh is edible.

Capybara. (1⁄40)

2. The fur or pelt of the capybara.

Ca·que'tio (kä·kā'tyō), *n.* An Indian of an extinct Arawakan coast tribe of Venezuela.

car (kär; *dial.* kăr, kăr), *adj.* [Gael. *cearr.*] Wrong; left-handed; awkward; sinister; perverse. *Scot. & N. of Eng.*

car (kär), *n.* [ME. *carre*, fr. ONF. *carre*, fr. LL. *carra* (L. *carrus*, *carrum*, whence ONF. *car*, F. *char*), of Celt. origin; cf. W. *car*, Bret. *karr*, Ir. & Gael. *carr*. See CURRENT; cf. CAREER, CARRY, CHARGE, CHARIOT.] **1.** A vehicle moved on wheels: **a** In general, carriage, cart, wagon, truck, etc. **b** *Chiefly Poetic.* A chariot of war or of triumph; a vehicle of splendor, dignity, or solemnity. **c** Some particular vehicle so called, as a passenger automobile, or, formerly, in England, a horse-drawn four-wheeled hackney carriage. **2.** A vehicle adapted to the rails of a railroad. The vehicles used on street railroads or tramways are called *cars* in both Great Britain and the United States. In the United States *car* is the general term for the vehicles, whether for passengers or freight, used on other railroads, a qualifier being added to indicate the particular use or style; as, freight *car*, boxcar, flatcar, dining *car*, parlor *car*, smoking *car*, etc. The ordinary passenger car is often, esp. officially, called distinctively a *coach*, or, as distinguished from a sleeping car, a *day coach*. In Great Britain the vehicles for freight are called *goods wagons* or *trucks*, a baggage car is called a *luggage van*, and the ordinary vehicles for passengers are called *carriages*. **3.** [*cap.*] = DIPPER, 3 a. **4.** The cage of an elevator or lift. **5.** That portion of an airship or balloon which is intended to carry the power plant, personnel, cargo, or equipment. **6.** A floating perforated box for keeping fish, lobsters, etc., alive. *U. S.*

☞ COMBINATIONS and PHRASES are:

car-borne	car frame	car sealer
car brake	car framer	car shed
carbuilder	car greaser	car starter
car coupler	car rail	car step
car coupling	car replacer	car track
car dumper	car-replacing, *adj.*	car wheel
car-dumping, *adj.*	car ride	car wheeler

car, *v. t.*; CARRED (kärd); CAR'RING (kär'ĭng). To carry or put in a car. — *v. i.* To go by car; — often with *it*. *Colloq.*

Ca'ra (kâ'rȧ), *n.* [L. and Ir. (akin to L.). See CHARITY.] Literally, dear one; — feminine proper name.

‖**ca'ra** (kä'rä), *adj. fem.* [It.] Dear.

Ca'ra (kä'rä), *n.* An Indian of an extinct Barbacoan tribe, traditionally from Ecuador, that founded a kingdom near Quito.

ca'ra·ba'o (kä'rä·bä'ō), *n.*; *pl.* -BAOS (-bä'ōz). [Sp., fr. Malay *karbau*, *kabau*; cf. Visayan (Cebu) *calabao*.] **a** *Phil. I.* A water buffalo. See BUFFALO, 1 a. **b** A highly prized and widely planted Philippine variety of the mango.

Carabao. (1⁄66)

car'a·been (kăr'ȧ·bēn), *n.* [From *kerabin*, native name in northern New South Wales.] An Australian tree (*Sloanea woollsii*); also, the gum which it yields.

Ca·rab'i·dae (kȧ·răb'ĭ·dē), *n. pl.* [NL., fr. Gr. *karabos* a horned beetle.] *Zool.* A large family of beetles, mostly of active, predaceous, and largely terrestrial habits; the ground beetles. They have long antennae, all the tarsi 5-jointed, and are usually shining black or metallic in color. They destroy many injurious insects. Some of them may often be found hiding under stones, fallen logs, etc. Cf. CALOSOMA, BOMBARDIER BEETLE. — **car'a·bid** (kăr'ȧ·bĭd), *n. & adj.* — **ca·rab'i·dan** (kȧ·răb'ĭ·dăn), *adj. & n.* — **car'a·bid'e·ous** (kăr'ȧ·bĭd'ē·ŭs), *adj.*

One of the Carabidae (*Carabus serratus*). Nat. size.

ca·rab'i·doid (kȧ·răb'ĭ·doid), *adj.* [*Carabidae* + *-oid.*] *Zool.* Resembling one of the Carabidae. — *n. Zool.* **a** The second larval stage of blister beetles. See HYPERMETAMORPHOSIS. **b** An active predaceous insect larva having well-developed legs.

car'a·bin (kăr'ȧ·bĭn), *n.* [F. See CARBINE.] A mounted harquebusier. *Hist.*

car'a·bi·neer', **-nier'** (-bĭ·nēr'), *n.* [F. *carabinier.*] A soldier, usually a cavalry soldier, armed with a carbine; specif., *the Carabiniers*, the British 6th Dragoon Guards.

‖**ca'ra·bi·ne'ro** (kä'rä·bē·nā'rō), *n.* [Sp.] Carabineer; in Spain, an internal revenue officer; in the Philippines, a coast guard or customs officer.

Car'a·bi'ni (kăr'ȧ·bī'nī), *n. pl.* [NL. See CARABIDAE.] *Zool.* A tribe of ground beetles, comprising *Carabus*, *Calosoma*, and related genera.

‖**ca'ra·bi·nie're** (kä'rä·bē·nyâ'rā), *n.*; *pl.* -BINIERI (-rē). [It., fr. F. *carabinier*. See CARABINEER.] In modern Italy, a policeman.

car'a·boid (kăr'ȧ·boid), *adj.* [Gr. *karabos* a horned beetle + *-oid.*] *Zool.* **a** Of or pertaining to the Carabidae. **b** Carabidoid. — *n.* One of the Carabidae.

Car'a·bus (kăr'ȧ·bŭs), *n.* [NL. See CARABIDAE.] *Zool.* **a** A genus of large ground beetles typical of the family Carabidae. **b** [*not cap.*] An insect of this genus.

car'a·cal (kăr'ȧ·kăl), *n.* [F., fr. Sp. *caracal*, fr. Turk. *qarah qūlāq*, lit., black ear.] **1.** A lynx (*Lynx caracal*), native to parts of Africa and Asia, reddish-brown, with the ears black externally and tipped with long black hairs. **2.** The fur or pelt of the caracal.

ca'ra·ca'ra (kä'rȧ·kä'rȧ; kȧ·rä'kȧ·rä'), *n.* [Sp. & Pg. *caracará*, of Tupian origin; cf. Tupi *caracará*. Cf. CARANCHA.] Any of certain large, mostly South American, hawks of vulturelike habits, having rather long legs and able to run well on the ground. The common caracara (*Polyborus plancus*), the *black caracara* (*Ibycter ater*), and the chimango (*Milvago chimango*) are well-known South American forms. *Audubon's caracara* (*Polyborus cheriway auduboni*) extends northward to the southern United States.

Caracara (*Polyborus plancus*). (1⁄14)

car accounting. The record of the movement of cars from one railroad system to another and of the debits and credits thereby created.

car'a·col (kăr'ȧ·kŏl), *n.* [F. *caracolle.*] The snailflower.

car'a·cole (kăr'ȧ·kōl), **car'a·col** (-kŏl), *n.* [F., appar., through Wall., fr. VL. form of L. *conchylium* snail, shell fish, influenced by L. *scarabaeus* beetle. See COCKLE MOLLUSK.] **1.** A spiral shell. *Obs.* **2.** *Arch.* A staircase in a spiral form. **3.** *Manège.* A half turn either to the right or the left; loosely, any turn in a zigzag course, as in capering about.

car'a·cole (kăr'ȧ·kōl), **car'a·col** (-kŏl), *v. i.*; -COLED (-kōld), -COLLED (-kŏld); -CO'LING (-kōl'ĭng), -COL'LING (-kŏl'ĭng). [F. *caracoler.*] *Manège.* To perform a caracole, or move in caracoles; also, to ride a caracoling horse. — *v. t.* To cause to caracole.

car'a·col'er (-kōl'ẽr), **car'a·col'ler** (-kŏl'ẽr), *n.* One who caracoles.

car'a·co'li (kăr'ȧ·kō'lĭ; kä'rä·kō·lē'), *n.* [Sp. *caracolí*, of Cariban origin; cf. Oyana *caracouli* silver, Carib *calluculi* trinkets, gold.] **1.** An alloy of gold, silver, and copper, used in making inferior jewelry. **2.** A timber tree (*Anacardium excelsum*) of northern South America and the Canal Zone, with rather soft, easily worked wood, used for making dugout canoes.

car'a·co'lite (kăr'ȧ·kō'līt), *n.* [From *Caracoles*, Chile.] *Mineral.* A rare lead sulphate containing also chlorine and sodium. It occurs as a colorless crystalline incrustation.

car'a·core (kăr'ȧ·kōr; 181), *n.* Also **car'a·co'ra** (-kō'rȧ), **car'a·co'a** (-kō'ȧ). [Malay *kurakūra.*] A type of the Malay proa used by Moro peoples.

car'act (kăr'ăkt), *n.* [ONF. *caract*, *caracte* (OF. *caracte*), fr. L. *character* mark, sign, or ult. fr. the same source. Cf. CHARACT.] *Obs.* **1.** A mark; a sign; a character. **2.** A magic symbol; a charm.

Ca·rac'ta·cus (kȧ·răk'tȧ·kŭs), *n.* [After (L.) *Caractacus*, Caradoc, Brit. king.] *Hort.* A hybrid rhododendron with crimson-purple flowers.

ca·rac'ter (kä·răk'târ), *n.* [Sp. *carácter* (after *carácter* character, and the analogy of *escrúpulo* scruple; cf. SCRUPLE), fr. Gr. *keration*. See CARAT.] See WEIGHT, *Table*.

Car'a·doc (kăr'ȧ·dŏk; kȧ·răd'ŏk), *n.* Also **Crad'ock** (krăd'ŏk). A valiant knight of the Round Table, who, according to magic tests, had the most virtuous wife in the court.

Ca·rad'oc (kȧ·răd'ŏk), *adj.* *Geol.* Pert. to, or designating, the uppermost subdivision of the Lower Silurian; — from the yellowish and gray sandstones of Caer Caradoc in Shropshire. Called also *Bala*. See GEOLOGY, *Chart*. — **Ca·rad'oc**, *n.*

ca·rafe' (kȧ·răf'), *n.* [F.] A glass water bottle for the table, toilet, etc.; — also corrupted to *croft*.

‖**ca'ra'fon'** (kä'rä'fôɴ'), *n.* [F., dim. See CARAFE.] A small decanter.

Car'a·ga'na (kăr'ȧ·gā'nȧ), *n.* [NL., fr. a native name among the Mogul Tatars.] *Bot.* A large genus of Asiatic trees of the pea family. *C. arborescens* is the Siberian, and *C. chamlagu* the Chinese pea tree.

Car'a·gua'ta (kăr'ȧ·gwä'tȧ), *n.* [NL., fr. (Sp. or) Pg. *caraguatá*, fr. Tupi *caragoatá*, *caraquatá*, lit., which scratches those walking.] Syn. of GUZMANNIA.

car'a·gua'ta (kăr'ȧ·gwä'tȧ), *n.* [Sp. *caraguatá*, fr. Pg., or of Guaranian origin. See CARAGUATA.] A fiber plant (*Bromelia argentina*) of Argentina and Paraguay, with leaves which yield a long silky fiber; also, the fiber itself.

Ca'ra·ho' (kä'rä·hō'), *n.* An Indian of a Tapuyan tribe of the Cayapo group, dwelling in Matto Grosso, Brazil.

ca'ra·ibe' (kä'rȧ·ēb'), *n.* [F. *caraïbe* Carib.] The color brown sugar. See BROWN SUGAR b.

ca·rai'pi (kȧ·rī'pē), **ca·rai'pe** (-pā), *n.* [Pg., fr. Tupi *caraipé.*] **a** The pottery tree. **b** Any of several Brazilian timber trees of the genus **Ca·rai'pa** [kȧ·rī'pȧ] (family Theaceae), yielding strong, hard, and valuable wood.

Ca'ra·ja' (kä'rȧ·zhä'), *n.* An Indian of Brazil of any one of three closely related tribes, the Caraja proper, the Chambioa, and the Javahai, constituting the Carayan stock.

‖**ca·ra'jo** (kä·rä'hō), *interj.* [Sp.] A vulgar Spanish exclamation.

ca'ra·ju'ra (kä'rȧ·zhōō'rȧ), *n.* [Pg. *carajuru*, fr. Tupi *carajurú.*] **a** A Brazilian plant (*Bignonia chica*). **b** The red coloring matter extracted from the leaves of this plant; — called also *chica*.

‖**ca·ram'ba** (kä·räm'bä). [Sp.] An exclamation expressing chiefly vexation or admiration.

car'am·bo'la (kăr'ăm·bō'lȧ), *n.* [Pg., fr. Marathi *karambal*, fr. Skr. *karmara*; Malay *kĕrambil* is prob. of Indian origin.] An East Indian tree (*Averrhoa carambola*), widely cultivated in the tropics; also, its acid fruit, which is ... berry, and Coromandel gooseberry.

car'am·bole (kăr'ăm·bōl), *n.* [F. See CAROM.] *Billiards.* **a** ... carom ... a game in which only caroms ... **b** ... in which the cue ball strikes more than one ... ion before completing a carom.

car'am·bole, *v. i.*; -BOLED (-bōld); -BOL'ING (-bōl'ĭng). [... *caramboler.*] *Billiards.* To carom, or cannon.

car'a·mel (kăr'ȧ·mĕl), *n.* [F., fr. OF. *calemele*, fr. ... *cannamellis* sugar cane, fr. L. *canna* reed + *mel*, ... honey, influenced by L. *calamus* reed. See CANE; ME... LUOUS.] **1.** An amorphous, brown, somewhat brittle substance obtained as a porous mass by he... sugar to about 170–180° C. (338–356° F.), and used fo... oring and flavoring gravies, confections, liquors, etc. ... made commercially by heating glucose or molasses w... little ammonia or other alkali. Constituents of ca... have been called **car'a·mel'an** (kăr'ȧ·mĕl'ăn), **car'a·...en** (-ĕn), and **car'a·mel'in** (-ĭn), but its chemistry is ... understood. **2.** (*pron.* kăr'ȧ·mĕl) A kind of hard but plastic ... containing sugar and milk products and, often, fruit ... nuts, and cut or cast in small cubes or squares. **3.** (*pron.* kăr'ȧ·mĕl) A color, red-yellow in hue, of me... saturation and medium brilliance. Cf. COLOR.

car'a·mel, *v. i. & t.* To turn into caramel; carameli...

caramel cutter. A power-driven machine which cut... ers of caramel and other candy into rectangular form...

car'a·mel·ize (kăr'ȧ·mĕl·īz), *v. t. & i.*; -IZED (-īzd); -... (-īz'ĭng). To turn into caramel. — **car'a·mel·i·za...** (-ĭ·zā'shŭn; -ī·zā'shŭn), *n.*

ca·ra'mous·sal' (kȧ·rä'mōō·säl'), *n.* [Turk. *qarām...*] A high-pooped Turkish or Moorish ship of burden, ... the 17th century. *Obs.*

ca·ran'cha (kä·rän'chä), **ca·ran'cho** (-chō), *n.* [S... *rancho*, fr. *caracará* + *-ancha*, *-ancho*, big, ugly. ... CARACARA.] A South American caracara (*Poly... plancus* or allied species).

ca'ran·dá' (kä'rän·dä'), *n.* [Pg.] = CARNAUBA.

ca'ran·day' (kä'rän·dī'), *n.* [See CARANDÁ.] The carr...

car and trailer. *Railroads.* A train consisting of ... propelling power car and one or more trailers.

car'ane (kăr'ān), *n.* [*carone* + *-ane.*] *Chem.* A ... carbon, $C_{10}H_{18}$, from which carone theoretically is d... 4, 7, 7-trimethyl-norcarane.

Ca·ran'ga (kä·räng'gä), *n.* An Indian of an Ay...ara... dwelling north of Lake Coipasa in western Bolivia.

Ca·ran'gi·dae (kȧ·răn'jĭ·dē), *n. pl.* [NL., fr. *Caran...* genus, fr. Sp. *caranga*, *carangue*, of unknown o... *Zool.* A large family of marine spiny-finned fishes c... ing the pompanos, amberfishes, cavallas, etc. They ... narrow body and a widely forked tail. They inhabit ... warm seas. — **ca·ran'gid** (-jĭd), *n. & adj.*

ca·ran'goid (kȧ·răng'goid), *adj.* [See -OID.] *Zool* ... or pert. to the Carangidae. — *n.* One of the Cara...

ca·ran'na (kȧ·răn'ȧ), *n.* [Sp. *caraña*, of Tupian ori... Tupi *caraná*.] A dark resinous substance (**caranna** ... obtained from the South American tree *Protium* c... from *P. altissimum*, and also from the related tree ... *lobus hexandrus*. It has reputed medicinal qualit...

Ca'ranx (kā'răngks; kăr'ăngks), *n.* [NL. See CARANG... *Zool.* **a** The type genus of Carangidae. See CAVA... **b** [*not cap.*] Any fish of this genus.

Car'a·pa (kăr'ȧ·pȧ), *n.* [NL. & Sp., fr. Galibi c... *krapa*, lit., oil. Cf. CALABA.] *Bot.* **a** A small g... tropical trees of the mahogany family (Meliaceae), ... abruptly pinnate leaves and flowers with four or five ... and monadelphous stamens. The wood, esp. tha... *guianensis*, is often sold as Brazilian mahogany. ... seeds, called **car'ap nuts** (kăr'ăp), yield a bitter ... fat, which is used as a protective against insects and ... in soap, etc. The principal species are *C. procera* ... *guianensis*. **b** [*not cap.*] Any tree of this genus ... ☞ In the phrases **carapa nut**, **carapa oil**, **carap... carapa wood**, *carapa* is shortened to *carap* or *cra...* CRABWOOD.

car'a·pace (kăr'ȧ·pās), *n.* [F., fr. Sp. *carapacho*, ... known origin.] *Zool.* **a** A bony or chitinous case o... covering the back or part of the back of an animal, ... upper shell of a turtle, the shell of an armadillo, etc. **b** ... tire shell of a turtle, or of certain lower animals, as pte...

car'a·paced (-pāst), *adj.* Provided with a carapac...

car'a·pa'cic (-pā'sĭk), *adj.* Pertaining to or like a ca...

ca'ra·pa'to (kä'rä·pä'tō), *n.* [Pg. *carrapato*, of ... origin; cf. Omagua *calapato*.] Any South Americ... of the genus *Amblyomma*, troublesome to man an... Cf. GARAPATA.

Ca·rap'i·dae (kȧ·răp'ĭ·dē), *n. pl.* [NL., fr. *C...* former genus name. See CARAPO.] *Zool.* A famil... order Jugulares, containing the pearlfishes. Syn. ... *feridae*. See CARAPUS.

car'a·pine (kăr'ȧ·pēn; -pĭn), *n.* [From CARAPA.] ... A bitter alkaloid from the bark of the crab wood (... *guianensis*). It is an antispasmodic and febrifug...

ca'ra·po' (kä'rȧ·pō'), *n.*; *pl.* -POS (-pōz'). [Pg. *car...* Tupi *carapo*.] A South American eel (*Giton*, sy... *pus*, *fasciatus*) of the family Gymnotidae.

Car'a·pus (kăr'ȧ·pŭs), *n.* [NL., fr. Pg. *carapó*.] **a** Syn. of GYMNOTUS a. **b** A genus of small slender fis... type of the Carapidae, living as inquilines in the ali... canal of large holothurians or between the valves ... bivalve mollusks. Syn. *Fierasfer*. See PEARLFIS...

Ca·ra'ra (kȧ·rä'rȧ), *n.* [NL., possibly fr. Gr. *kar...* tain top, head.] *Bot.* Syn. of CORONOPUS.

‖**ca'ra spo'sa** (kä'rä spō'zä). [It.] Dear wife.

car'at (kăr'ăt), *n.* [F., fr. It. *carato*, fr. Ar. *qīrā...* pea shell, a weight of four grains, a carat, fr. Gr. *ke...* little horn, the carob bean, a weight, a carat, fr. *ker...* See CEREBRAL.] **1.** The seed or bean of the carol... **2.** A unit of weight for precious stones, esp. diamo... pearls, formerly of various values in different c... The international metric carat (abbr. *M. C.*) of 2... grams (3.086 grains troy) was made standard in th... States in 1913, and was at that time the standard ... gium, Denmark, France, Germany, Great Britain, ... Italy, Japan, Sweden, and a number of other count... has since become rather generally recognized. The ... divided into four grains, sometimes called **carat** ... used esp. in expressing the weight of pearls. Th... so-called international carat of 205 milligrams (a... grains troy) was nearly the value of the old Englis...

Car- (kăr-). A prefix in Cornish names. See TRE-.
car. Var. of CARR.
Car'a·bas, Mar'quis of (kăr'ȧ·băs), *or*, *French*, **Mar'quis' de Ca'ra'bas'** (mär'kē' dē kȧ'rȧ'bȧ'). See PUSS IN BOOTS. [*Bib.*]
Car'a·ba'si·on (kăr'ȧ·bā'zĭ·ŏn).
car'a·bin (kăr'ȧ·bĭn), **car'a·bine** (-bīn). Vars. of CARBINE.
Car'a·boi'de·a (kăr'ȧ·boi'dē·ȧ), *n. pl.* [NL.] *Zool.* = ADEPHAGA.
car'ac. Var. of CARRACK.
Ca·ra'cas ki'no (kä·rä'käs). See KINO.
car'ack. Var. of CARRACK.
car'a·co'a (kăr'ȧ·kō'ȧ). Var. of CARACORE.
car'a·cold. Caracoled. *Ref. Sp.*
car'act. Var. of CARAT.
caracter. † CHARACTER.
car'a·cul (kăr'ȧ·kŭl). Var. of KARAKUL.
ca·raffe'. Incorrect for CARAFE.
caragasoune. † CARGASON.
car'a·geen, car'a·gee'nin. Vars. of CARRAGEEN, CARRAGEENIN.
ca'ra·gu'ru (kä'rä·gōō'rōō). Var. of CARAJURA.
Ca'ra·han' (kä'rä·hăn'). Var. of [CARAYAN.]
caraine. † CARRION.
Ca'ra·ite. Var. of KARAITE.
ca'ra·ja'ra (kä'rȧ·zhä'rȧ). Var. of CARAJURA.
Ca'ra·jas' (kä'rä·bäs'), *adj.* = [CARAYAN.]
ca'ra·ju'ru (kä'rȧ·zhōō'rōō). Var. of CARAJURA.
carал, caralle. † CAROL.
ca·ram'ba (kȧ·răm'bȧ), *n.* = CARAMBOLA.
car'a·meld. Carameled. *Ref. Sp.*
ca·ran'a. Var. of CARANNA.
ca'ra·na'i'ba (kä'rȧ·nä·ē'bȧ). Var. of CARNAUBA.
Ca·ran'ca (kä·räng'kä). Var. of CARANGA.
Ca·ran'das (kȧ·răn'dăs), *n.* [NL. Cf. CARAUNDA.] Syn. of CARISSA.
Ca·ran'gus (kȧ·răng'gŭs), *n.* [NL.] *Zool.* Syn. of CARANX a.
ca·rant' (kȧ·rănt'). *Dial. Eng.* COURANTE.
ca·ran'to. † CORANTO.
Ca'ra·pa'che (kä'rä·pä'chā). Also **Ca'ra·pa'cho** (-chō). CAHINDO.
car'a·pax (kăr'ȧ·păks), *Zool.* = CARAPACE.
carap nut, oil, tree, w... CARAPA, *Note.*

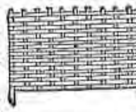
out, oil; cūbe, ūnite, ûrn, ŭp, circŭs, menü; chair; go; sing; then, thin; natūre, verdūre (249); ĸ = ch in G. ich, ach (109); boɴ; yet; zh = z in ...

Numbers within pronunciation parentheses here and in vocabulary refer to §§ in Pron., preceding the Vocabulary.

AR001401

hunk (hŭngk), *n.* [D. *honk.*] In some children's games the goal, home, or den. — *adj.* In a safe place; in a good position or condition; all right; even; hunky. *Local, U.S.*
hun'ker (hŭng'kẽr), *v. i.* [Cf. D. *huiken*, G. *hocken*, ON. *hūka, hokra.*] To squat so as to be supported upon the fore part of the feet; to crouch. *Chiefly Scot.* — *v. t.* To watch on one's hunkers. *Scot.*
Hunk'er (hŭngk'ẽr), *n.* [Perh. fr. 2d HUNK.] Orig., as a nickname, a member of the conservative section of the Democratic party in New York, 1845–48; hence, one opposed to progress in general; a fogy. Cf. BARNBURNER. *Polit. Slang, U.S.* — **Hunk'er·ism** (-ĭz'm), *n.* — **hunk'er·ous** (-ŭs), *adj.* — **hunk'er·ous·ness**, *n.*
hun'kers (hŭng'kẽrz), *n. pl.* [See HUNKER, *v.*] Haunches. — *on one's hunkers.* In a squatting or crouching position; hence, in a desperate condition. *Both Scot. & Dial.*
hunks (hŭngks), *n. sing. & pl.* [Origin uncert.] A surly, ill-natured person; a covetous, sordid man; a miser.
All the prudence and selfishness of an old *hunks*. *T. Gray.*
hunk'y (hŭngk'ĭ), *adj.* [From 2d HUNK.] All right; in a good condition; also, even; square. *Slang, U.S.*
hunk'y (hŭngk'ĭ), *n.; pl.* HUNKIES (-ĭz). Also **hunks** (hŭngks). [Cf. BOHUNK.] A foreign-born laborer, usually unskilled, esp. a Hungarian or South Slav. *Slang, U.S.*
hunk'y–do'ry (hŭngk'ĭ·dō'rĭ; 181), *adj.* Quite to one's content; comfortably nice. *Colloq.*
Hun'like' (hŭn'līk'), *adj.* Like a Hun; wantonly and barbarously destructive; Vandal.
Hun'ni·an (hŭn'ĭ·ăn), *adj.* Also **Hun'nic** (-ĭk), **Hun'ni·can** (-ĭ·kăn). Hunnish.
Hun'nish (hŭn'ĭsh), *adj.* Of, like, or pertaining to, the Huns; barbarous. — **Hun'nish·ness**, *n.*
hunt (hŭnt), *n.* [AS. *hunta.* See HUNT, *v.*] A hunter. *Obs.*
hunt (hŭnt), *v.;* HUNT'ED; HUNT'ING. [AS. *huntian* to hunt; akin to AS. *hentan* to capture, to try to get, Goth. *hinþan* (in comp.) to seize. Cf. HENT, HINT, HIT.] *Transitive:* **1.** To follow or search for (game or prey) for the purpose, and with the means of capturing or killing; to pursue (game or prey) for food or in sport; as, to *hunt* [illegible]; wolves *hunt* large prey only in packs; esp., [illegible] to pursue with weapons of the chase, and often with the assistance of trained animals; as, Malayans *hunt* monkeys with blowguns, tigers are *hunted* with elephants and beaters. Also, elliptically; as, to *hunt* ivory, that is, elephants for their ivory; to *hunt* heads, that is, men, in order to secure their heads as trophies.
2. To search diligently after; to seek; pursue; follow; — often with *out* or *up*; as, to *hunt* up or out evidence.
Evil shall *hunt* the violent man to overthrow him. *Ps.* cxl. 11.
3. To drive; chase; hence, to follow up with, or as with, persecutions or annoyances; — often with *from, away, out of, off*, etc.; as, he was *hunted* from the parish.
4. To use or traverse in pursuit of game; as, he *hunts* the woods; hence, to search carefully; as, he *hunted* the house for the papers; also, to follow up, as a trail.
5. To use or manage in the chase, as hounds or a horse.
He *hunts* a pack of dogs. *Addison.*
6. *Change Ringing.* To move or shift the order of (a bell) in a hunt (sense 5); — with *up* when the shift is from first to last position, and with *down*, when the reverse.
—, *Intransitive:* **1.** To follow the chase; to pursue game.
2. To seek; pursue; search; — with *for* or *after*.
He after honor *hunts*, I after love. *Shak.*
3. *Change Ringing.* To shift the order of bells in a hunt. See HUNT, *v. t.*, 6, above.
4. *Mach.* To be in a state of instability of movement or forced oscillation, as a governor which has a large movement of the balls for a small change of load, an arc-lamp clutch mechanism which moves rapidly up and down with variations of current, or the like; also, to seesaw, as a pair of alternators working in parallel. See SEESAW, *v. i.*
Syn. — Hound, track, trail, search.
Ant. — Avoid, evade, shun; flee.
hunt at force. To hunt with dogs, esp. in the open or in full cry. *Obs.*
hunt change. To leave the trail and follow a fresh scent [illegible] trail. *Now Rare.*
hunt counter. To follow the scent backward in hunting, as a hound; to go back on one's steps. *Shak.*
hunt down. To pursue or search for until captured, killed, or found; as, to *hunt down* a [illegible]minal.
hunt out, or **up.** To [illegible] for until found or [illegible] by diligent investigation; [illegible] friends.
[illegible] riot b, under RUN, *v.*
hunt [illegible] the stop. To hunt with, or as, a stophound, [illegible] slowly and haltingly; hence, to show lack of zeal.
hunt (hŭnt), *n.* **1.** Act or practice of hunting; chase.
"The hunt is up; the morn is bright and gray." *Shak.*
2. The game hunted or secured. *Now Rare.* *Shak.*
3. An association of huntsmen; a number of persons, with horses and dogs, engaged in hunting or riding to hounds.
4. A district of country hunted over.
5. *Change Ringing.* A regular course of changes on a ring of from five to twelve bells. See CHANGE RINGING.
6. *Mach.* Oscillating movement. See HUNT, *v. i.*, 4.
hunt'-coun'ter, *n.* One that hunts counter. *Obs.*
hunt'er (hŭn'tẽr), *n.* **1.** One who hunts wild animals; a [illegible]
2. One who hunts or seeks after anything, as if for game; as, a fortune *hunter*; a place *hunter*.
3. A dog that scents game, or is trained to the chase.
4. One of a class of horses adapted for use in hunting, esp. fox hunting. They require endurance, ability to jump, and capability of carrying weight.
5. A watch having a hunting case.
6. A large Jamaican cuckoo (*Hyetornis pluvialis*).
7. = HUNTING SPIDER.
hunter green. A color, greenish yellow-green in hue, of [illegible] saturation and low brilliance. Cf. COLOR.
Hun·te'ri·an (hŭn·tēr'ĭ·ăn), *adj.* Pert. to, or discovered by, John Hunter, Scottish surgeon, or William Hunter, [illegible]; as, **Hunterian chancre** (see CHANCRE).
Hunter's canal (hŭn'tẽrz). [After John *Hunter*, Scottish surgeon.] *Anat.* An aponeurotic canal in the middle third of the thigh, between the adductor longus and adductor magnus medially, the vastus medialis laterally, and [illegible] ventrally.
hunter's green. = HUNTER GREEN.
hunter's mass. See MISSA SICCA.
hunter's moon. The full moon after the harvest moon.

hunter's pink. Any of several colors, red or yellowish-red in hue and of very high saturation and low to medium brilliance, used for hunting jackets.
hunt'i·lite (hŭn'tĭ·līt), *n.* [After T. Sterry *Hunt*, Am. scientist.] *Mineral.* Native silver arsenide, perhaps Ag_3As.
hunt'ing, *n.* **1.** Act of one that hunts; instance of such action; specif., the pursuit or chase of game or wild animals; also, *Obs.*, game secured in the hunt.
2. *Elec.* A periodic variation in speed of a synchronous machine from that of the true synchronous speed.
hunt'ing, *adj.* **a** That hunts; as, a *hunting* man; also, predaceous; as, a *hunting* wasp. **b** Of, pertaining to, or used or adapted for use in hunting; also, suitable to the chase; as, *hunting* scenes, country, clothes, tunes. **c** Ornamented with scenes or figures of the hunt, as a carpet.
hunting air. *Music.* A tune played on the hunting horn during or after the chase.
hunting boot. A heavy, strong boot, often extending to the knee and commonly laced from the instep to the top.
hunting box. = HUNTING LODGE.
hunting cap. A cap worn in the hunting field, of the general shape of a jockey's cap, but stiff and often of velvet.
hunting case. A watchcase with a hinged cover to protect the crystal from accidents, as on the hunting field.
hunting cat. The cheetah.
hunting crop. = CROP, 3 b.
hunting dog. **a** The Cape hunting dog. **b** The dhole.
Hunting Dogs. *Astron.* = CANES VENATICI.
Hunt'ing·don wil'low (hŭn'tĭng·dŭn). The white willow *Salix alba.*
hunting ground. A region or district in which hunting is practiced or game is found; esp., *pl.*, the regions roamed over by the North American Indians in search of game; hence, figuratively, a place, field of effort, etc., where one hunts information, or the like; as, the library is his favorite *hunting ground*. Cf. HAPPY HUNTING GROUNDS.
hunting horn. **a** A bugle horn used in the chase. **b** On a sidesaddle, the second pommel on the near side.
hunting knife. A large, stout, very sharp knife used to skin and cut up, and sometimes to dispatch, game. See KNIFE, 1 a, *Illust.*
hunting leopard. The cheetah.
hunting lodge. A lodge used during a season of hunting.
hunting mass. = HUNTER'S MASS (see MISSA SICCA). *Obs.*
Hunting of the Cheviot, The. A common title of the ballad of *Chevy Chase* (which see).
Hunting of the Snark, The. See SNARK.
hunting seat. A hunting lodge of some pretensions.
hunting shirt. A coarse shirt for hunting, often of leather; orig., a frontiersman's blouse, usually of deerskin.
hunting spider. Any of various spiders which hunt their prey, instead of catching it in a web; a wolf spider.
Hun'ting·ton mill (hŭn'tĭng·tŭn). A form of edge mill (sense a).
Hun'ting·ton's cho·re'a (-tŭnz). [After G. *Huntington* (1850–1916), Am. physician.] Hereditary chorea developing in adult life and ending in dementia.
hunting tooth. *Mach.* A tooth in the larger of two geared wheels which makes its number of teeth prime to the number in the smaller wheel.
hunting watch. = HUNTER, 4.
hunt'ress (hŭn'trĕs; -trĭs; 119), *n.* **1.** A woman who hunts, or follows the chase; as, the *huntress* Diana.
2. A mare trained, or suited, to hunting. *Rare.*
hunt sergeant. A Massachusetts official in the colonial period who managed the hunts, for hostile Indians.
hunts'man (hŭnts'măn), *n.; pl.* -MEN (-mĕn). **1.** One who hunts, or who practices hunting.
2. The person whose office it is to manage the hunt and look after the hounds, esp. in fox hunting.
hunts'man's–cup' (hŭnts'mănz-), *n.* The common pitcher plant (*Sarracenia purpurea*) of the northeastern United States; — so called from the shape of its pitchers, or leaves.
hunts'man's–horn', *n.* A pitcher plant (*Sarracenia flava*) of the southern United States.
hunt's'–up' (hŭnts'ŭp'), *n.* A tune played on the hunting horn to call out the hunters; hence, any rousing song or tune; also, a pipers' tune used by Christmas waits.
hunts'wom'an (hŭnts'wo͝om'ăn), *n.* A huntress.
hunt the fox. Also **hunt the hare.** Hare and hounds.
hunt'–the–gowk' (-gouk'). *Scot. & Dial.* An April fool; a fool; also, a hoax. Also, as a verb: To go on a fool's errand.
hunt the slipper. A circle game in which players attempt to pass a slipper from one to another without being discovered by a player in the center.
Hu'on of Bor'deaux' (hū'ŏn ŏv bôr'dō'). Title and hero of a French chanson de geste of the late Charlemagne cycle.
Hu'on pine (hū'ŏn). [From the river *Huon* in Tasmania, named after a French officer.] A large Tasmanian timber tree (*Dacrydium franklinii*), with light-yellow, aromatic, wavy-grained wood used for carving and shipbuilding.
hup, hupp (hŭp; ho͞op; ŭp), *interj.* **a** A word used to urge on a horse. **b** A command to a horse to turn to the right. — *v. i. & t.* To shout "hup" to (a horse); also, to go forward. *All Chiefly Dial.*
Hu'pa (ho͞o'pä), *n.* An Indian of an Athapascan tribe now on the Hoopa Valley Reservation, California.
hu·pai'thric (hū·pī'thrĭk), *adj.* Hypaethral. *Shelley.*
‖**hup'pah** (ko͞op'ä; ko͞o·pä'), *n.* [Heb. *ḥuppah* a cover, canopy.] Among orthodox Jews, a canopy under which bride and groom stand during the wedding ceremony.
hu'ra (hū'rȧ), *n.* [ML.] A cap, as of a bishop.
Hu'ra (hū'rȧ), *n.* [NL., prob. fr. Tupi *urary* curare, and so named from the poisonous sap. See CURARE.] *Bot.* A small genus of tropical American trees (family Euphorbiaceae) *H. crepitans*, the sandbox tree, yields possumwood.
Hu'ra·kan' (ho͞o'rä·kän'), *n.* [Quiche; cf. Taino *hurricán* evil spirit, hurricane, Galibi *hyorocan* devil. Cf. HURRICANE.] The thunder and lightning god of the Quiches, associated with Gucumatz in the labors of the creation.
hur'cheon (hûr'chŭn), *n.* [See URCHIN.] A hedgehog; also, an urchin. *Obs. exc. Dial.*
hur'dies (hûr'dĭz), *n. pl.* The buttocks; rump; hips. *Scot., N. of Eng., & Ir.*
hur'dis (hûr'dĭs), *n.* [OF. *hordeïs.*] A palisade, often of hurdles. *Obs.*
hur'dle (hûr'd'l), *n.* [ME. *hurdel, hirdel*, fr. AS. *hyrdel*; akin to D. *horde*, OHG. *hurd*, G. *hürde* a hurdle, fold, pen, ON. *hurth* door, Goth. *haurds*, L. *cratis* wickerwork, hurdle, Gr. *kyrtia*, OIr. *certle* clew, skein, OPruss. *korto* enclosure, Skr. *kṛṇatti* he spins, *cṛtati* he binds, connects. Cf. CRASS, CRATE, CREEL, GRATE framework, GRIDDLE, HOARDING.] **1.** A movable frame of wattled twigs, osiers, or withes and stakes, or sometimes of iron, or of wooden bars, used for enclosing land, for folding sheep and cattle, for gates, etc., and for various military purposes, as for shelters, flooring, etc.



Hurdle, 1.

2. In England, a sled or crate on which criminals were formerly drawn to the place of execution.
3. An artificial barrier, variously constructed, over which men or horses leap in a race; fig., a barrier to be surmounted.
4. *pl.*, with *the*. A hurdle race (which see).
5. *Salt Mfg.* A plank platform on both sides of the pan and at the back of it to receive the wet salt from the pan.

Hurdler clearing a Hurdle in the Low Hurdles.

hur'dle, *v.;* HUR'DLED (hûr'd'ld); HUR'DLING (-dlĭng). *Transitive:* **1.** To hedge, cover, make, or enclose with hurdles.
2. To leap over while running, as one leaps a hurdle; figuratively, to surmount (an obstacle).
3. To confine (sheep) within a fold.
—, *Intransitive:* To leap over anything while running, as a hurdle or hurdles in a race; also, to compete in a hurdle race or to specialize in hurdle racing.
hur'dle·man (hûr'd'l·măn), *n.; pl.* -MEN (-mĕn). A man in charge of lambs and weaners on a sheep station. *Australia.*
hur'dler (-dlẽr), *n.* **1.** One who makes hurdles.
2. One who competes in hurdle races.
hurdle race. A race in which artificial barriers in the form of hurdles, fences, etc., must be leaped. In track athletics the usual forms are: the ***low hurdles***, of 220 yards, or of 200 meters, with ten hurdles 2 ft. 6 in. high, and the ***high hurdles***, of 120 yards, or of 110 meters, with ten hurdles 3 ft. 6 in. high. Commonly called ***the hurdles***.
hurdle racer. A horse trained for hurdle racing.
hurdle work. Work made of hurdles (see HURDLE, 1); wickerwork.
hurds (hûrdz), *n. pl.* [ME. *herdes*, fr. AS. *heordan*; akin to D. *herde, heede*, MLG. *hede.*] The refuse or coarse part of flax, hemp, or other textile plants; tow.
hur'dy–gur'dist (hûr'dĭ·gûr'dĭst), **hur'dy–gur'dy·ist** (-gûr'dĭ·ĭst), *n.* A hurdy-gurdy player.
hur'dy–gur'dy (hûr'dĭ·gûr'dĭ), *n.; pl.* -DIES (-dĭz). [Prob. of imitative origin.] **1.** *Music.* **a** A stringed instrument, lutelike in shape, in which the sound is produced by the friction of a resined wheel turned by a crank at the end, instead of by a bow. **b** Any instrument, esp. of street music, played by turning a handle.
2. In California, a water wheel with radial buckets, driven by the impact of a jet.
3. A crank or windlass used to haul in heavy trawls in deep-sea fishing.
hure (ho͞or), *adv.* [AS. *hūru.*] At least; at any rate. *Obs.*
hure hūr), *n.* [OF., hair of the head, head of man or beast (F., a disheveled head of hair, head of certain animals); cf. ML. *hura* a hairy cap.] **a** *Obs.* A cap. **b** The head of a boar, wolf, or bear.
hu'reau·lite (hū'rō·līt), *n.* [*Hureaux*, in France + *-lite.*] *Mineral.* A yellowish, orange-red, rose, or grayish mineral occurring in prismatic monoclinic crystals, or massive. It is a hydrous manganese phosphate, $H_2Mn_5(PO_4)_4.4H_2O$.
hu·reek' (hū·rēk'), *n.* [Marathi *harīk.*] The ditch millet. *India.*
hur·gi'la (hŭr·gē'lä), *n.* [Hind *haṛgīlā.*] The adjutant (stork). *India.*
hur'kle (hûr'k'l; ûr'k'l), *v. i.* To draw up or crouch as from cold; to squat; cower; shrug; shudder. *Obs. exc. Dial.*
hurl (hûrl), *v.;* HURLED (hûrld); HURL'ING. [ME. *hurlen, hourlen*, prob. of imitative origin; cf. Fris. *hurrel* a gust of wind, *hurreln* to blow in gusts, and E. *hurr, hurry.*] *Transitive:* **1.** To throw or cast with violence; to drive or impel with great force; as, to *hurl* a stone or lance.
2. To overthrow; to cast down; as, to *hurl* down tyranny.
3. To draw with violence; to haul. Cf. HARL. *Obs.*
4. *Obs.* **a** To throw, or cast, without violence. **b** To throw in wrestling. **c** [Cf. WHIRL.] To twist or turn.
5. To emit or utter with vehemence; as, to *hurl* invective.
6. To wheel or drive (a vehicle). *Chiefly Scot.*
—, *Intransitive:* **1.** To hurl oneself; to move or go quickly and impetuously; to rush; — sometimes with confusion of sense with *hurtle* or *whirl*. *Archaic & Dial.*
2. To perform the act of hurling something; to throw something (at another).
3. To play the game of hurling (which see).
4. To wheel or drive in a vehicle, esp. a clumsy one. *Chiefly Scot.*
5. To roar, or howl, like the wind. *Obs.*
6. *Baseball.* To pitch. *Slang.*
Syn. — Cast, fling. See THROW.
hurl, *n.* **1.** A hurling; a violent throw; cast; fling.
2. Tumult; riot; hurly-burly. *Obs.*
3. A rush or rushing; specif.: **a** A rushing or whirling of water. **b** *Scot.* A rush downward, as of stones on a hill.
4. The stick used in hurling.
5. A ride in a wheeled vehicle; a drive. *Scot.*
6. Brush of broomcorn, suitable in color, fiber, and length for use on the outside of brooms.
hurl. Dial. Eng. var. of WHIRL.
hurl'bar'row (hûrl'băr'ō; -bâr'ĭ; ûrl'-), *n.* [*hurl*, v. + *barrow.*] Wheelbarrow. *Scot. & N. of Eng.*
hurl'bat' (hûrl'băt'), *n.* **1.** Some kind of weapon which was whirled to increase the force of a blow; — used to translate both Latin *cestus* (see 2d CESTUS) and *aclys* (which see). *Obs.*
2. The stick used in the game of hurling.
hurled (hûrld), *adj.* [Cf. D. *horrelvoet* clubfoot.] Twisted; crooked. *Obs. exc. Dial.*
hur'le·ment (hûr'lĕ·mĕnt), *n.* Tumult; confusion. *Obs.*

[illegible] var. of [illegible]
[illegible]
[illegible] (hŭngk·gä'pĭ), *n.*
var. of HUNDRED.
hunt'a·ble, *adj.* See -ABLE.
hunt'ed·ly, *adv.* of *hunted*, past part.
hunts'man·ship, *n.* See -SHIP.
Hun'yak (hŭn'yăk), *n.* = HUN, 1a.
Hu'pham (hū'făm). *Bib.*
Hu'pham·ites (-īts), *n. pl.* *Bib.*
Hup'pim (hŭp'ĭm). *Bib.*
Hur (hûr). *Bib.*
Hu'ra·i (hū'rā·ī; hō·rā'ī; hū'rī). [*Bib.*]
Hu'ram (hū'răm). *Bib.*
hurd. ✝ HOARD.
hurd'en. Dial. var. of HARDEN.
hur'dld. Hurdled. *Ref. Sp.*
hur'dle·wise', *adv.* See -WISE.
hure. ✝ EWER, HEAR, HER, HIRE, HOUR, OUR, WHORE.
Hu'ri (hū'rī). *Bib.* [HURRICANE.]
hur·ka'ru (hŭr·kä'ro͞o). Var. of
hurl'bone'. Var. of WHIRLBONE.
hurld. Hurled. *Ref. Sp.*
hur'le·ca'no. ✝ HURRICANE.

I J K L M

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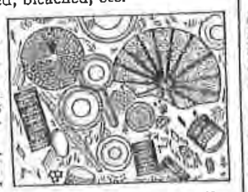
[illegible] organ of each side consists [illegible] called from their situation the *pronephros* or *head kidney*; the *mesonephros*, *mid-kidney*, or *Wolffian body*; and the *metanephros*, or *hind kidney*. The pronephros is rarely functional in the adult (only in a few of the lower vertebrates) and usually disappears. The mesonephros usually (or, as many believe, always) forms the functional kidney in adult fishes and amphibians (no metanephros being developed except perhaps in elasmobranchs), but in the reptiles, birds, and mammals the mesonephros, though functional in the embryo, atrophies and is superseded by the metanephros.
2. Temperament; disposition; sort, kind.
With persons of his *kidney* a direct question is never very discreet. *William Somerset Maugham.*
3. A thing resembling a kidney; something kidney-shaped. *Tatler.*
4. A waiter. *Old Slang.*
5. The tissue of the kidney of any animal, as of the ox or sheep, used as an article of food; as, grilled *kidneys*.
kidney bean. **a** *Eng.* The common bean (*Phaseolus vulgaris*). **b** The scarlet runner *P. coccineus*. **c** The hyacinth bean.
kid'ney–bean' tree. A wisteria (*Wistaria frutescens*) of the southeastern United States, with lilac-purple flowers.
kidney corpuscle. See KIDNEY, 1.
kidney cotton. A shrub or small tree (*Gossypium brasiliense*) yielding a long-staple cotton; also, the fiber itself.
kid'ney–leaved' crow'foot'. A common buttercup (*Ranunculus abortivus*) of eastern North America, with kidney-shaped basal leaves.
kid'ney-lipped' (kĭd'nĭ-lĭpt'), *adj.* Harelipped. *Obs.*
kidney liverleaf. The common hepatica. See HEPATICA.
kidney oil. See ROSIN OIL.
kidney ore. *Mineral.* A variety of hematite.
kid'ney-root' (kĭd'nĭ-rōōt'; 200), *n.* **a** The joe-pye weed. **b** A Californian shrub (*Baccharis pilularis*). Both plants are reputed medicinal in kidney diseases.
kid'ney–shaped' (-shāpt'), *adj.* Shaped like a kidney; reniform.
kidneys of wheat. Short for "the fat of *kidneys of wheat*" (*Deut.* xxxii. 14) to describe choice wheat.
kidney stone. **a** A kidney-shaped pebble. **b** Nephrite.
kidney vetch. A perennial Eurasian herb (*Anthyllis vulneraria*), with cloverlike heads of red or yellow flowers, once used as a remedy for renal disorders.
kidney worm. Any of several species of nematode worms parasitic in the kidneys; esp.: **a** The giant strongyle. **b** A parasite (*Stephanurus dentatus*) in the kidney, lungs, etc., of the hog; — called also *lardworm*.
kid'ney-wort' (kĭd'nĭ-wûrt'), *n.* **a** = NAVELWORT **a**. **b** The star saxifrage. **c** = KIDNEYROOT **b**.
kid point. Stitching in rows, used on the backs of gloves.
kid'skin' (kĭd'skĭn'), *n.* The skin of a young goat, widely used for footwear, gloves, pocketbooks, leather novelties, etc. In the U. S., a kidskin must not measure more than 4½ sq. ft., or 60 sq. ft. to the dozen. — **kid'skin'**, *adj.*
kids'man (kĭdz'măn), *n.*; *pl.* -MEN (-mĕn). One who lodges and trains young thieves. *Slang, Eng.*
Kief'fer (kēf'ẽr), *n.* [After Peter *Kieffer* (1812–90), French (Alsatian)-Am. gardener.] *Hort.* A hybrid pear of inferior quality, but resistant to fire blight.
ki'e-ki'e (kē'ā-kē'ā; *colloq.* kē'kē'), *n.* [Maori.] A New Zealand climbing shrub (*Freycinetia banksii*) with edible berries.
kier (kēr), *n.* [ON. *ker* a tub.] A large vat in which textile goods, cotton, etc., are boiled, bleached, etc.
kier (kēr), *v. t.* To treat in a kier, as by boiling.


Kieselguhr showing Diatoms. Very much enlarged.

kie'sel-guhr', **kie'sel-gur'** (kē'zĕl-gōōr'), *n.* [G., fr. *kiesel* flint + *guhr* an earthy deposit or sediment in water.] Loose or porous diatomite. Cf. TRIPOLI, DIATOMITE.
kie'ser-ite (kē'zẽr-īt), *n.* [After D. G. *Kieser*, of Jena.] *Mineral.* Hydrous magnesium sulphate, $MgSO_4 \cdot H_2O$, white when pure.
kiest'less (kēst'lĕs; -lĭs; 119), *adj.* [*kiest*, var. of *keest* + *-less*.] Tasteless; dispirited. *Scot.*
ki'kar (kē'kär; kĭk'är), *n.* [Hind *kīkar*.] The Egyptian thorn, or gum-arabic tree.
Ki'kat-silk (kē'kăt-sĭlk), *n.* An Indian of a Sastean tribe of Shastan stock. See SASTEAN, SHASTAN.
kike (kīk), *n.* *Slang.* **a** = KEEK, *n.*, **b**. **b** *Derogatory.* A Jew; Yid.
ki'ki (kē'kē), *n.* [Gr., fr. Egypt. *kaka*.] The castor-oil plant. *Egypt.*
Ki-kon'go (kē-kŏng'gō), *n.* [See KI-.] Kongoese.
kik'u (kĭk'ōō), *n.* [Jap.] The chrysanthemum.
ki-ku'el (kĭ-kōō'ĕl), *n.* [G. *kikuöl*, fr. Jap. *kiku* chrysanthemum + G. *öl* oil.] A solid oil or fat got from seeds of the toothbrush tree (*Salvadora persica*).
kik'u-mon (kĭk'ōō-mŏn), *n.* [Jap., fr. *kiku* chrysanthemum + *mon* crest.] A Japanese imperial crest resembling an open chrysanthemum. It always has sixteen complete petals. See KIRIMON.

Kikumon.

Ki-ku'yu (kē-kōō'yōō), *n. sing. & pl.* One of a Bantu-speaking agricultural Negro tribe in British East Africa around Mount Kenya.
Ki-ku'yu, *or* **ki-ku'yu, grass** (kē-kōō'yōō). A South African forage grass (*Pennisetum clandestinum*) introduced into Australia and South America.
kil, kill (kĭl), *n.* [Ir. & Gael. *cill*, fr. inflectional forms of *ceall*, fr. L. *cella*. See CELL.] The cell of an Irish monk; an [illegible] A lead antimony [illegible] *Kildare* [illegible]
Kil-dare' green (kĭl-dâr'). [Appar. [illegible] Ir. Free State.] A color, yellowish yellow-green in hue, of medium saturation and high brilliance. Cf. COLOR.
kil'dee, kill'dee (kĭl'dē), *n.* The killdeer. *Local, U. S.*
kil'der-kin (kĭl'dẽr-kĭn), *n.* [ME. *kilderkyn*, fr. MD. *kinderkijn*, *kinneken*, fr. ML. *quintale*, or perh. fr. F. *quintal*, fr. ML., fr. Ar. See QUINTAL.] A cask one half, or even one quarter, the size of a common barrel; hence, an old English measure, usually equal to 18 (formerly beer, now imperial) gallons, or two firkins. See MEASURE, *Table*.
ki'leh, ki'le (kē'lĕ), *n. sing. & pl.* [Turk. *kīleh*, fr. Ar. *kaylah*.] **a** See MEASURE, *Table*. **b** See WEIGHT, *Table*.
kil'erg' (kĭl'ûrg'), *n.* [*kilo-* + *erg*.] *Physics.* A unit of work equal to one thousand ergs.
ki'ley (kī'lĭ), *n.* [Native name in Western Australia.] A kind of boomerang. *Australia.*
Kil'ham-ite (kĭl'ăm-īt), *n.* *Eccl.* A member of the Methodist New Connexion, an English body of Methodists, founded by Alexander Kilham (1762–98).
kil'hig (kĭl'hĭg), *n.* *Logging.* A short stout pole used to direct the fall of a tree.
ki-lim' (kē-lēm'), *n.* [Turk. *kilīm*, fr. Per. *kilīm*.] A type of pileless carpet, mat, and spread which is tapestry-woven. Kilims are made in Turkey, Kurdistan, the Caucasus, Persia and Western Turkestan.
Kil-ken'ny cats (kĭl-kĕn'ĭ). Two cats which fought till nothing was left but their tails; — prob. a parable of a local contest between Kilkenny and Irishtown.
kill (kĭl), *v.*; KILLED (kĭld); KILL'ING. [ME. *killen*, *kellen*, *cullen*, to kill, strike; prob. akin to E. QUELL.] *Transitive:*
1. To strike; to beat. *Obs.*
2. To deprive of life; to put to death; to slay.
Ah, *kill* me with thy weapon, not with words! *Shak.*
3. To slaughter (an animal for food); hence, to convert a food animal into (beef, pork, or the like); as, to *kill* beef.
4. To deprive of vital or active quality; to destroy.
Her lively color *kill'd* with deadly cares. *Shak.*
5. Specif.: **a** To consume (time). **b** To defeat or veto. **c** To stop; as, to *kill* an engine. **d** To injure by overheating, as flour; to destroy the vitality of, as seed. **e** In technical contexts, to destroy; neutralize; as, to *kill* acid by converting it into a salt; to *kill* steel (that is, to deadmelt it); to *kill* soap stock (that is, to saponify it by adding alkali).
6. In exaggerated expression: **a** To impress irresistibly. **b** To injure severely; — an *Irishism*, chiefly *past part.*
7. *Archaeol.* To break a bowl (*killed bowl*) or other pottery in order to bury the fragments with the dead. The motive is to separate the spirit of the object from its material so that it may accompany the spirit of the dead.
8. *Elec.* To cut off (a live circuit).
9. *Handball, Lawn Tennis, Rackets, etc.* To play (a ball) so hard that it cannot be returned.
10. *Metal.* To cause (molten metal) to become quiet and free from bubbling, as by deadmelting.
11. *Painting.* = KNOT, *v. t.*, 8.
12. *Print.* To mark or designate (matter) as not to be used.
— *Intransitive:* **1.** To commit murder or slaughter.
2. To undergo killing, or slaughter, as an animal.
3. In exaggerated expression: **a** To tire; exhaust. **b** To make an irresistible impression; as, dressed to *kill*.
Syn. — KILL, SLAY, DISPATCH, SLAUGHTER, MURDER, ASSASSINATE. KILL is the general term for depriving of life; SLAY is now elevated or poetic; DISPATCH emphasizes the idea of making quickly away with; to SLAUGHTER is to kill with savage or bloody violence; to MURDER (see defs. for legal aspects) is to kill with malicious forethought and intention; to ASSASSINATE is to murder suddenly, treacherously, or by stealth. Cf. MASSACRE.
Ant. — Engender, beget, generate, breed, produce.
kill by inches. To kill gradually, as by torture.
kill dead. To kill utterly.
kill off. To remove in numbers by or as by killing.
kill one's heart. To discourage or utterly depress one. *Obs.*
kill the fatted calf. To make a feast of rejoicing or hearty welcome; — alluding to Luke xv. 23–27.
kill time. To pass an interim, esp. in pleasure or idleness.
kill two birds with one stone. To effect two things by a single means, stroke, effort, or the like.
kill, *n.* **a** The act of killing. **b** An animal, or, collectively, the animals, killed in a hunt or by hunting.
A cougar . . . come for its *kill*. *James Lane Allen.*
kill, *n.* [D. *kil*, MD. *kille*; prob. akin to ON. *kīll* channel, inlet. See 2d KEY; cf. 2d BINNACLE.] A channel; creek; river; stream; as, the *Kill* van Kull, or the *Kills*, between Staten Island and Bergen Neck; — used also in comb.; as, Cats*kill*. *Local, U. S.*
kill- (kĭl-). A combining form of *kill*, v. t., denoting (*one*) *that kills*; — chiefly in nouns, as in *kill*-joy, *kill*-time.
kill (kĭl). Var. of KILN. *Now Dial.*
kill. Var. of KIL, cell.
kill'a-ble (kĭl'à-b'l), *adj.* Fit to kill; that may be killed.
kil'la-dar (kĭl'à-där), *n.* [Per. *qil'adār*, fr. Ar. *qal'ah* fort + Per. *-dār* holder.] Commandant of a fortress. *India.*
Kil-lar'ney (kĭ-lär'nĭ), *n.* [See KILLARNEY, in *Gaz.*] **1.** *Hort.* A hybrid tea rose with rose-pink flowers.
2. The color Killarney green.
Killarney fern. See FERN, *Table*.
Killarney green. A color, greenish yellow-green in hue, of medium saturation and medium brilliance. Called also *Killarney*. Cf. COLOR.
kil'las (kĭl'ăs), *n.* **a** *Geol.* Clay slate. *Corn.* **b** *Mining.* Soft clay slate or shale.
kill'buck' (kĭl'bŭk'), *n.* A fierce-looking fellow. *Obs.*
kill'calf' (-käf'; -kàf'), *n.* A butcher. *Dial. Eng.*
kill'–cour'te-sy, *n.* A boor. *Rare.*
kill'–cow' (kĭl'kou'), *n.* **1.** *Now Dial.* **a** A bully; a great personage. **b** A serious matter.
2. An American spike rush (*Eleocharis tenuis*). *Local, U. S.*
kill'crop' (kĭl'krŏp'), *n.* [G. *kielkropf*, LG. *kilkrop*, changeling, stupid child, locally a voracious child.] A voracious infant, regarded as a fairy changeling.
kill'cu' (kĭl'kū'), *n.* [Imitative.] A yellowlegs. *Local, New Jersey.*

[illegible] found throughout temperate North America and south in migration to South America. It is about ten inches long, grayish-brown above and white below, with two black bands on the breast and neck. Its much-repeated cry is plaintive and penetrating.

Killdeer. 1/6

kill'–dev'il, *n.* **1.** A reckless terrible fellow. *Obs.*
2. West Indian rum. *Obs.*
3. *Angling.* A bait, made to spin like a wounded fish.
killed bowl (kĭld). See KILL, *v. t.*, 7.
killed spirits, killed spirits of salt. A solution of zinc chloride prepared by dissolving zinc in hydrochloric acid and used in soldering, etc.
kil-lee'kil-lee' (kĭ-lē'kĭ-lē'), *n.* [Imitative.] A sparrow hawk. *West Indies.*
kil-leen' (kĭ-lēn'), *n.* [Perh. from a place name.] Carrageen.
kill'er (kĭl'ẽr), *n.* **1.** One who or that which kills; as: **a** A slaughterer; also, one who buys animals for immediate slaughter; also, an animal to be killed. **b** A murderer, esp. a desperate criminal or a homicidal maniac. **c** *Slang.* One who makes a killing. **d** An agent that neutralizes something, as the alkalinity of a plaster to be painted, or fills the pores of a surface to be painted, or prevents exudation, as resins, from wood. **e** *Fishing.* An effective bait; also, club to kill fish with.
2. Also **killer whale.** Any of several rapacious gregarious cetaceans of the dolphin family found mostly in northern seas; esp., those of the genus *Orca*. The common Atlantic species (*Orcinus orca*), found also in the Southern Pacific Ocean, is from 20 to 30 feet long, with a high dorsal fin, powerful tail, and sharp strong teeth.

Killer, 2 (*Orcinus orca*). (1/10)

It is black with yellowish-white areas on the sides and under parts. It preys upon large fish, seals, etc., and even by combined attack kills whales much [redacted] itself.
kill'er. Dial. Eng. var [redacted]
kil'lick (kĭl'ĭk) [redacted] A small anchor; also kind of anchor [redacted] by a stone, usually enclosed by pieces of wood fastened together; sometimes, loosely, any anchor.
kil'li-fish' (kĭl'ĭ-fĭsh'), *n.*; *pl.* -FISH, -FISHES (-fĭsh'ĕz; 119). See PLURAL, *Note*. [Appar. fr. KILL channel.] Any of numerous small American fishes of the genus *Fundulus* and allied genera of the family Cyprinodontidae, some of which live equally well in fresh and brackish water, or even in the sea. They are usually striped or barred with black and are much used as bait. The common killifish (*F. heteroclitus*) of the eastern and southern coasts of the U. S. is often also called *mummichog* and *cobbler*. See MAYFISH, *Illust.*; 1st GUDGEON, 1.
kill'ing (kĭl'ĭng), *n.* **1.** Act of one who kills; esp., homicide; murder; as, this trouble will lead to a *killing* yet.
2. That which is killed, as the number of animals at a slaughtering; the amount of game taken, as on one hunt.
3. A cleanup, esp. as a result of speculation in stocks; a sudden sensational success. *Colloq.*
4. *Soap Mfg.* See SOAP, *n.*
kill'ing, *adj.* That kills or pertains to killing; also, *Colloq.*, captivating; overpowering; irresistibly amusing. — **kill'ing-ly,** *adv.* — **kill'ing-ness,** *n.*
kill'ing, *adv.* = KILLINGLY.
kill'ing. Var. of KEELING.
killing bottle. A bottle containing a poisonous vapor, for killing insects to be preserved as specimens.
killing frost. A frost low enough in temperature (4° or more below freezing) to kill most exposed garden vegetation, fruit buds, etc.
killing time. **1.** A time appointed for killing, as, in southern U. S., the early winter, when swine are killed.
2. [*often caps.*] *Hist.* The period of severest persecution of the Covenanters in Scotland, immediately following the accession of James II (1685); also, the whole period of persecution (1679–88).
kil'lin-ite (kĭl'ĭn-īt), *n.* [From *Killiney* Bay, Ireland.] *Mineral.* A variety of pinite. See PINITE.
kill'–joy', *n.* One who causes gloom; a dispiriting person.
kill'–kid', *n.* Sheep laurel.
kil'lo'gie (kĭl'lō'gĭ), *n.* [*kiln* + dial. *logie* or *ogie* the space before a kiln fire.] The sheltered space before a fireplace. *Scot. & N. of Eng.*
kill'–time' (kĭl'tīm'), *n.* One who or that which kills time. — **kill'–time',** *adj.*
kill'–wart' (-wôrt'), *n.* = CELANDINE **a**.
kill'weed' (-wēd'), *n.* The purple loosestrife.
kill'wort' (-wûrt'), *n.* = CELANDINE **a**.
kil'ly hawk (kĭl'ĭ). The sparrow hawk *Falco sparverius*.
Kil-mar'nock (kĭl-mär'nŭk), *adj.* Of or pert. to a burgh in Ayr County, Scotland.
Kilmarnock bonnet. A kind of broad-topped woolen cap.
Kilmarnock willow. A variety (*Salix caprea pendula*) of the great sallow, with pendulous branches.
kiln (kĭl; kĭln; 3; 277), *n.* [ME. *kilne*, *kulne*, fr. AS. *cylen*, fr. L. *culina* kitchen; akin to L. *coquere* to cook. See COOK; cf. CULINARY.] A large stove or oven; a furnace of brick or stone, or a heated chamber, for the purpose of hardening, burning, or drying anything; often, specif., a brickkiln, a limekiln, or a cement kiln.
☞ COMBINATIONS and PHRASES are: kiln-burnt, kiln evaporator, kiln foreman, kilnhole, kiln [illegible]
kiln, *v. t.*; KILNED (kĭld; kĭlnd); KILN'ING. To burn, or dry in a kiln; as, to *kiln* brick, lime, or grain.
kiln'–dry' (kĭl'drī'; kĭln'-), *v. t.* To dry in a kiln. — **kiln'–dried'** (-drīd'), *adj.*

kid'ney-leaved', *adj.* See -LEAVED.
Kid'ron (kĭd'rŏn; kĭ'drŏn). *Bib.*
Kids. See KID, *n.*, 6; STAR, *Table*.
kief. Var. of KEF.
kie'fe-kil (kē'fē-kĭl), *n.* [Perh. fr. Per. *kaf* foam + *gil* clay.] = MEERSCHAUM, 1.
kiel (kēl), *n.* [MD.] = 7th KEEL.
kieve. Var. of KEEVE.
kie'ye, *n.* = KI-YI.
kif. Var. of KEF.
kiff. Var. of KEF.
Kif'fa Aus-tra'lis (kĭf'à ôs-trā'lĭs). [Ar. *quffah* basket + L. *australis* southern.] See STAR, *Table*.
Kif'fa Bo're-a'lis (bō'rē-ā'lĭs). [Ar. *quffah* basket + L. *borealis* northern.] See STAR, *Table*.
Ki'gik-tag'miut (kē'gĭk-tăg'mūt), *n.* See ESKIMO, 1.
Ki'ho (kē'hō), *n.* A Tuamotu form of Io.
kike. † KICK.
ki-la'dja (kē-lä'jà), *n.* [(Appar. through F. fr.) Ar. *kaylajah*.] = CAPHITE (see MEASURE, *Table*).
ki'lah (kī'là), *n.* [Ar. *kaylah*.] See MEASURE, *Table*.
kil-am'pere, *n.* = KILOAMPERE.
ki-lan' (kē-län'), *n. sing. & pl.* [Malay, span.] See MEASURE.
kild. Killed. *Ref. Sp.*
kil'deer'. Var. of KILLDEER.
kile. † KYLE.
kil'i-are' (kĭl'ĭ-âr'), *n.* [F.] See MEASURE, *Table*.
ki'-lin' (kē'lĭn'). Var. of CHI-LIN.
kill'dee'. Var. of KILLDEER.
kil'lick-in-nic', kil'li-ki-nick' (kĭl'ĭ-kĭ-nĭk'). Vars. of KINNIKINNICK.
kil'lie. Var. of KILLY.
kil'lock. Var. of KILLICK.
kil'low, *n.* Graphite.
kill'-pot', *n.* A toper.
kil'lut. Var. of KHILAT.
kil'ly, *n.* Short for KILLIFISH.

āle, chāotic, câre, ădd, ăccount, ärm, åsk, sofa; ēve, hēre (116), ēvent, ĕnd, silĕnt, makẽr; īce, ĭll, charĭty; ōld, ōbey, ôrb, ŏdd, sŏft, cŏnnect; food

|| Foreign Word. † Obsolete Variant of. + combined with. = equals. Abbreviations, Signs, etc., are explained on pages immediately preceding the Vocabulary.

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kiln scum. *Brickmaking.* = WHITEWASH.
ki'lo (kē'lō; kĭl'ō), *n.*; *pl.* KILOS (-lōz). [F.] A kilogram; a kilometer; — shortened form.
kil'o- [F. *kilo-*. See KILOGRAM.] A prefix meaning *thousand*, used chiefly in names of units in the metric system, as in **kil'o·am'pere**, one thousand amperes.
kilobar, kilodyne, kilogauss, kilojoule, kilolumen, kiloparsec.
kil'o·cal'o·rie (-kăl'ō·rĭ), *n.* [*kilo-* + *calorie.*] *Physics.* A great calorie. See CALORIE **b**.
kil'o·cy'cle (-sī'k'l), *n.* One thousand cycles; also, esp. *Radio*, one thousand cycles per second.
kil'o·gram, kil'o·gramme (kĭl'ō·grăm), *n.* [F. *kilogramme*, fr. *kilo-* (fr. Gr. *chilioi* a thousand) + *gramme*. See 2d GRAM.] **a** A unit of mass and weight; — the name arbitrarily given to the mass of a platinum-iridium cylinder (platinum 90%, iridium 10%), known as the international standard of mass, maintained in the archives of the International Bureau of Weights and Measures near Paris. Copies of the kilogram are maintained at the various national laboratories, and the comparison of these copies with the international standard is provided for by the treaty under which the International Bureau of Weights and Measures was established. It is equal to 1,000 grams or 2.204622341 pounds avoirdupois (15,432.356 grains). The British values, set up in Order in Council of May 19,1898, are 2.2046223 pounds avoirdupois (15,432.3564 grains). See METRIC SYSTEM; 3d MASS, 13; WEIGHT, *Table*. Abbr. *kg.* **b** The weight of a kilogram; a kilogram's weight; the force with which a mass of one kilogram is attracted toward the center of the earth.
kil'o·gram–me'ter, –me'tre (kĭl'ō·grăm·mē'tēr), *n.* **1.** *Mech.* A unit of energy or work, being the amount expended in raising one kilogram through the height of one meter, in the latitude of Paris. It is nearly equal to 7¼ foot-pounds. **2.** *Physics.* **a** A unit of torque equal to that of a kilogram weight acting on a lever arm one meter long. **b** =METER-KILOGRAM **a**.
kil'o·li'ter, kil'o·li'tre (-lē'tēr), *n.* [F. *kilolitre*. See KILOGRAM; LITER.] A thousand liters, or a cubic meter. See MEASURE, *Table*. Abbr. *kl.*
kil'o·me'ter, kil'o·me'tre (kĭl'ō·mē'tēr; *sometimes* kĭ·lŏm'ē·tēr *by false analogy with barometer, etc.*), *n.* [F. *kilomètre*. See KILOGRAM; METER.] *Metric System.* A measure of length; one thousand meters (3,280.8 feet, or nearly five eighths of a mile). See MEASURE, *Table*. Abbr. *kil.*, *kilom.*, or *km.* — **kil'o·met'ric** (-mĕt'rĭk), **-met'ri·cal** (-rĭ·kăl), *adj.*
kil'o·var (-vär), *n.* [*kilo*volt + *a*mpere + *r*eactive.] Reactive kilovolt-ampere.
kil'o·volt' (kĭl'ō·vōlt'), *n.* [*kilo-* + *volt.*] *Elec.* A unit of electromotive force equal to one thousand volts. Abbr. *kv.*
kil'o·volt'–am'pere, *n.* *Elec.* A measure of the apparent power of an electric circuit, the product of one impressed kilovolt and the resulting current in amperes. Abbr. *kva.*
kil'o·watt' (-wŏt'), *n.* [See KILOGRAM; WATT.] *Elec.* A unit of power, equal to one thousand watts. Abbr. *kw.*
kil'o·watt'–hour', *n.* *Elec.* A unit of work or energy equal to that done by one kilowatt acting for one hour, — approx. = 1.34 horsepower hour.
kilp (kĭlp). Dial. Eng. var. of KELP.
kilp (kĭlp), *n.* [Cf. ON. *kilpr* handle.] The detachable handle or support of a pot, kettle, or caldron; a hook. *Dial. Eng.*
kilt (kĭlt), *n.* [From KILT, *v.*] A kind of short plaited petticoat, usually of tartan, reaching from the waist to the knees, worn in the Highlands of Scotland by men, and in the Lowlands by young boys, and forming a distinctive part of the uniform of certain regiments in the British armies; hence, any similar garment.

1 Kilt; 2 Plaid; 3 Brooch; 4 Sporran; 5 Glengarry Bonnet; 6 Dirk.

kilt, *v.*; KILT'ED; KILT'ING. [Of Scand. orig.; cf. Dan. *kilte op* to truss, tuck up, Sw. *kilta* lap; akin to Goth. *kilthei* womb. See CHILD.] *Transitive:* **1.** To tuck up; truss up, as the clothes. *Chiefly Scot.* **2.** To tie up; to fasten; hang. **3.** To lay in plaits like those of a Highland kilt. **4.** To equip with a kilt or kilts.
—, *Intransitive:* To move nimbly or expeditiously.
kilt (kĭlt), *past part.* of KILL. *Now Dial. & Humorous.*
kilt'er (kĭl'tēr), *n.* One who or that which kilts; specif., *Eng.*, a machine sewer who makes tucks.
kil'ter (kĭl'tēr), **kel'ter** (kĕl'tēr), *n.* [Origin uncert.] Order; proper condition; — chiefly in phrases; as, *out of*, or *in*, *kilter*. *Colloq. & Dial.*
kilt'ie, kilt'y (kĭl'tĭ), *n.*; *pl.* KILTIES (-tĭz). [*also cap.*] One who wears a kilt, specif. a regimental kilt.
kilt'ing, *n.* *Dressmaking.* A series of perpendicular flat plaits, each folded so as to cover about half of the preceding.
kim (kĭm), *n.* Short for KIMONO.
Kim (kĭm), *n.* The title and hero of a novel (1901) of life in India, by Rudyard Kipling. Kim is the nickname of an Irish waif, Kimball O'Hara, who has grown to boyhood in the native quarter of Lahore. He wanders over India with a Tibetan priest and eventually finds the regiment to which his father had belonged.
kim'ber·lin (kĭm'bēr·lĭn), *n.* [ME. *kymeling, cumlynge, comeling*. See COMELING.] Newcomer; stranger. *Dial. Eng.*
kim'ber·lite (kĭm'bēr·līt), *n.* [From *Kimberley*, S. Africa.] *Petrog.* A compact, brecciated biotite-peridotite occurring in pipes and often carrying diamonds. In the upper portions of the pipes the rock is weathered, soft, and yellow, and is called *yellow ground* by the miners. Farther down it is darker and is locally known as *blue ground*. It occurs in South Africa, and, less extensively, in Kentucky.
kim'bo (kĭm'bō), *adj.* [From AKIMBO.] Set akimbo. *Obs. exc. Dial.* — **kim'bo,** *v. t.* *Obs.*
Kim·bun'du (kĭm·bo͝on'do͞o), *n.* A Bantu language of northern Angola. Cf. UMBUNDU.
Kim'er·idg'i·an (kĭm'ēr·ĭj'ĭ·ăn; 159), *adj.* Also **Kim'mer·idg'i·an.** [From *Kimmeridge*, Dorsetshire, Eng.] *Geol.* Designating a subdivision of the Upper Oölite (English Jurassic). See GEOLOGY, *Chart.* — *n.* The Kimeridgian subdivision.

perverse. — **kim'–kam',** *adv.* *Both Obs. exc. Dial.*
kim'nel (kĭm'n'l), *n.* [ME. *kymnelle*, prob. dim. fr. AS. *cumb* a liquid measure. ...] ... and similar uses. *Dial.*
ki·mo'no (kĭ·mō'nō; *popularly* kĭ·mō'nȧ; *Jap.* kĭm'ō·nō), *n.*; *pl.* -NOS (-nōz). [Jap.] **1.** A kind of loose robe or gown tied with a sash, worn as an outer garment by Japanese men and women.

Kimono.

2. A similar gown worn as a dressing gown by women of Western nations. — **ki·mo'noed** (-nōd), *adj.*
kimono sleeve. A sleeve cut in one piece with the waist.
Kim'u·ra term (kĭm'o͞o·rȧ). [After Hisashi *Kimura* (b. 1870), Jap. astronomer.] *Astron.* One of the annual components of the variation of latitude.
kin (kĭn), *n.* [Chin. (Pek.) *ch'in²*.] *Music.* An ancient Chinese instrument of the cittern kind, with from five to twenty-five silk strings. Cf. KOTO.
kin (kĭn), *n.* [ME. *kin, cun*, fr. AS. *cynn* kin, kind, race, people; akin to AS. *cennan* to beget, D. *kunne* sex, OS. & OHG. *kunni* kin, race, ON. *kyn*, Goth. *kuni*, G. & D. *kind* a child, L. *genus* kind, race, *gignere* to beget, Gr. *genea* birth, race, descent, *gignesthai* to be born, Skr. *janati* he begets. See GENUS; cf. KIND, 2d KING, GENEALOGY, GERM, JATAKA, KINDRED, KNIGHT, NATION.] **1.** A group of persons of the same stock, race, or family; a group of kinsfolk; a sept, clan, or tribe. *Archaic.* **2.** One's relatives collectively; kindred; kinsfolk; also, formerly, a kinsman or relative. Cf. CONSANGUINITY, 1. **3.** **a** *Obs.* Progeny; offspring; also, a generation of offspring. **b** *Archaic & Dial.* Family; descent; ancestry. **c** *Now Rare.* Relationship, consanguinity, or affinity; connection by birth or marriage; kindred; near connection or alliance, as of those having common descent. See NEXT OF KIN. **4.** A natural group or kind; a class, race, species, or the like; as, the ant *kin*; hence, sort; description. *Obs.*
— *of kin.* **a** Of the same kin or family; akin. **b** *Obs.* By birth; as, a gentleman *of kin*.
kin, *adj.* Of the same nature or kind; kindred; related.
kin (kĭn). Scot. & dial. var. of KIND.
kin, *n.* [Var. of CHINE a fissure.] A crack or slit; a chasm or crevice; a chap in the skin. *N. of Eng.*
kin. Dial. var. of CAN.
kin (kĭn), *n. sing. & pl.* [Jap. *kin*, Chin. *chin¹*. See CHIN.] See WEIGHT, *Table*.
-kin (-kĭn). Also **-kins** (-kĭnz). [ME. *-kin*, fr. MD. *-kin*, *-kijn*; cf. G. *-chen*.] A diminutive suffix, as in mani*kin*, lamb*kin*; sonni*kins* — orig. in personal names, as in Jen*kins*.
Kin (jĭn), *n.* [Chin., less commonly written *Chin¹*, lit., golden.] A Tatar dynasty in China in the 11th century.
ki'na (kī'nȧ), *n.* Quinine.
ki·nah' (kē·nä'), *n.*; *pl.* KINOT (-nōt'). [Heb. *qīnāh* wailing song.] A Hebrew elegy, as in the Lamentations of Jeremiah, or a dirge, as sung by professional mourning women.
ki'nase (kī'nās; kĭn'ās), *n.* [*kinetic* + *-ase*.] *Biochem.* A substance that converts a zymogen into an enzyme.
kin'bote' (kĭn'bōt'), **kin'bot'** (-bŏt'), **kin'boot'** (-bo͞ot'), *n.* *Old Law.* Bote given by a homicide to the kin of his victim.
kinch (kĭnsh; 105), *n.* [Cf. KINK.] A noose or twist in a cord; an advantage. — *v. t.* To fasten a noose on the tongue of (a horse). *Both Scot. & Dial. Eng.*
kin'chin (kĭn'chĭn), *n.* [Prob. fr. G. *kindchen*, dim. See KIN.] A child. *Thieves' Slang.*
kin'chin-mort' (-mŏrt'), *n.* A girl or infant. *Thieves' Slang.*
kin'cob (kĭng'kŏb), *n.* [Hind. (fr. Per.) *kimkhāb*. See CAMACA.] A brocade of gold or silver or both. *India.*
kind (kīnd), *n.* [ME. *kinde, cunde*, fr. AS. *cynd, gecynd, gecynde*, fr. the root of E. KIN.] **1.** Nature; specif.: **a** *Obs.* Natural quality, character, state, or form of anything; also, a natural characteristic or property. **b** *Archaic.* Nature regarded as a universal order or disposition; as, the law of *kind*. **c** *Archaic.* Nature as displayed in manner or style; character; style; mode of action. **2.** *Obs.* **a** Of a person or animal, that with which one is born or which belongs to one by birth; — in various uses: Natural instinct or disposition; origin or descent; birthright or inheritance. **b** Sex or gender. **c** Family; kindred; progeny; generation; = 2d KIN, 1, 2. **3.** A natural group, class, or division; race; genus; species; as, the bird *kind* (cf. MANKIND, HUMANKIND). **4.** A class, whether natural or established by convention; sort; variety; description; as, several *kinds* of eloquence, government, soil; in a *kind* of stupor. **5.** The generic or specific quality or character of anything; as, differences in *kind*. **6.** *Eccl.* Either of the elements, bread and wine, used in the Eucharist. **7.** *Logic.* **a** A class. **b** A natural class or species.
Syn. — KIND, SORT are often used without distinction. But SORT sometimes carries a slight implication of disparagement or contempt; as, "lewd fellows of the baser *sort*" (*Acts* xvii. 5); one does not enjoy that *sort* of people.
— *all kinds of.* Plenty of. *Slang.* — *to do one's kind.* To perform the sexual function. *Obs.* — *in kind.* In produce or commodities, as distinguished from value in money.
Tax on tillage was often levied *in kind* upon corn. *Arbuthnot.*
— *of a kind.* **a** Of the same class or sort. **b** = *of a sort*, under SORT, *n.*
kind (kīnd), *adj.*; KIND'ER (kīn'dēr); KIND'EST. [AS. *cynde, gecynde*, natural, innate. See KIND, *n.*] **1.** Natural; native; innate or inherent; hence, appropriate; rightful; kindred. Cf. KINDLY, *adj.*, 1 & 2. *Obs.* **2.** **a** *Obs.* Of good birth or breeding. **b** *Dial. Eng.* Of good kind; of good nature; thriving; favorable; as, *kind* crops, land, weather. **3.** Having feelings befitting our common nature; disposed to do good and confer happiness; benevolent; well-disposed; sympathetic; also, showing kindness or tenderness; benignant; gracious; as, *kind* to animals.
A fellow feeling makes one wondrous *kind*. *Garrick.*
4. Proceeding from, or characterized by, goodness, gentleness, or benevolence; as, a *kind* act. **5.** *Now Chiefly Dial.* **a** Pleasant; acceptable; also, grateful. **b** Loving; affectionate. **c** Soft and yielding to the touch; as, *kind* wool.

Syn. — Benign, good, generous, forbearing, indulgent, tender, humane, compassionate, lenient; obliging, friendly.
Ant. — Stern, harsh, cruel, unfeeling.
kind (kīnd), *adv.* Kindly. *Now Dial.*
kind, *v. t.* [See KIND, *n.*] To beget. *Obs.*
Kind'–Chau'dron' sys'tem (kĭnt'shō'drôn'). *Mining.* A method of sinking a shaft by boring with a large free-falling trepan drill.
‖**kin'der·be·weijs'** (kĭn'dēr·bē·vīs'), *n.* Also **kin'der·be·wys'.** [D. *kinder* children + *bewijs* proof, ti...] *Roman Dutch Law.* A deed by a surviving spouse certifying and securing the amounts due to minor children out of a deceased's estate.
kin'der·gar'ten (kĭn'dēr·gär't'n), *n.* [G., lit., children's garden, fr. *kinder*, pl. of *kind* child + *garten* garden. See KIN; 2d YARD.] A school for young children conducted on the theory that education should be begun by gratifying and cultivating the normal aptitude for exercise, play, observation, imitation, and construction, and emphasizing the necessity of social training; — a name given by Friedrich Froebel, a German educator. The means employed are chiefly object lessons, games, songs, social exercises, ... — **kin'der·gar'ten·ing,** *n.*
kin'der·gart'ner (-gärt'nēr), *n.* Also **kin'der·gar'ten**... [Cf. G. *gärtner* a gardener.] A kindergarten teacher.
Kin'der·hook (kĭn'dēr·ho͝ok), *adj.* [From *Kinderhook*, Pike County, Ill.] *Geol.* Designating or pert. to the lowest formational division of the Mississippian series in the Mississippi Valley, or the epoch of its deposition. See GEOLOGY, *Chart.* — *n.* The Kinderhook division or epoch.
kind'heart'ed (kīnd'här'tĕd; -tĭd; 66; 119), *adj.* Having kindness of nature; sympathetic; characterized by a humane disposition. — **kind'heart'ed·ly,** *adv.* — **kind'heart'ed·ness,** *n.* — **kind'heart'** (kīnd'härt'), *n. & adj.*
kin'dle (kĭn'd'l), *v.*; -DLED (-d'ld); -DLING (-dlĭng). [C... *kynda.*] *Transitive:* **1.** To set on fire or set fire to; cause to begin burning; to ignite; light; as, to *kindle* a fire. **2.** To inflame, as the passions; to rouse; provoke; excite; animate; incite; as, to *kindle* anger or wrath.
He loved youth . . . it *kindled* him. *Willa Cather.*
3. To light up or inflame as if with flame.
Day had *kindled* the dewy woods. *Shelley.*
—, *Intransitive:* **1.** To take fire; to begin to burn with flame; to start in burning, as a flame. **2.** To begin to be excited; to grow warm or animated; be roused or exasperated. **3.** To become lighted up or inflamed as if with flame.
Syn. — KINDLE, IGNITE, INFLAME. KINDLE is employed in both lit. and fig. senses; to IGNITE is strictly to subject to intense heat; it is now popularly used in the sense of *kindle*, and is sometimes figurative; to INFLAME (as here compared) is now chiefly figurative, is to kindle to excessive or violent heat or passion; as, to *kindle* a fire, to *ignite* gunpowder; "It is the property of goodness to *kindle* love" (*J. H. Newman*); "*inflamed* with lust" (*Milton*); "*inflamed* with rage" (*id.*). Cf. MOVE, EXCITE, IRRITATE.
Ant. — Extinguish. See QUENCH, PACIFY.
kin'dle (kĭn'd'l), *v. t. & i.* [ME. *kindlen, cundlen.* See KIND.] To bring forth young.
kin'dle (*dial.* kĭn'd'l, kĭn''l), *n.* Young; also, a litter or brood. *Chiefly Dial.*
kin'dle–coal' (kĭn'd'l·kōl'), **kin'dle–fire'** (-fīr'), *n.* One who kindles strife. *Obs.*
kin'dler (kĭn'dlēr), *n.* **1.** One who or that which kindles. **2.** A thing that takes fire more or less easily, as a piece of kindling wood or prepared fuel for starting combustion.
kin'dle·some (kĭn'd'l·sŭm), *adj.* [*kindle*, v. + 1st *-some.*] Inflammable.
kind'less (kīnd'lĕs; -lĭs; 119), *adj.* Destitute of kindness; also, *Obs.*, unnatural. — **kind'less·ly,** *adv.*
kind'li·ness (-lĭ·nĕs; -nĭs; 119), *n.* **1.** Quality or state of being kindly; benignity; benevolence; also, a kindly deed. **2.** Propitious or favorable character, esp. as being mild, beneficent, etc. "*Kindliness* of seasons." *Whitlock.*
kin'dling (kĭn'dlĭng), *n.* **1.** Act of causing to burn, or of exciting or inflaming the passions. **2.** Material, easily lighted, for starting a fire.
kin'dling (kĭn'dlĭng), *n.* [From 2d KINDLE.] A litter or brood; issue; offspring; also, a young animal. *Obs. exc. Dial.*
kindling wood. Wood for kindling.
kind'ly (kīnd'lĭ), *adj.*; KIND'LI·ER (-lĭ·ēr); KIND'LI·EST. [AS. *cyndelīc, gecyndelīc*. See KIND, *n.*] **1.** Natural; of, pert. to, or derived by, nature or birth; consonant with its kind or nature; native; hereditary; kindred. *Archaic.*
The *kindly* fruits of the earth. *Bk. of Com. Prayer.*
2. Rightful or lawful, as by reason of birth; legitimate. **3.** Of a good kind, or good of its kind. *Archaic & Dial.* **4.** Humane; sympathetic; hence, disposed to do good; benevolent; gracious; kind; as, *kindly* affections, acts, etc. **5.** Favorable; mild; genial; agreeable; beneficent.
Should e'er a *kindlier* time ensue. *Wordsworth.*
6. Favorable or yielding favorably to treatment; not harsh or resistant. **7.** *Mining.* Promising good mineral value.
kind'ly, *adv.* [AS. *gecyndelīce*.] **1.** Naturally; properly; fitly; readily; congenially; spontaneously; thoroughly. **2.** In a kind manner; affectionately; sympathetically; with good will; with a disposition to make others happy, or to oblige; agreeably; pleasantly.
Be *kindly* affectioned one to another. *Rom.* xii. 10.
kindly tenant. *Scots Law.* A rentaler. See RENTAL, 3.
kind'ness (kīnd'nĕs; -nĭs; 119), *n.* [From KIND, *adj.*] **1.** State or quality of being kind; specif., manifestation of kind feeling or disposition; beneficence; rarely, kind feeling; affection; fondness; good will; friendship. **2.** A kind act; an act of good will; as, to do a *kindness*.
Syn. — Benignity, tenderness, compassion, humanity, clemency, mildness, gentleness, goodness, generosity, favor.
Ant. — Malevolence, ill will, enmity; disservice, harm.
kind of. **a** Something belonging to the class of; something like to; — said loosely or slightingly; as, a *kind of* gentleman. Cf. *of a kind*, under KIND, *n.* **b** *Colloq.* In a way; as it were; quasi; also, somewhat; rather.
☞ From its adjectival force, *kind of* before nouns in the plural came to take incorrectly a construction with verbs, pronouns, demonstratives, etc., in the plural; as, these *kind of* knaves. By confusion of the class with the individual a noun following *kind of* often takes colloquially the indefinite article; as, "some *kind of* a bird" for "some *kind of* bird."

kiln'-lo'gie (kĭl'lō'gĭ; kĭln'-). Var. of KILLOGIE.
kil'o·gram-cal'o·rie, *n.* See CALORIE **b**.
kil'o·met'rage (kĭl'ō·mē'trĭj), *n.* [See -AGE **a**.]
ki·lon'. Var. of KOILON.
kil'o·stere' (kĭl'ō·stēr'; -stâr'), *n.* [F. *kilostère*. See KILOGRAM; STERE.] See MEASURE, *Table*.
Ki·lu'ba (kē·lo͞o'bȧ), *n.* [See KI-] = LUBA **b**.
kim·bang' (kĭm·băng'), *n. sing.* & *pl.* See WEIGHT, *Table*.
kim'mer (kĭm'ēr). Var. of CUMMER. *Scot. & N. of Eng.*
Kim·me'ri·an (kĭ·mēr'ĭ·ăn). Var. of CIMMERIAN.
Kim'ric (kĭm'rĭk). Var. of CYMRIC.
Kim'ry (-rĭ). Var. of CYMRY.
kin-. = KINO-.
kin'aes·the'si·a, kin'aes·the'sis, kin'aes·thet'ic. Vars. of KINESTHESIA, etc.
Ki'nah (kī'nȧ). *Bib.*
kin'ate. ‡ QUINATE.
kind'a (kīn'dȧ), kind'er (-dē). Corrupts. of KIND OF.
kind'cough' (kīnd'kŏf'). Corrupt. of KINKCOUGH.
kin'der·kin. Var. of KILDERKIN.
kin'dl. Kindle. *Ref. Sp.*
kin'dld. Kindled. *Ref. Sp.*
kind'li·ly (kīnd'lĭ·lĭ), *adv.* of KINDLY. See -LY.
kind'-man'nered (66). See -MANNERED.

ou̇t, oil; cūbe, ūnite, ûrn, ŭp, circŭs, menü; chair; go; sing; then, thin; natūre, verdūre (249); ĸ = ch in G. ich, ach (109); boɴ; yet; zh = z in azure.
Numbers within pronunciation parentheses here and in vocabulary refer to §§ in Pron., preceding the Vocabulary.

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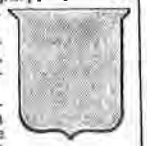
pur'pose (pûr'pŭs), *v.*; -POSED (-pŭst); -POS·ING (-pŭs-ĭng). [ME. *purposen*, fr. OF. *purposer, pourposer*, fr. *pur, por, pour*, for (fr. L. *pro*) + *poser* to place. See POSE to place; cf. PROPOSE.] *Transitive:* **1.** To set forth; to propose; propound. *Obs.*
2. To propose as an aim to oneself; to determine upon; to intend; to resolve to do or bring about; — often followed by an infinitive or dependent clause.
Did nothing *purpose* against the state. *Shak.*
I *purpose* to write the history of England. *Macaulay.*
3. *Obs. senses in passive:* **a** To be designed, intended, or destined. **b** To be resolved or determined.
—, *Intransitive:* **1.** To have a purpose; to intend.
2. *Obs.* **a** To discourse. **b** To proceed to a destination; to be bound (for).
Syn. — See PROPOSE.
pur'pose (pûr'pŭs), *n.* [ME. *purpos*, fr. OF. *pourpos* (F. *propos*), fr. the v. See PURPOSE, v.] **1. a** That which one sets before himself as an object to be attained; the end or aim to be kept in view in any plan, measure, exertion, or operation; design; intention.
He will his firste *purpos* modify. *Chaucer.*
A habit of willing is commonly called a *purpose*. *J. S. Mill.*
b Resolution; determination. "Infirm of *purpose*." *Shak.*
2. The object, effect, or result, aimed at, intended, or attained; as, energy applied to little *purpose*.
This realm again to full good *purpose* brought. *Henry the Minstrel.*
3. The subject under discussion, or action in course of execution; — now chiefly in ***to the purpose***, having pertinence; with relevancy; to the point.
He was wont to speak plain and *to the purpose*. *Shak.*
4. *Obs.* **a** Proposal; proposition. "Written *purposes*." *Shak.* **b** Instance; example. **c** Purport; intent; meaning. **d** Discourse; talk; conversation. **e** *pl.* A game, prob. like conundrums or riddles. **f** A figure in a dance, in which the couples were supposed to exchange confidences.
Syn. — End, aim, plan. See INTENTION.
— ***in purpose.*** **a** In one's mind as a purpose or intention. **b** = ON PURPOSE **a**. — ***of purpose.*** Also ***of set purpose.*** = ON PURPOSE. — ***on purpose.*** **a** Designedly; intentionally; not by accident. **b** In order to attain a specified end or purpose; as, he acted in that way *on purpose* to deceive his opponent.
pur'pose, *adj.* Made or done for a purpose.
purpose clause. *Gram.* A subordinate clause conveying the purpose or object in view that prompts the action expressed by the modified clause; also, an infinitive phrase conveying such purpose (adjuvate mihi *ut id fiat facilius*, help me *that it may be the easier done;* factories are built (*in order*) *to produce goods*).
pur'posed·ly (pûr'pŭst-lĭ), *adv.* Purposely.
pur'pose·ful (-pŭs-fo͝ol; -f'l), *adj.* **1.** Full of purpose or determination; guided by a definite aim or aims; as, a *purposeful* man or race.
2. That serves, is directed to, or indicates the existence of, a purpose or object; not aimless or meaningless; as, *purposeful* activities; Gothic ornament is often both decorative and *purposeful*.
— **pur'pose·ful·ly,** *adv.* — **pur'pose·ful·ness,** *n.*
pur'pose·less, *adj.* Having no purpose; not purposeful or purposive; aimless; meaningless. — **pur'pose·less·ly,** *adv.* — **pur'pose·less·ness,** *n.*
pur'pose·like', *adj.* Purposeful; esp., efficient in manner or action; competent. *Chiefly Scot.*
pur'pose·ly, *adv.* With a deliberate or an express purpose; on purpose; intentionally; designedly; expressly.
pur'pos·er (pûr'pŭs-ẽr), *n.* One who purposes.
pur'pos·ive (pûr'pŭs-ĭv), *adj.* **1.** That serves or effects a useful end, function, or the like, though not clearly as a result of design; as, a work of art may be without a purpose, yet *purposive*.
2. Having, indicating, or tending to fulfill, a conscious purpose or design; purposeful.
It is impossible that the frog should perform actions more *purposive* than these. *Huxley.*
3. Characterized by belief in the reality and importance of purposes; as, *purposive* psychology.
— **pur'pos·ive·ly,** *adv.* — **pur'pos·ive·ness,** *n.*
pur'pos·iv·ism (-ĭv-ĭz'm), *n.* [*purposive* + *-ism.*] Any theory of nature, or of human and animal behavior, which regards purpose as a basal fact. — **pur'pos·iv·ist** (-ĭst), *n.* — **pur'pos·iv·is'tic** (-ĭs'tĭk), *adj.*
pur·pres'ture (pûr-prĕs'tūr), *n.* [OF., fr. *po(u)rpresure*, fr. *po(u)rprendre* to seize, occupy, enclose, fr. *pour* (fr. L. *pro* for, before) + *prendre* to take. See COMPRISE; cf. POURPRISE, PURPRISION.] *Law.* Wrongful appropriation of land subject to the rights of others; esp., any encroachment upon, or enclosure of, land subject to common or public rights, as highways, rivers, harbors, forts, etc.; or, in England, of land belonging to the king, as, esp., the royal forests; also, the property so enclosed or seized.
pur·pri'sion (pûr-prĭzh'ŭn), *n.* [OF. *porprison*, fr. *porprendre* to seize, occupy. See PURPRESTURE.] *Law.* Encroachment on, or appropriation of, property subject to common or public rights. *Obs.*
pur'pu·ra (pûr'pū-rȧ), *n.* [L., purple, purple fish. See PURPLE.] **1.** *Med.* A morbid condition or disease characterized by livid spots on the skin or mucous membranes, caused by extravasated blood. There are several varieties, including ‖**pur'pu·ra symp'to·ma'ti·ca** (sĭmp'tō-măt'ĭ-kȧ), in which the spots occur as a symptom of another disease, as endocarditis or typhus fever; ‖**pur'pu·ra rheu·ma'ti·ca** (ro͞o-măt'ĭ-kȧ), in which the eruption is accompanied by arthritis and fever; ‖**pur'pu·ra hae'mor·rha'gi·ca** (hĕm'ō-răj'ĭ-kȧ), a severe form attended with copious hemorrhages. The term *peliosis* is also applied to the disease, or by some specif. to the last two forms.
2. [*cap.*] *Zool.* A genus of marine snails (family Muricidae) some of which yield a purple dye, formerly comprising many but now limited to a few species, most of those formerly included being classed in the genus *Thais*.
pur'pu·ra'ceous (-rā'shŭs), *adj.* [L. *purpura* purple + *-aceous.*] Purple. *Rare.*
‖**pur'pu·ra hae'mor·rha'gi·ca** (pûr'pū-rȧ hĕm'ō-răj'ĭ-kȧ). [NL.] **1.** See PURPURA, 1.
2. *Veter.* A fever of horses, usually following some other disease caused by bacteria, and characterized by dropsical swellings of the legs, abdomen, and head, and by small, purple hemorrhages in these swellings and in the mucous membranes; — called also *anasarca*.
pur'pu·rate (pûr'pū-rāt), *n.* *Chem.* A salt or ester of purpuric acid.
pur'pu·rate (pûr'pū-rāt), *adj.* [L. *purpuratus*, past part.] **1.** Purple-colored; also, royal. *Obs.*
2. Of or pertaining to purpura.

pur'pu·rate (pûr'pū-rāt), *v. t.* [L. *purpuratus*, past part. of *purpurare*.] To empurple. *Rare.*
pur'pure (-pūr), *n.* [ME. *purpure, purpur*, purple. See PURPLE.] Purple; — now only in *Her.* See PURPLE, *n.*, 9.


Purpure.

pur·pu're·al (pûr-pū'rē-ăl), *adj.* [L. *purpureus*.] Purple. Also **pur·pu're·ous** (-ŭs).
pur·pu're·an (pûr-pū'rē-ăn), *adj.* Purpureal. *Rare.*
pur·pu're·o- (pûr-pū'rē-ō-). [L. *purpureus*.] A combining form, from Latin *purpureus*, purple, signifying *of a purple or purple-red color;* — used specif., in *Chem.* in naming certain *purple* or *purple-red compounds of cobalt* containing ammonia, as in *purpureo*-cobaltic chloride, $Co(NH_3)_5Cl_3$.
pur'pu·res'cent (pûr'pū-rĕs'ĕnt; -'nt), *adj.* [L. *purpura* purple + *-escent*.] Purplish or tinged with purple.
purpuri-. *Zool.* A combining form for Latin *purpura*, meaning *purple*, as in **pur'pu·rif'er·ous, pur·pu'ri·form, pur'pu·rig'e·nous, pur'pu·rip'a·rous.** See -FEROUS, -FORM, -GENOUS, -PAROUS.
pur·pu'ric (pûr-pū'rĭk), *adj.* [L. *purpura* purple.] **1.** *Chem.* **a** Pertaining to or designating a nitrogenous acid, $C_8H_5N_5O_6$, related to uric acid, and known first in purple-red salts, as murexide, from which it is obtained as an orange-red powder. **b** *Obs.* Designating uramil.
2. *Med.* Of or pertaining to purpura.
pur'pu·rin (pûr'pū-rĭn), *n.* Also **-rine.** [L. *purpura* purple.] **a** *Chem.* An orange or red crystalline compound, $C_{12}H_5(CO)_2(OH)_3$, obtained from madder root with alizarin, or prepared artificially; 1,2,4-trihydroxy-anthraquinone. It is used in dyeing. **b** *Biochem.* = UROERYTHRIN.
pur'pu·rine (-rĭn), *adj.* [F. *purpurin*.] Purple. *Rare.*
pur'pu·rite (pûr'pū-rīt), *n.* [L. *purpura* purple.] *Mineral.* A hydrous ferric-manganic phosphate, $(Fe,Mn)_2O_3.P_2O_5.H_2O$. It has a dark-reddish or purple color.
pur'pu·rize (-rīz), *v. t.* To make purple. *Obs.*
pur'pu·ro·gal'lin (-rō-găl'ĭn), *n.* [L. *purpura* purple + pyro*gallol* + *-in*.] *Chem.* A red dye, $C_{11}H_8O_5$, obtained by oxidation of pyrogallol.
pur'pu·rog'e·nous (pûr'pū-rŏj'ē-nŭs), *adj.* [L. *purpura* purple + *-genous*.] Giving rise to a purple color; specif., *Anat.*, designating a layer of epithelium in the retina which produces the visual purple.
pur'pu·roid (pûr'pū-roid), *adj.* [*Purpura* + *-oid*.] *Zool.* Like the genus *Purpura*.
pur'pu·ro·xan'thin (-rō-zăn'thĭn), *n.* [See PURPURA; XANTHINE.] *Chem.* A reddish-yellow crystalline compound, $C_{12}H_6(CO)_2(OH)_2$, obtained from madder root, by reduction of purpurin, etc.; 1,3-dihydroxy-anthraquinone.
purr, pur (pûr), *v. i.*; PURRED (pûrd); PURR'ING. [Of imitative origin.] To utter or give forth a low, murmuring, continued sound, as or resembling that made by a cat when pleased; to speak as if purring. — *v. t.* To signify or express by purring.
purr, pur, *n.* The sound made by a purring cat; also, a similar sound; as, the *purr* of a motor or a teakettle.
purr (pûr). Var. of PORR. *Obs. exc. Dial.*
purre (pûr), *n.* [Of imitative origin.] A dunlin in winter plumage. *Local, Eng.*
pur'ree (pûr'ē), *n.* [For *puree*. See PIURI.] = INDIAN YELLOW, 1 a & 2.
pur·re'ic ac'id (pŭ-rē'ĭk). A yellow, crystalline, organic acid, $C_{19}H_{16}O_{10}$, the magnesium salt of which occurs in Indian yellow; — called also *euxanthic acid*.
pur'rel (pûr'ĕl), *n.* A list prescribed by old English statutes to be made at ends of lengths of kersey cloth, to prevent fraudulent shortening. *Obs. exc. Hist.*
purre maw (pûr). The roseate tern. *Local, Eng.*
purr'er (pûr'ẽr), *n.* One who or that which purrs.
pur'rone (pûr'ōn), *n.* A yellow decomposition product, $C_{13}H_8O_4$, of purreic acid; — called also *euxanthone*.
purr'y (pûr'ĭ), *adj.* Like a purr.
‖**pur' sang'** (pür' säN'). [F.] Pure-blooded.
purse (pûrs), *n.* [ME. *purse, purs, pors*, fr. AS. *purs*, fr. LL. *bursa*, fr. Gr. *byrsa* hide, skin, leather, of uncert. origin. The initial *p* may be due to confusion with AS. *pusa, posa*, a bag, scrip. Cf. BURSARY, BURSCHENSCHAFT, DISBURSE, REIMBURSE.] **1.** A small bag or pouch, the opening of which is made to draw together closely, used esp. to carry money in; by extension, any receptacle for money carried on the person; a pocketbook; a portemonnaie. "Who steals my *purse* steals trash." *Shak.*
2. Hence, the contents of a purse, or something of value resembling such contents; a treasury; finances; means; money; as, the public *purse;* to live within one's *purse*.
3. Any bag, pouch, or the like, resembling in form a money purse; as, the *purse* of some fishing nets.
4. a *Obs. exc. Dial.* The scrotum. **b** The portion of the scrotum remaining after a domestic animal has been castrated.
5. A sum of money, usually one to which contestants or their owners do not contribute, offered as a prize, or a sum collected as a present; as, to win the *purse* in a race; to make up a *purse* for a shipwrecked crew.
6. In the Moslem Orient, a definite sum of money; as, in Turkey, 500 piasters make a *purse* of silver, and 10,000 a *purse* of gold. Cf. FOLLIS. *Obs. exc. Hist.*
7. A splinter or spark that pops from an open fire.
8. *Archery.* A cradle.
9. *pl. Bot.* Badderlocks.
10. *Horse Racing.* Short for PURSE RACE.
☞ COMBINATIONS are:
purse-eyed, purse-mad, purse-snatching, *adj.*
purse-lined, purse-pinched, purse-swollen
purse-lipped, purse-shaped
purse, *v.*; PURSED (pûrst); PURS'ING (pûr'sĭng). *Transitive:* **1.** To put into a purse. "I will . . . *purse* the ducats." *Shak.*
2. *Figurative senses:* **a** *Obs.* To pocket, as a wrong; to suppress, as anger. **b** *Obs.* To net, or capture, as one's heart. **c** *Rare.* To focus; to concentrate. **d** To prevent access to by closing; — with *up*. *Lamb.*
3. To draw up or contract into folds or wrinkles, like the mouth of a purse; to pucker; knit.
Thou . . . didst contract and *purse* thy brow. *Shak.*
4. Specif., to draw closed (the mouth of a purse net).
—, *Intransitive:* **1.** To steal purses. *Obs.*
2. To become puckered; to pucker one's lips, brow, etc.
purse bearer. **a** The bearer of a purse; treasurer; bursar. **b** Specif., *Eng.*, an official of the Crown Office who bears the Great Seal before the Lord Chancellor.

purse crab. A large land crab (*Birgus latro*) of Ceylon, Mauritius, and other tropical islands of the Indian Ocean and the Pacific Ocean. It is related to the hermit crabs, but has a broad symmetrical abdomen. It lives in the ground, and feeds on fruit, esp. coconuts; it sometimes weighs twenty pounds.

Purse Crab (*Birgus latro*).

purse cutter. A cutpurse. — **purse cutting.**
pursed (pûrst), *adj.* Having or provided with money; — usually in combinations; as, well-*pursed*. *Now Rare.*
purse'ful (pûrs'fo͝ol), *n.*; *pl.* -FULS (-fo͝olz). All that is, or can be, contained in a purse.
purse isinglass. See ISINGLASS, 1.
purse line *or* **rope.** The rope by which a purse net or seine is pursed.
purse maker. One who makes, or manufactures, purses.
purse net. A large net or seine designed to be set around a school of fish and so arranged that, after the ends have been brought together, the bottom can be closed. Purse nets range from 250 to 400 yards in length and from 18 to 30 yards in depth, and are set in the open sea from two large boats. The upper edge of the net is supported by floats, and the lower edge is weighted by brass rings through which the purse line passes. When the ends of the net have been brought together, the ends of this line are passed through pulleys on a heavy lead weight, called a *tom*, which is dropped overboard and by its descent puckers together the bottom of the net. Purse nets are extensively used in the capture of menhaden and are sometimes used for other fishes, as mackerel.
purse pride. Pride of money.
purse'-proud', *adj.* Proud or arrogant because of one's wealth.
purs'er (pûr'sẽr), *n.* [See PURSE; cf. BURSAR.] **1.** A purse maker. *Obs.*
2. *Nav.* A paymaster. *Obs.* Hence: **a** A clerk on a passenger vessel who keeps the accounts, as of freight, tickets, etc. **b** *Colloq.* Any paymaster or cashier. **c** *Cornwall, Eng.* A manager of a cost-book company.
purse race. *Horse Racing.* A race for a fixed purse to which entries close less than six weeks before the opening day of the meet.
purse rat. A pocket gopher.
purse ring. **1.** A ring, or one of the rings, to which purse strings are attached. *Rare.*
2. One of the rings on a purse net for the purse line.
purse rope. = PURSE LINE.
purse seine. A purse net.
purse silk. A smooth, tightly twisted silk thread used for embroidery, knitting, and the like.
purse spider. A spider (*Atypus abbotti*) which forms a purse-shaped web at the base of tree trunks. *Southern U. S.*
purse string. Usually *pl.* One of the draw-strings of a purse by which its mouth is opened or closed, as in the phrase *to tighten*, or *loosen, one's purse strings*, to be less or more liberal.
purse'-string', *adj.* That is drawn in the manner of a purse string; as, a *purse-string* suture.
purse'-string' su'ture. *Surg.* A suture passed as a running stitch in and out along the edge of a circular wound in such a way that, when the ends of the thread are drawn tight, the wound is closed like a purse.
purse tassel. The feathered hyacinth.
purse weight. The weight, or sinker, of a purse net.
Pur'shi·a (pûr'shĭ-ȧ), *n.* [NL., after F. T. *Pursh* (1774–1820), Am. botanist.] *Bot.* A genus of shrubs of the rose family (Rosaceae), having as its only known species *P. tridentata*, a valuable winter forage of the western United States. It has small, solitary, yellow flowers and pubescent achenes.
pur'si·ness (pûr'sĭ-nĕs; -nĭs; 119), *n.* State of being pursy; condition of being swollen or puffed up, as with pride, self-importance, or the like.
purs'lane (pûrs'lān; -lĭn), *n.* [OF. *porcelaine, pourcelaine* (cf. It. *porcellana*), corrupt. fr. L. *porcilaca*, for *portulaca*.] Any plant of the family Portulacaceae. The common purslane is *Portulaca oleracea*, an annual with fleshy, succulent, obovate leaves, used as a potherb, for salads, etc. It is widely distributed in both hemispheres, and in sandy soils is a troublesome weed. *P. grandiflora* is the garden purslane or rose moss. See PORTULACACEAE, PORTULACA.
purslane family. The Portulacaceae.
purslane speedwell. A North American annual herb (*Veronica peregrina*) with small white flowers, widely distributed as a weed in South America and the Old World.
purslane sphinx. The white-lined sphinx.
purslane tree. A South African fleshy shrub (*Portulacaria afra*), the foliage of which is used as fodder.
purs'ley (pûrs'lĭ; *colloq. or dial.* pŭs'lĭ), *n.* Purslane.
pur·su'al (pẽr-sū'ăl), *n.* Act of pursuing; pursuit.
pur·su'ance (-ăns), *n.* [Cf. OF. *poursuivance*. See PURSUANT.] **1.** Act of pursuing, esp. of chasing, seeking after, continuing, or following up; as, the *pursuance* of truth or a train of thought; now, chiefly, a carrying out or into effect; the action of executing; prosecution; as, engaged in *pursuance* of his researches; to require immediate *pursuance* of his orders.
2. That which is pursuant; consequence; also, sequence; specif., the body of a discourse.
pur·su'ant (pẽr-sū'ănt), *adj.* [OF. *poursuiant*, pres. part. See PURSUE; cf. PURSUIVANT.] **1.** Acting or done in consequence or in prosecution (of anything); hence, agreeable; conformable; following; according; — with *to* or *of*.
The conclusion which I draw from these premises, *pursuant* to the query laid down. *Waterland.*
2. That is in pursuit or pursuing; — sometimes with *of*.
pur·su'ant, *adv.* Agreeably; conformably; according; as, *pursuant* to our contract.
pur·su'ant, *n.* **1.** A prosecutor. *Obs.*
2. One pursuing; a pursuer.
pur·su'ant·ly, *adv.* Pursuant.
pur·sue' (pẽr-sū'), *v.*; -SUED ... -SU'ING. [ME. *pursuen, porsuen, porsewen*, ... *poursuivre*), fr. (assumed) VL. *prosequere, prosequire*, for L. *prosequi*, fr. *pro* forward + *sequi* to follow. See SUE; cf. PROSECUTE, PURSUIVANT.] *Transitive:* **1. a** ...

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Rare. To follow with enmity; to persecute; harass. **b** To follow with a view to overtake; to follow eagerly, or with haste; to chase; as, to *pursue* a hare. "We happiness *pursue*; we fly from pain." *Prior.*
2. To seek; to use or adopt measures to obtain. "Seek peace and *pursue* it." *Ps.* xxxiv. 14.
3. To proceed along, with a view to some end or object; to follow; as, the administration *pursued* a wise course.
4. To proceed with or according to; as, to *pursue* advice, an inquiry, a system.
5. To follow in attendance or in sequence. *Now Rare.*
6. To prosecute; to be engaged in; as, to *pursue* an occupation, one's studies.
7. Figuratively, to continue to afflict, as illness or consequences.
8. To follow with the eye or mentally.
9. *Obs.* **a** To attempt to reach or attain. **b** To follow up to avenge or punish.
10. *Law.* To follow or seek by judicial proceedings; to prosecute; as, he *pursued* his legal remedies.
—, *Intransitive:* **1.** To go in pursuit; to follow.
The wicked flee when no man *pursueth.* *Prov.* xxviii. 1.
2. To continue; proceed, esp. as in a discourse.
3. *Obs.* **a** To make suit; to plead. **b** To follow one as leader or master. **c** To follow as a sequel.
4. *Scots Law.* To bring suit; prosecute; — often with *for.*
Syn. — See FOLLOW. **Ant.** — Flee.
pur·su'er (pẽr-sū'ẽr), *n.* One who pursues; specif.: **a** One who chases. **b** *Obs.* A persecutor. **c** *Chiefly Eccl. & Scots Law.* A plaintiff; a prosecutor.
pur·suit' (pẽr-sūt'), *n.* [ME. *poursuit*, fr. OF. *poursuite*, fr. the v. See PURSUE.] **1.** Act of pursuing, or following to overtake, esp. a following with haste to kill or capture; chase; as, the *pursuit* of game, an enemy, or a thief.
What mad *pursuit?* What struggle to escape? *Keats.*
2. *Obs.* **a** Persecution; affliction. **b** A suing or pleading; suit; entreaty. **c** *Scot.* An attacking; assault. **d** = PURSUANCE, 2.
3. That which one pursues, or engages in, as a course of business or occupation; continued employment; as, mercantile *pursuits*; a literary *pursuit.*
4. A following with a view to reach, accomplish, or obtain; endeavor to attain to, gain, or achieve; as, the *pursuit* of knowledge, happiness, pleasure, a plan; also, the end pursued; an objective.
5. *Law.* Prosecution. *Obs. exc. Eccl. & Scots Law.*
Syn. — See OCCUPATION.
pursuit airplane. = PURSUIT PLANE.
pur·suit'me'ter (pẽr-sūt'mē'tẽr), *n.* *Psychol.* A device for testing the co-ordination of eyes and hand in the task of keeping a spot of light from deviating from its appointed position by quick reactive movements of the hand.
pursuit pendulum. *Psychol.* An instrument to test ability to follow a moving object with the eye or with the hand, consisting essentially of a vibrating pendulum. In one form, the motion of the eyeball as the eye follows the pendulum is photographed.
pursuit plane. *Mil.* A military airplane designed and armed especially for fighting the enemy's aircraft.
pursuit squadron. See SQUADRON.
pur'sui·vant (pûr'swĭ-vănt), *n.* [F. *poursuivant*, prop. pres. part. of *poursuivre.* See PURSUE; cf. PURSUANT.] **1.** *Heralds' College.* A functionary ranking below a herald, but having similar duties; — called also **pursuivant of arms**; an attendant on the heralds. Also used figuratively. In early times noblemen had special pursuivants, who generally took their titles from the armorial insignia of their lords. Among such are the *Antelope, Blanch Lion,* and *Falcon.* Those of the Heralds' College are ***Rouge Croix***, named from St. George's cross; ***Blue Mantle***; ***Rouge Dragon***, named from Henry VII's dexter supporter; and ***Portcullis***. Those of the Lyon King-of-Arms are ***Bute, Carrick, March***, and ***Unicorn***, instituted under James III of Scotland. There were also formerly ***Dingwall, Kintyre***, and ***Ormond***. The pursuivants of the Ulster King-of-Arms are ***Athlone*** and ***Cork***.
The herald Hope, forerunning Fear,
And Fear, the *pursuivant* of Hope. *Longfellow.*
2. The king's messenger; a state messenger; hence, by extension, any messenger. *Obs.*
3. A squire; follower; attendant. *Archaic.*
pur'sui·vant (pûr'swĭ-vănt), *v. t.* To deliver to or by a pursuivant; to pursue; tend. *Obs.*
pur'sy (pûr'sĭ; *dial.* pŭs'ĭ), *adj.*; PUR'SI·ER; PUR'SI·EST. [AF. *pursif*, fr. OF. *polsif* (F. *poussif*), ult. fr. L. *pulsare* to beat, throb, agitate. See PUSH.] **1.** Short-winded or asthmatic; short-breathed, esp. because of corpulence, hence, fat; puffy; obese.
But the *pursy* old landlord just waddl'd upstairs. *R. Burns.*
2. Swollen with pampering or luxurious living; characterized by or arising from arrogance of wealth, self-indulgence, or the like. "*Pursy* insolence." *Shak.*
pur'sy (pûr'sĭ), *adj.* **1.** Pursed, or puckered up; as, a *pursy* mouth.
2. Well-pursed; wealthy; purse-proud. Cf. 1st PURSY, 2.
3. Baggy like a purse. Cf. 1st PURSY, 1.
pursy minnow. A killifish (*Cyprinodon variegatus*) of the Atlantic and Gulf coasts of the United States. It reaches a length of from two to four inches.
pur'te·nance (pûr'tē-năns), *n.* [ME. *purtenaunce.* See APPURTENANCE, PERTINENCE.] **1.** That which pertains to something; an appurtenance. *Obs.*
2. The heart, liver, and lungs of an animal; entrails. *R.*
Roast [it] with fire, his head with his legs, and with the *purtenance* [*Rev. Ver.*, inwards] thereof. *Ex.* xii. 9.
Pu·ru' (pōō-rōō'), *n.* = PURUPURU.
Pu'ru·ha' (pōō'rōō-ä'), *n.* An Indian of a tribe, believed to have constituted a distinct stock, formerly dwelling in the Province of Chimborazo, Ecuador, but now merged in the general population. — *adj.* Pertaining to or designating the linguistic family of the Puruhas.
pu'ru·lence (pū'rōō-lĕns; pūr'ū-), *n.* Also **pu'ru·len·cy** (-lĕn-sĭ). [LL. *purulentia.*] *Med.* Quality or state of being purulent; the generation of pus; also, the pus.
pu'ru·lent (-lĕnt), *adj.* [L. *purulentus*, fr. *pus, puris*, pus, matter. See PUS.] *Med.* Consisting of pus, or matter; of the nature of pus; attended with suppuration; as, *purulent* inflammation. — **pu'ru·lent·ly**, *adv.*
pu'ru·loid (-loid), *adj.* [See PURULENT; -OID.] *Med.* Resembling pus; pyoid.
Pu'ru·pu·ru' (pōō'rōō-pōō-rōō'), *n.* See ARAUAN.
pur'u·sha (pōōr'ŏŏ-shȧ), *n.* [Skr. *puruṣa* man.] *Hindu Philos.* The male or static principle in the godhead; spirit

pur'u·shar'tha (pōōr'ŏŏ-shär'tȧ). [Skr. *puruṣārtha*, lit., purpose of man.] *Hinduism.* The purpose or legitimate preoccupation of human life, including dharma (duty), artha (worldly success), kama (love, pleasure), moksha (salvation).
Pur'u·shot'ta·ma (-shōt'tȧ-mȧ), *n.* [Skr. *puruṣottama* best of men, highest spirit.] *Hindu Philos.* The supreme spirit.
Pur'ves flue *or* **tube** (pûr'vĕs; -vĭs). [After the inventor, *Purves*, of Lloyd's registry.] *Steam Boilers.* A flue or tube with thickened transverse ribs or corrugations rather widely spaced.
pur·vey' (pûr-vā'), *v.*; -VEYED' (-vād'); -VEY'ING. [ME. *purveien, porveien*, fr. OF. *porveeir* (pres. 3d pl. *porveient*), *porveoir* (F. *pourvoir*), fr. L. *providere.* See PROVIDE; cf. PURVIEW.] *Transitive:* **1.** To foresee; to provide; to see to, arrange, or order in advance. *Obs.*
2. To furnish or equip (one), as with provisions, a necessity, or the like. *Archaic.*
3. To furnish, procure, or supply, as equipment, a necessity, or, now usually, provisions.
For such is all the mental food *purveyed.* *Cowper.*
—, *Intransitive:* **1.** To provide; to make provision or preparations. *Obs.*
2. To serve as purveyor; esp., to supply provisions.
3. Figuratively, to provide or convey something essential; to lend necessary assistance; to serve as source of supply; — with *to* or *for.*
The function of the eye is now purely ministerial; it merely *purveys* for the ear. *Lanier.*
4. To pander; — with *to.* *Obs.* *Burke.*
pur·vey', *n.* *Obs.* **a** A purveying; something purveyed; a provision. **b** *Eng.* A parish assessment, or tax.
pur·vey'a·ble (-ȧ-b'l), *adj.* **a** Making purveyance (sense 1); provident. *Chaucer.* **b** Procurable; also, marketable.
pur·vey'al (-ăl), *n.* A procuring. *Rare.*
pur·vey'ance (-vā'ăns), *n.* [ME. *purveaunce, purveiaunce*, fr. OF. *porveance* foresight, prudence, provision. See PURVEY; cf. PROVIDENCE.] **1.** Providence; foresight; prevision. *Obs.*
2. The act or fact of providing in advance; preparation; prudent direction or management. *Obs.*
3. That which is purveyed; specif., provisions; supplies. *Obs.*
4. Act or process of purveying, or procuring, esp. provisions; as, the *purveyance* of supplies for an army.
5. *Eng. Law.* A providing of supplies or services for the crown or sovereign by pre-emption or impressment at a valuation fixed by appraisers appointed by the purveyors or by the purveyors themselves. This was formerly a royal prerogative generally in Europe. The prices fixed were often much below the market value, and the owners, who had no choice as to sale, were commonly paid in treasury tallies. The right was abolished in England by 12 Car. II. c. 24 (1660).
pur·vey'an·cer (-ăn-sẽr), *n.* Purveyor. *Coleridge.*
pur·vey'or (pûr-vā'ẽr), *n.* [ME. *purveour*, fr. OF. *po(u)rveor* (F. *pourvoyeur*). See PURVEY; cf. PROVEDITOR.] **1.** One who purveys, provides, or procures; now, usually, one who provides victuals, or whose business is to make provisions for the table; a victualer; a caterer; specif., *Obs.*, an official whose duty it was to secure necessary supplies for a city, army, or the like.
2. An officer who formerly provided or exacted provision, under the right of purveyance. *Eng.* *Addison.*
3. A procurer; a pimp; a bawd.
pur'view (pûr'vū), *n.* [OF. *porveü, pourveü*, provided, resolved (F. *pourvu* provided), past part. of *porveoir* (F. *pourvoir*). See PURVEY, VIEW; cf. PROVISO.] **1. a** *Law.* The body of a statute, or the part that begins with "*Be it enacted*," and ends before the enacting clause, as distinguished from *preamble*, saving clause, or proviso. **b** Hence: The limit or scope of a statute; the whole extent of its intention or provisions. *Marshall.*
2. The sphere or fixed limits of one's authority, jurisdiction, competence, design, or the like; province; scope; field; as, beyond the *purview* of a legislative body.
3. Range of physical or mental vision; compass or reach of sight, understanding, or experience.
Blake conceived that it was his vocation to bring this mystical illumination, this vision of reality, within the *purview* of ordinary men. *E. Underhill.*
pur·voe' (pŭr-vō'), *n.* [Marathi *parbhū*, fr. Skr. *parabhū* of strange birth.] The writer caste. *India.*
pur·wan'nah (pŭr-wăn'ȧ), *n.* [Hind. & Per. *parwānah.*] An order; a written pass or permit; a royal grant. *Anglo-Ind.*
pus (pŭs), *n.* [L. See FOUL; cf. PURULENT.] *Med.* The yellowish-white opaque creamy matter produced by suppuration. It consists of exudate and dead, disintegrating tissue infiltrated with bacteria and numerous leucocytes, or their remains. The leucocytes, attracted to the region by the bacteria or other agents causing the injury, are chiefly of the polymorphonuclear type (formerly called **pus cells** or **corpuscles**). They ingest the bacteria and excrete ferments which soften and digest the injured tissue.
Pus (pōōs), *n.* [Skr. *Puṣya, Pauṣa.*] See HINDU CALENDAR.
-pus. [NL.] *Bot. & Zool.* A combining form, from Greek *-pous*, meaning *-footed*, used in generic names, chiefly in zoology, as in *Lycopus, Pygopus.* Cf. -PODA.
Pusch·kin'i·a (pōōsh-kĭn'ĭ-ȧ), *n.* [NL., after Count Apollon Mussin-*Pushkin* of Russia.] *Bot.* **a** A genus of small Asiatic bulbous herbs (family Liliaceae) containing two species often cultivated for their blue-veined, white, spring-blooming flowers. **b** [*not cap.*] A plant, bulb, or flower of this genus.
Pu'sey·ism (pū'zĭ-ĭz'm), *n.* *Eccl. Hist.* Tractarianism (which see); — so called from E. B. Pusey (1800–82), one of the leaders of the movement.
Pu'sey·is'ti·cal (-ĭs'tĭ-kăl), *adj.* Also **Pu'sey·is'tic** (-tĭk). Of or pertaining to Puseyism.
Pu'sey·ite (pū'zĭ-īt), *n.* An adherent of Puseyism; a High-Churchman.
push (pōōsh), *v.*; PUSHED (pōōsht); PUSH'ING. [F. *pousser*, fr. L. *pulsare*, v. intens. fr. *pellere, pulsum*, to beat, knock, push. See 2d PULSE; cf. PURSY.] *Transitive:* **1.** To press against with force in order to drive or impel; to move or endeavor to move away or ahead by steady pressure, without striking; — opposed to *draw* and *pull*; as, to *push* a wheelbarrow; to *push* a door open, a boat off, or one out of the way.
2. To thrust against, as with horns; to butt. *Now Dial.*
If the ox shall *push* a manservant or maidservant, . . . the ox shall be stoned. *Ex.* xxi. 32.
3. To thrust forward, downward, outward, or the like; to put forth; as, some plants *push* their roots deep into the

with vigor or effectiveness; to drive; to extend; as, to *push* the war into the enemy's country.
5. To bear hard upon, so as to involve in difficulty, embarrassment, or the like; as, to be *pushed* for funds.
6. At bridge, to force (an opponent) beyond the point of safe bidding.
—, *Intransitive:* **1.** To press against something with steady force in order to drive or impel.
2. To make a thrust, as with the horns or with a sword; also, *Now Poetic*, to thrust oneself or itself.
The fairest face that morn e'er look'd upon
Push'd through a screen of roses. *Keats.*
3. To make an attack or hostile advance. *Obs.*
At the time of the end shall the king of the south *push* at him; and the king of the north shall come against him. *Dan.* xi. 40.
4. To press forward against obstacles or opposition or with energy; to advance persistently; as, the crowd *pushed* forward against the ropes.
5. To exert oneself continuously, vigorously, or obtrusively to gain a desired end, as success or social advancement; to work or drive hard; — sometimes used reflexively.
Syn. — PUSH, SHOVE, THRUST. PUSH implies the application of force by a body already in contact with the object to be impelled; to SHOVE is esp. to push continuously, or along the surface of another body; to THRUST is to push or shove violently or forcibly, sometimes by means of a body which is already in motion before it reaches the object to be impelled; as, to *push* an object over a precipice; to *shove* a table across the floor; "They . . . *thrust* him out of the city" (*Luke* iv. 29); "*Thrust* in thy sickle, and reap" (*Rev.* xiv. 15).
Ant. — Pull, draw.
push off. **a** Of a person rowing a boat or the boat so rowed, to move away from shore by pushing, esp. by using forward strokes; hence, *Colloq.*, to start; to begin. **b** To go away; to get out; — often in the imperative as a command.
push (pōōsh), *n.* [From PUSH, *v.*] **1.** Pressure or an exertion of pressure; as: **a** *Now R.* An assault or attack; an effort.
Exact reformation is not perfected at the first *push.* *Milton.*
b Stress of circumstances; extremity; a time or occasion for action; an emergency. Cf. PINCH. **c** A thrust with a pointed weapon, horn, or the like. **d** Any thrust, pressure, impulse, or force steadily applied without striking; a shove; as, the *push* of a crowd. **e** An advance overcoming obstacles; as, a *push* over the unknown arctic.
2. [Origin uncert.; perh. a different word.] A pustule; a pimple; a boil. *Obs. exc. Dial.*
3. a An act in promotion of another's interests; influence so exerted. **b** Nonphysical pressure, influence, or compulsion, whether internal or external; also, an instance of its exertion; a drive. **c** *Colloq.* Aggressive energy; vigorous enterprise.
4. a A crowded mass of people. **b** *Dial.* A mass of collected water.
5. *Slang.* **a** A company or set of associates; specif., an influential, limited, or exclusive set; as, the social *push*; the political *push*; he is not in the *push.* **b** *Australia.* A gang of larrikins, or street rowdies.
6. A part to be pushed, as the button of an electric bell.
7. A blow; a knock. *Obs.*
8. In a lumber camp, the foreman. *Slang.*
9. *Mech.* Thrust.
10. *Mil.* A strong, well-organized offensive, engaged in by large bodies of troops. *Slang.*
push (pōōsh), *interj.* Pish; tush. — *n.* In the phrase ***to make a push at***, to regard contemptuously.
push, *adj.* **1.** Pushing; that pushes.
2. Operated or propelled by pushing; as, a *push* button or bell; a *push* bicycle.
push-. A combining form of the verb *push*, denoting *that pushes* or *is moved by a push* or *pushing*, as in *push*cart, *push*pin, etc.
Pu'shan (pōō'shän), *n.* [Skr. *Pūṣan*, lit., the Prosperer.] *Vedic Myth.* A celestial shepherd god, guardian of roads and cattle, and conductor of the souls of the dead.
push'ball' (pōōsh'bôl'), *n.* A game in which each of two sides endeavors to push a large, inflated, leather-covered ball, about six feet in diameter, across the opponents' goal; also, the ball used in this game.
push bicycle. A pedal bicycle, as disting. from a motor bicycle. Hence, **push cyclist**, etc. *All Brit.*
push bike. A push bicycle. *Colloq., Brit.*
push bolt. A door bolt moved by pushing with the hand instead of with a key.
push broach. *Mach.* See 1st BROACH, 8 a.
push'-broach', *v. t.* *Mach.* To broach with a push broach.
push button. A small button or knob which, when pushed, actuates a lighting switch, a latching or signaling device, or the like, esp. by making or breaking an electric circuit. — **push'-but'ton**, *adj.*
push car. Any of various four-wheeled handcarts or hand cars, used esp. on railroad platforms and by track repairers; also, an intermediate car connecting a locomotive and a train to be pushed on to a ferryboat.
push'cart' (pōōsh'kärt'), *n.* A cart or barrow pushed by hand, used chiefly by street peddlers or venders.
push'er (pōōsh'ẽr), *n.* One who or that which pushes; as: **a** A pusher locomotive. **b** A utensil, usually in the form of a small metal hoe, used by a child at meals to push food on to a spoon or fork. **c** *Colloq.* A pushing or aggressive person. **d** *Mach.* A machine part for pushing something.
pusher airplane. See AIRPLANE.
pusher grade. *Railroads.* A grade steeper than the ruling grade (which see), and requiring a pusher locomotive to be used with a (freight) train of normal weight.
push fit. *Mach.* A snug fit or wringing fit. See 5th FIT, 4.
push'ful, *adj.* Full of push, or aggressive energy; enterprising. — **push'ful·ly**, *adv.* — **push'ful·ness**, *n.*
push hoe. *Agric.* A scuffle hoe.
push'ing, *part. adj.* Enterprising; energetic; also, forward; officious. — **push'ing·ly**, *adv.* — **push'ing·ness**, *n.*
push'mo·bile (pōōsh'mō-bēl), *n.* [*push* + *-mobile* as in auto*mobile*.] A toy vehicle having a platform upon which one may stand on one foot while pushing with the other. *U.S.*
push moraine. *Geol.* See MORAINE.
push'-off', *n.* **1.** The action of pushing off (see *push off*, under PUSH, *v.*); also, a send-off.
2. *Elec.* A rod or tube in compression used for keeping a trolley wire in its proper position.
push'pin' (pōōsh'pĭn'), *n.* **1. a** A children's game in which one player tries to push or fillip his pin over that of another player. **b** Something childish, inane, or trivial; child's play.
2. A steel point with a projecting glass or metal head, for

...+ *hadeh'* ...l for ...al ...d ...anese ...*d tai*, ...ff or club ...carried by ...two-handed

...esignating the ...inese languages. ...wampy, coniferous ...re the tundra ends; ...orth America. ...*tlen* to entangle. See ...ap. **b** To delay; hinder;

...dering. *Scot.* [Maori, presently.] Wait

...*ayl*, fr. AS. *tægel, tægl;* akin to ..., ON. *tagl*, Sw. *tagel*, Goth. *tagl* ... or a process or prolongation of the ...of an animal. In vertebrates it con...art (the caudal vertebrae) of the ver...rds the posterior extension of the body ...*ail* usually implies its fanlike row of stiff ...ly, in fishes it commonly implies the fin ... the tail. In snakes and other limbless ...ginning is indicated by the position of the ...a change in arrangement of the scales. In in... it means either the rear end of the body, esp. ...der or adapted for a swimming organ, or any of ...backwardly directed processes or appendages. ...human buttocks; the fundament; also, the sexual ...er, esp. the pudendum. *Obs. exc. Dial.* ...Formerly, in Turkey, a horsetail as a mark of rank. ...e HORSETAIL, 2.

...Any long, flexible terminal appendage; an appendage resembling, in shape or position, the tail of an animal, as the trailing part of a woman's gown, the trailing end of a letter, as *g* or *y*, an ament, the appendage of an achene, etc.; as, the *tail* of a coat, dress, kite, letter, etc.

Those *tails* that hang on willow trees. — *Harvey.*

5. Specif.: **a** The luminous train of a comet. See COMET, 1. **b** A grayish train left when impure mercury runs on a surface. **c** One of the narrow prolongations of the hind wings of certain butterflies and moths. **d** The slender stringlike tips of the roots of beets, turnips, etc. **e** A rudder or vane that turns a windmill to face the wind. **f** *Obs. Scot.* A jutting portion of a piece of land.

6. Something analogous to the tail of an animal in position in space or time; the back, last, lower, or inferior part of anything; the part opposed to the head, superior part, front, beginning, or the like; end; extremity; rear; conclusion; as, the *tail* of a gale, a line; the *tail* of a cart, plow, or vessel; the *tail* end of a discourse or of a conversation. "The Lord will make thee the head, and not the *tail*." — *Deut.* xxviii. 13.

7. Specif.: **a** Often *pl.* The side of a coin opposite to that bearing the head, effigy, or date; the reverse; — chiefly used in *heads or tails* or *head or tail*, used when a coin is thrown up to decide some point by its fall. **b** The part of a millrace below, or downstream from, the wheel; the lower, or downstream, section of a pool or river. **c** The outermost or underwater part of a projecting bank or bar.

8. Something like or suggestive of an animal tail in form; a relatively long line or series; specil.: **a** A long braid, tress, or mass of hair, as a cue or switch. **b** A line of persons waiting; a cue. **c** A train or company of attendants; a retinue. "Bee from those of my *tail*." — *Kipling.*

9. The residuum or refuse part left after a process, as milling, ore dressing, distilling; dregs; tailings; specif.: **a** Also *pl.* = TAILING, 7, 8, & 10. **b** In milling, the lowest grade of flour derived from a final treatment of the impure stocks.

10. The group holding the hindmost position in point of accomplishment, value, skill, or the like, as in a political party, a society, a team, or in a herd or flock.

11. *pl.* **a** *Colloq.* A swallow-tailed coat; also, full dress. See EVENING DRESS **b**. **b** *Obs.* A woman's skirts.

12. *Aeronautics.* The rear part of an aircraft, in an airplane usually consisting of a group (***tail group***, or ***tail unit***) of stabilizing planes, or fins, to which are attached certain controlling instruments, as elevators and rudders.

13. *Anat.* **a** The distal tendon of a muscle. **b** The slender left end of the human pancreas. **c** See EPIDIDYMIS, *n.*

14. *Arch.* **a** The exposed or lower portion of a member or part, as of a slate or tile. **b** = TAILING 4.

15. *Archery.* = WING, *n.*, 12 **b**.

16. *Brewing.* A sprout of barley.

17. *Hort.* The bottom layer of a container, esp. of a barrel of fruit. Cf. FACE, 20.

18. *Music.* **a** The stem of a note. **b** In a piano, the rear part of a key; the key tail.

19. *Naut.* A rope spliced around, or to the strap of, a block with long ends by which it may be lashed to anything.

20. *Print. & Bookbinding.* The bottom of a page.

21. *Prosody.* **a** See TAILED RHYME. **b** The additional lines of a tailed sonnet.

22. *pl. Ropemaking.* In some forms of rope-laying machine, pieces of old rope wound around the rope that is being laid, to enable the ropemaker to round up the rope to the required angle of lay.

23. *Sports.* Short for TAIL END.

☞ COMBINATIONS (all adjectives) are:

tail-chasing	tail-docked	tail-switching
tail-cropped	tail-heavy	tail-tied
tail-decorated	tail-joined	tail-wagging

— ***at*** or ***in the*** (or ***one's***) ***tail***. Moving or following close behind or in the rear; as, with an infantine army *at her tail*. — ***on one's tail***. Pressing close, or close, upon one from the rear (orig. upon the tail of one's aircraft). Cf. TAIL, 6. *Colloq.* — ***to have*** or ***keep one's tail*** ...down). To be, or to keep, in good spirits (or

tail (tāl), *adj.* **1.** Placed at or forming the tail or rear; hindmost; as, the *tail* hounds.

2. Coming from the rear; as, a *tail* wind.

3. Made up of tailings or inferior residue; as, *tail* corn.

tail (tāl), *v.* *Transitive:* **1.** To make or furnish with a tail; as, to *tail* a kite or a name (with a title); also, to follow, or be drawn behind, like a tail; as, a line of dogs *tailing* the procession.

2. To fasten by or at the tail or stern; as, to *tail* a ship to a dock; to connect by adding at the end; to join to the end of.

3. To pull or draw by the tail.

4. To remove tails from as, turnips, berries, a lamb.

5. To herd, as sheep or cattle.

6. To follow and watch the movements of stealthily; to shadow. *Slang.*

7. *Arch.* To fasten by one of the ends into a wall or other support; — with *in* or *on*; as, to *tail* in a timber.

8. *Naut.* To attach (a block) by a tail. See 1st TAIL, 19.

—, *Intransitive:* To form a tail, appendage, train, or the like; to extend or move in a taillike line or formation.

The dusty column checks and *tails.* — *Kipling.*

2. To follow close behind; to tag; — often with *on* or *along*. *Colloq.*

3. To diminish with extension or grow gradually smaller, fainter, or more scattered, so as to leave but a trace or a straggling remnant; — with *off*, *out*, *away*, *down*, etc.; as, the trade wind *tailed* away into fitful airs; her words would *tail* off into an inarticulate blur; the pack is *tailing* out over a quarter mile.

4. *Angling.* Of a fish, to break the surface of water with the tail while feeding on the bottom or in weeds.

5. *Arch.* To hold by the end; — said of a timber when its end is built into a support; — with *in* or *into*.

6. *Naut.* To swing, or lie, with the stern in a certain direction, as downstream or against the wind; — said of a vessel at anchor.

7. *Sports.* To be drawn uphill on a sledge or on skis.

tail down. To roll (logs) down a skidway, as for loading. *U. S.*

tail on. *Naut.* = *tally on*, under 3d TALLY.

tail over. *Milling.* To pass over a sieve, as material which is too large to pass through it.

tail up. To sound, throwing his flukes in the air as he dives; — said of a whale.

tail (tāl), *adj.* [OF. *taillié*, past part. of *taillier* to cut, also to decide, fix, settle, fr. VL. *taliare*, fr. L. *talea* twig, rod, stake; cf. ML. *talliare* to cut, limit by certain conditions, to entail, as land, *taliare* to cut. See TALLY, TAILOR; cf. TAIL limitation.] *Law.* Limited; abridged; reduced; curtailed; entailed; as, an estate or fee *tail* (which see).

tail, *v. t.*; TAILED (tāld); TAIL'ING. [OF. *taillier* (F. *tailler*) to cut. See TAIL limited.] **1.** *Obs.* **a** To cut to a size or to shape, as a tree. **b** To mark on a tally; to tally **c** To tally or agree with. **d** To levy a debt against. **e** To tally or agree with. **d** To levy a tail or tax upon.

2. To limit, or encumber, with an entail; to grant in tail.

tail (tāl), *n.* [OF. *taille* a cutting. See TAILLE; cf. ENTAIL, TALLY.] **1.** *Obs.* **a** A stick notched for keeping tally; hence, a tally; reckoning; account. **b** An imposition or tax levied upon an individual by his lord or king; also, an impost or duty.

2. *Law.* Limitation; abridgment; state or fact of entailment; entail.

tail, *v. t.* [Var. of TILL.] = TILL, *v. t.*, 3.

-tail (-tāl). A combining form of the noun *tail*, chiefly in names of creatures, as in:

bangtail	goldtail	shavetail
blacktail	hairtail	sheartail
boattail	hardtail	shieldtail
bobtail	horntail	silktail
bonetail	horsetail	silvertail
brantail	jollytail	spiketail
bristletail	lizardtail	spindletail
broadtail	longtail	spinetail
broomtail	lyretail	splittail
browntail	milltail	sprigtail
bucktail	monkeytail	springtail
cattail	mousetail	sprittail
coattail	oxtail	squaretail
cocktail	pigeontail	sticktail
coontail	pigtail	stifftail
cottontail	piketail	stingtail
cowtail	pintail	swallowtail
crosstail	ploughtail	swingletail
cuttail	plowtail	swordtail
dogtail	quaketail	teetertail
dovetail	rackettail	thorntail
drabbletail	rattail	tiptail
draggletail	redtail	toptail
dragontail	ringtail	tripletail
fantail	roughtail	trundletail
fishtail	roundtail	turntail
flaxtail	rubytail	wagtail
flytail	scaletail	whiptail
forktail	scissortail	whitetail
foxtail	shadetail	wigtail

tail'band' (tāl'bănd'), *n.* **1.** A crupper. *Dial.*

2. *Bookbinding.* Formerly, a narrow strip of cloth hand-sewn to the bottom of the inner back of a book. See HEADBAND.

tail barley. *Brewing.* The screenings.

tail bay. **1.** *Arch.* That one of the bays or main divisions of a framed floor or roof, which is next the end wall, so that its joists rest one end on the wall and the other on a girder; also, the space between a wall and the nearest girder of a floor. Cf. CASE BAY.

2. The part of a canal lock below the lower gates.

tail beam. *Arch.* = TAILPIECE, 4.

tail block. **a** = TAILSTOCK. **b** A pulley block with a loose tail of rope for securing it to any convenient object.

tail'board' (tāl'bōrd'; 181), *n.* The board at the rear end of a cart or wagon, which can be removed or let down for convenience in loading or unloading.

tail center. *Mach.* A tailstock center.

tail coat. A coat with tails; esp., a swallow-tailed coat. See EVENING DRESS, 2 **b**.

tail coverts. The feathers which cover the bases of the tail quills. Those above the quills are the ***upper tail coverts***; those below, the ***under***, or ***lower***, ***tail coverts***. In a few birds, as the peacock, they form handsome plumes.

tail cups. *Aeronautics.* A steadying device, somewhat similar to a sea anchor, attached by lines at the rear of certain types of elongated captive balloons.

tailed (tāld), *adj.* **1.** Having a tail or tails.

2. Deprived of a tail or tails.

-tailed (-tāld). A combining form of *tailed*, denoting *having* (so many or such) *tails.* Corresponding adverbs are formed in *-ly*, as stiff-tailed*ly*; corre... are formed in *-ness*, as stiff-tailed*ness*.

band-tailed	fork-tailed	...
black-tailed	foxtailed	...
blue-tailed	free-tailed	...
boat-tailed	gray-tailed	...
bobtailed	great-tailed	...
bottle-tailed	green-tailed	...
broad-tailed	hawk-tailed	...
brown-tailed	heavy-tailed	...
brush-tailed	lion-tailed	...
bush-tailed	long-tailed	...
bushy-tailed	lyre-tailed	...
cock-tailed	many-tailed	...
coppery-tailed	nag-tailed	...
dag-tailed	pen-tailed	...
dock-tailed	pheasant-tailed	...
dovetailed	pigeon-tailed	...
drabbletailed	pig-tailed	...
draggletailed	pin-tailed	...
fan-tailed	purple-tailed	...
fat-tailed	quill-tailed	...
fin-tailed	rat-tailed	...
forked-tailed	red-tailed	...

tailed pepper. = CUBEB.

tailed rhyme. Also **tail rhyme.** A ... which rhymed verses, esp. couplets or triplets ... by a **tail**, or line of different length, usually ... than, and not rhyming with, the preceding ... lets or triplets with tails, combined in ... more, with tails rhyming, form a *tailed'-rhyme* ...

tailed sonnet. A sonnet with additional ... in number.

tail end. **1.** The hindmost end or part ... to the head or inferior to the rest; specif.: ... outboard end of a tail shaft, including the ... propeller, the keyway, and the thread ... *Sports.* The latter end of a batting order ... ing of the weaker batsmen. **c** The end of ... ing mill, etc., at which is delivered the ... **d.** *pl.* *Chiefly Dial.* Tailings.

2. The concluding part or period, as of a ... legislature.

tail'end'er (tāl'ĕn'dẽr), *n.* One at the tail ... competition. *Colloq.*

tail'er (tāl'ẽr), *n.* **1.** One who tails or ...

2. *Agric. Mach.* The endless carrier in a ... chine, taking straw from the separating table ...

3. *Angling.* A fish that tails.

tail'er, *n.* = TAILOR, 2 **b**.

tail'et (tāl'ĕt; -ĭt; 119), *n.* A minute tail.

tail'first' (tāl'fûrst'; 66), **tail'fore'most** ... -mŭst; 181), *adv.* With the hinder part ... wards.

tail'flow'er (tāl'flou'ẽr), *n.* Any aroid of the ... *rium*; — in allusion to the slender spadix ...

tail fly. *Angling.* The fly at the end of the ...

tail gate. A gate at the tail or rear; ... gate of a canal lock. **b** *U. S.* The tailboard ... **c** A heavy wooden panel pivoted to the ... car to form an incline from the car bottom ...

tail grape. The fruit of any tropical ... genus *Artabotrys* (family Annonaceae), ... Indian *A. odoratissimus*. It is borne ... peduncle which functions as a tendril.

tail group. See 1st TAIL, 12.

tail'head' (tāl'hĕd'), *n.* The base of an ...

tail'-heav'y, *adj.* *Aeronautics.* ... craft in which, in any given condition of ... nose tends to rise if the longitudinal control ... for instance, when the pilot has to carry a ... trol stick or control column to maintain ...

tail hook. *Logging.* An iron dog or single ...

tail house. **1.** *Mining.* A housing for the ... in an endless-rope hoisting system.

2. *Petroleum.* Any building in which ... discharge ends of the condensing apparatus ... distillation.

tail'ing, *n.* **1.** The action of a person or ...

2. *pl.* Inferior or refuse material separated ... the preparation of various products ... Chaff. **b** Stones that tail over the ... screen of a stone crusher. **c** The lighter ... berries floated away in washing.

3. That which tails on; the last part or ...

4. *Arch.* The part of a projecting stone ... in a wall.

5. *Calico Printing.* A blur or other ...

6. *Elec.* Prolongation of a current after ...

7. *pl.* *Milling.* The lighter particles, ... fibrous or flaked endosperm, which tail over ... purifier while the heavier middlings ...

8. *Usually pl.* *Ore Dressing.* The refuse ... ing from the washing, concentration, ... ground ore. It consists principally of ... in the singular, sometimes shortened to ... *n.*, 32 **d**, CONCENTRATE, MIDDLING.

9. *pl.* *Pharm.* = GRUFFS.

10. *pl.* *Refining.* In fractional distillation ... spirit, those portions which come over ...

11. *Tanning.* A reused tanning liquor ...

☞ In senses 7, 8, & 10, the *sing.* form ... tributively; as, the *tailing* spout of a ...

tail joist. *Arch.* = TAILPIECE, 4.

tail lamp. A lamp or light at the rear end ... an automobile.

taille (tāl; *F.* tä'y'), *n.* [OF. & F., fr. OF. ...] **1.** = 4th TAIL, 1 ... See 1st & 2d TAIL.]

2. *Fr. Hist.* An imposition or tax ... lish tallage) levied by the king, or a ... or on lands held of or under him. ... became solely a royal or a national tax ... a personal tax from which the lords and ... and others were exempt.

3. Form; figure or build; shape of the body ...

4. *Dressmaking.* A waist; also, the ...

‖**tail'leur'** (tä'yûr'), *n.* [F., prop., a ... LIER.

2. A tailored suit or dress for street wear ...

tail'light' (tāl'līt'), *n.* A tail lamp.

tail lock. A lock at the exit of a dock ...

‖**tail'loir'** (tä'ywär'), *n.* [F.] *Arch.* The ...

tail of the eye. The outer corner of the eye ...

tai'lor (tā'lẽr), *n.*; *pl.* TAILORS (-lẽrz) ... See PLURAL, *Note.* ... *lier* to cut (F. *tailler*), fr. VL. ...

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Rare. To follow with enmity; to persecute; harass. **b** To follow with a view to overtake; to follow eagerly, or with haste; to chase; as, to *pursue* a hare. "We happiness *pursue*; we fly from pain." *Prior.*
2. To seek; to use or adopt measures to obtain. "Seek peace and *pursue* it." *Ps.* xxxiv. 14.
3. To proceed along, with a view to some end or object; to follow; as, the administration *pursued* a wise course.
4. To proceed with or according to; as, to *pursue* advice, an inquiry, a system.
5. To follow in attendance or in sequence. *Now Rare.*
6. To prosecute; to be engaged in; as, to *pursue* an occupation, one's studies.
7. Figuratively, to continue to afflict, as illness or consequences.
8. To follow with the eye or mentally.
9. *Obs.* **a** To attempt to reach or attain. **b** To follow up to avenge or punish.
10. *Law.* To follow or seek by judicial proceedings; to prosecute; as, he *pursued* his legal remedies.
—, *Intransitive:* **1.** To go in pursuit; to follow.
The wicked flee when no man *pursueth.* *Prov.* xxviii. 1.
2. To continue; proceed, esp. as in a discourse.
3. *Obs.* **a** To make suit; to plead. **b** To follow one as leader or master. **c** To follow as a sequel.
4. *Scots Law.* To bring suit; prosecute; — often with *for.*
Syn. — See FOLLOW. **Ant.** — Flee.
pur·su′er (pẽr-sū′ẽr), *n.* One who pursues; specif.: **a** One who chases. **b** *Obs.* A persecutor. **c** *Chiefly Eccl. & Scots Law.* A plaintiff; a prosecutor.
pur·suit′ (pẽr-sūt′), *n.* [ME. *poursuit*, fr. OF. *poursuite*, fr. the v. See PURSUE.] **1.** Act of pursuing, or following to overtake, esp. a following with haste to kill or capture; chase; as, the *pursuit* of game, an enemy, or a thief.
What mad *pursuit!* What struggle to escape? *Keats.*
2. *Obs.* **a** Persecution; affliction. **b** A suing or pleading; suit; entreaty. **c** *Scot.* An attacking; assault. **d** = PURSUANCE, 2.
3. That which one pursues, or engages in, as a course of business or occupation; continued employment; as, mercantile *pursuits*; a literary *pursuit*.
4. A following with a view to reach, accomplish, or obtain; endeavor to attain to, gain, or achieve; as, the *pursuit* of knowledge, happiness, pleasure, a plan; also, the end pursued; an objective.
5. *Law.* Prosecution. *Obs. exc. Eccl. & Scots Law.*
Syn. — See OCCUPATION.
pursuit airplane. = PURSUIT PLANE.
pur·suit′me′ter (pẽr-sūt′mē′tẽr), *n.* *Psychol.* A device for testing the co-ordination of eyes and hand in the task of keeping a spot of light from deviating from its appointed position by quick reactive movements of the hand.
pursuit pendulum. *Psychol.* An instrument to test ability to follow a moving object with the eye or with the hand, consisting essentially of a vibrating pendulum. In one form, the motion of the eyeball as the eye follows the pendulum is photographed.
pursuit plane. *Mil.* A military airplane designed and armed especially for fighting the enemy's aircraft.
pursuit squadron. See SQUADRON.
pur′sui·vant (pûr′swĭ-vănt), *n.* [F. *poursuivant*, prop. pres. part. of *poursuivre*. See PURSUE; cf. PURSUANT.] **1.** *Heralds' College.* A functionary ranking below a herald, but having similar duties; — called also **pursuivant of arms**; an attendant on the heralds. Also used figuratively. In early times noblemen had special pursuivants, who generally took their titles from the armorial insignia of their lords. Among such are the *Antelope*, *Blanch Lion*, and *Falcon*. Those of the Heralds' College are ***Rouge Croix***, named from St. George's cross; ***Blue Mantle***; ***Rouge Dragon***, named from Henry VII's dexter supporter; and ***Portcullis***. Those of the Lyon King-of-Arms are ***Bute***, ***Carrick***, ***March***, and ***Unicorn***, instituted under James III of Scotland. There were also formerly ***Dingwall***, ***Kintyre***, and ***Ormond***. The pursuivants of the Ulster King-of-Arms are ***Athlone*** and ***Cork***.
The herald Hope, forerunning Fear,
And Fear, the *pursuivant* of Hope. *Longfellow.*
2. The king's messenger; a state messenger; hence, by extension, any messenger. *Obs.*
3. A squire; follower; attendant. *Archaic.*
pur′sui·vant (pûr′swĭ-vănt), *v. t.* To deliver to or by a pursuivant; to pursue; tend. *Obs.*
pur′sy (pûr′sĭ; *dial.* pŭs′ĭ), *adj.*; PUR′SI·ER; PUR′SI·EST. [AF. *pursif*, fr. OF. *polsif* (F. *poussif*), ult. fr. L. *pulsare* to beat, throb, agitate. See PUSH.] **1.** Short-winded or asthmatic; short-breathed, esp. because of corpulence, hence, fat; puffy; obese.
But the *pursy* old landlord just waddl'd upstairs. *R. Burns.*
2. Swollen with pampering or luxurious living; characterized by or arising from arrogance of wealth, self-indulgence, or the like. "*Pursy* insolence." *Shak.*
pur′sy (pûr′sĭ), *adj.* **1.** Pursed, or puckered up; as, a *pursy* mouth.
2. Well-pursed; wealthy; purse-proud. Cf. 1st PURSY, 2.
3. Baggy like a purse. Cf. 1st PURSY, 1.
pursy minnow. A killifish (*Cyprinodon variegatus*) of the Atlantic and Gulf coasts of the United States. It reaches a length of from two to four inches.
pur′te·nance (pûr′tē-năns), *n.* [ME. *purtenaunce*. See APPURTENANCE, PERTINENCE.] **1.** That which pertains to something; an appurtenance. *Obs.*
2. The heart, liver, and lungs of an animal; entrails. *R.*
Roast [it] with fire, his head with his legs, and with the *purtenance* [*Rev. Ver.*, inwards] thereof. *Ex.* xii. 9.
Pu·ru′ (pōō-rōō′), *n.* = PURUPURU.
Pu′ru·ha′ (pōō′rōō-ä′), *n.* An Indian of a tribe, believed to have constituted a distinct stock, formerly dwelling in the Province of Chimborazo, Ecuador, but now merged in the general population. — *adj.* Pertaining to or designating the linguistic family of the Puruhas.
pu′ru·lence (pū′rōō-lĕns; pûr′ū-), *n.* Also **pu′ru·len·cy** (-lĕn-sĭ). [LL. *purulentia*.] *Med.* Quality or state of being purulent; the generation of pus; also, the pus.
pu′ru·lent (-lĕnt), *adj.* [L. *purulentus*, fr. *pus*, *puris*, pus, matter. See PUS.] *Med.* Consisting of pus, or matter; of the nature of pus; attended with suppuration; as, *purulent* inflammation. — **pu′ru·lent·ly**, *adv.*
pu′ru·loid (-loid), *adj.* [See PURULENT; -OID.] *Med.* Resembling pus; pyoid.
Pu′ru·pu·ru′ (pōō′rōō-pōō-rōō′), *n.* See ARAUAN.
pur′u·sha (pōōr′ōō-shȧ), *n.* [Skr. *puruṣa* man.] *Hindu Philos.* The male or static principle in the godhead; spirit as opposed to matter. See PRAKRITI. Also, the primal or eternal male, the source of creation; hence [*cap.*], an epithet applied to any of the greater deities.
pur′u·shar′tha (pōōr′ōō-shär′tȧ). [Skr. *puruṣārtha*, lit., purpose of man.] *Hinduism.* The purpose or legitimate preoccupation of human life, including dharma (duty), artha (worldly success), kama (love, pleasure), moksha (salvation).
Pur′u·shot′ta·ma (-shōt′tȧ-mȧ), *n.* [Skr. *puruṣottama* best of men, highest spirit.] *Hindu Philos.* The supreme spirit.
Pur′ves flue *or* **tube** (pûr′vĕs; -vĭs). [After the inventor, *Purves*, of Lloyd's registry.] *Steam Boilers.* A flue or tube with thickened transverse ribs or corrugations rather widely spaced.
pur·vey′ (pûr-vā′), *v.*; -VEYED′ (-vād′); -VEY′ING. [ME. *purveien*, *porveien*, fr. OF. *porveeir* (pres. 3d pl. *porveient*), *porveoir* (F. *pourvoir*), fr. L. *providere*. See PROVIDE; cf. PURVIEW.] *Transitive:* **1.** To foresee; to provide; to see to, arrange, or order in advance. *Obs.*
2. To furnish or equip (one), as with provisions, a necessity, or the like. *Archaic.*
3. To furnish, procure, or supply, as equipment, a necessity, or, now usually, provisions.
For such is all the mental food *purveyed*. *Cowper.*
—, *Intransitive:* **1.** To provide; to make provision or preparations. *Obs.*
2. To serve as purveyor; esp., to supply provisions.
3. Figuratively, to provide or convey something essential; to lend necessary assistance; to serve as source of supply; — with *to* or *for*.
The function of the eye is now purely ministerial; it merely *purveys* for the ear. *Lanier.*
4. To pander; — with *to*. *Obs.* *Burke.*
pur·vey′, *n.* *Obs.* **a** A purveying; something purveyed; a provision. **b** *Eng.* A parish assessment, or tax.
pur·vey′a·ble (-ȧ-b'l), *adj.* **a** Making purveyance (sense 1); provident. *Chaucer.* **b** Procurable; also, marketable.
pur·vey′al (-ăl), *n.* A procuring. *Rare.*
pur·vey′ance (-vā′ăns), *n.* [ME. *purveaunce*, *purveiaunce*, fr. OF. *porveance* foresight, prudence, provision. See PURVEY; cf. PROVIDENCE.] **1.** Providence; foresight; prevision. *Obs.*
2. The act or fact of providing in advance; preparation; prudent direction or management. *Obs.*
3. That which is purveyed; specif., provisions; supplies. *Obs.*
4. Act or process of purveying, or procuring, esp. provisions; as, the *purveyance* of supplies for an army.
5. *Eng. Law.* A providing of supplies or services for the crown or sovereign by pre-emption or impressment at a valuation fixed by appraisers appointed by the purveyors or by the purveyors themselves. This was formerly a royal prerogative generally in Europe. The prices fixed were often much below the market value, and the owners, who had no choice as to sale, were commonly paid in treasury tallies. The right was abolished in England by 12 Car. II. c. 24 (1660).
pur·vey′an·cer (-ăn-sẽr), *n.* Purveyor. *Coleridge.*
pur·vey′or (pûr-vā′ẽr), *n.* [ME. *purveour*, fr. OF. *po(u)rveor* (F. *pourvoyeur*). See PURVEY; cf. PROVEDITOR.] **1.** One who purveys, provides, or procures; now, usually, one who provides victuals, or whose business is to make provisions for the table; a victualer; a caterer; specif., *Obs.*, an official whose duty it was to secure necessary supplies for a city, army, or the like.
2. An officer who formerly provided or exacted provision, under the right of purveyance. *Eng.*
3. A procurer; a pimp; a bawd. *Addison.*
pur′view (pûr′vū), *n.* [OF. *porveü*, *pourveü*, provided, resolved (F. *pourvu* provided), past part. of *porveoir* (F. *pourvoir*). See PURVEY, VIEW; cf. PROVISO.] **1.** **a** *Law.* The body of a statute, or the part that begins with "*Be it enacted*," and ends before the enacting clause, as distinguished from *preamble*, saving clause, or proviso. **b** Hence: The limit or scope of a statute; the whole extent of its intention or provisions. *Marshall.*
2. The sphere or fixed limits of one's authority, jurisdiction, competence, design, or the like; province; scope; field; as, beyond the *purview* of a legislative body.
3. Range of physical or mental vision; compass or reach of sight, understanding, or experience.
Blake conceived that it was his vocation to bring this mystical illumination, this vision of reality, within the *purview* of ordinary men. *E. Underhill.*
pur·voe′ (pûr-vō′), *n.* [Marathi *parbhū*, fr. Skr. *parabhū* of strange birth.] The writer caste. *India.*
pur·wan′nah (pŭr-wän′ȧ), *n.* [Hind. & Per. *parwānah*.] An order; a written pass or permit; a royal grant. *Anglo-Ind.*
pus (pŭs), *n.* [L. See FOUL; cf. PURULENT.] *Med.* The yellowish-white opaque creamy matter produced by suppuration. It consists of exudate and dead, disintegrating tissue infiltrated with bacteria and numerous leucocytes, or their remains. The leucocytes, attracted to the region by the bacteria or other agents causing the injury, are chiefly of the polymorphonuclear type (formerly called **pus cells** or **corpuscles**). They ingest the bacteria and excrete ferments which soften and digest the injured tissue.
Pus (pōōs), *n.* [Skr. *Puṣya*, *Pauṣa*.] See HINDU CALENDAR.
-pus. [NL.] *Bot. & Zool.* A combining form, from Greek *-pous*, meaning *-footed*, used in generic names, chiefly in zoology, as in *Lycopus*, *Pygopus*. Cf. -PODA.
Pusch·kin′i·a (pōōsh-kĭn′ĭ-ȧ), *n.* [NL., after Count Apollon Mussin-*Pushkin* of Russia.] *Bot.* **a** A genus of small Asiatic bulbous herbs (family Liliaceae) containing two species often cultivated for their blue-veined, white, spring-blooming flowers. **b** [*not cap.*] A plant, bulb, or flower of this genus.
Pu′sey·ism (pū′zĭ-ĭz'm), *n.* *Eccl. Hist.* Tractarianism (which see); — so called from E. B. Pusey (1800–82), one of the leaders of the movement.
Pu′sey·is′ti·cal (-ĭs′tĭ-kăl), *adj.* Also **Pu′sey·is′tic** (-tĭk). Of or pertaining to Puseyism.
Pu′sey·ite (pū′zĭ-īt), *n.* An adherent of Puseyism; a High-Churchman.
push (pŏŏsh), *v.*; PUSHED (pŏŏsht); PUSH′ING. [F. *pousser*, fr. L. *pulsare*, v. intens. fr. *pellere*, *pulsum*, to beat, knock, push. See 2d PULSE; cf. PURSY.] *Transitive:* **1.** To press against with force in order to drive or impel; to move or endeavor to move away or ahead by steady pressure, without striking; — opposed to *draw* and *pull*; as, to *push* a wheelbarrow; to *push* a door open, a boat off, or one out of the way.
2. To thrust against, as with horns; to butt. *Now Dial.*
If the ox shall *push* a manservant or maidservant, . . . the ox shall be stoned. *Ex.* xxi. 32.
3. To thrust forward, downward, outward, or the like; to put forth; as, some plants *push* their roots deep into the soil.
4. To press or urge forward, onward, to completion, with insistence, or the like; to prosecute, carry on, or promote with vigor or effectiveness; to drive; to extend; as, to *push* the war into the enemy's country.
5. To bear hard upon, so as to involve in difficulty, embarrassment, or the like; as, to be *pushed* for funds.
6. At bridge, to force (an opponent) beyond the point of safe bidding.
—, *Intransitive:* **1.** To press against something with steady force in order to drive or impel.
2. To make a thrust, as with the horns or with a sword; also, *Now Poetic*, to thrust oneself or itself.
The fairest face that morn e'er look'd upon
Push'd through a screen of roses. *Keats.*
3. To make an attack or hostile advance. *Obs.*
At the time of the end shall the king of the south *push* at him; and the king of the north shall come against him. *Dan.* xi. 40.
4. To press forward against obstacles or opposition or with energy; to advance persistently; as, the crowd *pushed* forward against the ropes.
5. To exert oneself continuously, vigorously, or obtrusively to gain a desired end, as success or social advancement; to work or drive hard; — sometimes used reflexively.
Syn. — PUSH, SHOVE, THRUST. PUSH implies the application of force by a body already in contact with the object to be impelled; to SHOVE is esp. to push continuously, or along the surface of another body; to THRUST is to push or shove violently or forcibly, sometimes by means of a body which is already in motion before it reaches the object to be impelled; as, to *push* an object over a precipice; to *shove* a table across the floor; "They . . . *thrust* him out of the city" (*Luke* iv. 29); "*Thrust* in thy sickle, and reap" (*Rev.* xiv. 15).
Ant. — Pull, draw.
push off. **a** Of a person rowing a boat or the boat so rowed, to move away from shore by pushing, esp. by using forward strokes; hence, *Colloq.*, to start; to begin. **b** To go away; to get out; — often in the imperative as a command.
push (pŏŏsh), *n.* [From PUSH, *v.*] **1.** Pressure or an exertion of pressure; as: **a** *Now R.* An assault or attack; an effort.
Exact reformation is not perfected at the first *push*. *Milton.*
b Stress of circumstances; extremity; a time or occasion for action; an emergency. Cf. PINCH. **c** A thrust with a pointed weapon, horn, or the like. **d** Any thrust, pressure, impulse, or force steadily applied without striking; a shove; as, the *push* of a crowd. **e** An advance overcoming obstacles; as, a *push* over the unknown arctic.
2. [Origin uncert.; perh. a different word.] A pustule; a pimple; a boil. *Obs. exc. Dial.*
3. **a** An act in promotion of another's interests; influence so exerted. **b** Nonphysical pressure, influence, or compulsion, whether internal or external; also, an instance of its exertion; a drive. **c** *Colloq.* Aggressive energy; vigorous enterprise.
4. **a** A crowded mass of people. **b** *Dial.* A mass of collected water.
5. *Slang.* **a** A company or set of associates; specif., an influential, limited, or exclusive set; as, the social *push*; the political *push*; he is not in the *push*. **b** *Australia.* A gang of larrikins, or street rowdies.
6. A part to be pushed, as the button of an electric bell.
7. A blow; a knock. *Obs.*
8. In a lumber camp, the foreman. *Slang.*
9. *Mech.* Thrust.
10. *Mil.* A strong, well-organized offensive, engaged in by large bodies of troops. *Slang.*
push (pŏŏsh), *interj.* Pish; tush. — *n.* In the phrase ***to make a push at***, to regard contemptuously.
push, *adj.* **1.** Pushing; that pushes.
2. Operated or propelled by pushing; as, a *push* button or bell; a *push* bicycle.
push-. A combining form of the verb *push*, denoting *that pushes or is moved by a push or pushing*, as in *push*cart, *push*pin, etc.
Pu′shan (pōō′shän), *n.* [Skr. *Pūṣan*, lit., the Prosperer.] *Vedic Myth.* A celestial shepherd god, guardian of roads and cattle, and conductor of the souls of the dead.
push′ball′ (pŏŏsh′bôl′), *n.* A game in which each of two sides endeavors to push a large, inflated, leather-covered ball, about six feet in diameter, across the opponents' goal; also, the ball used in this game.
push bicycle. A pedal bicycle, as disting. from a motor bicycle. Hence, **push cyclist**, etc. *All Brit.*
push bike. A push bicycle. *Colloq., Brit.*
push bolt. A door bolt moved by pushing with the hand instead of with a key.
push broach. *Mach.* See 1st BROACH, 8 a.
push′–broach′, *v. t.* *Mach.* To broach with a push broach.
push button. A small button or knob which, when pushed, actuates a lighting switch, a latching or signaling device, or the like, esp. by making or breaking an electric circuit. — **push′–but′ton**, *adj.*
push car. Any of various four-wheeled handcarts or hand cars, used esp. on railroad platforms and by track repairers; also, an intermediate car connecting a locomotive and a train to be pushed on to a ferryboat.
push′cart′ (pŏŏsh′kärt′), *n.* A cart or barrow pushed by hand, used chiefly by street peddlers or venders.
push′er (pŏŏsh′ẽr), *n.* One who or that which pushes; as: **a** A pusher locomotive. **b** A utensil, usually in the form of a small metal hoe, used by a child at meals to push food on to a spoon or fork. **c** *Colloq.* A pushing or aggressive person. **d** *Mach.* A machine part for pushing something.
pusher airplane. See AIRPLANE.
pusher grade. *Railroads.* A grade steeper than the ruling grade (which see), and requiring a pusher locomotive to be used with a (freight) train of normal weight.
push fit. *Mach.* A snug fit or wringing fit. See 5th FIT, 4.
push′ful, *adj.* Full of push, or aggressive energy; enterprising. — **push′ful·ly**, *adv.* — **push′ful·ness**, *n.*
push hoe. *Agric.* A scuffle hoe.
push′ing, *part. adj.* Enterprising; energetic; also, forward; officious. — **push′ing·ly**, *adv.* — **push′ing·ness**, *n.*
push′mo·bile (pŏŏsh′mō-bēl), *n.* [*push* + *-mobile* as in auto*mobile*.] A toy vehicle having a platform upon which one may stand on one foot while pushing with the other. *U.S.*
push moraine. *Geol.* See MORAINE.
push′–off′, *n.* **1.** The action of pushing off (see *push off*, under PUSH, *v.*); also, a send-off.
2. *Elec.* A rod or tube in compression used for keeping a trolley wire in its proper position.
push′pin′ (pŏŏsh′pĭn′), *n.* **1.** **a** A children's game in which one player tries to push or fillip another player. **b** Something childish, inane, or trivial; child's play.
2. A steel point with a projecting glass or metal head, for sticking into a wall or board. It is used chiefly as a picture hook or as an indicator on a map.

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capstan bar. One of the levers by which the capstan is worked.
capstan bolt. See BOLT, *Illust.*
capstan lathe. See 2d LATHE, 1.
capstan screw. A screw with a head resembling a capstan.
capstan tool rest. *Mach.* A lathe tool rest consisting of a multiple turretlike toolholder fitted to a capstan by which different tools that perform different operations are turned on the same piece of work.
cap'stone' (kăp'stōn'), *n.* **1.** A topstone. Specif.: **a** A coping stone; coping. **b** The topmost bed of a stone quarry. **c** The horizontal topmost stone of a cromlech or dolmen.
2. The final or crowning part; finishing stroke.
capsul-. = CAPSULO-, as in **cap'su·lec'to·my** (kăp'sū·lĕk'tō·mĭ), **cap'su·li'tis** (-lī'tĭs). See -ECTOMY, -ITIS.
cap'su·la (kăp'sū·lȧ), *n.*; *pl.* -LAE (-lē). [L.] A capsule.
cap'su·lar (kăp'sū·lẽr), *adj.* Of, pertaining to, or of the nature of, a capsule; hollow and fibrous; also, capsulate.
capsular ligament. *Anat.* A ligamentous sac surrounding the articular cavity of a freely movable joint, and attached to the bones, thus completely enclosing the joint.
cap'su·late (-lāt), *adj.* *Bot.* Enclosed in a capsule.
cap'su·lat'ed (-lāt'ĕd; -ĭd; 119), *adj.* Capsulate.
cap'su·la'tion (-lā'shŭn), *n.* Enclosure in a capsule.
cap'sule (kăp'sūl), *n.* [F., fr. L. *capsula* a little box, fr. *capsa* chest, case. See CASE a box.] **1.** A small case or repository. *Obs.*
2. A metallic seal or cover for the mouth of a bottle.
3. [F.] A percussion cap. *Rare.*
4. *Anat. & Zool.* **a** A membrane or saclike structure enclosing a part or organ, such as a capsular ligament, the membranous case of the eggs of certain mollusks, insects, etc. **b** Either of two layers or laminae of white matter in the cerebrum. The *internal capsule* consists largely of fibers passing to and from the cerebral cortex and lies internal to the lenticular nucleus; the *external capsule* lies between the lenticular nucleus and the claustrum.
5. *Bacteriol.* A gelatinous envelope surrounding the cell in certain bacteria, as the pneumococcus.
6. *Bot.* Any closed vessel containing spores or seeds; specif.: **a** In seed plants, a dry, dehiscent, usually many-seeded fruit composed of two or more carpels. See PYXIDIUM **a**, SILIQUE, FRUIT, *Table & Illust.* **b** In mosses, the spore sac of the sporogonium. Cf. THECA, 1 **a.**
7. *Chem.* **a** Formerly, an earthenware saucer for roasting or melting samples of ores, etc.; a scorifier. **b** A small shallow cup of porcelain, platinum, glass, or other material.
8. *Med.* A small cylindrical or spherical container of soluble or digestible material, usually gelatin, in which nauseous or acrid doses are enclosed to be swallowed.

Capsules, 6; *a* Datura; *b* Poppy; *c* Gentian.

cap'sule (kăp'sūl), *v. t.*; CAP'SULED (-sūld); CAP'SUL·ING (kăp'sū·lĭng). To furnish with, or enclose in, a capsule.
cap'sul·er (kăp'sū·lẽr), *n.* One that puts on capsules.
cap'su·li- (kăp'sū·lĭ-). = CAPSULO-, as in **cap'su·lif'er·ous** (-lĭf'ẽr·ŭs), **cap'su·lig'er·ous** (-lĭj'ẽr·ŭs), **cap'su·li·form'**. See -FEROUS, -GEROUS, -FORM.
cap'su·lo- (kăp'sū·lō-), **capsul-.** A combining form for *capsule*, as in *capsulorrhaphy*, the sewing up of a capsule. The meanings of the following may be inferred from the definitions of the second elements:

capsulitis	capsulopupillary	capsulotome
capsulociliary	capsulorrhaphy	capsulotomy
capsulolenticular		

cap'su·log'e·nous (kăp'sū·lŏj'ē·nŭs), *adj.* Producing a capsule.
cap'su·min (kăp'sū·mĭn), *n.* [*Capsicum* + *-in.*] *Biochem.* A red crystalline carotinoid pigment in Guinea pepper.
cap·tac'u·lum (kăp·tăk'ū·lŭm), *n.*; *pl.* -ULA (-lȧ). [NL., dim. fr. L. *captare* to snatch at, catch.] *Zool.* One of many small, ciliated, club-shaped, contractile filaments near the mouth in the Scaphopoda, apparently to seize food.
cap'tain (kăp'tĭn), *n.* [ME. *capitain*, fr. OF. *capitaine*, fr. LL. *capitaneus*, fr. *caput* head. See CHIEF; cf. CHIEFTAIN.] **1.** A chief or headman; one who leads or has authority over others; a leader. "The *captain* of their salvation." *Heb.* ii. 10.
2. Specif.: **a** A military leader or commander, as of a body of troops, a fortress, etc. **b** The foreman of a body of workmen; esp., the superintendent or manager of a mine; a man in charge of mining work. **c** A person having authority over others acting in concert; as, in sports, the leader of a side or team.
3. Any of several European gurnards.
4. *Mil.* **a** An officer of the army or marine corps ranking below a major and above a lieutenant. He usually commands a company, troop, or battery. In the United States Army his insignia are two silver bars at each end of his shoulder straps. **b** An officer commissioned with the title of captain for duty as a member of the military staff of a governor, governor-general, or similar civil official.
5. *Naut.* **a** The commanding officer, or master, of a vessel; — a title of courtesy. See MASTER MARINER. **b** A petty officer in charge of a portion of a ship's company; as, *captain* of a top or gun.
6. *Nav.* An officer who commands or is entitled to command a man-of-war. He ranks next above a commander and below a rear admiral, and with a colonel in the army or marine corps. In the United States Navy the insignia of a captain are a silver spread eagle on epaulets and four half-inch gold stripes on shoulder marks and the sleeves of blue uniforms.
cap'tain, *adj.* Chief; principal; head. *Obs.*
cap'tain (kăp'tĭn), *v. t.* To act as captain of; to lead. — *v. i.* To play the captain.
cap'tain·cy (kăp'tĭn·sĭ), *n.*; *pl.* -CIES (-sĭz). Action, rank, post, or commission, etc., of a captain; captainship.
captaincy general. The office, power, territory, or jurisdiction of a captain general.
cap'tain·ess (kăp'tĭn·ĕs; -ĭs; 119), *n.* A female captain.
captain general; *pl.* CAPTAINS GENERAL. **a** The commander in chief of an army or armies, or of the militia. **b** *Sp. Hist.* The governor or commander of a military division; also, the military governor of a Spanish colony; viceroy. — **cap'tain–gen'er·al·cy**, *n.*

captain lieutenant. Formerly, in the British Army, one having the rank and duties of captain but pay of lieutenant.
captain of industry. An entrepreneur; the head, president, or manager of a great industrial enterprise; — used in a popular, not a technical, sense.
captain of numbers. *Archery.* The contestant making the highest score.
captain of the fleet. In the British Navy, an officer of the rank of captain, or commodore, second class, serving on the staff of a flag officer, and in charge of staff work pertaining to maintenance of material.
captain of the yard. *U. S. Navy.* An assistant to the commandant of a navy yard. His duties embrace the nonindustrial activities of the station.
cap'tain·ry (kăp'tĭn·rĭ), *n.*; *pl.* -RIES (-rĭz). Captainship.
captain's biscuit. A fine grade of sea biscuit.
Captains Courageous. A romance (1897) by Rudyard Kipling, of adventure at sea off the Grand Bank.
cap'tain·ship (kăp'tĭn·shĭp), *n.* **1.** Condition, rank, post, or authority of a captain or chief commander.
2. Skill as a leader, esp. in war; as, good *captainship.*
3. One bearing the dignity of a captain. *Humorous.*
4. [Sp. *capitanía*, Pg. *capitania.*] A district under a captain.
cap·ta'tion (kăp·tā'shŭn), *n.* [F., fr. L. *captatio*, fr. *captare* to catch, intens. of *capere* to take.] A reaching after something, as favor or applause, esp. by flattery or address; the making of ad captandum appeals.
cap'tion (kăp'shŭn), *n.* [L. *captio*, fr. *capere* to take; cf. OF. *capcion*. In senses 3, 4, and 5, confounded in meaning with L. *caput* a head. See HEAVE.] **1.** Act of taking or seizing; seizure; specif.: **a** *Chiefly Scots Law.* Arrest, by legal process. **b** Formerly, the taking, by way of tax, by the sovereign of a percentage of goods exported.
2. A caviling; quibble; sophism. *Obs.*
3. The heading of a chapter, section, page, or article; the letterpress accompanying an illustration. *Chiefly U. S.*
4. *Journalism.* The headline of an item in a newspaper.
5. *Law.* That part of a legal instrument, as a commission, indictment, deposition, etc., which shows where, when, and by what authority, it was taken, found, or executed. It does not constitute a part of an indictment proper.
6. *Motion Pictures.* A subtitle; also, in a scenario, the inscription intended for a subtitle.
cap'tion, *v. t.* To provide with a caption.
cap'tious (-shŭs), *adj.* [F. *captieux*, fr. L. *captiosus*. See CAPTION.] **1.** Apt to catch one; calculated to entrap or entangle subtly; insidious; as, *captious* questions.
2. Apt to catch at faults; disposed to find fault or to cavil; eager to object; caviling; carping; as, a *captious* critic.
3. *Obs.* **a** Capacious. **b** Crafty. **c** Taking; alluring.
Syn. — Faultfinding, hypercritical, severe. — CAPTIOUS, CAVILING, CARPING, CENSORIOUS agree in the idea of faultfinding. One is CAPTIOUS who is apt to catch at faults (often on trivial considerations) and habitually hard to please; as "Old friends are *captious*, exacting" (*G. Meredith*); "Is it *captious* to say that, when Manoah's locks are called 'white as down,' whiteness is no characteristic of down?" (*Landor*). CAVILING implies a disposition to raise objections on frivolous grounds; as, "The coxcomb criticizes the dress of the clown, as the pedant *cavils* at the bad grammar of the illiterate" (*Hazlitt*); "envious sneers and petty *cavils*" (*id.*). CARPING (cf. CRITICAL) implies ill-natured, querulous, often perverse picking of flaws; as, "When I spoke, my honest homely words were *carped* and censured for want of courtly style" (*Dryden*); "Pedants . . . will ever be *carping*, if a gentleman or man of honor puts a pen to paper" (*Tatler*). CENSORIOUS implies a deliberate and settled spirit of faultfinding; as, "Another vice of age . . . is severity and *censoriousness*, that gives no allowance to the failings of early life . . . (*Rambler*). Cf. PEEVISH.
— **cap'tious·ly**, *adv.* — **cap'tious·ness**, *n.*
cap'ti·vate (kăp'tĭ·vāt), *v. t.*; -VAT'ED (-vāt'ĕd; -ĭd; 119); -VAT'ING (-vāt'ĭng). [L. *captivatus*, past part. of *captivare* to capture, fr. *captivus* captive. See CAPTIVE.] **1.** To capture; capture; hold captive; subdue. *Now Rare.*
2. To acquire ascendancy over by reason of some art or attraction; to fascinate; to charm; as, to *captivate* hearts.
Syn. — Transport, infatuate, enamor, ravish, enrapture. — CAPTIVATE, CHARM, FASCINATE, ENCHANT, BEWITCH agree in the idea of a strong attraction. To CAPTIVATE is to enthrall or capture the fancy by some special excellence, with no particular implication of magic influences; as, "just the hero to *captivate* a romantic girl" (*Irving*); *captivating* frankness. CHARM has lost its original connotation of magic, and implies simply the attractive power of that which gives delight; as, "there was a *charm* in his voice, a *fascination* in his eye" (*H. C. Robinson*); a *charming* woman. FASCINATE still suggests the exercise as it were of an irresistible spell, sometimes with implication of an effort to resist; as, "In the mighty calms that brood . . . over tropic latitudes, she *fascinates* the eye with a Fata Morgana" (*De Quincey*); a *fascinating* subject. In ENCHANT and BEWITCH the original connotation is frequently latent; *enchanting* commonly suggesting such compelling qualities as hold and bind, *bewitching*, such engaging graces as draw and allure; as, *enchanting* music; a *bewitching* smile. Cf. ALLURE, COAX. **Ant.** — Repel.
cap'ti·vate (-vāt), *adj.* [L. *captivatus.*] Captivated. *Archaic.* — **cap'ti·vate·ly**, *adv.*
cap'ti·vat'ing (-vāt'ĭng), *adj.* That captivates; charming; winning; as, *captivating* smiles. — **cap'ti·vat'ing·ly**, *adv.*
cap'ti·va'tion (-vā'shŭn), *n.* [L. *captivatio.*] **1.** Act of captivating or state of being captivated; — now only figurative.
2. Something that captivates or charms; a charm.
cap'ti·va'tive (kăp'tĭ·vā'tĭv), *adj.* Tending or fitted to captivate or fascinate.
cap'ti·va'tor (-vā'tẽr), *n.* One who captivates.
cap'tive (kăp'tĭv), *adj.* **1.** Made prisoner, esp. in war; held in bondage or in confinement; as, a *captive* bird, thrall.
2. Charmed; captivated.
3. Of or pertaining to bondage or confinement or to a captive; serving to confine; as, *captive* chains; *captive* hours.
cap'tive (kăp'tĭv), *n.* [F. *captif*, fr. L. *captivus*, fr. *capere* to take. See CAITIFF.] **1.** A prisoner taken by force or stratagem, esp. by an enemy in war; one kept in bondage or in the power of another; one held captive.
2. One captivated, as by beauty, excellence, or affection.
Syn. — See PRISONER.
cap'tive, *v. t.*; CAP'TIVED (-tĭvd); CAP'TIV·ING. [F. *captiver.*] To capture; to captivate. *Now Rare.*
captive balloon. A balloon restrained from free flight.

cap·tiv'i·ty (kăp·tĭv'ĭ·tĭ), *n.*; *pl.* -TIES (-tĭz). [L. *captivitas*; cf. F. *captivité.*] **1.** State of being a prisoner.
2. Subjection of the will or affections; mental thralldom.
Sink in the soft *captivity* together. *Addison.*
3. A body of captives, collectively.
Lighted the cheek of lean *captivity.* *Shelley.*
4. [*cap.*] Short for BABYLONIAN CAPTIVITY (in either sense).
Syn. — Imprisonment, confinement, duress, subjection, servitude, slavery, thralldom, serfdom.
cap'tor (kăp'tẽr; -tôr), *n.* [L., a catcher (of animals), fr. *capere* to take.] One who has captured any person or thing.
cap'ture (kăp'tūr), *n.* [F., fr. L. *captura*, fr. *capere* to take. See CAITIFF; cf. CAPTIVE.] **1.** Act of seizing by force, or getting possession of by power or by stratagem; as, the *capture* of an enemy or a criminal.
2. A thing so taken; a prize; prey.
3. The natural diversion of one stream into the channel of another; stream capture; stream piracy.
Syn. — Seizure, apprehension, arrest, detention.
cap'ture, *v. t.*; CAP'TURED (-tūrd); CAP'TUR·ING (-tūr·ĭng). **1.** To take captive; to seize or take possession of by force, surprise, or stratagem; to overcome and hold; to secure by the exercise of effort, skill, or ingenuity against competition or opposition; as, to *capture* a city, a prize.
2. To win, as a trick, checker, or pawn.
3. To divert into its own channel; — said of a stream which gathers to itself another stream.
cap'tur·er (-tūr·ẽr), *n.* One who or that which captures.
capture theory. *Astron.* Theory that groups of periodic comets were forced from original parabolic orbits into elliptic orbits by the attractions of larger planets, esp. Jupiter.
Cap'u·an (kăp'ū·ăn), *adj.* Of or pertaining to Capua, an ancient city of Italy noted for luxury.
ca·puche' (kȧ·pōōsh'; -pōōch'), *n.* [F. *capuche*, *capuce*, fr. It. *cappuccio*, fr. *cappa* cloak. See CAP, 2d C[…].] A hood; a cowl, esp. of a Capuchin. — **ca·puched'** (-pōōsht'; -pōōcht'), *adj.*
Cap'u·chin (kăp'ū·chĭn; kăp'ū·shēn'), *n.* [F. *capucin*, *capuchin*, fr. It. *cappuccino*, fr. *cappuccio* hood. See CAPUCHE.] **1.** *Eccl.* A Franciscan monk of the austere branch established in 1526 by Matteo di Bassi, an Observantine of Montefalco, Italy, and sanctioned as a separate congregation by a bull of Clement VII in 1528. These monks wore a long pointed cowl, following the garb of St. Francis.
A barefooted and long-bearded *Capuchin.* *Scott.*
2. [*not cap.*] **a** A capuche. **b** A garment for women, consisting of a cloak and hood, resembling the habit of Capuchin monks.
3. [*not cap.*] **a** A long-tailed South American monkey (*Cebus capucinus*), ha[…] forehead naked and wrinkled, with the […] on the crown reflexed and resembling a monk's cowl. **b** Any monkey of the genus *Cebus.* **c** A variety of the domestic pigeon having a hoodlike tuft of feathers on the head and neck.

Capuch[…]

capuchin capers. **a** The seed pods of the garden nas[turtium] *Tropaeolum majus*, used for pickles. **b** The pod[s of] the caper spurge, similarly used; — called also *Eng[lish] capers.* *Eng.*
Capuchin cross. A form of cross having a ball or dis[k at] the end of each arm.
Capuchin nun. One of an austere order of Franciscan n[uns] under Capuchin rule founded by Maria Longa.
cap'u·cine (kăp'ū·sĭn; -sēn; *F.* kȧ'pü'sēn'), *n.* [F.] **a** [The] nasturtium *Tropaeolum majus.* **b** Canary yellow.
cap'u·cine buff (kăp'ū·sĭn; -sēn). A color, yellowish yellow in hue, of medium saturation and very high brilli[ance]. Cf. COLOR.
capucine lake. A color, reddish red-yellow in hue, of [h]igh saturation and high brilliance. It is redder and of h[igher] saturation than capucine madder. Cf. COLOR.
capucine madder. A color, red-yellow in hue, of high s[atu]ration and high brilliance. Cf. CAPUCINE LAKE.
capucine orange. A color, red-yellow in hue, of high s[atura]tion and high brilliance. It is redder and of lower satu[ration] than capucine yellow and cadmium yellow. Cf. CO[LOR].
capucine red. A color, red-yellow in hue, very slight[ly] lower and of very slightly higher saturation and bri[lliance] than Chinese orange. Cf. COLOR.
capucine yellow. A color, red-yellow in hue, of hig[h satu]ration and high brilliance. It is redder and of lower [satura]tion than cadmium yellow. Cf. CAPUCINE ORANGE, C[OLOR].
Ca·pu'cius (kȧ·pū'shŭs; -shĭ·ŭs), *n.* Spanish amb[assador] in Shakespeare's *Henry VIII.*
Cap'u·let (kăp'ū·lĕt), *n.* In Shakespeare's *Romeo and Juliet*, head of a noble Veronese house and father of Juliet, jovial, but high-tempered old man. Cf. MONTAGU[E].
ca'pu·lin' (kä'pōō·lēn'), *n.* [Sp. *capulí.*] **a** A [...] Mexican tree (*Prunus capuli*), yielding edible [...]. The kernels of the pits furnish a flour; the sap is [...] making native remedies. **b** A tropical Ameri[can] (*Trema micrantha*). Its bark yields a strong fiber[.] **d** A Mexican ground cherry *Physalis pubescens*. [...] tree (*Condalia obovata*). Its hard wood furnishes a [...]
‖**ca'put** (kā'pŭt; kăp'ŭt), *n.*; *pl.* CAPITA (kăp'ĭ·t[ȧ]). **1.** *Anat.* A head or kno[b]; the head. See CHIEF.] **1.** *Anat.* A head or knob, as of a bone, a muscle, the colon, etc.; tuberance, as of a bone, a muscle, the colon, etc.
2. The top or superior part of a thing.
3. A division; section; paragraph; chapter.
4. The council or ruling body of the University [of Cam]bridge, England, prior to the constitution of 18[56].
5. *Roman Law.* Legal status, or the standing [of an indi]vidual in relation to contracts, crime, the givin[g of testi]mony, and other legal matters.
‖**ca'put ge'rat lu·pi'num** (kā'pŭt jē'răt lū·pī'n[ŭm]) [L.] Let him bear a wolf's head, that is, [...] like a wild beast; — formerly used in decreeing o[utlawry].
ca·pu'ti·um (kȧ·pū'shĭ·ŭm), *n.*; *pl.* -TIA (-shĭ·ȧ). A hood; also, a hooded cloak.
‖**ca'put Me·du'sae** (kā'pŭt mē·dū'sē; kăp'ŭt). [...] of Medusa.] *Med.* A circle of dilated veins arou[nd the um]bilicus, indicating obstruction to the portal cir[culation].
‖**ca'put mor'tu·um** (môr'tū·ŭm). [L., dead h[ead]] death's-head; a skull.
2. a *Old Chem.* The residuum after distillation [...]tion; hence, worthless residue. **b** A red iron-o[xide] made by calcining iron sulphate; — called, spe[cifically], **mor'tu·um vi·tri'o·li** (vĭ·trĭ'ō·lī).
3. In historical research, the residuum of a tr[...]

cap'stan-head'ed, *adj.* See [STAN.] -HEADED.
cap'stern, cap'storm. † CAP-
cap'string. Corrupt. of CAPSTAN. *Obs.*
cap'su·lar'y (kăp'sū·lẽr'ĭ; -lẽr·ĭ), [*adj.* Capsular. *Obs.*]
capsule of Bowman. = BOWMAN'S CAPSULE. See KIDNEY.
capsule of Glisson. = GLISSON'S CAPSULE.
cap'sule of Te·non' (*F.* tē·nôN'). *Anat.* = TENONIAN CAPSULE.
capt. Capped. *Ref. Sp.* [CAPTAIN.]
Captain Cuttle. See CUTTLE.
cap'taind. Captained. *Ref. Sp.*
cap'tain·ly, *adj.* See -LY.
cap'tance (kăp'tăns), *n.* = CAPACITIVE REACTANCE. See REACTANCE.
cap'tif. † CAPTIVE.
cap'tiv. Captive. *Ref. Sp.*
cap·ti'vance (kăp·tī'văns), *n.* Captivity. *Obs.*
cap'ti·va'trix (kăp'tĭ·vā'trĭks), *n.* Fem. of CAPTIVATOR.
cap'tress, *n.* Fem. of CAPTOR.
cap'tur·a·ble, *adj.* See -ABLE.
ca·puc'cio (kȧ·pōōt'chō), *n.* [It. *cappuccio.*] A capuche. *Obs.*
cap'u·cine (kăp'ū·sĭn; *F.* kȧ'pü'sēn'), *n.* = CAPUCHIN, 3 a.
capul, capull. † CAPLE.
cap'u·let, *n.* = CAPELLET.
ca'pu·li' (kä'pōō·lē'). Var. of CAPULIN.
ca'pun. † CAPON.
‖ca'put co'li. [NL.] = CAECUM [...]colon.]
‖ca'put in'ter [...] [L.] among the clouds.
‖ca'put lu·pi'num [...] CAPUT GERAT LUPINUM.

AR001409

b To strike or affect so as to render of a particular condition; — used in the passive; as, *taken* ill, blind, hoarse; *taken* down with pneumonia. c To strike; to hit; as, the blow *took* him on the arm; to *take* one a box on the ear. d To catch hold upon or grip; to engage; as, the oars *took* the water together; a vessel *takes* the ground (that is, touches bottom). e To catch or come upon (one) in a particular situation or action; as, to *take* one in the act; he was *taken* unawares. f To capture the fancy of; to charm or delight; as, to take one's eye or one's fancy; he was much *taken* with her; to catch and hold (the attention). g To attack through magical or supernatural forces; to cast a spell on; to use malign influence over.

He blasts the tree and *takes* the cattle. *Shak.*

h *Obs.* To interrupt or check. *Sidney.*

5. To obtain by deriving (from a source); to derive; as, to *take* a name, title, text, or characteristic, from a person or thing; specif.: a To extract and use; to borrow for quoting or adapting; as, to *take* a line or a plot from Shakespeare. b To infer; to deduce; as, arguments *taken* from false premises.

6. To obtain by removing; to abstract; as, to *take* eggs from a bird's nest. Hence, to remove or abstract in various senses: a To substract; as, to *take* two from four. b To remove from life; to cause to die; as, he was *taken* in the prime of life; *taken* hence.

And he was not; for God *took* him. *Gen.* v. 24.

c To put an end to (life or one's life).

7. To secure by arranging or negotiating, as a peace, truce, or league; to conclude. *Obs.* *Shak.*

8. To obtain or ascertain by inquiry, examination or the like; as, to *take* the sense of the senate; to *take* a census; hence, to obtain by observation, measuring, or judging; as, to *take* the temperature or the dimensions of a room; to *take* one's measure; also, to measure or observe; as, to *take* the height of the sun.

9. To pick out; to select or choose; as, to *take* the road to the right; to *take* a man at venture from a group.

10. To make one's own or espouse, as another's part or side; to align oneself with, as a party or side.

11. To indulge in and enjoy; as, to *take* one's ease, a rest, a holiday, a taste, etc.

12. To avail oneself of (something) for use; to have recourse to and use; as, to *take* the first opportunity; to *take* all the time needed; to *take* a path or one's way, a course, or a wide circle. Specif.: a To employ; to use as a means of transportation; as, to *take* ship; to *take* severe measures. b To have recourse to, for safety or refuge; to reach or gain as assuring safety; as, a harbor easily *taken* in a storm; to *take* refuge, shelter, sanctuary, earth, etc. c To enter and swim in, embark upon, or be launched in (the water). d To proceed to occupy; as, to *take* a chair or one's place; to *take* the field, that is, to open a campaign or athletic contest on a field. e To apply oneself to and treat or deal with; to undertake to do, overcome, etc.; as, to *take* a disease in time; to *take* problems one by one; to apply oneself to the study of, as music lessons. f To consider or view in a certain relation; as, *taking* one poet with another; these facts *taken* together are significant; also, to consider as an instance.

He was a man, *take* him for all in all,
I shall not look upon his like again. *Shak.*

g To apply oneself to getting through or past or surmounting, as a hedge or hurdle; to succeed in clearing, as a difficulty or obstacle. h To use, consume, or occupy; as, to *take* little room. i Hence, to require; to call for or need; as, it *takes* time and brains to do good work; he *takes* a large-sized coat.

13. To assume; to adopt or lay hold of for oneself. Specif.: a To assume (a property or attribute); as, butter often *takes* the flavor of other substances near it; a word *takes* a new meaning. "The distance *takes* a lovelier hue." *Tennyson.* Also, to assume an attribute of; as, to *take* the mold. b To absorb or become impregnated with or affected by; as, cloth *takes* a dye; some paper *takes* ink better than others; the ability of a fabric to *take* the dope; granite *takes* a high polish. c To catch or contract (a disease, etc.); to be affected injuriously by; as, to *take* cold; to be seized by; as, to *take* fright, alarm. d To assume (a task, duty, or responsibility); to undertake and perform or exercise; as, to *take* charge or office; to *take* part or pains; to *take* a hand in settling the strike; to *take* the class in arithmetic. e *Obs.* To affirm or promise under (oath or an oath); hence, to swear or affirm; — with *it;* as, to *take* it upon one's death. f To adopt or advance as one's fundamental point of argument or defense; as, to *take* one's stand on judicial incorruptibility; a point well *taken*. g To assume (anything denoting an office or function); as, to *take* the veil, the crown. h To assume as one's own; as, to *take* the liberty. i *Gram.* To admit of; to have or assume as the proper one; to be formed or used with; as, to *take* an accent or ending, tense forms, or the subjunctive; as, the verb *takes* an object or the accusative.

14. To assume at the point of leaving off or to resume, as a tale.

Queen Juno . . . *took* her tale again. *Surrey.*

15. To bring or receive (one) into a relation or connection; as, to *take* a wife; to *take* a person into the firm or into one's confidence; to *take* pupils or lodgers. Hence, *Colloq.*, to receive into one's household for provision and care or to adopt, as a brother's children or a father.

16. To introduce or receive into one's body; to swallow, inhale, or the like; as, to *take* food, drink, gas, snuff, or medicine; to expose oneself to (sun, air, etc.) as for physical benefit.

Or *take* the rising wind
About my face and body and through my wrapper. *Robert Frost.*

17. To receive or accept; as, to *take* no denial; to *take* a wager; to receive or accept in a manner specified by an idiomatic adverb or adverbial phrase; as, he *takes* the news ill; to *take* ridicule in good part.

I wish dogs would n't *take* us so seriously. *Dorothy Canfield.*

Hence, specif.: a To accept for guidance; to follow; as, to *take* advice, warning, a hint, etc. b To accept as true; to believe; as, to *take* one's word for it; to *take* it from one who knows. c To exact, as a promise or oath; to tender or witness, as an oath, affidavit, deposition, etc. d To receive when bestowed upon one, as an office or honorary degree. e To receive or accept as pay, satisfaction, recompense, or the like; as, he will *take* ten dollars a week. f *Slang.* To accept (a wager) offered by.

18. To submit to; to undergo; to endure; as, to *take* a blow or punishment; to *take* no affront; to *take* treatment for tuberculosis; to *take* the consequences; to *take* a loss, grief, abuse, etc., lying down, that is, to endure passively or submissively. Specif.: a To undergo without yielding; to resist successfully; to withstand; as, to *take* the torque; a pen that will *take* hard usage. b To admit; to allow to enter; as, the shelf just *takes* the books. c To receive (the male animal) in copulation; to be covered by. d To receive into itself; as: (1) *Obs.* To include; contain. (2) *Scot.* To close in upon or submerge; as, *taken* up to one's head.

19. To receive into the mind; to apprehend; comprehend; understand; as, his hearers were slow to *take* his meaning; hence, to apprehend the meaning of (a person).

My dear friend, you don't *take* me. *Steele.*

20. Hence: To regard or look upon; to interpret; to consider or suppose; to understand to mean; as, to *take* a remark in the right sense; *taken* as irrevocably bound; I *take* it that he approves.

21. To convey or carry; to conduct or lead; as, a vehicle or road *takes* a person to town; *taken* off to prison. Hence: a To lead, convey, or remove, in thought or mind; as, the journey *took* his mind off his troubles. b To cause or require to go; as, business *took* him to Chicago.

22. To give, offer; deliver; surrender. *Obs.*

Who *took* thee this letter? *Udall.*

23. To commit; to devote; to betake; — used reflexively.

24. To begin to feel or experience; to form and adopt with the will or mind; to form in mind and exercise or indulge in; as, to *take* offense, courage, pride, or care; to *take* a fancy or dislike.

25. To undertake and make, do, or perform; — used with a noun object containing a verbal idea, as action or movement; as, to *take* a walk, to walk; to *take* a resolution, to resolve to *take* aim or counsel or a look or stand; demand *took* a spurt. Specif.: a To say or bid; as, to *take* adieu; to *take* a last farewell. b To *write down* (notes, an attendance record, etc.); to record (a speech), sometimes in shorthand; as, to *take* an inventory; to *take* a speech; also, to record the words of; as, the stenographer *took* the first speaker. c To draw or paint (a picture); to represent or portray in any artistic form (a figure, scene, etc.); to make a photograph of; to photograph; as, to *take* likenesses; to *take* a snapshot. d *Colloq.* To direct and make a specified motion such as a blow or initial attempt; as, to *take* a shot, shy, swing, etc., at someone or something; to *take* another try at an examination.

26. *Scot.* a To shut, as a door. b To bethink (oneself).

—, *Intransitive:* **1**. To lay hold; to take root or begin to grow, as a seed or shoot; to unite successfully, as a bud or graft in plant propagation or a surgical graft.

In red earth eke a vine is hard to *take.* *Palladius.*

2. To obtain possession; to capture; as, the queen in chess *takes* at any distance in a straight line.

3. To have the natural or intended effect or action; to take effect; to operate; act; as, the vaccine or the vaccination did not *take*. Specif.: a *Now Rare.* To catch or get hold; esp., to begin to burn; to kindle; as, the spark *took* quickly. b *Now Rare.* To work out successfully, as a plan. c *Obs.* To turn out or result. d *Colloq.* Of fish, to rise to bait; to bite.

4. To charm; specif.: a *Obs.* To exert a spell.

No fairy *takes*, nor witch hath power to charm. *Shak.*

b *Colloq.* To prove taking or attractive; to gain a favorable reception; to win popular favor; as, a book or a play *takes.*

5. To show the natural or intended effect, as of fire, cold, or wind; to become affected, as by adherence, absorption, inoculation, etc.; as, dry fuel *takes* readily; whether the guinea pigs *take.*

6. To be, or admit of being, taken, in any sense; specif.: a *Now Chiefly Dial.* To be seized or attacked so as to become; as, to *take* sick. b To be capable of being taken or moved in a specified way; as, the parts *take* off; a doll with clothes that *take* off; the device *takes* to pieces. c To adhere or be absorbed; as, ink that *takes* well on cloth. d *Colloq.* To admit of being photographed; as, he *takes* well.

7. To detract; as, it *takes* greatly from the pleasure.

8. To betake oneself; to proceed; strike out; set out; go; as, to *take* to the boats; to *take* over the hill or after someone. Also, *Chiefly Dial.*, to take its course to run or lead, as a river or road.

Whan they were well fested, they *toke* on their waye. *Caxton.*

9. *Law.* To receive property as one's own; to receive the title to property; as, he *takes* as heir.

10. *Naut.* To come to rest or into position or contact.

Syn. — TAKE, RECEIVE, ACCEPT. TAKE, the general word, may or may not imply a tender or offer of that which is taken; to RECEIVE is to take something which is offered or presented; to ACCEPT is to receive with assent or approval, or in the spirit or under the terms of the offer; as, to *take* a letter from a pile; to *receive* a letter from a friend; to *accept* an invitation, a position; "This is a moral that runs at large; *take* it" (*Holmes*); "Freely ye have *received*, freely give" (*Matt.* x. 8); "Broome then offered his service a second time, which was probably *accepted*" (*Johnson*). Cf. ADOPT, ACCEPTANCE. **Ant.** — Give; reject, refuse.

take aback. To check, or, esp., to confound or astonish, suddenly; as, he was *taken aback* by the news. See ABACK, *adv.*, 3.

take a back seat. To give way or retire in favor of another. *Colloq.*

take about. a *Scot.* To take care of; see to. b *Colloq.* To escort publicly to various places of entertainment.

take a bow. *Theater.* To bow in acknowledging applause.

take a brace. To brace up. *Colloq.*

take account of or into account. To take into consideration; to notice. "*Of* their doings, God *takes* no *account.*" *Milton.*

take a chance or one's chances. To leave the outcome entirely to chance; to trust one's fortunes in a particular venture to mere chance; as, to *take a chance* on his paying or on the payments.

take a dare. a To be dared to do a thing and to attempt it. b To be dared to do a thing and not to attempt it.

take advantage of. To profit by; also, to overreach, esp. by a betrayal of a confidence, or unfairly.

take after. To resemble in features, build, disposition, etc.; as, the son *takes after* his father.

take a joke. To endure a joke at one's expense; as, to *take a joke* well or ill.

take amiss. Orig., to mistake; hence, to impute a wrong motive or bad meaning to; to take offense at; as, you must not *take* these questions *amiss.*

take and. An idiom, now chiefly dialectal, used redundantly with a following verb; as, he *took and* robbed the house.

take a reef. To reduce sail by reefing; hence, to proceed more cautiously; to curtail expenses or activities.

take arms. To commence war or hostilities.

take away. a To remove; to cause deprivation of; as, to *take away* the right to vote. b To clear away a meal from the table. c To detract, often to a specified extent, as from merit or effect.

take back. a To resume possession of. b To withdraw; to retract. c To carry back in recollection.

take breath. To stop, as from labor, in order to breathe or rest.

take by storm. To carry by assault; hence, to carry away or win immediately to overwhelming applause, as

artistic excellence or force of eloquence, as an audience or convention.

take care. To be careful, cautious, prudent, etc.; — often in the imperative, Look out! Beware!

take care of. a To attend to the needs, operation, or treatment of; to provide for. b To watch out for or guard. c *Colloq.* To dispose of; deal with.

take charge. To assume control or command; specif.: *Naut.* a To come up into the wind in spite of the helmsman; — of ships. b To move out of control, as the anchor chain *takes charge* and runs out.

take croquet. To croquet a ball.

take down. To bring down; specif.: a To pull down or to pieces, as a building or a scaffold. b To take apart or to pieces, as a motor. c To distribute (type). d To swallow, as a potion. e To escort (a lady) to dinner. f To lower the spirit or vanity of; to abase or humble; as, to *take down* pride, or the proud. g *Colloq.* To reduce in strength; to lay low; as, *taken down* with fever. h *Dial. Eng.* To reduce in flesh; to emaciate; as, he is sorely *taken down* with that disease. i To withdraw (what is put up or pledged) from a bet. j To record or to write down, as a man's words.

take effect. To have effect; to become operative.

take example. To use as an example or warning.

take fire. To be set afire; hence, to become heated or excited with anger, zeal, or the like.

take for. a To suppose to be; — often with implication of error; as, to *take* one *for* a fool. b *Obs.* To understand to mean.

take for granted. To assume as fact or as granted to certain to be willingly bestowed.

take from the table. In parliamentary usage, to call up (a report, motion, etc.) for consideration, from the table of the presiding officer. See *on the table*, under TABLE, *n.*

take ground. *Mil.* To extend the line; to move; as, let the artillery *take ground* to the left.

take head or a head. To rush forward; begin running. *Obs.*

take heart. To gain confidence or courage; to be encouraged.

take heart of grace. To take courage.

take hold. To grasp or obtain hold; hence, to assume control, management, or possession (physical, emotional, imaginative, etc.); — esp. with *of* or *on.*

take horse. To set out on horseback; to mount and ride horseback.

take in. a To admit; receive; as, a leaky vessel will *take in* water. b To receive as guest or inmate; also, to escort (a lady) from a drawing room to dinner. c To receive at one's house, as work; as, to *take in* washing. d *Obs.* To win by conquest. e To receive into the mind. f To take note of; to observe keenly; as, the child sat *taking* it all *in.* g *Chiefly Eng.* To receive regularly, as a periodical. h To draw into a smaller compass; to contract; to brail or furl; as, to *take in* sail. i To encompass or embrace; to comprise; comprehend. j To include in one's itinerary or visit; explore, attend, or visit in seeing the sights. k To enclose; fence; annex; also, *Dial. Eng.*, to break up by digging or plowing for the first time. l To cheat; deceive; impose upon. m *Southern U. S.* To open or commence, as church service.

take in hand. a To attempt or undertake, as a piece of work. b To seize and deal with; as, he *took* the obstreperous child *in hand.*

take in, or to, pieces. To separate into component parts; to analyze.

take into. To take to; to apply or give oneself up to.

take into account or consideration. To make allowance in judging for (a condition or fact).

take into one's head. To conceive as a sudden notion, to be seized with the idea, or to form a sudden resolve; as, he *took it into his head* to write an account of his experience.

take in vain. To use (a name) lightly or profanely. *Ex.* xx. 7.

take in with. To make terms or take sides with. *Obs.*

take issue. To take up the opposite side or view; to join issue; as, to *take issue* with a person or with a conclusion.

take it easy. To give oneself ease or unconcern; to be in no hurry.

take it in snuff. To be angry or offended. *Shak.*

take it or leave it. Accept or reject unconditionally. *Slang.*

take it out of. *Colloq.* a To get satisfaction or exact penalty from. b To take the energy out of.

take it out on. To expend one's anger, vexation, or the like, in harassment of (another). *Colloq.*

take kindly to. To feel a natural attraction toward or an inclination or willingness to accept or adopt.

take leave. See 1st LEAVE, *n.*, 2.

take measures. To make preparations; to provide means.

take notice. To look about one with attention. *Colloq.*

take notice of. To perceive especially; to observe or treat with special attention; also, to comment or remark upon.

take oath. To swear with solemnity, or in a judicial manner.

take of. = TAKE AFTER, above. *Dial.*

take off. To take away from some position or condition. In specific senses: a To remove, as one's hat or garment. b To deduct, as discount. c To pick up and take along from a ship, island, etc. d To drink down, as a draught. e To deter or distract. f To put an end to or remove, as the chill of a room. g To take the life of. h To withdraw from service, as an employee or a train. i To remove the burden of, as a tax. j To reproduce or copy from some original; as, to *take off* another hundred copies. k To take a likeness of. l *Colloq.* To mimic or burlesque.

I am told Foote means to *take me off*, as he calls it. *Boswell.*

m Of knitting, to close (stitches). n To prepare; as, to *take off* a trial balance of the ledger. o To determine or calculate, as quantities with a calculating machine. p To cause lessening or subtraction, as from the value of anything; to detract. q To lessen or abate, as a breeze. r To be removable. s To start off or away suddenly. t *Sports.* To begin a leap or spring, as a jumper, hurdler, or vaulter. u Of an airplane or bird, to leave the surface of the land or water; to begin flight.

take off the whips. *Politics.* In the House of Commons, to release members of a party from obeying its whip and to allow them to vote as they please on a question under discussion.

take on. a *Obs.* To put on, as clothing. b To add (flesh). c To take aboard. d To take or assume, as an appearance, quality, or function. e To assume, as an added responsibility; to arrogate; as, to *take on* a character or dignity. f To under... new job or an opponent. g To engage or hire, as more hands; to receive into membership. h *Scot.* To get into debt for; to obtain on credit. i *Colloq.* To show one's feelings demonstratively; esp. grief or anger; to behave or talk excitedly or

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tily; to put on airs. **k** To engage oneself for service, esp. military or domestic service; also, to associate or consort. **l** *Colloq., Eng.* To find acceptance, esp. popularity; to make a hit.

take one at his word. To accept implicitly what one says; — usually with the implication of action in accordance; as, *I took* him at his word and left him alone.

take one's ease in the bed. To take to bed, as by reason of illness; to go to bed. *Scot. & Dial. Eng.*

take one's breath away. To make one breathless from excitement or emotion, esp. astonishment.

take one's death. To expose oneself to death, as by catching cold or some disease. *Dial.*

take one's dick. To take one's declaration. See 3d DICK. *Slang.*

take one's head off. = *bite one's head off*; under BITE.

take one's life in one's hand. To risk one's life deliberately.

take one's medicine. To submit to punishment, a curative process, or the like.

take one's time. To be leisurely about some action. *Colloq.*

take on one. = *take upon one*, below.

take order. To take suitable measures; to make arrangements. *Archaic.*

> Whiles I *take order* for mine own affairs. *Shak.*

take orders. **a** To receive directions or commands. **b** *Eccl.* To enter some grade of the ministry. See ORDER, *n.*, 21 b.

take out. To remove from within a place; hence, to remove, in various senses; as: **a** To separate; deduct; as, *take out* five from the sum. **b** To remove or draw out by cleansing, etc.; as, to *take out* a stain. **c** To except or omit. **d** To obtain from the proper authority for oneself; as, to *take out* a patent. **e** To put an end to; as, to *take* the conceit *out* of a man. **f** To escort; as, to *take out* to dinner. **g** To take as an equivalent; as, he *took* what remained of the debt *out* in goods. **h** *Obs.* To copy. **i** To unhitch. **j** *Bridge.* To overcall (one's partner), as by a conventional overcall of one in a suit of lower value, in order to indicate one's inability to assist in his declaration and in general the weakness of one's own hand.

take out of wind (or winding). *Mach.* To true up to a plane surface, as a warped board.

take over. To succeed to the management of; take control of.

take part. To share; join; as, they *take part* in our rejoicing.

take place. **a** To come to pass; occur; as, the ceremony will not *take place*. **b** To take precedence or priority. **c** *Archaic.* To take effect, as a blow; to prevail.

> If your doctrine *takes place*. *Berkeley.*

take root. = *strike root*, under STRIKE, *v.*

take shame. To feel ashamed or blameworthy; to acknowledge one's fault.

take shape. To assume a definite form.

take shipping. To embark. *Archaic.*

take short. **a** To catch by surprise, esp. unprepared. **b** = *cut short*, under CUT.

take silk. To become a king's or queen's counsel; — from the silk gown worn by such. *Brit.*

take stock. To take account of stock; to make an inventory; hence, with *of*, to make an estimate or appraising survey.

take stock in. **a** To subscribe for, or purchase, shares in (a stock company). **b** *Colloq.* To put faith in; to accept as trustworthy; as, *take* no *stock in* a person's promises.

take the air. **a** To walk or ride out in the open air. **b** *Falconry.* To seek to escape by trying to rise higher than the falcon. **c** To ascend or travel by aircraft.

take the back track. To retrace one's steps; to retreat. *Colloq.*

take the bull by the horns. To grapple with a difficulty. *Colloq.*

take the cake, or bun. To carry off the prize, orig. in a cakewalk; to rank first. *Slang.*

take the count. *Boxing.* To remain down while the referee completes a count of ten seconds; hence, to be defeated.

take the cross. See CROSS, *n.*, 4 c.

take the dods. To get oneself in a sulk or rage. See DOD, *n.*

take the drunt. To take offense. *Scot.*

take the field. **a** To go upon the playing field, as a football team. **b** *Mil.* To enter upon a campaign.

take the floor. **a** To rise to make a more or less formal address, motion, or the like. **b** *Dial.* To stand up to dance.

take the rap. To suffer the penalty for a crime, esp. to serve a prison sentence. *Slang.*

take the reins. To assume control.

take the road. **a** *Colloq.* To begin traveling; specif., to become a vagabond or tramp; to lead a gypsy life. **b** To engage on a round of performances from town to town; — said of a theatrical troupe.

take the stage. In a performance, to draw to oneself the attention of the audience.

take the sun. *Naut.* To observe the sun's altitude with a quadrant or sextant for purposes of navigation.

take the wind out of one's sails. To sail to windward of a sailing vessel and so cut off the wind; hence, to frustrate one by anticipating his arguments, forestalling his moves, etc.

take the words out of one's mouth. To utter the exact words about to be used by another.

take time by the forelock. To make prompt use of anything; not to let slip an opportunity.

> Time is painted with a lock before and bald behind, signifying thereby that we must *take time by the forelock*; for when 't is once past, there is no recalling it. *Swift.*

take to. **a** *Now Dial.* To take in hand; to care for; to become attached to; as, to *take to* books. "If he does but *take to* you, . . . you will contract a great friendship with him." *Walpole.* **b** To betake oneself to; to have recourse to some specified means of progression or place of refuge; as, to *take to* one's heels, the boats, the woods or the heather (for hiding). **c** To begin to apply oneself to as a regular practice, occupation, or habit, as to begging or to drink. Cf. TAKE, *v. i.*, 8. "Men of learning, who *take to* business, discharge it generally with greater honesty than men of the world." *Addison.* **d** To take a liking to.

take to heart. To be deeply affected by; to feel deep concern or grief over.

take to task. **a** *Obs.* To undertake as one's special work; to challenge to a feat; to deal with. **b** To call to account for some shortcoming; to reprove.

take toy. To become restive from fright; — said of a horse. *Obs. Shak.*

take up. **a** To lift; raise; to pick up. "*Take* her *up* tenderly." *Hood.* **b** To remove by pulling up from a settled position, as a carpet or a pavement. **c** To carry aloft, as in an elevator; hence, to elevate, as science into philosophy. **d** To lift with the intention of using, as a pen or cudgel. **e** To allow to mount; to take aboard. **f** To begin; as, to take up a lamentation; to enter upon, as a profession or subject of study. Specif., to resume, or to resume a discourse, where another left off; as, he paused and she *took up* the tale. **g** To take possession of; to assume; to adopt as one's own; as, to *take up* the quarrels of our neighbors; to *take up* current opinions; to take in hand for practical dealing. **h** To receive, accept, or adopt for the purpose of assisting; to lend one's favor and support to; to adopt as an associate; to proceed to patronize or lionize. **i** To engross; employ; to occupy or fill, esp. so as to obstruct; as, to *take up* time or room; to engross the attention of; — used in the passive; as, *taken up* with the farm. **j** To gather up, as a collection, or formerly, soldiers. **k** To collect; to exact, as a tax; as, to *take up* a contribution. "*Take up* commodities upon our bills." *Shak.* **l** To seize or arrest; to take into custody; as, to *take up* a thief. **m** To gather together and fasten; as, to *take up* raveled stitches. **n** *Colloq.* To buy or borrow; as, to *take up* goods to a large amount; to *take up* money at the bank. **o** To check by reproof, dissent, or the like; to reprimand. **p** To accept mentally; now, usually, specif., to accept the proposal of, as a wager or a person wagering. **q** To pay the amount of, as a note or loan; to pay in full for, as stock bought on a margin. **r** To remove, as by adjustment of parts; as, to *take up* lost motion, as in a machine bearing; also, to make tight, as by winding or drawing; as, to *take up* slack thread in sewing; to tighten, as a girth; to tie up, as an artery. **s** *Obs.* To understand; comprehend. Hence, to understand or get the point of. **t** *Obs.* To make up or settle, as a quarrel. **u** *Obs.* To cope with. *Shak.* **v** To check or bring to a stop. Also, *Dial.*, to come to a stop; to stop short some bad practice. **w** To close up of itself, as a leak. **x** *Dial.* Of the weather, to clear.

take upon one. **a** To accept as a charge or as binding upon oneself; to make oneself responsible for; as, to *take upon oneself* an office or penalty. **b** To assume as one's own privilege or part; to undertake; — often with an implication of presumption; as, he *took* it *on him* to speak for the whole faculty. **c** *Obs.* To pretend. *Shak.* **d** *Obs.* To put on airs.

take up the gauntlet or glove. To accept a challenge.

take up the hatchet. To make or declare war; — a phrase derived from the practice of the American Indians. *Cf. bury the hatchet*, under BURY.

take up with. **a** *Chiefly Dial.* To be or become interested or absorbed in. **b** *Colloq.* To begin to associate with, esp. in courtship. **c** *Archaic.* To give assent to or espouse. **d** To receive without opposition; to accept; to put up with; as, *to take up with* plain fare.

take vent. To become known or leak out. *Obs.*

take wake. To let one's boat fall into the wake of another.

take water. **a** To enter the water, as a waterfowl; formerly, to embark upon a boat. **b** To ship water, as in a rough sea. **c** *Slang, U.S.* To weaken in a contest; to back down.

take wind. To become known; to spread, as a rumor.

take with. **a** *Obs.* To accept. **b** *Obs.* To side with; agree with. **c** *Scot.* To confess; acknowledge. **d** *Scot.* To like; brook; as, how does he *take with* the work? **e** *Dial.* To become affected by, as by fire or water.

take (tāk), *n.* **1.** The action of taking or that which is taken; specif.: **a** *Chiefly Brit.* The leasing of land; hence, a piece of land taken by lease; a holding of land, as for farming or mining. Also, *Obs.*, leasehold tenure. **b** The amount of money received from a transaction or sale, as of tickets of admission or the like; proceeds, receipts. **c** An act or the action of taking or capturing, as game, fish, etc.; the number or quantity of animals, fish, pelts, etc., taken at one time; a catch; a haul. **d** An action of accepting something, as by way of concession or compromise. **e** The capture of a piece in chess.

2. Something that takes; as: **a** *Obs.* A charm; spell. **b** Hence, attractive quality. **c** *Colloq.* Something that pleases or becomes popular, as a song or play.

3. *Med.* A successful inoculation, as in vaccination.

4. *Motion Pictures.* A portion of a scene photographed or to be photographed at one time without stopping the camera; also, an instance of photographing such a portion.

5. *Print.* The portion of copy a compositor has at one time, or the type set from it.

6. *Psychol.* The performance required of the subject in an experiment or test, usually made known to the human subject by verbal instructions.

take (tāk). Obs. *past part.* of TAKE.

take'-all', *n.* A destructive foot rot of cereal grasses caused by the fungus *Ophiobolus cariceti* (syn. *graminis*).

take'down' (tāk'doun'), *adj.* Constructed so as to be readily taken apart; as, a *takedown* rifle.

take'down', *n.* **1.** Act of taking down; specif.: **a** *Colloq.* The action of humiliating, esp., by deceiving; also, one that takes down or humiliates, as by deception. **b** Disassembly, as of an engine.

2. The part of a takedown rifle or the like at which or whereby it is taken apart; also, a takedown rifle.

take'ful (tāk'fl), *adj.* Taking; alluring. *Dial.*

take'-in', *n. Colloq.* **1.** An act of taking in, esp. of cheating or deceiving someone or of bringing something in; also, the number or quantity taken in.

2. One who or that which takes in someone; a fraud.

take'-off', *n.* **1.** That which detracts; a drawback.

2. An action of taking off; specif.: **a** *Colloq.* An imitation, esp. in the way of caricature. **b** A rise or leap, esp. from the ground, in making a jump or flight; a start in leaping, hurdling, etc., or in making an ascent in an airplane.

3. The spot at which one takes off or may take off; specif., the place from which a jumper, vaulter, or hurdler rises in leaping.

4. Hence, a starting point; a base of operations.

5. The action of taking something off; specif., *Leather Mfg.*, the skinning process. Also used attributively; as, a *take-off* board or drum of a printing press.

6. A mechanism for transmission through which the power of an engine or vehicle may be taken off to operate some other mechanism.

—take'-off', *adj.*

take'-out', *n. Bridge.* A bid by the responding hand made to take out one's partner (see *take out*, under TAKE, *v.*). **— take'-out'**, *adj.*

tak'er (tāk'ĕr), *n.* One who takes, esp. one who seizes or removes something or someone or who takes in, receives, or accepts something; specif.: **a** A captor or catcher. **b** *Obs.* A purveyor of supplies for the sovereign. **c** *Obs.* A thief, pilferer, or plagiarist. **d** One who takes possession or a lease of property. **e** One who accepts a wager. **f** One who takes in receiving, removing, collecting, recording, etc., or in assuming responsibility; as, a ticket *taker*; a note *taker*; a number *taker*.

-tak'er (-tāk'ĕr). A combining form of *taker*, as in:

bribetaker	paintaker	ticket taker
caretaker	prizetaker	timetaker

tak'er-down', *n.* One who takes something down, esp. as a part of the process of manufacture; specif., a drier-down, or one who takes down galvanized sheets from the cooling racks for sorting and sending.

tak'er-in', *n.* One who or that which takes in; as: **a** A cheat. **b** = LICKER-IN. **c** One who takes something in, as a closer, drawer, downer, or piece overlooker.

tak'er-off', *n.* One who or that which takes (something) off, esp. in withdrawing or carrying away; specif., *Eng.*, one who or that which takes the printed sheets from the press. Cf. 4th FLY, 7 b.

take'-up', *n.* **1.** The action of taking up or tightening; as, the *take-up* on the reins; the *take-up* in the finished goods is one per cent; in sewing, the drawing of material into gathers.

2. *Mach.* That which takes up or tightens; specif.: **a** A device in a sewing machine for drawing up the slack thread as the needle rises in completing a stitch. **b** A device, sometimes automatic, for taking up slack in the belt of an elevator or belt conveyor. **c** An automatic motion in a loom for rolling up the cloth as it is woven. **d** A device for winding motion-picture film upon a reel. **e** *Steam Boilers.* = UPTAKE, 3 a.

take'-up' box. At faro, a dealing box that will take back cards previously surreptitiously removed during the same deal.

Tak'haar (täk'här), *n.* [S. Afr. D., lit., unkempt, uncouth.] Orig., a Transvaaler; recently, any backveld Boer; — a nickname. *S. Africa.*

Takh'ta-djy' (täk'tä-jē'), *n. sing. & pl.* One of a tribe on the Anatolian plateau, Turkish-speaking and mostly Moslem.

Ta-kil'man (tä-kĭl'mən), *adj.* Pertaining to or designating an American Indian linguistic family, consisting of the almost extinct tribes of the Takelma and Upper Takelma, formerly living on the Rogue River, in western Oregon.

ta'kin' (tä'kĕn'), *n.* [Tibetan *ta kyin* (written as *rta skyin*), lit., horse ibex.] A large, heavily-built mountain ruminant (*Budorcas taxicolor*) of Tibet, allied, like the serows, to both the goats and the antelopes.

tak'ing (tāk'ĭng), *n.* **1.** Act of one who or that which takes; as: **a** A gaining possession; a seizing or capture. **b** A receiving or accepting. **c** *Obs.* Mental reception. **d** *Obs.* A seizure or attack, as from a disease, esp. palsy, or malevolent influence; a blight.

2. Formerly, an unfavorable condition or plight; as, in a miserable *taking*. Hence, *Chiefly Colloq.*, a state of violent agitation and distress; as, bending over me in a great *taking*.

3. That which is taken or received; specif.: **a** *pl.* Receipts, esp., of money. **b** A catch or take, as of fish. **c** *Printing.* = TAKE, 5. **d** *Mining.* A take of land. See TAKE, 1 a.

tak'ing, *adj.* **1.** Grasping; rapacious. *Now Rare.*

2. Apt to take the fancy; captivating or alluring; attractive. "She was a *taking* little thing." *Galsworthy.*

> Subtile in making his temptations most *taking*. *Fuller.*

3. Exerting a malignant or blighting effect; malefic. *Obs.*

4. Infectious; contagious; catching. *Colloq.*

— tak'ing-ly, *adv.* **— tak'ing-ness**, *n.*

taking off. 1. Act of one who takes off (in various senses); also, an instance or example of such action.

2. Removal, esp. by death; death.

> The deep damnation of his *taking off*. *Shak.*

3. Act of presenting a take-off, or burlesque imitation.

4. *Print.* The removal of sheets from the press. *Eng.*

ta-ko'sis (tä-kō'sĭs), *n.* [NL., fr. Gr. *tēkein* to melt, waste away.] *Veter.* A bacterial wasting disease of goats, marked by diarrhea and emaciation, and often fatal.

takt (täkt; *G.* täkt), *n.* [G.] *Music.* **a** A beat or pulse; also, beats collectively. **b** A measure. **c** Tempo.

ta'kyr (tä'kĭr), *n.* [Turki *tāqīr* flat, smooth, without grass.] In Turkestan, a clayey tract amid sand.

tal (täl), *n.* [Hind. *tāl.*] **a** Clapping of the hands in time as accompaniment to music. **b** *India.* Metal cymbals.

tal (täl), *n.* [Hind. *tāla, tāl*, fr. Skr. *tāla.*] The fiber of the palmyra palm. *India.*

ta'la (tä'lä), *n.* [Sp., fr. Aymara *tara.*] A timber tree (*Celt. tala*) of Argentina; also, its yellowish-gray, hard wood.

ta'la (tä'lä), *n. Geol.* [Mongolian.] A broad structural basin formed by subsidence or warping.

‖**ta'la** (tä'lä), *n.* [Sp.] Ruin; destruction; also, a raid. *Rare.*

ta'la-bon' (tä'lä-bōn'), *n.* A chair on two poles carried by four men. *Phil. I.*

ta-la'je (tä-lä'hĕ; 162), *n.* [Sp., fr. Quiche *talaxi.*] A tick (*Ornithodoros talaje*) of the American tropics, infesting horses, man, and other mammals.

ta-lak' (tä-läk'), *n.* [Ar. *talāq* freedom from a bond, divorce.] *Moham. Law.* Divorce by the act of the husband, in rejecting the wife. With the Shiites and the Malikis but one kind (the *talak-us-sunnat*) is recognized as valid, requiring the husband to refuse to receive his wife for three months in order to effect it, and called *ahsan* or *husan* according to the procedure. The Hanifites and Shafiites recognize another (the *talak-ul-bidaah* or *ta-lakul-badai*) taking three weeks.

ta-lak', *v. t. Moham. Law.* To divorce (the wife).

ta-lal'gi-a (tə-lăl'jĭ-ə), *n.* [NL., fr. L. *talus* ankle + *-algia.*] *Med.* Pain in the ankle or heel.

Ta'la-man'ca (tä'lä-mäng'kä), *n.* An Indian of a group of Chibchan tribes of southern Costa Rica and Panama. The most important tribes are the Borucas, Bribris, Terrabas, and Tirribis, and the extinct Guetares and Suerres. See CHIBCHAN. — **Ta'la-man'can** (-kən), *adj.*

ta-la'o (tä-lä'ō), *n.* [From pl. of Hind. *talā* bottom, fr. Skr. *tala.*] Low flat ground; plain. *Kipling.*

tal'a-poin (tăl'ə-poin), *n.* [Pg. *talapões*, pl. of *talapão*, fr. Talaing *tala poi* our lord.] **1.** A Buddhist monk; a poonghie. *Indo-China.*

2. (*P. pron.* tä'lä-pwăn') [F.;—from some resemblance.] A West African guenon monkey (*Cercopithecus talapoin*), the smallest of the guenons. It is olive and whitish beneath, with a black face and yellowish whiskers.

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take'a-ble. Var. of TAKABLE.
take'down'a-ble, *adj.* See -ABLE.
take'-head', *n.* Caution or ad-

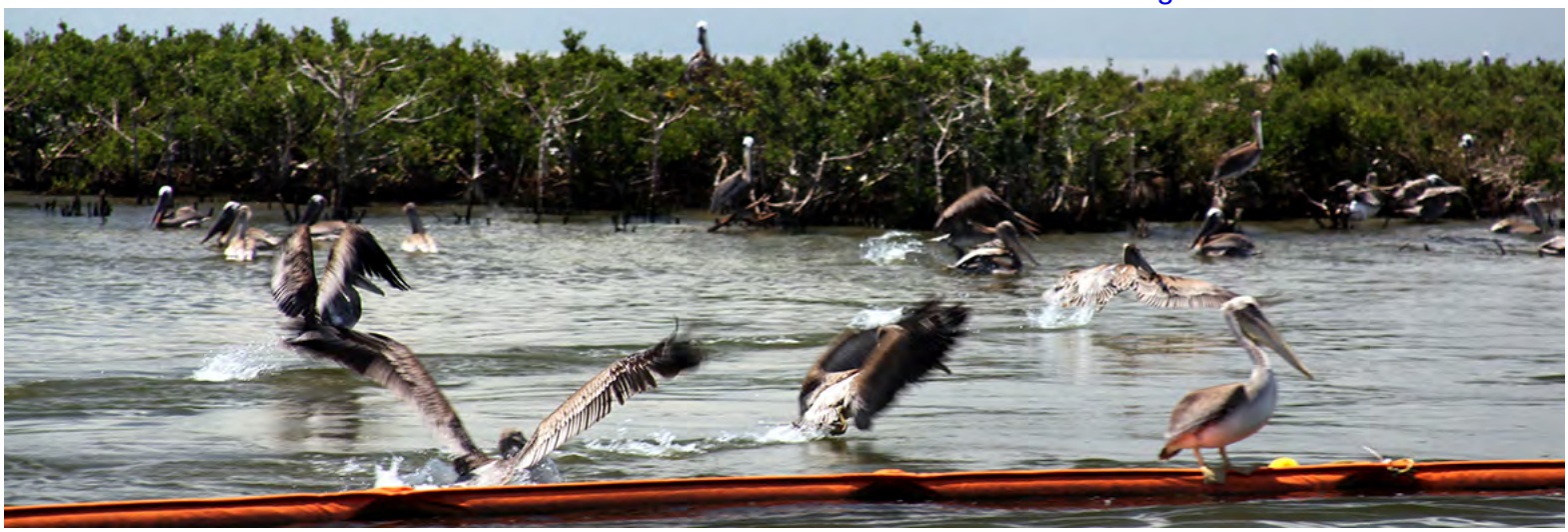
takel, takelle. † TACKLE.
Ta-kel'ma (tä-kĕl'mə). See TA-KILMAN.

tak'en (täk'ĕn), *past part.* of TAKE.
ta'ken (tä'kĕn). Var. of TOKEN. *Now Dial.* [See ARAWA, 2.]

Ta'ku (tä'kōō), *n.* See NAHANE.
tak'y (täk'ĭ), *adj.* = TAKING
tal. † TAIL, TALE, TALL.

ta-la'hib. Var. of TALTHIB.
Ta-laing' (tä-lĭng'), *n.* [Burmese.] = 2d MON.

talant. † TALENT.
tal'an-ton (tăl'ən-tŏn), *n.*; *pl.* TALANTA (-tə). [Gr.] See



Threats to Birds

MIGRATORY BIRD MORTALITY - QUESTIONS AND ANSWERS

Migratory birds face numerous threats throughout their annual cycles from both natural and human-caused sources. The U.S Fish & Wildlife Service is working with governments, conservation organizations, industry, and the public to reduce threats across the North American landscape to preserve our birds for future generations. There also many easy ways anyone in the general public can help protect birds around your communities.

What Are the Threats to Birds?

Many of the 1,027 species of birds protected under the Migratory Bird Treaty Act (../policies-and-regulations/laws-legislations/migratory-bird-treaty-act.php) are experiencing population declines due to increased threats across the landscape. Of those 1,027 species, 92 bird species are listed as either threatened or endangered under the U.S. Endangered Species Act (https://www.fws.gov/endangered/laws-policies/). An additional 274 species are listed as Birds of Conservation Concern (../management/managed-species/birds-of-conservation-concern.php), in one or more geographic scales (e.g., local, regional, or national). For more information about bird declines in the U.S., visit the State of the Birds webpage (http://www.stateofthebirds.org/).

Both natural and human-caused sources of bird mortality contribute cumulative or combined effects to declining bird populations. Millions of acres of bird habitat are lost or degraded (threats-to-birds/habitat-impacts.php) every year due to development, agriculture, and forestry practices. These rapidly accelerating impacts can be mitigated only through habitat restoration and protection. In addition, millions of birds are directly killed by human-caused sources such as collisions with man-made structures (threats-to-birds/collisions.php). Death from natural causes is also common sources of mortality.

Natural and human-caused mortality impacts are exacerbated by the landscape alterations resulting from a changing climate. Birds in every habitat will be affected by natural and human-caused sources, so conserving migratory bird populations requires a multi-faceted, coordinated approach by governments, conservation organizations, industry, and the general public.

How Many Birds are Killed?

True estimates of mortality are difficult to determine. However, recent studies have synthesized the best available data to estimated ranges of mortality to bird populations in North America from some of the most common, human-caused sources of bird mortality. These are listed in the table below. This list addresses only human-caused sources, not natural sources. Many additional human-caused threats to birds, both direct (causing immediate injury/death) and indirect (causing delayed negative effects to health or productivity) are not on this list because the extent of their impact is either not currently well researched or easily quantified. For instance, habitat loss is thought to pose by far the greatest threat to birds, both directly and indirectly, however, its overall impact on bird populations is very difficult to directly assess. Other common human-caused and natural threats to birds that are known, but not listed below include various entanglement and entrapment threats (threats-to-birds/entrapment-entanglement-drowning.php) (e.g., open pipes and nets); predation by other animals besides cats, including humans (e.g., poaching); weather events; starvation; and disease (threats-to-birds/disease.php).

Top Common Human-caused Threats to Birds (U.S. only. Ordered by Median Estimate of Bird Mortality Annually.):

AR001461

Hazard Type	Min Range	Max Range	Median/Avg. Estimated

Cats	1,400,000	3,700,000,000	1,850,700,000
Collision - Building Glass (threats-to-birds/collisions/buildings-and-glass.php)	365,000,000	988,000,000	676,500,000
Collision - Vehicles (threats-to-birds/collisions/road-vehicles.php)	89,000,000	340,000,000	214,500,000
Poison			72,000,000
Collisions - Electrical lines (threats-to-birds/collisions/electric-utility-lines.php)	8,000,000	57,000,000	32,500,000
Collisions - Communication towers (threats-to-birds/collisions/communication-towers.php)			6,600,000
Electrocutions	900,000	11,600,000	6,250,000
Oil Pits (threats-to-birds/entrapment-entanglement-drowning.php)	500,000	1,000,000	750,000
Collisions - Wind Turbines (threats-to-birds/collisions/wind-turbines.php)	21,000	679,000	328,000

Sources of mortality estimates: Longcore et al 2012 (communication towers); Trail 2006 (oil pits); Loss et al, Smallwood, Erickson et al (wind turbines); Loss et al (all other).

What is the U.S. Fish & Wildlife Service Doing to Reduce Mortality?

The Fish and Wildlife Service mission includes working with others to conserve natural resources. The many successful bird conservation initiatives the Service is a part of with partners are shining examples of how multi-organization collaborative partnerships (../management/bird-conservation-partnership-and-initiatives.php) can lead to conservation success.

In addition, the Fish and Wildlife Service provides information and assistance to industry and public seeking to develop projects in a manner that reduces impacts on birds and their habitats. Some of the resources the Service provides, and is constantly improving upon, are voluntary guidelines (../management/project-assessment-tools-and-guidance/guidance-documents.php), best practice recommendations (../management/project-assessment-tools-and-guidance/conservation-measures.php), and information and resources for developers for conducting environmental reviews striving for bird-friendly projects. This information empowers the public to understand potential impacts from various activities and provides recommendations on how to avoid or minimize those impacts. In addition, web-based applications are in development to make access to bird data (../management/project-assessment-tools-and-guidance/bird-data-and-information.php), project planning information (https://ecos.fws.gov/ipac/), and other decision support tools (../management/project-assessment-tools-and-guidance/decision-support-tools.php) more easily and readily available to biologists, developers, and others that need them for facilitating decision-making where bird conservation is concerned. Finally, the Migratory Bird Program offers training (../management/training.php) for industry and partners to help understand their legal responsibilities; know where to go to obtain the information and tools needed for successful bird conservation; and understands the benefits of partnerships and how to more actively take advantage of partnership opportunities.

How Can You Help?

Everyone can help protect migratory birds. Whether it is taking actions around your home or workplace, designing bird-friendly projects, or just taking actions that reduce resource consumption, every action is one step towards protecting migratory birds for future generations. A few simple actions that can be taken include:

- Participate in citizen science bird monitoring programs (e.g., eBird (http://ebird.org/content/ebird/), Breeding Bird Survey (https://www.pwrc.usgs.gov/bbs/participate/), Christmas Bird Counts (https://www.audubon.org/conservation/join-christmas-bird-count), Urban Bird Treaties (../grants/urban-bird-treaty.php))

- Reduce energy and water use
- Recycle and use recycled products
- Assess home and office for risk of bird/glass collisions and implement best practices (https://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures/building-glass-and-lighting.php)
- Keep cats indoors
- Reduce use of chemicals in environment

Migratory birds are among nature's most magnificent resources. Their conservation is a critical and challenging endeavor for the Migratory Bird Program and all who value nature. If you need immediate assistance, contact the Migratory Bird Program at migratorybirds@fws.gov (mailto:migratorybirds@fws.gov).

Last Updated: April 18, 2018

2008 CarswellNB 322
New Brunswick Provincial Court

R. v. **J.D.** **Irving** Ltd.

2008 CarswellNB 322, [2008] N.B.J. No. 371, 37 C.E.L.R. (3d) 200

Her Majesty the **Queen** and **J.** **D.** **Irving**, Limited and Jason C. Hiltz

P.L. Cumming Prov. J.

Judgment: June 9, 2008

Counsel: Paul Adams for Crown
Christopher A. Wayland for Defendant

Subject: Environmental; Constitutional

Table of Authorities

Cases considered by *P.L. Cumming Prov. J.*:

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R. v. Crown Zellerbach Canada Ltd. (1988), [1988] 1 S.C.R. 401, [1988] 3 W.W.R. 385, 49 D.L.R. (4th) 161, 84 N.R. 1, 25 B.C.L.R. (2d) 145, 40 C.C.C. (3d) 289, 3 C.E.L.R. (N.S.) 1, 1988 CarswellBC 755, 1988 CarswellBC 137 (S.C.C.) — considered

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Statutes considered:

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s. 7 — referred to

Constitution Act, 1867, (U.K.), 30 & 31 Vict., c. 3, reprinted R.S.C. 1985, App. II, No. 5

Generally — referred to

s. 91 — referred to

s. 92 — referred to

s. 132 — considered

Migratory Birds Convention Act, S.C. 1917, c. 18

Generally — referred to

Migratory Birds Convention Act, 1994, S.C. 1994, c. 22

Generally — referred to

s. 12(1)(h.1) [en. 2005, c. 23, s. 8(1)] — considered

s. 13(1) — considered

s. 13(1.1) [en. 2005, c. 23, s. 9(1)] — considered

Treaties considered:

Migratory Bird Convention of 1916 between Canada and the United States, U.K.T.S. 1917, No. 7

Generally — referred to

Preamble — considered

Article II — referred to

Article V — referred to

Article VI — referred to

Regulations considered:

Migratory Birds Convention Act, 1994, S.C. 1994, c. 22

Migratory Birds Regulations, C.R.C. 1978, c. 1035

s. 2 "nest" — considered

s. 6 — considered

s. 6(a) — considered

s. 8 — referred to

APPLICATION by defendant challenging constitutionality of s. 8 of *Migratory Birds Convention Act, 1994*.

***P.L. Cumming Prov. J.*:**

1 It Is alleged that the Applicant, J. D. Irving, Limited, conducted operations on the Applicant's lands that resulted in the disturbance of an active Great Blue Heron colony and the damage or distraction of approximately eight Great Blue Heron nests.

2 The Applicant now asks that Section 8 of the *Migratory Birds Regulations* made pursuant to the *Migratory Birds Convention Act* be declared unconstitutional as either violating the division of powers enshrined in the *Constitution Ad, 1867* or as violating Section 7 of the *Canadian Charter of Rights and Freedoms* through vagueness or overbreadth.

3 I will deal first with the jurisdictional issue.

4 In advancing its argument against the authority of the federal government to enact the *Migratory Birds Convention Act* and the regulations made pursuant thereto, the Applicant contends that the subject matter of the legislation is one of property and civil rights, that the legislation is essentially hunting legislation and falls squarely Within the enumerated powers reserved to the provinces in Section 92 of the *Constitution Act, 1867.* in support of this contention, the Applicant cites the preamble of the *Migratory Birds Convention* which enunciates the purpose of the Convention as being the "saving from indiscriminate slaughter" and "insuring the preservation of such migratory birds as are either useful to man or are harmless" through the adoption of "some uniform system of protection which shall effectively accomplish such objects". This resulted in the declaration of "closed seasons" during which the hunting of migratory birds was prohibited (Article II of the Convention) and the proscription against the taking of nests or eggs of migratory birds other than for scientific or propagating purposes (Article V of the Convention).

5 Great reliance is placed by the Applicant on the word "take" as found in Article V. It is urged that this supports the proposition that the sole purpose of the legislation is to regulate hunting of migratory birds; that the protection of the environment and consequent preservation of migratory bird habitat was not a concern for the parties to the treaty and therefore not envisioned by the legislation enacted to enforce the treaty.

6 To interpret the Act and the regulations so narrowly is to unrealistically restrict the ambit and purpose of the treaty. Clearly, the preamble addresses the need to protect and conserve migratory birds. This must, of necessity, encompass protection and conservation of migratory bird habitat and their nests from threat. That the threat to migratory birds in 1916 was mainly from over hunting and indiscriminate destruction cannot mean that the protection and conservation of migratory birds is perpetually and forever frozen in time and limited only to hunting. In 1916, industrialized forestry practices were not anticipated. Super highways were a thing long in the future. Urban sprawl was not a reality until over a half century later. It is not necessary that the framers of the convention or the drafters of the law anticipate and particularize each possibility and refer to it specifically. Interpretation of the legislation, when taken in the context of purpose, permits a broader reading of "take" and

encompasses those meanings more in keeping with the sense of "removal" and "destruction" of nests and birds in the disturbance of their habitat. Interpretation must be permitted to allow what is intended to be covered to be covered by the law. Sufficient flexibility must be permitted to allow for application even in the face of changing conditions, times, and mores.

7 In this context, and in reading the plain language in the preamble to the 1916 Convention, the *Migratory Birds Convention Act* cannot be restrictively viewed as purely hunting legislation. The subject matter of the legislation is the protection of an identifiable group, migratory birds, that travel and are found internationally, requiring a single and unified approach to fulfill Canada's obligations under an international treaty.

8 This cannot be addressed piecemeal under the guise of Individual provincial and state game laws. The failure of one of those parties to act would result in the ineffectiveness of measures taken by the rest to address the problem. Protection and preservation of migratory birds is a matter of international concern, therefore falling within the residual federal power and not being on the enumerated subjects reserved to the provinces. Even if there should be some overlap in subject matter, this does not oust federal jurisdiction.

9 Whether the protection and preservation of migratory birds is viewed as a matter of "national concern" as delineated in both *Reference re Canada Temperance Act*, [1946] 2 D.L.R. 1 (Ontario P.C.) and *R. v. Crown Zellerbach Canada Ltd.*, [1988] 1 S.C.R. 401 (S.C.C.) or as a matter "because of the interrelatedness of the intra-provincial and extra-provincial aspects of the matter that it requires a single or uniform legislative treatment" (*Zellerbach*, *supra*, at paragraph 35), the *Migratory Birds Convention Act* is legislation validly enacted pursuant to the residual "Peace, Order, and Good Government" (POGG) power in Section 91 of the *Constitution Act, 1867*.

10 Furthermore, I find that the *Migratory Birds Convention Act* and the regulations made pursuant thereto are properly within the power of the federal government to enact as having been made in furtherance to and in fulfillment of Canada's obligations under an "Empire Treaty".

11 Prior to 1931, the British Government negotiated and ratified treaties affecting members of the Empire, which included Canada, which would then be implemented by the member state. Section 132 of the *Constitution Act, 1867* provides:

> **132.** The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

12 This provision clearly grants to the federal Parliament the power to enact legislation that is necessary to Implement treaties. Peter Hogg, *Constitutional Law of Canada*, Vol. 1 at p. 11-11. The Convention which was entered into in 1916 was a British Empire Treaty within the meaning of Section 132 and the original Act was passed pursuant to that section.

13 It is argued that the substantial amendments made to the original Act by the 1994 Protocol in effect resulted in the repealing of that Act and its replacement by a new *Migratory Birds Act* in 1994. This new Act, it is argued, is not made pursuant to Section 132 and cannot be seen as legislation enacted to implement an Empire Treaty. I do not agree.

14 The Protocol between the government of Canada and the government of the United States of America amending the 1916 Convention between the United Kingdom and the United States of America for the Protection of migratory birds in Canada and the United States entered into in 1995 specifically states in Article VI that "[t]his Protocol shall enter into force on the date the Parties exchange instalments of ratification, shall continue to remain in force for the duration of the Convention and *shall be considered an integral part of the Convention* particularly far the purpose of its interpretation." (Emphasis added)

15 Additionally, the preamble states:

> The Government of Canada and the Government of the United States of America.
>
> REAFFIRMING their commitment to achieving the purposes and objectives of the 1916 Convention between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States:

DESIRING to amend and update the Convention to enable effective actions to be taken to improve the conservation of migratory birds;

. . .

HAVE AGREED as follows:

16 This is a clear confirmation of the purposes and objectives of the 1916 Convention implementing the treaty. It affirms the original commitments made by the original parties. The Protocol is intended to amend and update the Convention to enable effective action to be taken to improve the conservation of migratory birds. It reinforces and strengthens the original commitments made in 1916 and updates the original. In no way can this be seen as a repudiation of, abrogation of, denunciation of, or derogation from, the treaty, Rather, this Protocol and the resultant amendments of the Act show that the treaty remains a living document with enabling legislation that may be amended from time to time to address new threats to migratory bird populations. Its aim remains conservation and protection of these populations.

17 I find that the *Migratory Birds Convention Act, 1994* is within the jurisdiction of the federal government to enact. I find so too are the *Migratory Birds Regulations* made pursuant to that legislation.

18 Having found that the Act is *intra vires* the federal government, I turn now to the charges of vagueness and overbreadth that are made in relation to Subsection 6(a) of the *Migratory Birds Regulations*, the provision which the Applicant is alleged to have violated.

19 In *Canadian Foundation for Children, Youth & the Law v. Canada (Attorney General)* (2004), 180 C.C.C. (3d) 353 (S.C.C.), at page 373 McLachlin C.J.C. enunciates the standard for vagueness.

> [15] A law is unconstitutionally vague if it "does not provide an adequate basis for legal debate" and "analysis"; "does not sufficiently delineate an area of risk"; or "is not intelligible". The law must offer a "grasp to the judiciary": *R. v. Nova Scotia Pharmaceutical Society*, [1992] 2 S.C.R. 606 at pp. 639-40, 93 D.L.R. (4th) 36, 74 C.C.C. (3d) 289. Certainty is not required. As Gonthier J. pointed out in *Nova Scotia Pharmaceutical*, *supra*, at pp. 638-39,
>
> ...conduct is guided by approximation. The process of approximation sometimes results in quite a narrow set of options, sometimes in a broader one. *Legal dispositions therefore delineate a risk zone*, and cannot hops to do more, unless they are directed at individual instances.
>
> [Emphasis added.]

20 In *R. v. Canadian Pacific Ltd.* (1995), 99 C.C.C. (3d) 97 (S.C.C.) at p. 106 Lamer, CJC refers to the phrase "sufficient guidance for legal debate" as used by Gonthier, J. in *Canada v. Pharmaceutical Society (Nova Scotia)* [*Canada v. Pharmaceutical Society (Nova Scotia)*, 1992 CarswellNS 15 (S.C.C.)].

> Put another way, the court must determine whether the words chosen by the legislature provide an adequate foundation upon which to anchor an Interpretation of the law that provides adequate notice of prohibited conduct and guards against "standardless sweeps".

Section 6 of the *Migratory Birds Regulations* states;

> 6. Subject to subsection 5(9), no person shall
>
> (a) disturb, destroy or take a nest, egg, nest shelter, eider duck shelter or duck box of a migratory bird,
>
> (b) or have in his possession a live migratory bird, or a carcass, skin, nest or egg of a migratory bird except under authority of a permit therefor.

21 This is a clear prohibition against the destruction or disturbance of birds and their nests. Exceptions are expressly dealt with elsewhere in the regulation and permits are provided for those occasions. Otherwise, the law is dear to any one reading it. "Nest" is defined as including "part of a nest". The broad meaning of "nest" or "part of a nest" is understood by the general population. It would be unrealistic to expect the framers of the legislation to describe each and every one of the many types of nests that are constructed by the many various species of migratory birds. The general public knows a nest when ft sees one, whether it is constructed of twigs, grass, or in a hole in a tree. Although the terms "destroy" and "disturb" are not specifically defined in either the Act or the regulations, resort may be had to the ordinary dictionary meaning together with the context of the use of

the word to easily determine what activity is proscribed. The Shorter Oxford Dictionary includes in the definition of "destroy" the following meanings: "to pull down or undo, to demolish; to lay waste, to ruin; to undo, break up, reduce into a useless form, consume dissolve; to render useless; to deprive of life, to kill; to put an end to, to do away with". Likewise, the definition of "disturb" includes the following which align well with the context of the legislation: "to agitate and destroy (quiet, etc.); to break up the quiet, tranquility of, to stir up, trouble, disquiet; to agitate mentally, discompose the peace of mind or calmness or; to Interfere with the settled course or operation of; to deprive of the peaceful enjoyment or possession of".

22 Section 6 clearly delineates a "risk zone". It is not necessary that the framers of the law or the drafters of the law anticipate and particularize each possibility and refer to it specifically. To expect so would be to hamstring legislators and require an unrealistic specificity in the law. It is necessary only that the law delineate an area of risk that can be readily understood by those to whom it may apply. Does this provision provide general guidance for citizens and law enforcement officers? Would the ordinary person be in a position to anticipate whether his actions could result in liability? As stated by Gonthier J. in *R. v. Canadian Pacific Ltd.*, *supra*, at p.128:

> The notice aspect of the vagueness analysis must be approached from an objective point of view: would the average citizen, with an average understanding of the subject-matter of the prohibition, receive adequate notice of prohibited conduct?

In my opinion the meaning of the words is plain. The destruction, disturbance, or taking of a nest of a migratory bird is prohibited unless done under the authority of a permit. The ordinary meanings of the words make it clear. The "risk zone" is clearly delineated. The impugned legislation is not vague.

23 The Applicant argues further that the legislation is overbroad in that the means chosen and enunciated in Section 6 of the regulation is not proportionate to the state objective. In support of this proposition, the Applicant cites the leading case in overbreadth, the judgment of the Supreme Court of Canada in *R. v. Heywood* (1994), 94 C.C.C. (3d) 481 (S.C.C.). At p.516, Cory J. in discussing overbreadth and vagueness states:

> Overbreadth and vagueness are related in that bath are the result of a lack of sufficient precision by a legislature in the means used to accomplish an objective. In the case of vagueness, the means are not clearly defined. In the case of overbreadth the means are too sweeping in relation to the objective.
>
> Overbreadth analysis looks at the means chosen by the state in relation to its purpose. In considering whether a legislative provision is overbroad, a court must ask the question: Are those means necessary to achieve the state objective? If the state, in pursuing a legitimate objective, uses means which are broader than is necessary to accomplish that objective, the principles of fundamental justice will be violated because the individual's rights will have been limited for no reason. The effect of overbreadth is that in some applications the law is arbitrary or disproportionate.

And at p.517:

> In analyzing a statutory provision to determine if it is overbroad, a measure of deference must be paid to the means selected by the legislature. While the courts have a constitutional duty to ensure that legislation conforms with the Charter, legislatures must have the power to make policy choices. A court should not interfere with legislation merely because a judge might have chosen a different means of accomplishing the objective if he or she had been the legislator.

24 It is necessary, then, to examine the state objective. The Applicant posits that the original treaty was a hunting treaty and that the legislation Implementing the treaty is hunting legislation; that since the only concern at the time the treaty was entered into in 1916 was the protection of migratory birds from "indiscriminate slaughter" and over-hunting, the total ban on the destruction, disturbance, and taking of migratory birds and their nests is neither necessary to nor in furtherance of the alms of the treaty since such a ban would prohibit otherwise lawful activity which was not contemplated by the parties to the treaty.

25 1 find this narrow view of the purpose of the treaty and the resultant implementing legislation to be unsupported by the wording of the Convention itself which, in my view, marks the Convention as a statement of concern for the welfare of at least one aspect of the

environment, the continued existence of various species of migratory birds, a concern which continues today:

> **CONVENTION**
>
> Whereas many species of birds in the course of their annual migrations traverse certain part of the Dominion of Canada and the United States; and
>
> Whereas many of these species are of great value as a source of food or in destroying insects which are injurious to forests and forage plants on the public domain, as well as to agricultural crops, in both Canada and the United States, but are nevertheless *in danger of extermination through lack of adequate protection* during the nesting season or while on their way to and from their breeding grounds;
>
> His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the seas, Emperor of India, and the United States of America, being desirous of *saving from indiscriminate slaughter and of insuring the preservation of such migratory birds* as are either useful to man or are harmless, have resolved *to adopt some uniform system of protection which shall effectively accomplish such objects* ...

26 Although the main threat to the continuation of certain species of migratory birds at the time was from over-bunting, "indiscriminate slaughter is not confined to hunting alone. Such terminology can just as easily apply to any means by which large populations are killed or exterminated through reckless or wanton human actions, whether aimed specifically at migratory birds or not. The very choice of the adjective "Indiscriminate" supports this.

27 The purpose of the treaty and Convention was to provide protection for migratory birds seen at risk. Originally, the major threat to migratory birds was indiscriminant hunting and destruction of nests. Times change, different threats to migratory bird populations arise. Knowledge and understanding of the Impact human activities have on the environment in general and migratory birds in particular result in an evolution in the law and modifications in the implementing legislation. It is clear from the preamble to the Convention that the state objective was the conservation and preservation of migratory birds from threat to their habitat and nesting and breeding grounds, thus preserving this aspect of the environment. This is not merely hunting legislation, this is environmental legislation.

28 In *R. v. Canadian Pacific Ltd.*, *supra*, Gonthier J., after reviewing prohibitions found in several pieces of Canadian legislation, states at page 124:

> What is clear from this brief review of Canadian pollution prohibitions is that our legislators have preferred to take a broad and general approach, and have avoided an exhaustive codification of every circumstance in which pollution is prohibited. Such an approach is hardly surprising in the field of environmental protection, given that the nature of the environment (its complexity, and the wide range of activities which might cause harm to it) is not conducive to precise codification. Environmental protection legislation has, as a result, been framed in a manner capable of responding to a wide variety of environmentally harmful scenarios, including ones which might not have been foreseen by the drafters of the legislation.

29 The framers of the original Convention were responding to threat to migratory birds. In 1916, that threat was different from the threats which migratory bird populations face today with industrial forest practices, increased pollution, loss of habitat through urban sprawl and highway construction among others. These specific threats were not foreseen by the drafters of the legislation. This lack of foresight cannot result in the Convention being stranded in 1916 with no possibility of reanimation and extension to address the original object of conservation and protection. The *Migratory Birds Convention Act, 1994* provides this vehicle by which the concerns and objects of the treaty and Convention are updated and revitalized. It is within this context that the regulations prohibit the destruction, disturbance and taking of migratory birds and their nests with a few exceptions, the main exceptions being with permits when migratory birds are causing damage or are presenting a danger.

30 The Applicant argues that this effective total ban goes far beyond what is necessary to effect the state objective of protection and conservation of migratory bird papulations. The argument is that such a ban prohibits what would be otherwise lawful activity and catches circumstances which it should not. In support of this contention, the Applicant has presented numerous

articles and minutes of meetings involving Environment Canada, wildlife groups, industry representatives, and other Interested parties in which alternatives to a total ban as found in Section 6 of the *Migratory Binds Regulation* are discussed.

31 These articles and minutes of meetings speak to devising a better framework to "more effectively meet Canada's commitment to the long term conservation and protection of migratory bird populations". *Environment Canada discussion document on the Management of incidental take of migratory birds: Towards an updated regulatory approach, Draft, December 18, 2006*. Yet such a framework is already in place — the prohibition found in Section 6. What is really being sought is a way to accommodate industry and still claim that Canada is enforcing its obligations under the treaty. It is up to government to strike this balance and make the fundamental changes this would entail if it so wishes. Such regulatory changes proposed would be an enormous change in direction from (a) no take, destruction, or disturbance permitted to (b) permitting destruction of nest, habitat, and birds who pose no threat or are causing no harm other than an Inconvenience to industry and development.

32 The Applicant poses hypothetical situations which would be caught under the present regulatory scheme as support for the contention that the legislation is overbroad. Among these are the homeowner who is prevented from building an extension to his home because he cannot remove an apple tree containing an abandoned bird nest from the path of the proposed construction; the inability to remove a dead bird from one's driveway since this could offend the prohibition from possessing the carcass of a migratory bird; the inability to have a domesticated migratory bird in a cage since that could offend the prohibition from possessing a live migratory bird; the interruption of property development because of a bird nest located in a fallen tree.

33 In my opinion, the use of such hypotheticals, involving as they do such minimal transgressions (if transgressions they be) of the literal meaning of the words used in Section 6, are of limited use in determining whether or not that provision of the *Migratory Birds Regulation* is overbroad. "Reasonable hypotheticals" as referred to in *R. v. Goltz* (1991), 67 C.C.C. (3d) 481 (S.C.C.), and *Canadian Pacific Ltd.*, *supra*, must be those which would have been anticipated to be subject to enforcement of the provisions in the normal course. The hypothetical situations posed by the Applicant lie, at best, on the periphery of activities prohibited by the regulation and given the "complaint initiated" investigation and enforcement policies of the federal prosecution service would be considered too trivial to trigger a prosecution. Although prosecutorial discretion cannot be relied on exclusively as a protection of rights and freedoms, it must be assumed that the government will act reasonably. As stated by Gonthier J. in *Canadian Pacific Ltd.*, *supra*, at p. 134,

> ...a statute should be interpreted to avoid absurd results. ... Since it may be presumed that the legislature does not intend unjust or inequitable results to flow from its enactments, judicial interpretations should be adopted which avoid such results. ... Where a provision is open to two or more interpretations, the absurdity principle may be employed to reject interpretations which lead to negative consequences, as such consequences are presumed to have been unintended by the legislature. In particular, because the legislature is presumed not to have intended to attach penal consequences to trivial or minimal violations of a provision, the absurdity principle allows for the narrowing of the scope of the provision. In this respect, the absurdity principle is closely related to the maxim, *de minimis non curat lex* (the law does not concern itself with trifles). The rationale of this doctrine was explained by Sir Walter Scott in the case of *Reward* (1818,2 Dods.265 at pp. 269-70, 165 E.R. 1482 at p. 1484:
>
> The Court is not bound to a strictness at once harsh and pedantic in the application of statutes. The law permits the qualification implied in the ancient maxim *De minimis non curat lex*. — Where there are irregularities of very slight consequence, it does not intend that the infliction of penalties should be inflexibly severe. If the deviation were a mere trifle, which, if continued in practice, would weigh little or nothing on the public interest, it might properly be overlooked.

34 This reasoning has application in the instant case. The provision is clear. The disturbance, destruction, or taking of migratory birds is prohibited without a permit. To attach penal consequences inflexibly to the very minor or trivial transgressions hypothesized by the Applicant, however, would render the provisions absurd. As stated above, the removal of a dead migratory bird from a

driveway or the taking down of an apple tree containing an abandoned migratory bird nest would "weigh little or nothing on the public interest [and] might properly be overlooked".

35 Moreover, the provisions which the Applicant is alleged to have violated do not necessarily result, upon conviction, of a loss of liberty or a liberty interest. There is no mandatory minimum punishment for an offence. Section 13 of the *Migratory Birds Convention Act, 1994* states:

> 13. (1) A person or vessel commits an offence if the person or vessel contravenes
>
> (*a*) a provision of this Act or the regulations;
>
> (*b*) an obligation or prohibition arising from this Act or the regulations;
>
> (*c*) an order or direction made under this Act; or
>
> (*d*) an order, direction or decision of a court made under this Act.
>
> (1.1) Every person or vessel that commits an offence is liable
>
> (*a*) on conviction on indictment, to a fine of not more than $1,000,000 or to Imprisonment fora term of not more than three years, or to both; and
>
> (*b*) on summary conviction, to a fine of not more than $300,000 or to imprisonment for a term of not more than six months, or to both.

36 It would be open to a court, if indeed such a minimal intrusion as hypothesized by the Applicant were prosecuted, to discharge the offender if found guilty.

37 Unlike the factual situations which gave rise to the decisions of the Supreme Court in *Heywood*, *supra*, and *R. c. Demers*, [2004] 2 S.C.R. 489 (S.C.C.), there is not a disconnection between the provisions of Section 6 of the regulations and the purpose for its enactment. In *Heywood*, the Court found that the provision prohibiting a person who had previously been found guilty of sexual assault to be loitering in or near a school ground, playground, public park or bathing area, was more broad and encompassing than was necessary to effect the purpose of protecting children in that it applied to places where children would not be likely to be found. In *Demers*, although the provisions relating to review of persons found unfit to stand trial addressed, in part, the concern for public safety, the Court would have no power to order a discharge even in cases where the person posed no threat to public safety. In both cases, the law encompassed situations which were unconnected to the purpose of the legislation.

38 This is not the case here. The purpose of the legislation, both the Act and the regulations, is the protection and conservation of migratory birds. The provisions, by prohibiting the disturbance, destruction, and taking of migratory birds and their nests relates directly to that purpose. There is a rational connection between the purpose of the law and the means adopted to effect that purpose. The means adopted fall within a range of reasonable solutions to the problem confronted.

39 The Applicant points to the addition in the *Migratory Birds Act, 1994* of a regulation-making authority to Section 12 which states:

> **12.** (1) The Governor in Council may make any regulations that the Governor in Council considers necessary to carry out the purposes and provisions of this Act and the Convention, including regulations
>
> (*h.1*) respecting the conditions and circumstances under which migratory birds may be killed, captured, injured, taken or disturbed, or nests may be damaged, destroyed, removed or disturbed:

as evidence that the federal government recognizes the broad nature of the proscription and the fact that it impedes industrial operations and development in migratory bird habitat. This provision would allow for the permits referred to in Section 6 of the regulation to be issued.

40 That regulation-making authority exists for the provision of permits does not mean that Section 6 is unconstitutionally overbroad. It simply allows for more flexibility within the administration of the Act if or when an appropriate circumstance arises and a workable mechanism could be devised. The volume of meeting notes and minutes filed by the Applicant is testament to the difficulty presented in attempting to

accommodate industry and fulfill Canada's obligations under the international treaty. This is for the legislators and drafters of legislation to address through making policy choices. It is not an area in which a judge should impose a different policy choice or regulatory framework.

41 The Applicant forwards a corollary overbreadth argument: that the inability to obtain a permit to kill, capture, injure, take, or disturb migratory birds or damage, destroy, remove or disturb migratory birds nests in effect removes the defense of "due diligence" which should be available in a regulatory offense and makes the proscriptions in Section 6 of the regulations absolute; that this in itself makes the application of the section overbroad. In support of this argument, the Applicant relies on studies which estimate the number of migratory birds in the Canadian boreal forest to be in the area of three billion which would mean that migratory birds are to be found virtually everywhere in the woods. Some species of migratory birds have very secretive nesting habits which make detection nearly impossible. These birds cannot be seen, their nests cannot be detected, yet it could be assumed that a person, such as the Applicant, would have knowledge of their omnipresence. With such knowledge, how could a claim of Mue diligence" be advanced? Surely this now becomes a question of *mens rea*, since the decision is consciously made to continue on with activity in the forest knowing that some migratory bird or migratory bird nest will be disturbed or destroyed.

42 This is an unrealistically harsh and narrow view of what constitutes the defence of "due diligence". It is not anticipated that a person take all steps possible or Imaginable to avoid liability. What is required to be established is that the person took all reasonable care, that he was not negligent. As described by Dickson, J in the Supreme Court of Canada decision in *R. v. Sault Ste. Marie (City)* (1978), 40 C.C.C. (2d) 353 (S.C.C.) at p. 374:

> This involves consideration of what a reasonable man would have done in the circumstances. The defence wilt be available if the accused reasonably believed In a mistaken set of facts which, if true, would render the act or omission innocent, or if he took all reasonable steps to avoid the particular event

43 What is viewed as reasonable steps will depend upon the particular circumstances of individual cases. Regardless of whether permits to conduct certain activities are available or not, a defendant may still raise the defence of "due diligence". It is up to the defendant to establish that he took those steps which a reasonable man would have taken in the circumstances.

44 I do not agree with the submission of the Applicant that he is deprived of a valid defence through the absence of a permitting system. This does not, in my view, support the contention that the legislation is overbroad, catching as it does activities for which no permit is presently available. I find Section 6 of the *Migratory Birds Regulation* to be neither vague nor overbroad and does not therefore violate the rights afforded under Section 7 of the *Charter of Rights and Freedams*.

45 I find the authority to enact the *Migratory Birds Convention Act, 1994* is within the jurisdiction of the federal government being both legislation Implementing a valid "Empire treaty" under Section 132 of the *Constitution Act, 1867* and being legislation properly enacted under the residual "Peace, order and good government" power in Section 91 of the *Constitution Act, 1867*.

46 I find that the constitutional challenge to the relevant legislation fails.

Application dismissed.

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1. (*Anat.*) A glandular organ which excretes urea and other waste products from the animal body; a urinary gland.

☞ In man and in other mammals there are two kidneys, one on each side of the vertebral column in the back part of the abdomen, each kidney being connected with the bladder by a long tube, the ureter, through which the urine is constantly excreted into the bladder to be periodically discharged.

2. Habit; disposition; sort; kind. *Shak.*

There are in later times other decrees, made by popes of another *kidney*. *Barrow.*

Millions in the world of this man's *kidney*. *L'Estrange.*

Your poets, spendthrifts, and other fools of that *kidney*, pretend, forsooth, to crack their jokes on prudence. *Burns.*

☞ This use of the word perhaps arose from the fact that the *kidneys* and the fat about them are an easy test of the condition of an animal as to fatness. "Think of that, — a man of my *kidney*; — . . . as subject to heat as butter." *Shak.*

3. A waiter. [*Old Cant*] *Tatler.*

Floating **kidney**. See *Wandering kidney*, under Wandering. — **Kidney bean** (*Bot.*), a sort of bean; — so named from its shape. It is of the genus *Phaseolus* (*P. vulgaris*). See under Bean. — **Kidney ore** (*Min.*), a variety of hematite or iron sesquioxide, occurring in compact kidney-shaped masses. — **Kidney stone.** (*Min.*) See Nephrite, and Jade. — **Kidney vetch** (*Bot.*), a leguminous herb of Europe and Asia (*Anthyllis vulneraria*), with cloverlike heads of red or yellow flowers, once used as a remedy for renal disorders, and also to stop the flow of blood from wounds; lady's-fingers.

Kid'ney-form' (kĭd'nĭ-fôrm'), } *a.* Having the form
Kid'ney-shaped' (-shāpt'), } or shape of a kidney; reniform; as, a *kidney-shaped* leaf. *Gray.*

Kidney-Shaped Leaf.

Kid'ney-wort' (-wûrt'), *n.* (*Bot.*) (*a*) A kind of saxifrage (*Saxifraga stellaris*). (*b*) The navelwort.

Kie (kī), *n. pl.* [Cf. Ker.] Kine; cows. [*Prov. Eng.*] *Halliwell.*

Kie'se-kil (kē'zĕ-kĭl), *n.* [Per. *keff* foam, scum + *gil* clay, mud.] (*Min.*) A species of clay; meerschaum. [Also written *keffekil*.]

Kier (kēr), *n.* [Icel. *ker* a tub.] (*Bleaching*) A large tub or vat in which goods are subjected to the action of hot lye or bleaching liquor; — also called *keeve*.

‖ **Kie'sel-guhr'** (kē'zĕl-gōōr'), *n.* [G., fr. *kiesel* flint + *guhr* an earthy deposit or sediment in water.] Siliceous earth; specifically, porous infusorial earth, used as an absorbent of nitroglycerin in the manufacture of dynamite.

Kie'ser-ite (kē'zĕr-īt), *n.* [Named after Prof. *Kieser*, of Jena.] (*Min.*) Hydrous sulphate of magnesia found at the salt mines of Stassfurt, Prussian Saxony.

Kieve (kēv), *n.* See Keeve, *n.*

Kike (kīk), *v. i.* [Cf. D. *kijken*, Sw. *kika*.] To gaze; to stare. [*Obs.*] *Chaucer.*

Kike (kīk), *v. t. & i.* To kick. [*Obs.*] *Chaucer.*

Kil'der-kin (kĭl'dĕr-kĭn), *n.* [OD. *kindeken*, *kinneken*, a small barrel, orig., a little child, fr. *kind* child; akin to G. *kind*, and to E. *kin*.] A small barrel; an old liquid measure containing eighteen English beer gallons, or nearly twenty-two gallons, United States measure. [Written also *kinderkin*.]

Kill (kĭl), *n.* A kiln. [*Obs.*] *Fuller.*

Kill, *n.* [D. *kil*.] A channel or arm of the sea; a river; a stream; as, the channel between Staten Island and Bergen Neck is the *Kill* van Kull, or the *Kills*; — used also in composition; as, Schuylkill, Catskill, etc.

Kill, *v. t.* [*imp. & p. p.* Killed (kĭld); *p. pr. & vb. n.* Killing.] [OE. *killen*, *kellen*, *cullen*, to kill, strike; perh. the same word as *swellen*, *quellen*, to kill (cf. Quell), or perh. rather akin to Icel. *kolla* to hit in the head, harm, *kollr* top, summit, head, Sw. *kulle*, D. *kollen* to kill with the ax.] **1.** To deprive of life, animal or vegetable, in any manner or by any means; to render inanimate; to put to death; to slay.

Ah, *kill* me with thy weapon, not with words! *Shak.*

2. To destroy; to ruin; as, to *kill* one's chances; to *kill* the sale of a book. "To *kill* thine honor." *Shak.*

Her lively color *kill'd* with deadly care. *Shak.*

3. To cause to cease; to quell; to calm; to still; as, in seamen's language, a shower of rain *kills* the wind.

Be comforted, good madam; the great rage,
You see, is *killed* in him. *Shak.*

4. To destroy the effect of; to counteract; to neutralize; as, alkali *kills* acid.

To kill time, to busy one's self with something which occupies the attention, or makes the time pass without tediousness.

Syn. — To murder; assassinate; slay; butcher; destroy. — To Kill, Murder, Assassinate. To *kill* does not necessarily mean any more than to deprive of life. A man may *kill* another by accident or in self-defense, without the imputation of guilt. To *murder* is to kill with malicious forethought and intention. To *assassinate* is to *murder* suddenly and by stealth. The sheriff may *kill* without *murdering*; the duelist *murders*, but does not *assassinate* his antagonist; the assassin *kills* and *murders*.

Kill'dee' (kĭl'dē'), } *n.* [So named from its notes.]
Kill'deer' (-dēr'), } (*Zoöl.*) A small American plover (*Ægialitis vociferus*).

☞ It is dark grayish brown above; the rump and upper tail coverts are yellowish rufous; the belly, throat, and a line over the eyes, white; a ring round the neck and band across the breast, black.

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Killdeer.

Kill'er (kĭl'ẽr), *n.* **1.** One who deprives of life; one who, or that which, kills.

2. (*Zoöl.*) A voracious, toothed whale of the genus *Orca*, of which several species are known.

☞ The *killers* have a high dorsal fin, and powerful jaws armed with large, sharp teeth. They capture, and swallow entire, large numbers of seals, porpoises, and dolphins, and are celebrated for their savage, combined attacks upon the right whales, which they are said to mutilate and kill. The common Atlantic species (*Orca gladiator*), is found both on the European and the American coast. Two species (*Orca ater* and *O. rectipinna*) occur on the Pacific coast.

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Killer (*Zoöl.*) (*Orca gladiator*).

Kil-lesse' (kĭl-lĕs'), *n.* [Cf. Coulisse.] (*Arch.*) (*a*) A gutter, groove, or channel. (*b*) A hipped roof. [*Prov. Eng.*] *Parker.*

Kil'li-fish' (kĭl'ĭ-fĭsh'), *n.* (*Zoöl.*) Any one of several small American cyprinodont fishes of the genus *Fundulus* and allied genera. They live equally well in fresh and brackish water, or even in the sea. They are usually striped or barred with black. Called also *minnow*, and *brook fish*. See Minnow.

Kil'li-grow (kĭl'ĭl-grŏ), *n.* (*Zoöl.*) The Cornish chough. See under Chough. [*Prov. Eng. & Scot.*]

Kil'li-ki-nick' (-kĭ-nĭk'), *n.* See Kinnikinic.

Kill'ing (kĭl'ĭng), *a.* Literally, that kills; having power to kill; fatal; in a colloquial sense, conquering; captivating; irresistible. — **Kill'ing-ly**, *adv.*

Those eyes are made so *killing*. *Pope.*

Nothing could be more *killingly* spoken. *Milton.*

Kill'-joy' (-joi'), *n.* One who causes gloom or grief; a dispiriting person. *W. Black.*

Kil'lock (kĭl'ŭk), *n.* [Cf. Scot. *killick* "the fluke [fluke] of an anchor." *Jamieson.*] A small anchor; also, a kind of anchor formed by a stone inclosed by pieces of wood fastened together. [Written also *killick*.]

Kil'low (-lō), *n.* [Prov. E. *kellow* the smut or grime on the backs of chimneys.] An earth of a blackish or deep blue color. *Woodward.*

Kiln (kĭl), *n.* [OE. *kilne*, *kuine*, AS. *cyln*, *cylen*; akin to Icel. *kylna*; prob. from the same source as *coal*. See Coal.] **1.** A large stove or oven; a furnace of brick or stone, or a heated chamber, for the purpose of hardening, burning, or drying anything; as, a *kiln* for baking or hardening earthen vessels; a *kiln* for drying grain, meal, lumber, etc.; a *kiln* for calcining limestone.

2. A furnace for burning bricks; a brickkiln.

Kiln'-dry' (kĭl'drī'), *v. t.* To dry in a kiln; as, to *kiln-dry* meal or grain. *Mortimer.*

Kiln'hole' (kĭl'hōl'), *n.* The mouth or opening of an oven or kiln. *Shak.*

Ki'lo (kē'lō), *n.*; *pl.* Kilos (-lōz). [F.] An abbreviation of Kilogram.

Kil'o-gram (kĭl'ō-grăm), **Kil'o-grammo**, *n.* [F. *kilogramme*; pref. *kilo-* (fr. Gr. χίλιοι a thousand) + *gramme*. See 3d Gram.] A measure of weight, being a thousand grams, equal to 2.2046 pounds avoirdupois (15,432.34 grains). It is equal to the weight of a cubic decimeter of distilled water at the temperature of maximum density, or 39° Fahrenheit.

Kil'o-gram-me'ter (kĭl'ō-grăm-mē'tẽr *or* kĭl'ō-grăm'-mē-tẽr), **Kil'o-gram-me'tre**, *n.* (*Mech.*) A measure of energy or work done, being the amount expended in raising one kilogram through the height of one meter, in the latitude of Paris.

Kil'o-li'ter (kĭl'ō-lē'tẽr *or* kĭ-lŏl'ĭ-tẽr), **Kil'o-li'tre**, *n.* [F. *kilolitre*. See Kilogram, and Liter.] A measure of capacity equal to a cubic meter, or a thousand liters. It is equivalent to 35.315 cubic feet, and to 220.04 imperial gallons, or 264.18 American gallons of 231 cubic inches.

Kil'o-me'ter (kĭl'ō-mē'tẽr *or* kĭ-lŏm'ẽ-tẽr), **Kil'o-me'tre**, *n.* [F. *kilomètre*. See Kilogram, and Meter.] A measure of length, being a thousand meters. It is equal to 3,280.8 feet, or .62137 of a mile.

Kil'o-stere' (kĭl'ō-stēr' *or* -stăr'), *n.* [F. *kilostère*. See Kilogram, and Stere.] A cubic measure containing 1000 cubic meters, and equivalent to 35,315 cubic feet.

Kil'o-watt (-wŏt), *n.* [See Kilogram and Watt.] (*Elec.*) One thousand watts.

Kilt (kĭlt), *p. p.* from Kill. [*Obs.*] *Spenser.*

Kilt, *n.* [OGael. *ceallt* clothes, or rather perh. fr. Dan. *kilte op* to truss, tie up, tuck up.] A kind of short petticoat, reaching from the waist to the knees, worn in the Highlands of Scotland by men, and in the Lowlands by young boys; a filibeg. [Written also *kelt*.]

Kilt, *v. t.* [*imp. & p. p.* Kilted; *p. pr. & vb. n.* Kilting.] To tuck up; to truss up, as the clothes. [*Scot.*] *Sir W. Scott.*

Kilt'ed, *a.* **1.** Having on a kilt.

2. Plaited after the manner of kilting.

3. Tucked or fastened up; — said of petticoats, etc.

Kil'ter (kĭl'tẽr), *n.* See Kelter.

Kilt'ing (kĭlt'ĭng), *n.* (*Dressmaking*) A perpendicular arrangement of flat, single plaits, each plait being folded so as to cover half the breadth of the preceding one.

Kim'bo (kĭm'bō), *a.* [Cf. Akimbo.] Crooked; arched; bent. [Written also *kimbow*.] *Dryden.*

Kim-me'ri-an (kĭm-mē'rĭ-ăn), *a.* See Cimmerian.

Kim'nel (kĭm'nĕl), *n.* A tub. See Kemelin. [*Obs.*]

She knew not what a *kimnel* was. *Beau. & Fl.*

Kim'ry (-rĭ), *n.* See Cymry.

-kin (-kĭn). [Of Low German origin; cf. G. *-chen*, LG. *-ken*.] A diminutive suffix; as, *manikin*; *lambkin*.

Kin (kĭn), *n.* (*Mus.*) A primitive Chinese instrument of the cittern kind, with from five to twenty-five silken strings. *Riemann.*

Kin, *n.* [OE. *kin*, *cun*, AS. *cynn* kin, kind, race, people; akin to *cennan* to beget, D. *kunne* sex, OS. & OHG. *kunni* kin, race, Icel. *kyn*, Goth. *kuni*, G. & D. *kind* a child, L. *genus* kind, race, L. *gignere* to beget, Gr. γίγνεσθαι to be born, Skr. *jan* to beget. √44. Cf. Kind, King, Gender kind, Nation.] **1.** Relationship, consanguinity, or affinity; connection by birth or marriage; kindred; near connection or alliance, as of those having common descent.

2. Relatives; persons of the same family or race.

The father, mother, and the *kin* beside. *Dryden.*

You are of *kin*, and so a friend to their persons. *Bacon.*

Kin, *a.* Of the same nature or kind; kindred. "*Kin* to the king." *Shak.*

Kin'æ-sod'ic (kĭn'ē-sŏd'ĭk *or* kī'nē-), *a.* (*Physiol.*) Kinesodic.

‖ **Kin'æs-the'sis** (kĭn'ēs-thē'sĭs *or* kī'nēs-), *n.* [NL., fr. Gr. κινεῖν to move + αἴσθησις perception.] (*Physiol.*) The perception attendant upon the movements of the muscles. *Bastian.*

Ki'nate (kī'nāt), *n.* [Cf. F. *kinate*.] (*Chem.*) See Quinate. [*Obsolescent*]

Kin'cob (kĭn'kŏb), *n.* India silk brocaded with flowers in silver or gold. — *a.* Of the nature of kincob; brocaded. *Thackeray.*

Kind (kīnd), *a.* [*Compar.* Kinder (-dẽr); *superl.* Kindest.] [AS. *cynde*, *gecynde*, natural, innate, prop. an old p. p. from the root of E. *kin*. See Kin kindred.] **1.** Characteristic of the species; belonging to one's nature; natural; native. [*Obs.*] *Chaucer.*

It becometh sweeter than it should be, and loseth the *kind* taste. *Holland.*

2. Having feelings befitting our common nature; congenial; sympathetic; as, a *kind* man; a *kind* heart.

Yet was he *kind*, or if severe in aught,
The love he bore to learning was his fault. *Goldsmith.*

3. Showing tenderness or goodness; disposed to do good and confer happiness; averse to hurting or paining; benevolent; benignant; gracious.

He is *kind* unto the unthankful and to the evil. *Luke* vi. 35.

O cruel Death, to those you take more *kind*
Than to the wretched mortals left behind. *Waller.*

A fellow feeling makes one wondrous *kind*. *Garrick.*

4. Proceeding from, or characterized by, goodness, gentleness, or benevolence; as, a *kind* act. "Manners so *kind*, yet stately." *Tennyson.*

5. Gentle; tractable; easily governed; as, a horse *kind* in harness.

Syn. — Benevolent; benign; beneficent; bounteous; gracious; propitious; generous; forbearing; indulgent; tender; humane; compassionate; good; lenient; clement; mild; gentle; bland; obliging; friendly; amicable. See Obliging.

Kind, *n.* [OE. *kinde*, *cunde*, AS. *cynd*. See Kind, *a.*]

1. Nature; natural instinct or disposition. [*Obs.*]

He knew by *kind* and by no other lore. *Chaucer.*

Some of you, on pure instinct of nature,
Are led by *kind* t' admire your fellow-creature. *Dryden.*

2. Race; genus; species; generic class; as, in mankind or humankind. "Come of so low a *kind*." *Chaucer.*

Every *kind* of beasts, and of birds. *James* iii. 7.

She follows the law of her *kind*. *Wordsworth.*

Here to sow the seed of bread,
That man and all the *kinds* he fed. *Emerson.*

3. Nature; style; character; sort; fashion; manner; variety; description; class; as, there are several *kinds* of eloquence, of style, and of music; many *kinds* of government; various *kinds* of soil, etc.

How diversely Love doth his pageants play,
And shows his power in variable *kinds*! *Spenser.*

There is one *kind* of flesh of men, another flesh of beasts, another of fishes, and another of birds. 1 *Cor.* xv. 39.

Diogenes was asked in a *kind* of scorn: What was the matter that philosophers haunted rich men, and not rich men philosophers? *Bacon.*

A kind of, something belonging to the class of; something like to; — said loosely or slightingly. — **In kind**, in the produce or designated commodity itself, as distinguished from its value in money.

Tax on tillage was often levied *in kind* upon corn. *Arbuthnot.*

Syn. — Sort; species; class; genus; nature; style; character; breed; set.

Kind, *v. t.* [See Kin.] To beget. [*Obs.*] *Spenser.*

Kin'der-gar'ten (kĭn'dẽr-gär'tĕn), *n.* [G., lit., children's garden; *kinder* (pl. of *kind* child, akin to E. *kin* kindred) + *garten* garden.] A school for young children, conducted on the theory that education should be begun by gratifying and cultivating the normal aptitude for exercise, play, observation, imitation, and construction; — a name given by Friedrich Froebel, a German educator, who introduced this method of training, in rooms opening on a garden.

Kin'der-gart'ner (-gärt'nẽr), *n.* One who teaches in a kindergarten.

Kind'-heart'ed (kīnd'härt'ĕd), *a.* Having kindness of nature; sympathetic; characterized by a humane disposition; as, a *kind-hearted* landlord.

To thyself at least *kind-hearted* prove. *Shak.*

Kind'-heart'ed-ness, *n.* The state or quality of being kind-hearted; benevolence.

Kin'dle (kĭn'd'l), *v. t. & i.* [OE. *kindlen*, *cundlen*. See Kind.] To bring forth young. [*Obs.*] *Shak.*

The poor beast had but lately *kindled*. *Holland.*

Kin'dle, *v. t.* [*imp. & p. p.* Kindled (-d'ld); *p. pr. & vb. n.* Kindling (-dlĭng).] [Icel. *kyndill* candle, torch; prob. fr. L. *candela*; cf. also Icel. *kynda* to kindle. Cf. Candle.] **1.** To set on fire; to cause to burn with flame; to ignite; to cause to begin burning; to start; to light; as, to *kindle* a fire; to *kindle* a match, or shavings.

His breath *kindleth* coals. *Job* xli. 21.

2. Fig.: To inflame, as the passions; to rouse; to

the East Indies.] (*Zoöl.*) A large flying squirrel (*Pteromys petaurista*). Its body becomes two feet long, with a large bushy tail nearly as long.

Ta′gui-ca′ti (tä′gwē-kä′tē), *n.* [From the native name.] (*Zoöl.*) The white-lipped peccary.

Ta′ha (tä′hä), *n.* (*Zoöl.*) The African rufous-necked weaver bird (*Hyphantornis textor*).

Ta-ha′leb (tä-hä′lĕb), *n.* [From the native name.] (*Zoöl.*) A fox (*Vulpes Niloticus*) of Northern Africa.

Ta-hi′ti-an (tä-hē′tĭ-*an*), *a.* Of or pertaining to Tahiti, an island in the Pacific Ocean. — *n.* A native or inhabitant of Tahiti.

Tahr (tär), *n.* (*Zoöl.*) Same as THAR.

Tail (tāl), *n.* [F. *taille* a cutting. See ENTAIL, TALLY.] (*Law*) Limitation; abridgment. *Burrill.*

Estate in tail, a limited, abridged, or reduced fee; an estate limited to certain heirs, and from which the other heirs are precluded; — called also *estate tail.* *Blackstone.*

Tail, *a.* (*Law*) Limited; abridged; reduced; curtailed; as, an estate *tail*.

Tail, *n.* [AS. *tægel*, *tægl*; akin to G. *zagel*, Icel. *tagl*, Sw. *tagel*, Goth. *tagl* hair. √59.] **1.** (*Zoöl.*) The terminal, and usually flexible, posterior appendage of an animal.

☞ The tail of mammals and reptiles contains a series of movable vertebræ, and is covered with flesh and hairs or scales like those of other parts of the body. The tail of existing birds consists of several more or less consolidated vertebræ which support a fanlike group of quills to which the term *tail* is more particularly applied. The tail of fishes consists of the tapering hind portion of the body ending in a caudal fin. The term *tail* is sometimes applied to the entire abdomen of a crustacean or insect, and sometimes to the terminal piece or pygidium alone.

2. Any long, flexible terminal appendage; whatever resembles, in shape or position, the tail of an animal, as a catkin.

Doretus writes a great praise of the distilled waters of those *tails* that hang on willow trees. *Harvey.*

3. Hence, the back, last, lower, or inferior part of anything, — as opposed to the *head*, or the superior part.

The Lord will make thee the head, and not the *tail*. *Deut.* xxviii. 13.

4. A train or company of attendants; a retinue.

"Ah," said he, "if you saw but the chief with his *tail* on." *Sir W. Scott.*

5. The side of a coin opposite to that which bears the head, effigy, or date; the reverse; — rarely used except in the expression "heads or tails," employed when a coin is thrown up for the purpose of deciding some point by its fall.

6. (*Anat.*) The distal tendon of a muscle.

7. (*Bot.*) A downy or feathery appendage to certain achenes. It is formed of the permanent elongated style.

Achene of *Clematis* with its Tail.

8. (*Surg.*) (*a*) A portion of an incision, at its beginning or end, which does not go through the whole thickness of the skin, and is more painful than a complete incision; — called also *tailing*. (*b*) One of the strips at the end of a bandage formed by splitting the bandage one or more times.

9. (*Naut.*) A rope spliced to the strap of a block, by which it may be lashed to anything.

10. (*Mus.*) The part of a note which runs perpendicularly upward or downward from the head; the stem. *Moore (Encyc. of Music).*

11. *pl.* Same as TAILING, 4.

12. (*Arch.*) The bottom or lower portion of a member or part, as a slate or tile.

13. *pl.* (*Mining*) See TAILING, *n.*, 5.

Tail beam. (*Arch.*) Same as TAILPIECE. — Tail coverts (*Zoöl.*), the feathers which cover the bases of the tail quills. They are sometimes much longer than the quills, and form elegant plumes. Those above the quills are called the *upper tail coverts*, and those below, the *under tail coverts*. — Tail end, the latter end; the termination; as, the *tail end* of a contest. [*Colloq.*] — Tail joist. (*Arch.*) Same as TAILPIECE. — Tail of a comet (*Astron.*), a luminous train extending from the nucleus or body, often to a great distance, and usually in a direction opposite to the sun. — Tail of a gale (*Naut.*), the latter part of it, when the wind has greatly abated. *Totten.* — Tail of a lock (on a canal), the lower end, or entrance into the lower pond. — Tail of the trenches (*Fort.*), the post where the besiegers begin to break ground, and cover themselves from the fire of the place, in advancing the lines of approach. — Tail spindle, the spindle of the tailstock of a turning lathe; — called also *dead spindle*. — To turn tail, to run away; to flee.

Would she *turn tail* to the heron, and fly quite out another way; but all was to return in a higher pitch. *Sir P. Sidney.*

Tail, *v. t.* **1.** To follow or hang to, like a tail; to be attached closely to, as that which can not be evaded. [*Obs.*]

Nevertheless his bond of two thousand pounds, wherewith he was *tailed*, continued uncanceled, and was called on the next Parliament. *Fuller.*

2. To pull or draw by the tail. [*R.*] *Hudibras.*

To tail in *or* on (*Arch.*), to fasten by one of the ends into a wall or some other support; as, *to tail in* a timber.

Tail, *v. i.* **1.** (*Arch.*) To hold by the end; — said of a timber when it rests upon a wall or other support; — with *in* or *into*.

2. (*Naut.*) To swing with the stern in a certain direction; — said of a vessel at anchor; as, this vessel *tails* down stream.

Tail on. (*Naut.*) See *Tally on*, under TALLY.

Tail′age (-āj; 48), *n.* (*O. Eng. Law*) See TALLAGE.

Tail′-bay′ (-bā′), *n.* **1.** (*Arch.*) One of the joists which rest one end on the wall and the other on a girder; also, the space between a wall and the nearest girder of a floor. Cf. CASE-BAY.

2. The part of a canal lock below the lower gates.

Tail′block′ (-blŏk′), *n.* (*Naut.*) A block with a tail. See TAIL, 9.

Tail′board′ (tāl′bōrd′), *n.* The board at the rear end of a cart or wagon, which can be removed or let down, for convenience in loading or unloading.

Tailed (tāld), *a.* Having a tail; having (such) a tail or (so many) tails; — chiefly used in composition; as, bob*tailed*, long-*tailed*, etc.

Snouted and *tailed* like a boar. *Grew.*

Tail′ing (tāl′ĭng), *n.* **1.** (*Arch.*) The part of a projecting stone or brick inserted in a wall. *Gwilt.*

2. (*Surg.*) Same as TAIL, *n.*, 8 (*a*).

3. Sexual intercourse. [*Obs.*] *Chaucer.*

4. *pl.* The lighter parts of grain separated from the seed in threshing and winnowing; chaff.

5. *pl.* (*Mining*) The refuse part of stamped ore, thrown behind the tail of the buddle or washing apparatus. It is dressed over again to secure whatever metal may exist in it. Called also *tails*. *Pryce.*

Taille (tāl), *n.* [F. See TALLY, TAILOR.] **1.** A tally; an account scored on a piece of wood. [*Obs.*]

Whether that he paid or took by *taille*. *Chaucer.*

2. (*O. F. Law*) Any imposition levied by the king, or any other lord, upon his subjects.

The *taille*, as it still subsists in France, may serve as an example of those ancient tallages. It was a tax upon the profits of the farmer, which they estimate by the stock that he has upon the farm. *A. Smith.*

3. (*Mus.*) The French name for the tenor voice or part; also, for the tenor viol or viola.

Tail′less (tāl′lĕs), *a.* Having no tail. *H. Spencer.*

Tail′lie (-lĭ), *n.* (*Scots Law*) Same as TAILZIE.

Tai′lor (tā′lẽr), *n.* [OF. *tailleor*, F. *tailleur*, fr. OF. *taillier*, F. *tailler* to cut, fr. L. *talea* a rod, stick, a cutting, layer for planting. Cf. DETAIL, ENTAIL, RETAIL, TALLY, *n.*] **1.** One whose occupation is to cut out and make men's garments; also, one who cuts out and makes ladies' outer garments.

Well said, good woman's *tailor*. . . . I would thou wert a man's *tailor*. *Shak.*

2. (*Zoöl.*) (*a*) The mattowacca; — called also *tailor herring*. (*b*) The silversides.

3. (*Zoöl.*) The goldfinch. [*Prov. Eng.*]

Salt-water tailor (*Zoöl.*), the bluefish. [*Local, U. S.*] *Bartlett.* — Tailor bird (*Zoöl.*), any one of numerous species of small Asiatic and East Indian singing birds belonging to *Orthotomus*, *Prinia*, and allied genera. They are noted for the skill with which they sew leaves together to form nests. The common Indian species are *O. longicauda*, which has the back, scapulars, and upper tail coverts yellowish green, and the under parts white; and the golden-headed tailor bird (*O. coronatus*), which has the top of the head golden yellow and the back and wings pale olive-green.

Nest of Tailor Bird (*Orthotomus longicauda*), reduced.

Tai′lor, *v. t.* [*imp.* & *p. p.* TAILORED (-lẽrd); *p. pr.* & *vb. n.* TAILORING.] To practice making men's clothes; to follow the business of a tailor.

These *tailoring* artists for our lays
Invent cramped rules. *M. Green.*

Tai′lor-ess, *n.* A female tailor.

Tai′lor-ing, *n.* The business or the work of a tailor or a tailoress.

Tail′piece′ (tāl′pēs′), *n.* **1.** A piece at the end; an appendage.

2. (*Arch.*) One of the timbers which tail into a header, in floor framing. See *Illust.* of HEADER.

3. (*Print.*) An ornament placed at the bottom of a short page to fill up the space, or at the end of a book. *Savage.*

4. A piece of ebony or other material attached to the lower end of a violin or similar instrument, to which the strings are fastened.

Tail′pin′ (-pĭn′), *n.* (*Mach.*) The center in the tail spindle of a turning lathe.

Tail′race′ (-rās′), *n.* **1.** See RACE, *n.*, 6.

2. (*Mining*) The channel in which tailings, suspended in water, are conducted away.

Tail′stock′ (tāl′stŏk′), *n.* The sliding block or support, in a lathe, which carries the dead spindle, or adjustable center. The *headstock* supports the live spindle.

Tail′-wa′ter (-wa′tẽr), *n.* Water in a tailrace.

Tail′zie (-zĭ *or* -yĭ), *n.* [F. *tailler* to cut. See TAIL a limitation.] (*Scots Law*) An entailment or deed whereby the legal course of succession is cut off, and an arbitrary one substituted. [Written also *tailzee*.]

Tain (tān), *n.* [OE. *tein*, *teyne*; cf. Icel. *teinn* a twig, akin to AS. *tān*, Goth. *tains*.] Thin tin plate; also, tin foil for mirrors. *Knight.*

Taint (tānt), *n.* [Cf. F. *atteinte* a blow, hit, stroke. See ATTAINT.] **1.** A thrust with a lance, which fails of its intended effect. [*Obs.*]

This *taint* he followed with his sword drawn from a silver sheath. *Chapman.*

2. An injury done to a lance in an encounter, without its being broken; also, a breaking of a lance in an encounter in a dishonorable or unscientific manner. [*Obs.*]

Taint, *v. i.* [*imp.* & *p. p.* TAINTED; *p. pr.* & *vb. n.* TAINTING.] To thrust ineffectually with a lance. [*Obs.*]

Taint, *v. t.* **1.** To injure, as a lance, without breaking it; also, to break, as a lance, but usually in an unknightly or unscientific manner. [*Obs.*]

Do not fear; I have
A staff to *taint*, and bravely. *Massinger.*

2. To hit or touch lightly, in tilting. [*Obs.*]

They *tainted* each other on the helms and passed by. *Ld. Berners.*

Taint, *v. t.* [F. *teint*, p. p. of *teindre* to dye, tinge, fr. L. *tingere*, *tinctum*. See TINGE, and cf. TINT.] **1.** To imbue or impregnate with something extraneous, especially with something odious, noxious, or poisonous; hence, to corrupt; to infect; to poison; as, putrid substances *taint* the air.

2. Fig.: To stain; to sully; to tarnish.

His unkindness may defeat my life,
But never *taint* my love. *Shak.*

Syn. — To contaminate; defile; pollute; corrupt; infect; disease; vitiate; poison.

Taint (tānt), *v. i.* **1.** To be infected or corrupted; to be touched with something corrupting.

I can not *taint* with fear. *Shak.*

2. To be affected with incipient putrefaction; as, meat soon *taints* in warm weather.

Taint, *n.* **1.** Tincture; hue; color; tinge. [*Obs.*]

2. Infection; corruption; deprivation.

He had inherited from his parents a scrofulous *taint*, which it was beyond the power of medicine to remove. *Macaulay.*

3. A blemish on reputation; stain; spot; disgrace.

Taint′less, *a.* Free from taint or infection; pure.

Taint′less-ly, *adv.* In a taintless manner.

Tain′ture (tān′tūr; 135), *n.* [F. *teinture*. See TAINT to stain, and cf. TINCTURE.] Taint; tinge; defilement; stain; spot. [*R.*] *Shak.*

Taint′worm′ (tānt′wûrm′), *n.* (*Zoöl.*) A destructive parasitic worm or insect larva.

Tai′ra (tī′rȧ), *n.* (*Zoöl.*) Same as TAYRA.

Tairn (târn), *n.* See TARN. *Coleridge.*

Tait (tāt), *n.* (*Zoöl.*) A small nocturnal and arboreal Australian marsupial (*Tarsipes rostratus*) about the size of a mouse. It has a long muzzle, a long tongue, and very few teeth, and feeds upon honey and insects. Called also *noolbenger*.

Ta-jaç′u } (tȧ-jȧs′sụ; Pg. tä-zhä-sōō′), *n.* [Pg. *tajaçú*, fr. Braz. *tayaçú* a hog or swine.]
Ta-jas′su } (*Zoöl.*) The common, or collared, peccary.

Take (tāk), *obs. p. p.* of TAKE. Taken. *Chaucer.*

Take, *v. t.* [*imp.* TOOK (tŏŏk); *p. p.* TAKEN (tāk′'n); *p. pr.* & *vb. n.* TAKING.] [Icel. *taka*; akin to Sw. *taga*, Dan. *tage*, Goth. *têkan* to touch; of uncertain origin.]

1. In an active sense: To lay hold of; to seize with the hands, or otherwise; to grasp; to get into one's hold or possession; to procure; to seize and carry away; to convey. Hence, specifically: —

(*a*) To obtain possession of by force or artifice; to get the custody or control of; to reduce into subjection to one's power or will; to capture; to seize; to make prisoner; as, to *take* an army, a city, or a ship; also, to come upon or befall; to fasten on; to attack; to seize; — said of a disease, misfortune, or the like.

This man was *taken* of the Jews. *Acts* xxiii. 27.

Men in their loose, unguarded hours they *take*;
Not that themselves are wise, but others weak. *Pope.*

They that come abroad after these showers are commonly *taken* with sickness. *Bacon.*

There he blasts the tree and *takes* the cattle
And makes milch kine yield blood. *Shak.*

(*b*) To gain or secure the interest or affection of; to captivate; to engage; to interest; to charm.

Neither let her *take* thee with her eyelids. *Prov.* vi. 25.

Cleombrotus was so *taken* with this prospect, that he had no patience. *Wake.*

I know not why, but there was a something in those half-seen features, — a charm in the very shadow that hung over their imagined beauty, — which *took* me more than all the outshining loveliness of her companions. *Moore.*

(*c*) To make selection of; to choose; also, to turn to; to have recourse to; to betake one's self to; as, to *take* the road to the right.

Saul said, Cast lots between me and Jonathan my son. And Jonathan was *taken*. *1 Sam.* xiv. 42.

The violence of storming is the course which God is forced to *take* for the destroying . . . of sinners. *Hammond.*

(*d*) To employ; to use; to occupy; hence, to demand; to require; as, it *takes* so much cloth to make a coat.

This man always *takes* time . . . before he passes his judgment. *I. Watts.*

(*e*) To form a likeness of; to copy; to delineate; to picture; as, to *take* a picture of a person.

Beauty alone could beauty *take* so right. *Dryden.*

(*f*) To draw; to deduce; to derive. [*R.*]

The firm belief of a future judgment is the most forcible motive to a good life, because *taken* from this consideration of the most lasting happiness and misery. *Tillotson.*

(*g*) To assume; to adopt; to acquire, as shape; to permit to one's self; to indulge or engage in; to yield to; to have or feel; to enjoy or experience, as rest, revenge, delight, shame; to form and adopt, as a resolution; — used in general senses, limited by a following complement, in many idiomatic phrases; as, to *take* a resolution; I *take* the liberty to say.

(*h*) To lead; to conduct; as, to *take* a child to church.

(*i*) To carry; to convey; to deliver to another; to hand over; as, he *took* the book to the bindery.

He *took* me certain gold, I wot it well. *Chaucer.*

(*k*) To remove; to withdraw; to deduct; — with *from*; as, to *take* the breath from one; to *take* two from four.

2. In a somewhat passive sense, to receive; to bear; to endure; to acknowledge; to accept. Specifically: —

(*a*) To accept, as something offered; to receive; not to refuse or reject; to admit.

Ye shall *take* no satisfaction for the life of a murderer. *Num.* xxxv. 31.

Let not a widow be *taken* into the number under threescore. *1 Tim.* v. 9.

(*b*) To receive as something to be eaten or drunk; to partake of; to swallow; as, to *take* food or wine.

(*c*) Not to refuse or balk at; to undertake readily; to clear; as, to *take* a hedge or fence.

(*d*) To bear without ill humor or resentment; to submit to; to tolerate; to endure; as, to *take* a joke; he will *take* an affront from no man.

(*e*) To admit, as something presented to the mind; not to dispute; to allow; to accept; to receive in thought; to entertain in opinion; to understand; to interpret; to regard or look upon; to consider; to suppose; as, to *take*