

## COMMISSION

tants. The introduction of commissions of lieutenancy, which contained, in substance, the same powers as these commissions, superseded them. 2 Steph.Comm. (7th Ed.) 582.

**COMMISSION OF ASSIZE.** In English practice. A commission which formerly issued from the king, appointing certain persons as commissioners or judges of assize to hold the assizes in association with discreet knights during those years in which the justices in eyre did not come. A commission issued to judges of the high court or court of appeal, authorizing them to sit at the assizes for the trial of civil actions.

**COMMISSION OF BANKRUPT.** A commission or authority formerly granted by the lord chancellor to such persons as he should think proper, to examine the bankrupt in all matters relating to his trade and effects, and to perform various other important duties connected with bankruptcy matters. But now, under St. 1 & 2 Wm. IV. c. 56, § 12, a fiat issues instead of such commission.

**COMMISSION OF CHARITABLE USES.** This commission issues out of chancery to the bishop and others, where lands given to charitable uses are misemployed, or there is any fraud or dispute concerning them, to inquire of and redress the same, etc.

**COMMISSION OF DELEGATES.** When any sentence was given in any ecclesiastical cause by the archbishop, this commission, under the great seal, was directed to certain persons, usually lords, bishops, and judges of the law, to sit and hear an appeal of the same to the king, in the court of chancery. But latterly the judicial committee of the privy council has supplied the place of this commission. Brown.

**COMMISSION OF LUNACY.** A commission issuing from a court of competent jurisdiction, authorizing an inquiry to be made into the mental condition of a person who is alleged to be a lunatic.

A writ issued out of chancery, or such court as may have jurisdiction of the case, directed to a proper officer, to inquire whether a person named therein is a lunatic or not. In re Moore, 68 Cal. 281, 9 P. 164.

**COMMISSION OF PARTITION.** In the former English equity practice, this was a commission or authority issued to certain persons, to effect a division of lands held by tenants in common desiring a partition; when the commissioners reported, the parties were ordered to execute mutual conveyances to confirm the division. Commissioners appointed to make partition are in the nature of arbitrators. Clough v. Cromwell, 250 Mass. 324, 145 N.E. 473, 474.

**COMMISSION OF REBELLION.** In English law. An attaching process, formerly issuable out of chancery, to enforce obedience to a process or decree; abolished in August, 1841.

**COMMISSION OF REVIEW.** In English ecclesiastical law. A commission formerly sometimes granted in extraordinary cases, to revise the sen-

tence of the court of delegates. 3 Bl.Comm. 67. Now out of use; the privy council being substituted for the court of delegates, as the great court of appeal in all ecclesiastical causes. 3 Steph. Comm. 432.

**COMMISSION OF THE PEACE.** In English law. A commission from the crown, appointing certain persons therein named, jointly and severally, to keep the *peace*, etc. Justices of the peace are always appointed by special commission under the great seal, the form of which was settled by all the judges, A. D. 1590, and continues with little alteration to this day. 1 Bl.Comm. 351; 3 Steph. Comm. 39, 40.

**COMMISSION OF TREATY WITH FOREIGN PRINCES.** Leagues and arrangements made between states and kingdoms, by their ambassadors and ministers, for the mutual advantage of the kingdoms in alliance. Wharton.

**COMMISSION OF UNLIVERY.** In an action in the English admiralty division, where it is necessary to have the cargo in a ship unladen in order to have it appraised, a commission of unlivery is issued and executed by the marshal. Williams & B. Adm. Jur. 233.

**COMMISSION TO EXAMINE WITNESSES.** In practice. A commission issued out of the court in which an action is pending, to direct the taking of the depositions of witnesses who are beyond the territorial jurisdiction of the court.

**COMMISSION TO TAKE ANSWER IN CHANCERY.** In English law. A commission issued when defendant lives abroad to swear him to such answer. 15 & 16 Vict. c. 86, § 21. Obsolete. See Jud. Acts, 1873, 1875.

**COMMISSION TO TAKE DEPOSITIONS.** A written authority issued by a court of justice, giving power to take the testimony of witnesses who cannot be personally produced in court. Tracy v. Snydam, 30 Barb. (N. Y.) 110.

**COMMISSIONED OFFICERS.** In the United States army and navy and marine corps, those of or above the rank of second lieutenant. Davis, Mil. L. 26. Those who hold their rank and office under commissions issued by the president, as distinguished from non-commissioned officers (in the army, including sergeants, corporals, etc.) and warrant officers (in the navy, including boatswains, gunners, etc.) and from privates or enlisted men. Stephens v. Civil Service Commission of New Jersey, 101 N.J.Law 192, 127 A. 808, 811. See Babbitt v. U. S., 16 Ct.Cl. 202.

**COMMISSIONER.** A person to whom a commission is directed by the government or a court. State v. Banking Co., 14 N.J.L. 437; In re Canter, 81 N.Y.S. 338, 40 Misc. 126.

In the governmental system of the United States, this term denotes an officer who is charged with the administration of the laws relating to some particular subject-matter, or the management of some bureau or agency of the govern-

ment. Such are the commissioners of education, of patents, of pensions, of fisheries, of the general land-office, of Indian affairs, etc.

In the state governmental systems, also, and in England, the term is quite extensively used as a designation of various officers having a similar authority and similar duties.

In the commission form of municipal government, the term is applied to any of the several officers constituting the commission. *Gardner v. Board of Park Directors*, 35 Cal.App. 597, 170 P. 672, 673.

—**Commissioners of bail.** Officers appointed to take recognizances of bail in civil cases.

—**Commissioners of bankrupts.** The name given, under the former English practice in bankruptcy, to the persons appointed under the great seal to execute a commission of bankruptcy (*q. v.*).

—**Commissioners of circuit courts.** Officers appointed by and attached to the former circuit courts of the United States, performing functions partly ministerial and partly judicial. In *re Com'rs of Circuit Court*, C.C.N.C., 65 F. 317. Their office was abolished by the Act of May 28, 1896 (34 Stat. 184) and they have been succeeded by "United States commissioners." See that title.

—**Commissioners of deeds.** Officers empowered by the government of one state to reside in another state, and there take acknowledgments of deeds and other papers which are to be used as evidence or put on record in the former state.

—**Commissioners of highways.** Officers appointed in each county or township, in many of the states, with power to take charge of the altering, opening, repair, and vacating of highways within such county or township.

—**Commissioner of patents.** The title given by law to the head of the patent office. See 35 USCA § 2.

—**Commissioners of sewers.** In English law. Commissioners appointed under the great seal, and constituting a court of special jurisdiction; which is to overlook the repairs of the banks and walls of the seacoast and navigable rivers, or, with consent of a certain proportion of the owners and occupiers, to make new ones, and to cleanse such rivers, and the streams communicating therewith. St. 3 & 4 Wm. IV. c. 22, § 10; 3 Steph. Comm. 442.

—**Commissioner of woods and forests.** An officer created by act of parliament of 1817, to whom was transferred the jurisdiction of the chief justices of the forest. *Inderwick, The King's Peace.*

—**County commissioners.** See County.

**COMMISSIONS.** The compensation or reward paid to a factor, broker, agent, bailee, executor, trustee, receiver, etc., usually calculated as a percentage on the amount of his transactions or the amount received or expended. See Commission.

**COMMISSIVE.** Caused by or consisting in acts of commission, as distinguished from neglect, sufferance, or toleration; as in the phrase "commissive waste," which is contrasted with "permissive waste." See Waste.

**COMMISSORIA LEX.** In Roman law. A law according to which a seller might stipulate that he should be freed from his obligation, and might rescind the sale, if the purchase price were not paid at the appointed time. Also a law by which a debtor and his pledgee might agree that, if the debtor did not pay at the day appointed, the pledge should become the absolute property of the creditor. This, however, was abolished by a law of Constantine. Cod. 8, 35, 3. See Dig. 18, 3; Mackeld. Rom.Law, §§ 447, 461; 2 Kent, Comm. 583.

**COMMIT.** To perpetrate, as a crime; to perform, as an act. *Groves v. State*, 116 Ga. 516, 42 S.E. 755, 59 L.R.A. 598.

To send a person to prison by virtue of a lawful authority, for any crime or contempt, or to an asylum, workhouse, reformatory, or the like, by authority of a court or magistrate. *People v. Beach*, 122 Cal. 37, 54 P. 369.

To deliver a defendant to the custody of the sheriff or marshal, on his surrender by his bail. 1 Tidd, Pr. 285, 287.

**COMMITMENT.** In practice. The warrant or *mittimus* by which a court or magistrate directs an officer to take a person to prison. Authority for holding in prison one convicted of crime. *Ex parte Haynes*, 98 Tex.Cr.R. 609, 267 S.W. 490, 493. A process directed to a ministerial officer by which a person is to be confined in prison, usually issued by a court or magistrate. *People ex rel. Wojek v. Henderson*, 235 N.Y.S. 173, 178, 134 Misc. 228.

A warrant which does not direct an officer to commit a party to prison but only to receive him into custody and safely keep him for further examination, is not a commitment. *Gilbert v. U. S.*, 23 Ct.Cl. 218.

The act of sending a person to prison by means of such a warrant or order. *Allen v. Hagan*, 170 N.Y. 46, 62 N.E. 1086.

A proceeding for the restraining and confining of insane persons for their own and the public's protection. *Vance v. Ellerbe*, 150 La. 388, 90 So. 735, 740.

**COMMITTED IN PRESENCE OF OFFICER.** Under statutes authorizing arrest without warrant, when facts and circumstances occurring within officer's observation, in connection with what, under circumstances, may be considered as common knowledge, give him probable cause to believe or reasonable grounds to suspect that such is the case. *Noce v. Ritchie*, 109 W.Va. 391, 155 S.E. 127, 128.

**COMMITTEE.** A person, or an assembly or board of persons, to whom the consideration, determination, or management of any matter is committed or referred, as by a court. *Lloyd v. Hart*, 2 Pa. 473, 45 Am.Dec. 612; *Farrar v. Eastman*, 5 Me.