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Ferrell-Michael Abstract & Title Co. v. McCormac, 184 S.W. 1081, writ granted, affirmed 215 S.W. 559.

Tex.Civ.App.–San Antonio 1961. All persons are "privies" to judgment whose succession to rights of property thereby adjudicated was derived through or under one or the other of the parties to the action and accrued subsequent to commencement of that action.—Thomson v. Philips, 347 S.W.2d 832, ref. n.r.e.—Judgm 678(2).

Tex.Civ.App.–San Antonio 1927. "Privies" bound by judgment are those acquiring interest in subject-matter through party after commencement of suit or rendition of judgment; "privity."—Home Trading Co. v. Hicks, 296 S.W. 627, writ granted, reversed 11 S.W.2d 292.—Judgm 678(2).

Tex.Civ.App.–Texarkana 1928. "Privies" are such because of derivative rights of property.—Ladonia State Bank v. McDonald, 7 S.W.2d 161.—Judgm 678(1).

Tex.Civ.App.–Texarkana 1928. "Privies" occupy that relation to others because of derivative rights of property; "privity" relating to persons in their relation to property, not to any question independent of property.—Ladonia State Bank v. McDonald, 7 S.W.2d 161.

Tex.Civ.App.–Amarillo 1932. Commission merchants to whom mortgaged cattle were consigned or sold by mortgagor were "privies" to mortgage and could not introduce testimony to vary or contradict it.—Daggett v. Corn, 54 S.W.2d 1098, writ dismissed.—Evid 424.

Tex.Civ.App.–Beaumont 1916. "Privies," in sense that they are bound by judgment, are those who acquired interest in subject-matter after rendition of judgment.—Village Mills Co. v. Houston Oil Co. of Texas, 186 S.W. 785, writ granted, reversed 241 S.W. 122.—Judgm 678(2).

Tex.Civ.App.–Waco 1939. The judgment in foreclosure suit is conclusive, not only on parties to suit, but also on parties in "privity" with them with respect to subject matter of litigation; "privity" meaning mutual or successive relationship to same rights of property, and all parties being "privies" to judgment whose succession to rights of property therein adjudicated are affected or derived through or under one or more parties to the suit and accrued subsequent to its commencement. Rules of Civil Procedure, rule 310.—Pancake v. Kansas City Life Ins. Co., 134 S.W.2d 776.—Mtg 497(2).

Tex.Civ.App.–Galveston 1926. "Privity" is mutual or successive relationship to same property rights, and all persons whose succession to property rights adjudicated was derived through parties to action and accrued subsequent to commencement thereof are "privies" to judgment within rule as to its conclusiveness.—Urban v. Bagby, 286 S.W. 519, writ granted, affirmed 291 S.W. 537.—Judgm 678(1).

Tex.Civ.App. 1910. "Privity" is defined to be a mutual or successive relationship to the same rights of property, and within the rules relating to the conclusiveness of judgments all persons are "privies" to a judgment whose succession to the rights of property thereby adjudicated was derived through or under one or other of the parties to the action, and accrued subsequent to the commencement of that action; citing 23 Cyc. 1253.—Lamar County v. Talley, 127 S.W. 272, affirmed 137 S.W. 1125, 104 Tex. 295.—Judgm 678(2).

Vt. 1975. For res judicata purposes, assignee of former parties plaintiff and successor to former defendant corporation were "privies" of the parties to the prior action.—Davis v. Saab-Scania of America, Inc., 339 A.2d 456, 133 Vt. 317.—Judgm 681, 683.

Wis. 1922. While a judgment in an action of unlawful detainer is binding on the parties thereto and their privies, persons in possession of the premises under a claim of right, prior to the commencement of the action, and not made parties thereto, their tenants and agents are not bound by the judgment and cannot be ousted under the writ; "privies" being those who hold by, through, from, or under a party by some right acquired subsequent to the commencement of the suit.—Lancaster v. Borkowski, 190 N.W. 852, 179 Wis. 1.—Land & Ten 291(17).

PRIVIES IN ESTATE

N.C. 1960. In a second action in nature of ejectment to try title to land, where a defendant in the first action had conveyed a portion of such land to grantees, the grantees were "privies in estate" with such defendants so that there was identity of parties defendant for purposes of res judicata doctrine.—Hayes v. Ricard, 112 S.E.2d 123, 251 N.C. 485.—Judgm 682(1).

PRIVIES IN REPRESENTATION

Mass. 1909. "Privies in representation" are executor and testator, or administrator and intestate, but joint tort-feasors are not privies in representation, and one of several joint tort-feasors sued by the person injured cannot plead by way of estoppel a judgment in favor of another joint tort-feasor rendered in an action by the person injured.—Old Dominion Copper Mining & Smelting Co. v. Bigelow, 89 N.E. 193, 203 Mass. 159, 40 L.R.A.N.S. 314, affirmed 32 S.Ct. 641, 225 U.S. 111, Am.Ann.Cas. 1913E,875, 56 L.Ed. 1009.

PRIVILEGE

U.S.Cal. 1856. The maritime "privilege" or lien is adopted from civil law and imports tacit hypothecation of the subject of it.—Vandewater v. Mills, Claimant of Yankee Blade, 60 U.S. 82, 19 How. 82, 15 L.Ed. 554.—Mar Liens 1.

U.S.Cal. 1856. The maritime "privilege" or lien is a "jus in re" without actual possession or any right of possession.—Vandewater v. Mills, Claimant of Yankee Blade, 60 U.S. 82, 19 How. 82, 15 L.Ed. 554.—Mar Liens 26.

U.S.Cal. 1856. The maritime "privilege" or lien accompanies property into hands of bona fide purchaser and can be executed and divested only by proceeding in rem.—Vandewater v. Mills, Claimant

of Yankee Blade, 60 U.S. 82, 19 How. 82, 15 L.Ed. 554.—Mar Liens 37(1).

U.S.Cal. 1856. The maritime "privilege" or lien though adhering to vessel is a secret one and may operate to prejudice of general creditors and purchasers without notice, and hence it is "stricti juris" and cannot be extended by construction, analogy or inference.—Vandewater v. Mills, Claimant of Yankee Blade, 60 U.S. 82, 19 How. 82, 15 L.Ed. 554.—Mar Liens 37(1).

U.S.Colo. 1982. Confidentiality provisions of Census Act constituted a "privilege" within meaning of discovery provisions of Federal Rules of Civil Procedure. 13 U.S.C.A. §§ 8(b), 9(a); Fed.Rules Civ.Proc. Rule 26(b)(1), 28 U.S.C.A.—Baldrige v. Shapiro, 102 S.Ct. 1103, 455 U.S. 345, 71 L.Ed.2d 199.—Fed Civ Proc 1600(1).

U.S.Ky. 1940. The right to carry out an incident to a trade, business, or calling such as the deposit of money in banks, is not a "privilege" of national citizenship protected by the Fourteenth Amendment, so as to preclude taxing deposits in foreign banks at greater rate than deposits in local banks. Ky.St.1930, §§ 4019, 4019a–10; U.S.C.A. Const. Amend. 14.—Madden v. Commonwealth of Kentucky, 60 S.Ct. 406, 309 U.S. 83, 84 L.Ed. 590, 125 A.L.R. 1383.—Const Law 206(1).

U.S.N.H. 1985. As occupation important to national economy, practice of law is "privilege" under privileges and immunities clause. U.S.C.A. Const. Art. 4, § 2, cl. 1.—Supreme Court of New Hampshire v. Piper, 105 S.Ct. 1272, 470 U.S. 274, 84 L.Ed.2d 205.—Const Law 207(2).

U.S.N.J. 1939. The right peaceably to assemble and to discuss national legislation such as the National Labor Relations Act, and to communicate respecting it, whether orally or in writing, is a "privilege" inherent in citizenship of the United States which the Fourteenth Amendment protects. National Labor Relations Act, 29 U.S.C.A. § 151 et seq.; U.S.C.A.Const. Amend. 14.—Hague v. Committee for Indus. Organization, 59 S.Ct. 954, 307 U.S. 496, 83 L.Ed. 1423.—Const Law 206(1).

U.S.N.Y. 1907. A contract exemption of a street railway company from paving obligations is not a "privilege" within the meaning of Laws N.Y.1867, p. 444, c. 254, as amended by Laws 1879, p. 553, c. 503, empowering a railway company, being the lessee of the property of another railway company, to acquire the whole of the latter's capital stock, in which case its "estate, property, rights, privileges, and franchises" shall vest in and be held and enjoyed by the purchasing corporation "fully and entirely and without change or diminution."—Rochester Ry. Co. v. City of Rochester, 27 S.Ct. 469, 205 U.S. 236, 51 L.Ed. 784.—Urb R R 1.

U.S.N.C. 1943. The grant of power of eminent domain is a mere revocable "privilege" for which a state cannot be required to make compensation.—U. S. ex rel. and for Use of Tennessee Valley Authority v. Powelson, 63 S.Ct. 1047, 319 U.S. 266, 87 L.Ed. 1390, conformed to 138 F.2d 343, certiorari denied 64 S.Ct. 612, 321 U.S. 773, 88 L.Ed. 1067.—Em Dom 81.1.

U.S.Ohio 1942. The Motor Carrier Act is "remedial" and the grandfather clause thereof confers a special "privilege", and hence the proviso defining exemptions extends only to carriers plainly within its terms. Motor Carrier Act 1935, § 206(a), 49 U.S.C.A. § 306(a).—Gregg Cartage & Storage Co. v. U.S., 62 S.Ct. 932, 316 U.S. 74, 86 L.Ed. 1283.—Commerce 85.29(4).

U.S.Or. 1998. Faster, guaranteed provisioning of orders for the same rate is a "privilege" within the meaning of the filed-rate doctrine and the Communications Act section making it unlawful for a carrier to "extend to any person any privileges or facilities in such communication, or employ or enforce any classifications, regulations, or practices affecting such charges, except as specified in [a schedule filed with the Federal Communications Commission (FCC)]." Communications Act of 1934, § 203(c), as amended, 47 U.S.C.A. § 203(c).—American Tel. and Tel. Co. v. Central Office Telephone, Inc., 118 S.Ct. 1956, 524 U.S. 214, 141 L.Ed.2d 222, rehearing denied 119 S.Ct. 20, 524 U.S. 972, 141 L.Ed.2d 781.—Tel 932.

U.S.Tenn. 1896. In a grant of a charter to the D. Insurance Company, with all the rights, privileges, and immunities of the B. Company, the words "rights, privileges, and immunities" are certainly full and ample for the purpose of granting an exemption from taxation, but the word "immunity" expresses more clearly and definitely an intention to include therein an exemption from taxation than does either of the other words. Exemption from taxation is more accurately described as an "immunity" than as a "privilege," although it is not to be denied that the latter word may sometimes and under some circumstances include such exemption. So that, where an act was passed incorporating the W. Insurance Company, giving it all the rights and privileges of the D. Company, the omission of the word "immunities" implied that the W. Company was not to be exempt from taxation.—Phoenix Fire & Marine Ins. Co. v. State of Tennessee, 16 S.Ct. 471, 161 U.S. 174, 40 L.Ed. 660.

U.S.Tenn. 1889. Immunity from taxation must be considered as a personal privilege, not extending beyond the immediate grantee unless otherwise so declared in express terms. As said in Morgan v. State of Louisiana, 93 U.S. 217, 223, 23 L.Ed. 860: "The franchises of a railroad corporation are rights or privileges which are essential to the operation of the corporation, and without which its roads and works would be of little value; such as the franchise to run cars, to take tolls, to appropriate earth and gravel for the bed of its road, or water for its engines, and the like. They are positive rights or privileges, without the possession of which the road of the company could not be successfully worked. Immunity from taxation is not one of them." It is true there are some cases where the term "privilege" has been held to include immunity from taxation, but that has generally been where other provisions of the act have given such meaning to it. The later, and we think the better, opinion is that,

unless other provisions remove all doubt of the intention of the Legislature to include the immunity in the term "privilege," it will not be so construed.—Pickard v. East Tennessee, V. & G.R. Co., 9 S.Ct. 640, 130 U.S. 637, 32 L.Ed. 1051.

U.S.Va. 1954. Having denied Delaware corporation authority to do any intrastate business, state of Virginia could not use "privilege" as basis for imposing tax on that portion of Delaware corporation's gross receipts attributable to Virginia. Const. Va. § 163.—Railway Exp. Agency v. Com. of Va., 74 S.Ct. 558, 347 U.S. 359, 98 L.Ed. 757.—Commerce 74.20.

App.D.C. 1942. Cross-examination of a witness is a "right" and not a mere "privilege".—Lindsey v. U.S., 133 F.2d 368, 77 U.S.App.D.C. 1.—Witn 266.

C.A.7 (Ind.) 1987. In context of Indiana statute of limitations on actions relating to terms, conditions, and privileges of employment, word "privilege" denotes or at least includes noncontractual benefit or expectation, like expectation of bonus, of continued employment not secured by contract during good behavior, or of severance pay or pension. IC 34–1–2–1.5 (1982 Ed.)—Miller v. International Harvester Co., 811 F.2d 1150.—Labor & Emp 245.

C.A.5 (La.) 1992. Drilling contractor's "interest equivalent to .3888266 in all rights, interests and obligations in and to the initial test well" did not fall within meaning of word "amount" under Louisiana statute giving drilling contractors "privilege" on oil and gas produced. LSA-R.S. 9:4861.—Amoco Production Co. v. Horwell Energy, Inc., 969 F.2d 146.—Mines 112(2).

C.A.9 (Or.) 2000. The work-product doctrine is not an evidentiary "privilege." Fed.Rules Civ.Proc. Rule 26(b)(3), 28 U.S.C.A.—Union Pacific R. Co. v. Mower, 219 F.3d 1069.—Fed Civ Proc 1600(3).

Em.App. 1945. The rent control provisions of Emergency Price Control Act authorized Price Administrator to control rent charged for garage used in connection with use or occupancy of a housing accommodation, since garage so used is a "privilege" and the furnishing of it a "service connected with use or occupancy of such property," within the act. Emergency Price Control Act of 1942, §§ 2(a, b) 302(f), 50 U.S.C.A.Appendix, §§ 902(a, b), 942(f).—Veillette v. Bowles, 150 F.2d 862.—War 204.

C.C.A.7 1943. In permitting broker to buy and sell grain for future delivery on contract markets, the government has in effect granted broker a "privilege" which Congress may, through an administrative agency, withdraw for violation of conditions in Commodity Exchange Act. Commodity Exchange Act §§ 3, 6b, 7 U.S.C.A. §§ 5, 9.—Nelson v. Secretary of Agriculture, 133 F.2d 453.—Com Fut 55.

C.C.A.9 1942. The fact that decedent's son was present at some of conferences relating to transfers of decedent's realty to son and taking back of son's deed, in an attempt to reduce probate expenses, did not destroy "privilege" of communications between decedent and her counsel, as to Commissioner of Internal Revenue who was seeking to impose estate taxes on the transactions, since Commissioner was a "stranger" to negotiations and was not claiming under decedent or her son. Revenue Act 1926, § 302(c), 26 U.S.C.A.Int.Rev.Acts page 227.—Baldwin v. C I R, 125 F.2d 812, 141 A.L.R. 548.—Witn 202, 206.

C.C.A.9 (Ariz.) 1942. Congress by consenting to taxation of shares of stock of national bank by states confers a "privilege" for which nothing is given by the state or received by the United States, which privilege is a mere "bounty" or "gratuity", and hence can be withdrawn by Congress at any time. 12 U.S.C.A. § 51d; A.R.S. §§ 42–101 et seq., 42–312.—Maricopa County v. Valley Nat. Bank of Phoenix, 130 F.2d 356, certiorari granted 63 S.Ct. 201, 317 U.S. 618, 87 L.Ed. 501, affirmed 63 S.Ct. 587, 318 U.S. 357, 87 L.Ed. 834.—Tax 2064.

C.C.A.7 (Ill.) 1948. Permission to hunt, given from time to time by federal and state regulations is not a grant of "property" but merely grant of a "privilege". Migratory Bird Treaty Act, § 3, as amended 16 U.S.C.A. § 704.—Lansden v. Hart, 168 F.2d 409, certiorari denied 69 S.Ct. 132, 335 U.S. 858, 93 L.Ed. 405.—Game 5.

C.C.A.2 (N.Y.) 1947. The Judiciary Act which indirectly qualified women as federal jurors, but entitled them to exemption if they claimed it, confers upon them a "privilege" within the Civil Rights Act which provides that every person who subjects any citizen to a deprivation of any privileges secured by the Constitution and laws shall be liable to the party injured in an action at law. Civil Rights Act, 8 U.S.C.A. § 43; Jud.Code, § 275, 28 U.S.C.A. § 411.—Bomar v. Keyes, 162 F.2d 136, certiorari denied 68 S.Ct. 166, 332 U.S. 825, 92 L.Ed. 400, rehearing denied 68 S.Ct. 266, 332 U.S. 845, 92 L.Ed. 416.—Civil R 1058.

C.C.A.2 (N.Y.) 1947. A teacher's damage action under the Civil Rights Act for causing her discharge because of absence from duty, while serving on federal jury could not be summarily dismissed as against school principal who induced the discharge, since, even if her discharge by the board of education was not a breach of contract, it may have been the termination of an expectancy of continued employment which is an injury to an interest which the law will protect against invasion by acts themselves unlawful, such as the denial of a federal "privilege". Civil Rights Act, 8 U.S.C.A. § 43; Jud.Code, § 275, 28 U.S.C.A. § 411; Education Law N.Y., §§ 868–b, 872, subd. 1.—Bomar v. Keyes, 162 F.2d 136, certiorari denied 68 S.Ct. 166, 332 U.S. 825, 92 L.Ed. 400, rehearing denied 68 S.Ct. 266, 332 U.S. 845, 92 L.Ed. 416.—Civil R 1133.

C.C.A.3 (Pa.) 1945. "Privilege", as used in federal rules of discovery limiting examination and interrogatories to matters not privileged, includes all that is comprehended in rule of testimonial exclusion of confidential statements made by a client to his lawyer, but such "privilege" is not identical with "privilege" in law of evidence as ground for excluding testimony. Fed.Rules Civ.

Proc. rules 26, 33, 34, 28 U.S.C.A.—Hickman v. Taylor, 153 F.2d 212, certiorari denied 66 S.Ct. 961, 327 U.S. 808, 90 L.Ed. 1032, vacated 66 S.Ct. 1337, 328 U.S. 876, 90 L.Ed. 1645, certiorari granted 66 S.Ct. 1337, 328 U.S. 876, 90 L.Ed. 1645, affirmed 67 S.Ct. 385, 329 U.S. 495, 34 O.O. 395, 91 L.Ed. 451.—Fed Civ Proc 1414.1.

C.C.A.3 (Pa.) 1945. "Privilege", as used in federal rules of discovery limiting examination and interrogatories to matters not privileged, includes all that is comprehended in rule of testimonial exclusion of confidential statements made by a client to his lawyer, but such "privilege" is not identical with "privilege" in law of evidence as ground for excluding testimony. Federal Rules of Civil Procedure, rules 26, 33, 34, 28 U.S.C.A.following section 723c.—Hickman v. Taylor, 153 F.2d 212, certiorari denied 66 S.Ct. 961, 327 U.S. 808, 90 L.Ed. 1032, vacated 66 S.Ct. 1337, 328 U.S. 876, 90 L.Ed. 1645, certiorari granted 66 S.Ct. 1337, 328 U.S. 876, 90 L.Ed. 1645, affirmed 67 S.Ct. 385, 329 U.S. 495, 34 O.O. 395, 91 L.Ed. 451.—Fed Civ Proc 1414.1.

C.C.A.9 (Wash.) 1943. When good time allowance, the granting of which, in the first instance, is in the nature of a "privilege" bestowed by the legislature, is earned by prisoner, it becomes a matter of "right" enforceable by habeas corpus. 18 U.S.C.A. §§ 4161, 4162.—Carroll v. Squier, 136 F.2d 571, certiorari denied 64 S.Ct. 202, 320 U.S. 793, 88 L.Ed. 478.—Hab Corp 515.

C.C.A.9 (Wash.) 1941. The right to a jury trial, including the right to have the same judge proceed throughout the trial, as preserved by the federal constitution is a "privilege" which the accused may forego at his election. U.S.C.A.Const. art. 3, § 2.—Simons v. U.S., 119 F.2d 539, certiorari denied 62 S.Ct. 78, 314 U.S. 616, 86 L.Ed. 496.—Crim Law 633(1); Jury 29(2).

D.Del. 1969. For purpose of discovery standards of Federal Rules of Civil Procedure, a "privilege" is a grace resulting from some special public policy; it should not be regarded as a right which can be disclosed to some and withheld from others. Fed.Rules Civ.Proc. rule 34, 28 U.S.C.A.—In re Natta, 48 F.R.D. 319.—Fed Civ Proc 1600(1).

D.Del. 1949. Where lessor rented garage to lessee under separate agreement two years subsequent to renting of apartment, garages did not have any physical connection with lessor's rental property, and garages were usually rented to persons other than lessees, garage accommodations were not a "facility" or a "privilege" connected with housing accommodations and were not subject to regulations affecting rental of housing accommodations. Emergency Price Control Act of 1942, Secs. 1 et seq., 2(b), 50 U.S.C.A.Appendix, 901 et seq., 902(b); Housing and Rent Act of 1947; Secs. 1 et seq., 204, as amended, 50 U.S.C.A.Appendix, 1881 et seq., 1894.—Woods v. Golt, 85 F.Supp. 667.—War 204.

S.D.Fla. 1942. Under Florida statute providing that writs of fieri facias "shall" issue upon request immediately after judgment, and subsequent statute providing that plaintiff "shall be entitled" to execution, the subsequent statute clarifies the right to execution as a "privilege" and it is not mandatory upon clerk to issue writ upon rendition of judgment. F.S.A. § 55.16.—Spurway v. Dyer, 48 F.Supp. 255.—Execution 59.

M.D.Ga. 2005. Under Georgia law, "privilege" sufficient to bar claim for tortious interference with contract is legitimate or bona fide interest of defendant or legitimate relationship of defendant with contract, which causes defendant not to be considered stranger, interloper, or meddler to contract.—Lockett v. Allstate Ins. Co., 364 F.Supp.2d 1368.—Torts 222.

N.D.Ga. 1997. "Privilege," within meaning of section of Securities Exchange Act making insider trader in such privileges liable to buyer or seller of the related security, is right which can and does affect actual purchase or sale of security at will of the holder. Securities Exchange Act of 1934, § 20(d), as amended, 15 U.S.C.A. § 78t(d).—Clay v. Riverwood Intern. Corp., 964 F.Supp. 1559, affirmed 157 F.3d 1259, opinion vacated in part on rehearing 176 F.3d 1381, rehearing and suggestion for rehearing denied 182 F.3d 938.—Sec Reg 60.28(1).

E.D.Ill. 1945. A license to practice law is not a "privilege" within protection of Federal Constitution.—Brents v. Stone, 60 F.Supp. 82.—Const Law 206(4), 207(2).

D.Kan. 1973. Term "not privileged" within federal rules of civil procedure permitting discovery of items if they are not privileged refers to a "privilege" as that term is used in the law of evidence. Fed.Rules Civ.Proc. rules 26(b), 34, 28 U.S.C.A.—Lincoln Am. Corp. v. Bryden, 375 F.Supp. 109.—Fed Civ Proc 1272.1.

E.D.La. 1967. "Not privileged", within rule permitting discovery of documents not privileged, refers to "privilege" as term is used in law of evidence. Fed.Rules Civ.Proc. rules 26, 34, 28 U.S.C.A.—Delta S. S. Lines, Inc. v. National Maritime Union of America, AFL-CIO, 265 F.Supp. 654.—Fed Civ Proc 1600(1).

W.D.La. 1995. Work product doctrine is not a "privilege" within meaning of rule governing privileges, and federal law provides decisional framework for all work product issues. Fed.Rules Civ. Proc.Rule 26(b)(3), 28 U.S.C.A.; Fed.Rules Evid. Rule 501, 28 U.S.C.A.—In re Combustion, Inc., 161 F.R.D. 51, affirmed 161 F.R.D. 54.—Fed Cts 416.

W.D.La. 1943. On motion by convicted defendants for correction of sentence and judgment, attorneys who had represented defendants in state court were permitted to testify for the government over objection of "privilege", on issue of bona fides of defendants' contention and weight to be given to their statements.—Mahoney v. U.S., 48 F.Supp. 212.—Witn 198(1).

D.Mass. 1967. Under Massachusetts law, common carrier certificate is neither a "contract" nor "property" but is a "privilege."—Sandri v. U.S., 266 F.Supp. 139.—Carr 8.

E.D.Mich. 1965. "Privilege" is a doctrine of concealment and means that materials relevant to issue in court are, for some reason paramount to administration of justice, to be hidden from disclosure, and doctrine is not to be construed beyond its necessary application.—Bank of Dearborn v. Saxon, 244 F.Supp. 394, affirmed 377 F.2d 496.—Fed Civ Proc 1600(1).

E.D.Mich. 1941. "Naturalization" is a "privilege" granted by statutes and not a "right", and there is no obligation upon the government to grant it, and statutory provisions concerning naturalization must be strictly observed. Naturalization Act § 1 et seq., 8 U.S.C.A. § 1443 et seq.—U.S. v. Zgrebec, 38 F.Supp. 127.—Aliens 60.2.

D.Minn. 1979. Word "privilege" as used in statute governing tax status of proceeds of sale of an option or privilege is synonymous with "option," as the term relates to the element of choice possessed by the holder of the option. 26 U.S.C.A. (I.R.C. 1954) § 1234(a).—Anderson v. U.S., 468 F.Supp. 1085, affirmed 624 F.2d 1109.—Int Rev 3183.

D.Neb. 1960. Word "privileged" as used in Federal Rule of Civil Procedure authorizing examination of deponent of matter, which is not "privileged," and which is relevant to subject matter, refers to "privilege" as term is understood in law of evidence. Fed.Rules Civ.Proc. rule 26(b), 28 U.S.C.A.—Mitchell v. Neylon, 27 F.R.D. 438.—Fed Civ Proc 1414.1.

D.N.J. 1959. The word "privilege" is defined as a peculiar benefit, favor, or advantage, a right or immunity not enjoyed by all, or it may be enjoyed only under special conditions.—Knoll Golf Club v. U.S., 179 F.Supp. 377.

S.D.N.Y. 1975. Term "privilege," in federal rule permitting discovery of any nonprivileged matter which is relevant to subject matter involved in pending action, means privilege as determined by rules of evidence. Fed.Rules Civ.Proc. rule 26, 28 U.S.C.A.—Kinoy v. Mitchell, 67 F.R.D. 1.—Fed Civ Proc 1272.1.

S.D.N.Y. 1970. Federally, "privilege" is a procedural rule which looks outward to substantive law of the appropriate local jurisdiction to receive its concrete form in a given case. Fed.Rules Civ.Proc. rule 26, 28 U.S.C.A.—Reid v. Moore-McCormack Lines, Inc., 49 F.R.D. 91.—Fed Civ Proc 1272.1.

W.D.N.Y. 1988. For purpose of discovery demand in federal civil rights action, provision of state civil rights law governing disclosure of police personnel records did not create evidentiary "privilege"; legislative history of provision indicated that it was only intended to prevent embarrassment and harassment of testifying police officers and unrestricted examination of their records. N.Y.McKinney's Civil Rights Law § 50–a.—Martin v. Lamb, 122 F.R.D. 143.—Fed Civ Proc 1600(4).

M.D.N.C. 1997. Work product protection is not "privilege" within meaning of federal rule of evidence providing for privilege to be governed by principles of common law. Fed.Rules Civ.Proc. Rule 26(b)(3), 28 U.S.C.A.; Fed.Rules Evid.Rule 501, 28 U.S.C.A.—Sea-Roy Corp. v. Sunbelt Equipment & Rentals, Inc., 172 F.R.D. 179.—Fed Civ Proc 1600(3).

N.D.Ohio 1964. The term "privilege" as it is used in rule pertaining to discovery and production of documents has same meaning as it does in law of evidence. Fed.Rules Civ.Proc. rule 34, 28 U.S.C.A.—Timken Roller Bearing Co. v. U.S., 38 F.R.D. 57.—Fed Civ Proc 1600(1).

E.D.Pa. 1992. Under Pennsylvania law, driver's license is a "privilege" and not "property." 75 Pa.C.S.A. § 102.—In re Geiger, 143 B.R. 30, affirmed 993 F.2d 224.—Autos 136.

E.D.Pa. 1988. The Pennsylvania Wiretap and Electronic Surveillance Control Act, which provided for the suppression of any illegally intercepted communication, focused on manner in which conversation was heard rather than nature of parties to conversation and, therefore, did not create "privilege" which would have to be applied in diversity action pursuant to Federal Rules of Evidence; thus, evidence obtained in violation of Act did not have to be excluded, although it would have been in state court. Fed.Rules Evid.Rule 501, 28 U.S.C.A.; 18 Pa.C.S.A. § 5721.—Montone v. Radio Shack, a Div. of Tandy Corp., 698 F.Supp. 92.—Fed Cts 416.

D.Puerto Rico 1989. Under "confidential communication exception" to general rule that fees and identity of client are not privileged, "privilege" exists where disclosure of client's identity or fee arrangements would connect client to already disclosed and independently privileged confidential communication; this exception is narrower than "legal advice" exception and only applies where so much of actual attorney-client information has already been disclosed that identifying client would amount to full disclosure of communication.—U.S. v. Buitrago-Dugand, 712 F.Supp. 1045.—Witn 201(1).

S.D.Tex. 1995. Unlike immunity, which affects liability but does not diminish tort, "privilege" protects actor from finding of tortious conduct.—Garza v. U.S., 881 F.Supp. 1103.—Torts 121.

S.D.Tex. 1943. Naturalization is a "privilege" and is granted upon specific conditions that application which was sworn to and oath of allegiance that was taken were made in utmost good faith and without any secret mental reservations.—U.S. v. Meyer, 48 F.Supp. 926, reversed 141 F.2d 825.—Aliens 60.2.

D.Vt. 1971. Classification of employment by state as "right" or "privilege" was not determinative of validity of the classification.—Teitscheid v. Leopold, 342 F.Supp. 299.—Const Law 208(1).

S.D.W.Va. 2002. Personnel records of state troopers who would offer expert opinions, but who were not specially retained or employed to offer such opinions, in estate administrator's action under § 1983 and state law for damages arising from defendant trooper's alleged use of excessive force, were not privileged pursuant to the West Virginia Freedom of Information Act (FOIA), or pursuant to the regulations promulgated by the State Police

for maintaining the confidentiality of such records; although the personnel records were "confidential" just as personnel records of any employer should be confidential to protect the privacy concerns of employees, such privacy concerns did not amount to a "privilege" as that term is used in civil discovery. 42 U.S.C.A. § 1983; W.Va.Code, 29B–1–1 et seq.—Rollins ex rel Rollins v. Barlow, 188 F.Supp.2d 660.—Records 55, 58.

Bkrtcy.D.Conn. 1984. Term "privilege" in rule governing discovery corresponds to concept of privilege as developed in law of evidence. Fed.Rules Civ.Proc.Rule 26(b), 28 U.S.C.A.—In re Contemporary Mission, Inc., 44 B.R. 940.—Fed Civ Proc 1272.1.

Bkrtcy.N.D.N.Y. 1995. For purpose of federal rule of evidence requiring courts to apply federal common-law privileges except that state law privilege applies in civil actions and proceedings with respect to element of claim or defense as to which state law supplies rule of decision, "privilege" is to be determined pursuant to federal standards. Fed. Rules Evid.Rule 501, 28 U.S.C.A.—In re Megan-Racine Associates, Inc., 189 B.R. 562.—Fed Cts 416.

Bkrtcy.N.D.N.Y. 1995. Work-product doctrine is not "privilege" under federal standards. Fed. Rules Evid.Rule 501, 28 U.S.C.A.; Fed.Rules Civ. Proc.Rule 26(b)(3), 28 U.S.C.A.—In re Megan-Racine Associates, Inc., 189 B.R. 562.—Fed Civ Proc 1600(3).

Bkrtcy.S.D.N.Y. 2004. In the context of claim for intentional interference with contractual relations under Georgia law, "privilege" is a legitimate or bona fide economic interest of defendant, or a legitimate relationship of defendant with the contract, which causes defendant not to be considered a stranger, interloper, or meddler to the contract.—In re InterBank Funding Corp., 310 B.R. 238.—Torts 220, 222.

Bkrtcy.N.D.Tex. 1992. "Privilege" is rule which permits exclusion of evidence to protect interest or relationship.—In re Williams, 152 B.R. 123.—Witn 184(1).

Ala. 1960. "Privilege" is an ordinance or law in favor of an individual, a grant of some particular right or exemption, or investment with some peculiar right or immunity.—Rinehart v. Praetorian Mut. Life Ins. Co., 120 So.2d 115, 270 Ala. 498.

Ala. 1938. The right of suffrage or the right to hold office under state's authority, unlike the right to engage in a gainful occupation, is a "political privilege" or "civil right" under the state's control so long as it is not denied on account of race, color, or previous condition of servitude, rather than a "privilege," "immunity," "inherent right," or "natural right."—Ex parte Bullen, 181 So. 498, 236 Ala. 56.—Elections 1; Offic 1.

Ala. 1936. Statutory right of redemption after mortgage foreclosure sale is not "property" or a "property right," but a "privilege" merely to be exercised by proper party in mode prescribed by statute. Code 1923, § 10156.—Denson v. Provident Mut. Life Ins. Co., 166 So. 33, 231 Ala. 574, certiorari denied 57 S.Ct. 18, 299 U.S. 556, 81 L.Ed. 409, rehearing denied 57 S.Ct. 188, 299 U.S. 622, 81 L.Ed. 458.—Mtg 591(1).

Ala.App. 1943. A "parole" of a convict is never a "right" but is a mere "privilege" which State Board of Pardons and Paroles may take from him at its uncontrolled discretion. Code 1940, Tit. 42, §§ 1–18, and § 10.—State ex rel. McQueen v. Horton, 14 So.2d 557, 31 Ala.App. 71, affirmed 14 So.2d 561, 244 Ala. 594.—Pardon 63.

Ariz. 1964. As between licensee and state, a liquor license is merely a "privilege" subject to state's police power, not a "property right" or a "contract" in legal or constitutional sense. A.R.S. § 4–201.—Hooper v. Duncan, 389 P.2d 706, 95 Ariz. 305, appeal dismissed 85 S.Ct. 186, 379 U.S. 27, 13 L.Ed.2d 173.—Int Liq 99.

Ariz.App. Div. 1 1989. "Privilege" is a term applied to any circumstance justifying or excusing a tort so as to permit a defendant to avoid liability; avoidance is predicated on the concept that defendant has acted to further an interest of such social importance that he is entitled to protection even if at plaintiff's expense.—Phoenix Control Systems, Inc. v. Insurance Co. of North America, 778 P.2d 1316, 161 Ariz. 420, review granted, reversed 796 P.2d 463, 165 Ariz. 31.—Torts 121.

Ark. 1962. "Privilege" is right or immunity granted as peculiar advantage or favor, personal right, in derogation of common rights, prerogative, right to exercise power to exclusion of others.—Cheney v. Tolliver, 356 S.W.2d 636, 234 Ark. 973.

Ark. 1942. Authority to sell intoxicating liquors is a "privilege" as distinguished from a right.—Bennett v. Moore, 157 S.W.2d 515, 203 Ark. 511.—Int Liq 99.

Ark. 1941. A physician could not enjoin Eclectic State Medical Board from conducting a hearing on a complaint to revoke physician's license on ground that physician in practicing profession was exercising rights, privileges and immunities secured to him by the Constitution of the United States, since the practice of medicine and surgery is not a "vested right" but is merely a "privilege" which may be revoked under certain conditions. Pope's Dig. §§ 10739, 10740(e); U.S.C.A.Const. Amend. 14.—Eclectic State Medical Board v. Beatty, 156 S.W.2d 246, 203 Ark. 294.—Const Law 287.2(5).

Ark. 1939. The manufacture, transportation, and sale of intoxicating liquors is a "privilege" and not a "right."—McCarroll v. Clyde Collins Liquors, 132 S.W.2d 19, 198 Ark. 896.—Int Liq 1.

Ark. 1934. "Privilege" of operating pool tables, miniature pool tables, or other devices controlled by coin slot machine devices, *held* not excluded from taxation as "occupation" of common right. Acts 1931, p. 416; p. 472, as amended by Acts 1933, p. 442; Const. art. 16, § 5.—Thompson v. Wiseman, 75 S.W.2d 393, 189 Ark. 852.—Licens 11(1).

Cal. 1966. Claim for admission to the bar is one of "right" entitled to protections of procedural due

process and not a mere "privilege".—Hallinan v. Committee of Bar Examiners of State Bar, 421 P.2d 76, 55 Cal.Rptr. 228, 65 Cal.2d 447.—Atty & C 7.

Cal. 1962. An "absolute" "privilege" excludes liability for a publication notwithstanding that it is made with actual malice, whereas a "qualified" or "conditional" privilege does not protect a defendant who has acted maliciously. West's Ann.Civ. Code, § 47, subd. 1.—Saroyan v. Burkett, 371 P.2d 293, 21 Cal.Rptr. 557, 57 Cal.2d 706.—Libel 51(1).

Cal.App. 1 Dist. 1961. Term "competency" used in statute providing that neither husband nor wife is competent witness for or against other in criminal proceeding, except in specified situations, means "privilege" and if spouse comes within exceptions of statute, privilege does not exist. West's Ann.Pen. Code, § 1322.—Young v. Superior Court In and For Alameda County, 12 Cal.Rptr. 331, 190 Cal. App.2d 759.—Witn 52(7).

Cal.App. 2 Dist. 1962. Publication seeking to convey pertinent information to public in matters of public interest comes within purview of "privilege" which is defense in libel action. West's Ann.Civ. Code, § 47, subd. 3.—Everett v. California Teachers Ass'n, 25 Cal.Rptr. 120, 208 Cal.App.2d 291.—Libel 48(1).

Cal.App. 2 Dist. 1937. Right to possess, make, or deal in intoxicating liquors is not a "privilege" or "property" within protection of Fourteenth Amendment. St.1935, p. 1123 (See West's Ann.Bus. & Prof.Code, § 23000 et seq.); U.S.C.A.Const. Amend. 14.—Kaname Tokaji v. State Bd. of Equalization, 67 P.2d 1082, 20 Cal.App.2d 612.—Const Law 277(1).

Cal.App. 3 Dist. 1940. Where owner of 3-story building leased second and third floors to lessee as an apartment house and owner permitted tenants to use roof for laundry purposes, and lease, which made no reference to roof, would not have precluded owner from withdrawing or curtailing privilege accorded tenants to use roof, use of roof by tenants was not "appurtenant" to use of apartments but was in nature of a "privilege", for purposes of determining owner's liability for injuries sustained when an invitee of a tenant fell through skylight while assisting in gathering laundry from clothes line which was on roof for use of tenants.—Reiman v. Moore, 108 P.2d 452, 42 Cal.App.2d 130.—Land & Ten 124(1), 167(8).

Cal.App. 3 Dist. 1940. Generally, a fee simple in the land is not necessary for establishment of a "homestead," since the "homestead right" is not an "estate in land," but a mere "privilege" of exemption from execution of such estate as the holder occupies. Civ.Code, §§ 765, 766.—Arighi v. Rule & Sons, 107 P.2d 970, 41 Cal.App.2d 852.—Home 81.

Cal.App. 3 Dist. 1937. The word "privilege" within constitutional provision that no citizen or class of citizens shall be granted privileges or immunities which upon same terms shall not be granted to all citizens means a particular and peculiar benefit or advantage enjoyed by a person, company, or class beyond the common advantage of other citizens. West's Ann.Const. art. 1, § 21.—Daigh v. Schaffer, 73 P.2d 927, 23 Cal.App.2d 449.—Const Law 205(1).

Cal.App. 3 Dist. 1925. Pol.Code, § 4041 (repealed 1947), providing that it shall be "privilege" of board of supervisors to reject all bids for construction of bridge, and order it built under supervision of county surveyor, held to import a discretionary power, authorizing board either to employ an engineer to prepare plans, etc., for construction of bridge and to erect same or have work done under supervision of surveyor, there being nothing in §§ 4214, 4219 (repealed. See Govt.Code, §§ 27550, 27551, 27562), to the contrary; "privilege" being "a right * * * not enjoyed by all, a special right or power conferred or possessed by one or more individuals" (quoting Words and Phrases, Second Series, "Privilege").—Cope v. Flanery, 234 P. 845, 70 Cal.App. 738.—Counties 113(6).

Cal.App. 3 Dist. 1914. Pol.Code, § 2283, appropriates money from the state treasury to institutions conducted for the support of needy orphan children, and St.1913, p. 629, amending such section, provides that no child whose parent or parents have not resided in the state for at least three years prior to the application for aid, or whose parent or parents have not become citizens of the state, shall be deemed a minor orphan within such chapter. Held, that such amendment, in so far as it withdrew aid from native-born citizen children of alien parents, was violative of Const. art. 1, § 21, providing that no citizen or class of citizens shall be granted privileges or immunities which on the same terms shall not be granted to all citizens; the words "privileges" and "immunities" being nearly synonymous, the term "privilege" signifying a peculiar advantage, exemption, or immunity, and the word "immunity" signifying an exemption or privilege.—Sacramento Orphanage & Children's Home v. Chambers, 144 P. 317, 25 Cal.App. 536.

Cal.Super. 1948. A "privilege" is an advantage; option; a peculiar benefit, a favor or advantage.—People v. Noland, 189 P.2d 84, 83 Cal.App.2d Supp. 819.

Conn. 1940. The Legislature has right to uphold charitable testamentary gifts in trust where the trustee is given an unlimited right of selection since right to transmit or receive property upon death of owner is not an "inherent right," but purely a "privilege" granted by the state. Gen.St.1930, §§ 4825-4827 (Rev.1949, §§ 6883-6885).—Westport Bank & Trust Co. v. Fable, 13 A.2d 862, 126 Conn. 665.—Char 3.

Conn.App. 1986. "Privilege," is right peculiar to individual or body, advantage held by way of license, franchise, grant, or permission, not possessed by others; immunity existing under law.—State v. Grant, 502 A.2d 945, 6 Conn.App. 24.—Contracts 1; Licens 43.

Conn.Cir.A.D. 1962. The words "right to operate" as used in statutes pertaining to operation of motor vehicles mean a "privilege" which no one

may exercise except on meeting statutory qualifications.—State v. Barber, 190 A.2d 497, 24 Conn.Sup. 346, 1 Conn.Cir.Ct. 584.—Autos 138.

D.C. 2005. For defamation purposes, "privilege" is defined as a special legal right, exemption, or immunity granted to a person or class of persons.—In re Spikes, 881 A.2d 1118.—Libel 34.

D.C.Mun.App. 1944. The right to keep a dog in leased premises was neither a "privilege" nor a "facility" within Emergency Rent Act, and therefore the act did not preclude landlord from exercising right under lease to revoke permission to keep dog. D.C.Code 1940, § 45–1611(b).—Shay v. Randall H. Hagner & Co., 38 A.2d 617.—Land & Ten 134(1).

Fla. 1953. There is no vested right to engage in business of selling intoxicating beverages, as such business is a "privilege" which the State grants upon certain conditions. F.S.A. §§ 561.07, 562.03.—Boynton v. State, 64 So.2d 536.—Const Law 101.

Fla. 1941. "Dower" is that portion of deceased husband's estate admeasured to widow for her support and support of children, and it is not a "vested right", a "privilege", or an "immunity" protected by the Constitution. F.S.A. § 731.34.—Adams v. Adams, 2 So.2d 855, 147 Fla. 267, appeal dismissed O'Keefe v. Adams, 62 S.Ct. 99, 314 U.S. 572, 86 L.Ed. 464.—Const Law 93(1), 205(1); Dower & C 1.

Fla. 1937. Tax by city of Pensacola on all sales of realty, including isolated sales, held not within power of city as "excise tax," which is tax on "occupation" or on "privilege" pursued or enjoyed by taxpayer in continuing series of transactions. Sp.Acts 1931, c. 15425, §§ 1, 2; Acts 1909, c. 6087, § 1; F.S.A.Const. art. 8, § 8; art. 9, § 5.—City of Pensacola v. Lawrence, 171 So. 793, 126 Fla. 830.—Licens 6.

Fla.App. 5 Dist. 1999. Term "privilege" is used broadly to describe rules of exclusion.—Ulrich v. Coast Dental Services, Inc., 739 So.2d 142.—Witn 184(1).

Ga. 1947. A municipality, after adopting ordinance pursuant to state law relating to intoxicating liquors, wherein provision was made for sale of licenses for one year unless sooner revoked for violation of regulations therein, was without power under "police power" to arbitrarily discriminate between licensees by revoking one license and not those of others who occupied the same position, since license granted more than a mere "privilege" outside protection of "equal protection of law" clause of federal Constitution. Laws 1937–38, Ex. Sess., p. 103; U.S.C.A.Const. Amend. 14; Const. Ga. art. 1, § 1, par. 2.—Mayor, etc., of Savannah v. Savannah Distributing Co., 43 S.E.2d 704, 202 Ga. 559.—Const Law 230.3(5).

Ga. 1905. One may publish by speech or writing whatever he honestly believes is essential to the protection of his own rights or those of another, provided the publication be not unnecessarily made to others than to those whom the publisher honestly believes are concerned in the subject-matter of the publication. The statement must be no broader and the publication no wider than the interest to be subserved demands. Care must be taken not only to keep the statement within proper limits as to its subject-matter, but also that it be not made to those who are wholly without interest in the matter. To make the defense of "privilege" complete in an action of slander or libel, good faith, and interest to be upheld, a statement properly limited in its scope, a proper occasion, and publication to proper persons must all appear. The absence of any one or more of these constituent elements will, as a general rule, prevent the party from relying on the privilege. When a railway company discharges a conductor, and it comes to its knowledge that there are still in his possession tickets of the company which were delivered to him while in its employment, which he at that time had a right to sell, and which he refuses or fails to surrender, the company has a right, in order to protect its own interest, to take such precautions as are reasonably necessary to prevent the use of the tickets by persons not entitled to use them.—Sheftall v. Central of Georgia Ry. Co., 51 S.E. 646, 123 Ga. 589.

Ga.App. 2004. "Privilege," in the context of a claim for tortious interference with contract, means a legitimate or bona fide interest of the defendant or a legitimate relationship of the defendant with the contract, which causes the defendant not to be considered a stranger, interloper or meddler to the contract.—Carey Station Village Home Owners Ass'n, Inc. v. Carey Station Village, Inc., 602 S.E.2d 233, 268 Ga.App. 461, certiorari denied.—Torts 222.

Ga.App. 1997. For purposes of tortious interference with contract, business relations or potential business relations, "privilege" means legitimate economic interests of defendant or legitimate relationship of defendant to contract, so that it is not considered a stranger, interloper, or meddler.—Disaster Services, Inc. v. ERC Partnership, 492 S.E.2d 526, 228 Ga.App. 739, reconsideration denied, and certiorari denied.—Torts 220, 222.

Ga.App. 1982. "Approval" contemplated under statute providing that chartered telephone company shall have right to construct, maintain and operate telephone lines "over the public highways of this State, with the *approval* of the county or municipal authorities in charge of such highways" is a special "privilege" conferred on individual or corporation which does not belong to citizens of country generally of common right, and allows a use of public streets and rights-of-way which does not otherwise belong to individual citizens. Code, § 104–205.—Blue Ridge Tel. Co. v. City of Blue Ridge, 288 S.E.2d 705, 161 Ga.App. 452.—Tel 788.

Ga.App. 1942. The right to sell malt beverages under statute is a mere "privilege" and involves no "personal or property right". Code § 58–701 et seq.—Lamb v. Fedderwitz, 22 S.E.2d 657, 68 Ga. App. 233, affirmed 25 S.E.2d 414, 195 Ga. 691.—Int Liq 99.

Ga.App. 1938. The sale of beer is a "privilege" and not a "right," and before a license to sell beer is granted a permit must be had. Laws 1935, p. 73, § 4; p. 76, § 7; p. 80, § 15A.—Gaissert v. State, 197 S.E. 54, 57 Ga.App. 842, reversed 198 S.E. 675, 186 Ga. 599, on remand 199 S.E. 62, 58 Ga.App. 471, vacated 199 S.E. 62, 58 Ga.App. 471.—Int Liq 1, 55.

Ga.App. 1934. "Improvement" upon land, as distinguished from title or possession, is not an "interest in land" within the meaning of Civ. Code 1910, § 3222(4), but "improvement" is only another name for the work and labor bestowed on the land, and the fact that the party who contracts to make the "improvement" thereby obtains a license to go on the land to make the improvement does not give him such a right of possession as amounts to an "interest in or concerning land," within the statute; there being a distinction between a "privilege" or "easement," carrying an "interest in land" and requiring a writing within the statute of frauds to support it, and a "license," which gives the authority to do a particular act or series of acts upon the land of another for the purpose of improvement only, without possessing any estate therein, such a "license" not being within the statute.—Jenkins v. Brown, 173 S.E. 257, 48 Ga.App. 480.

Idaho 1976. Constitutional provision making political power inherent in the people and barring special privileges or immunities which may not be altered or revoked by the legislature prohibits legislature from granting a special privilege or immunity to any party in such a fashion or manner that it cannot be subsequently modified, annulled or declared forfeit; "privilege" is a particular or peculiar benefit or advantage enjoyed by a person, company, or class beyond the common advantages of others; "immunity" is an exemption or freedom from a burden, duty or penalty. Const. art. 1, § 2.—Idaho Water Resource Bd. v. Kramer, 548 P.2d 35, 97 Idaho 535.—Statut 79(1).

Idaho 1965. "Privilege" is an exemption from liability for speaking or publishing of defamatory words concerning another based on fact that statement was made in performance of political, judicial, social, or personal duty.—Bistline v. Eberle, 401 P.2d 555, 88 Idaho 473.—Libel 34.

Idaho 1938. The right to practice law is a "privilege," and admission or exclusion of persons from the right is a judicial power.—In re Lavin, 81 P.2d 727, 59 Idaho 197.—Atty & C 7.

Idaho 1928. Right to practice law is not a "property right," but a "privilege" or "franchise."—In re Edwards, 266 P. 665, 45 Idaho 676.—Atty & C 14.

Ill. 1940. An order of Illinois Commerce Commission granting petition for certificate of convenience and necessity to operate as motor carrier of property did not give petitioner a "vested interest" that could not be changed by legislative enactment, but it was the granting of a "privilege" or "license" to do a certain thing issued by a state agency in the exercise of police power and was subject to modification or revocation. S.H.A. ch. 111⅔, §§ 8, 10; ch. 95½, § 240 et seq.—Railway Express Agency v. Illinois Commerce Commission, 28 N.E.2d 116, 374 Ill. 151.—Autos 82; Const Law 101.

Ill. 1916. Under Illinois Central Railroad Charter, Priv.Laws 1851, pp. 71, 72, § 18, providing that, in consideration of the grants, privileges, and franchises conferred upon the company, it should semi-annually pay into the state treasury 5 per cent. of the gross income from its road and branches, and section 22, providing that after six years the property of the company should be listed by its president, etc., with the auditor of the state, who should assess "an annual tax for state purposes" upon all the company's property, that whenever the taxes levied for state purposes should exceed three-fourths of 1 per cent. per annum, such excess should be deducted from the gross income required to be paid to the state, exempting the corporation from other taxation, and providing that the 5 per cent. of the gross income in addition to the annual state tax should equal at least 7 per cent. of its gross income, the 5 per cent. of the gross income was to be paid, not only for the "grants, privileges, and franchises" of the company, but in part commutation for all other than state taxes, and the payment of 7 per cent. of its gross income to the state was to relieve the company from the payment of all other than state taxes to be assessed as provided by its charter, as the word "privilege" includes the privilege of exemption from taxation, and as an "exemption" is an immunity or privilege.—People v. Illinois Cent. R. Co., 112 N.E. 700, 273 Ill. 220.

Ill.App. 3 Dist. 1971. In tort action based on improper interference with contract rights, theory of liability depends on considerations of privilege and justification and "privilege" does not mean a special power, license or permission but refers to socially and legally approved conduct.—Worrick v. Flora, 272 N.E.2d 708, 133 Ill.App.2d 755.—Torts 220.

Ind. 1943. The practice of law is a "privilege" rather than a natural or "vested right".—Beamer v. Waddell, 45 N.E.2d 1020, 221 Ind. 232.—Atty & C 14.

Ind. 1909. The fourteenth and fifteenth amendments to the federal Constitution operate on state action only, and the privilege and immunity clause applies to privileges and immunities arising out of the nature and essential character of the federal Government, and granted or secured by the Constitution, and the provision is satisfied if all persons similarly situated are treated alike in privileges conferred or liabilities imposed; the words "immunity" and "privilege" referring to a right conferred peculiar to some individual or body, or an affirmative act of selection of special subjects of favors not enjoyed by citizens in general under the federal Constitution or laws.—Hammer v. State, 89 N.E. 850, 173 Ind. 199, 24 L.R.A.N.S. 795, 140 Am.St. Rep. 248, 21 Am.Ann.Cas. 1034.

Ind.App. 1966. Terms "privilege", "justification", and "excuse" in law of torts denote circumstances under which what might have been actionable wrong is excused or justified or wrongdoer is

held privileged and hence no liability occurs.—Yingst v. Pratt, 220 N.E.2d 276, 139 Ind.App. 695.—Torts 121.

Ind.App. 1942. The defense of infancy, if available at all in an action for damages to an automobile, was a personal "privilege", and defendant's failure to set it up at the trial amounted to a "waiver" of the defense.—Jusczak v. Lewis, 41 N.E.2d 627, 112 Ind.App. 34.—Autos 239(1).

Kan. 2002. The civil procedure rule allowing a court to limit discovery methods of parties to litigation if the discovery sought is unreasonably cumulative or duplicative or is obtainable from some other source that is more convenient, less burdensome, or less expensive, does not codify a "privilege" and instead is a limitation on discovery, and thus, the rule cannot be incorporated into the Kansas Open Records Act's (KORA) disclosure exemption for privileged records. K.S.A. 45–221(a)(2); Rules Civ. Proc., K.S.A. 60–226(b)(2)(A).—Wichita Eagle and Beacon Pub. Co., Inc. v. Simmons, 50 P.3d 66, 274 Kan. 194.—Records 55; Witn 184(1).

Kan. 1983. "Privilege" within the meaning of statutes governing discovery is the privilege as it exists in the law of evidence. Rules of Evid., K.S.A. 60–407.—Wesley Medical Center v. Clark, 669 P.2d 209, 234 Kan. 13.—Pretrial Proc 33.

Kan. 1966. "Privilege", within discovery statutes, is testimonial privilege as it exists in law of evidence. K.S.A. 60–226(b), 60–234, 60–407.—Alseike v. Miller, 412 P.2d 1007, 196 Kan. 547.—Pretrial Proc 33.

Kan. 1965. License to operate vehicle upon highways is neither "contract right" nor "property right"; it is mere "privilege," suspension of which does not deprive individual of due process of law.—Marbut v. Motor Vehicle Dept. of Highway Commission, 400 P.2d 982, 194 Kan. 620.—Autos 142; Const Law 287.3.

Ky. 1929. "Franchise" or "privilege" is right or immunity which cannot be exercised without express permission of sovereign. Const. § 164.—Inland Waterways Co. v. City of Louisville, 13 S.W.2d 283, 227 Ky. 376.—Mun Corp 719(4).

Ky. 1929. City's lease of river front property to private corporation for development as river terminals, subject to city's recapture for municipal wharf, *held* not grant of "franchise" or "privilege" requiring preliminary advertisement and public sale. Loc. & Priv.Laws 1865, c. 1691; Ky.St. § 2860; Const. § 164.—Inland Waterways Co. v. City of Louisville, 13 S.W.2d 283, 227 Ky. 376.—Mun Corp 719(4).

Ky. 1916. There is no substantial difference between a lease for one year with option at same rate for five years and a lease for the period of five years with the "privilege" of five years more. The word option in the former case is synonymous with the word "privilege" in the latter case. The covenant is not one for the renewal of the lease, but for a mere extension of the term.—Miller v. Albany Lodge No. 206, F. & A.M., 182 S.W. 936, 168 Ky. 755.

La. 1995. "Privilege" is not security interest for Chapter 9 purposes, and provisions of Chapter 9 do not govern such privileges, but priority of such privileges vis-a-vis security interests is governed by Chapter 9 to extent provided in statutes governing general validity of security agreement and priority of certain liens arising by operation of law. LSA-R.S. 10:9–201, 10:9–310.—First Nat. Bank of Boston v. Beckwith Machinery Co., 650 So.2d 1148, 1994-2065 (La. 2/20/95), answer to certified question conformed to 56 F.3d 577.—Sec Tran 144.

La. 1937. A "privilege" is an incident to a debt or obligation which it secures and is a remedy therefor, although it is entirely distinct therefrom. LSA–C.C. art. 3186.—Succession of Tacon, 177 So. 590, 188 La. 510.—Liens 1.

La. 1925. Value of "privilege" cannot exceed debt it secures.—A. Baldwin & Co. v. McCain, 106 So. 459, 159 La. 966.—Courts 224(11).

La. 1891. Under Civ.Code, art. 3188, a "privilege" is a right which the nature of a debt gives to a creditor, enabling him to be preferred before other creditors, including those holding mortgages.—Carroll v. Bancker, 10 So. 187, 43 La.Ann. 1078, 43 La.Ann. 1194.—Liens 1.

La. 1891. "Privilege" and "pledge" are totally different things; privilege being a right which the nature of a debt gives to a creditor which enables him to be preferred before other creditors, even those who have mortgages. But a pledge is a contract by which a debtor gives something to his creditor as a security for his debts.—Carroll v. Bancker, 10 So. 187, 43 La.Ann. 1078, 43 La.Ann. 1194.

La. 1887. Under the law of Louisiana, the term "privilege" has a well-defined meaning, different and distinct from the term "mortgage."—Succession of Benjamin, 2 So. 187, 39 La.Ann. 612.

La.App. 1 Cir. 1993. "Privilege" is an accessory right to claim or debt, providing security and payment by preference, and has life coextensive with that of debt it is intended to secure. LSA-C.C. art. 3186.—Rollette v. State Farm Mut. Auto. Ins. Co., 619 So.2d 832.—Liens 8.

La.App. 1 Cir. 1982. There is no such thing as mandatory privilege; use of word "privilege" precludes any obligation.—Young v. Koehl, 417 So.2d 24.—Contracts 1.

La.App. 1 Cir. 1959. "Privilege" is an accessory right, which arises from or is superinduced by nature of debt and which entitles creditor to be paid by preference, and is a form of security for payment, in instances ordained by law, not enjoyed by ordinary creditors, which may become extinct by prescription, but generally has a life coextensive with that of debt it is intended to secure. LSA–C.C. arts. 3186, 3252, 3277.—Washington v. Washington, 116 So.2d 125, affirmed as amended 127 So.2d 491, 241 La. 35.—Liens 1.

La.App. 2 Cir. 1986. "Privilege" under statute which gives hospital "privilege" over funds paid to treated patient from third party is right attached to

sums of money in hands of third party such as insurer. LSA-C.C. art. 3189; LSA-R.S. 9:4752.—Richland Parish Hosp. Service Dist. No. 2 v. Hanover Ins. Companies, 486 So.2d 1079.—Health 961.

La.App. 2 Cir. 1938. "Privilege" is an accessory right, which arises from or is superinduced by the nature of the debt and which entitles the creditor to be paid by preference, and is a form of security for payment, in the instances ordained by law, not enjoyed by ordinary creditors, which may become extinct by prescription, but generally its life is coextensive with that of the debt it is intended to secure. LSA-C.C. arts. 3186, 3252, 3277.—Beck v. Beck, 181 So. 635.—Liens 1.

La.App.Orleans 1936. Right to practice law is not a "privilege" or "immunity" granted to all citizens of the United States, but is a franchise from the state conferred only for merit, and is not a lawful business except for members of the bar who have complied with all conditions required by statute and rules of court. Const.1921, art. 7, §§ 26, 38; Supreme Court Rule 15.—Meunier v. Bernich, 170 So. 567.—Atty & C 7.

La.App.Orleans 1935. Lien for paving held not "tax," "mortgage," or "privilege" within constitutional provision imposing three years' prescription, though paving charge was due to city itself and not to contractor. LSA-Const.1921, art. 19, § 19; LSA-R.S. 33:3746.—Kearns v. City of New Orleans, 160 So. 470.—Mun Corp 564.

Me. 1943. License to use highways, conferred by certificate of registration of automobile is "privilege" and not "contract" or "property", and state may make such rules for the issuance of the certificate as state deems proper.—Steves v. Robie, 31 A.2d 797, 139 Me. 359.—Autos 21, 24; High 165.

Me. 1892. The right to fish in the waters of a state is not a "privilege" to which citizens in the several states are entitled, under U.S.C.A.Const. art. 4, § 2, pt. 1, providing that the citizens of each state shall be entitled to all the privileges of the citizens in the several states.—State v. Tower, 24 A. 898, 84 Me. 444.

Md. 1943. The right of a person to receive property by will or inheritance is not a "natural right" but a "privilege" granted by state and state in granting such privilege may require person receiving benefit thereof to pay an excise tax for its enjoyment.—Safe Deposit & Trust Co. of Baltimore v. Bouse, 29 A.2d 906, 181 Md. 351.—Des & Dist 1; Tax 3302; Wills 1.

Md. 1942. Immunity from unlawful search and seizure is a "privilege" personal to those whose rights have been infringed, and only those who are lawful occupants of premises can object to search and seizure on those premises.—Hubin v. State, 23 A.2d 706, 180 Md. 279, certiorari denied Neal v. State of Maryland., 62 S.Ct. 1107, 316 U.S. 680, 86 L.Ed. 1753.—Searches 161.

Md. 1939. Where provision of will granted right to one of testatrix' sons to occupy house for so long as sister of testatrix lived, upon condition that he permit sister to occupy room in house, and that upon death of sister executor should sell house and divide proceeds between testatrix' two sons, such right granted son was not "legal interest" in property which son could alien, but was mere "privilege" or "liberty" personal to grantee.—Legge v. Canty, 4 A.2d 465, 176 Md. 283.—Wills 590.

Md.App. 2004. "Privilege" is the legal protection given to certain communications and relationships, i.e., attorney-client privilege, doctor-patient privilege, and marital privilege, while "confidential" is a term used to describe a type of communication or relationship.—Doe v. Maryland Bd. of Social Workers, 840 A.2d 744, 154 Md.App. 520, certiorari granted 849 A.2d 473, 381 Md. 324, affirmed Jane Doe v. Maryland Bd. of Social Work Examiners, 862 A.2d 996, 384 Md. 161.—Witn 184(1).

Md.App. 1999. Under the doctrine of "privilege," there are circumstances in which a person will not be held liable for a defamatory statement because the person is acting in furtherance of some interest of social importance, which is entitled to protection.—Woodruff v. Trepel, 725 A.2d 612, 125 Md.App. 381, certiorari denied 731 A.2d 440, 354 Md. 332.—Libel 34.

Md.App. 1968. "Immunity" and "privilege" are not interchangeable terms and it is necessary to distinguish between them.—State v. Panagoulis, 239 A.2d 145, 3 Md.App. 330, certiorari granted 251 Md. 751, 251 Md. 752, affirmed 253 A.2d 877, 253 Md. 699.—Crim Law 42; Witn 292.

Mass. 1965. An "exemption" taxation is a "privilege". M.G.L.A. c. 59 § 5, subd. 3.—Town of Milton v. Ladd, 206 N.E.2d 161, 348 Mass. 762.—Tax 2299.

Mass. 1940. Where original holders of license to keep, store, and sell inflammable articles never exercised any rights under license and at no time kept or sold articles described in their license upon their premises, the license remained only a personal "privilege", so that purchaser of premises acquired no proprietary interest in the license by assignment from the original licensees, and therefore the purchaser had no standing to complain of revocation of the license. G.L.(Ter.Ed.) c. 148, § 13, as amended by St.1936, c. 394.—Saxe v. Street Com'rs of Boston, 30 N.E.2d 380, 307 Mass. 495, 131 A.L.R. 1336.—Licens 37.

Mass. 1922. Assuming that the office of district attorney is a "privilege" within Bill of Rights, art. 12, G.L. c. 211, § 4, provides for removal from such office according to the "law of the land," as there is a compliance with the law of the land when there is judicial process, adequate notice, a statement of the charges, a fair hearing, even though summary, and a final judgment for sufficient cause founded upon considerations springing solely from the requirements of the public good, all as ascertained and determined in accordance with the procedure of established courts.—Attorney General v. Pelletier, 134 N.E. 407, 240 Mass. 264.

Mich. 1950. Where intangibles which constituted corpus of Pennsylvania trust were owned and controlled solely by Pennsylvania trustees and evi-

dence of intangibles remained in Pennsylvania and none of trustees ever resided in Michigan nor did settlor, and plaintiff, a Michigan resident, had neither actual nor equitable ownership nor any right of control or management of corpus and plaintiff's only beneficial interest was her right to share on basis of one-ninth of net income, plaintiff's alleged beneficial interest in nonprofit paying intangible assets was not a "privilege" and intangibles tax computed on basis of plaintiff having a beneficial interest in corpus of the trust was unlawful. Comp. Laws 1948, § 205.131 et seq.—Goodenough v. State, 43 N.W.2d 235, 328 Mich. 56, on rehearing 44 N.W.2d 161, 328 Mich. 502.—Tax 2068, 2191, 2212.

Mich. 1942. The practice of law is not a "property right" or a "natural right" or right guaranteed by constitution, but a "privilege" to those who attain certain standards of learning and character.—Ayres v. Hadaway, 6 N.W.2d 905, 303 Mich. 589.—Atty & C 14; Const Law 88.

Mich.App. 1980. Parole revocation proceeding is a "contested case," triggering application of the Administrative Procedures Act, in that Department of Corrections is an "agency" for purposes of APA, and under *Morrissey v. Brewer*, parolee's "liberty interest" is, at a minimum, a "privilege," potential termination of which by Department of Corrections requires adherence to due process guarantees. M.C.L.A. §§ 24.201 et seq., 24.203(3); U.S.C.A.Const. Amends. 5, 14.—Penn v. Department of Corrections, 298 N.W.2d 756, 100 Mich. App. 532.—Const Law 272.5.

Minn. 1942. "Privilege" of a witness is personal to one to whom it belongs and is "waived" unless asserted by him, and a party cannot invoke the privilege of his witness, much less that of his adversary.—Esser v. Brophey, 3 N.W.2d 3, 212 Minn. 194.—Witn 305(1), 306.

Minn. 1932. Term "privilege" within charter provision imposing license fee for exercise of privilege means special right enjoyed by one under legislative authority, a right not belonging to public generally.—City of St. Paul v. Twin City Motor Bus Co., 245 N.W. 33, 187 Minn. 212.—Licens 6.

Minn. 1910. A "privilege," as distinguished from a "power," is a right peculiar to the person or class of persons, on whom it is conferred. As applied to a corporation, it is usually synonymous with "franchise," and means a special right conferred by the state which does not belong to citizens generally of common right and which cannot be enjoyed or exercised without legislative authority.—Northwestern Trust Co. v. Bradbury, 127 N.W. 386, 112 Minn. 76.

Minn. 1888. "Privilege," as used in the constitutional amendment of 1881, prohibiting the Legislature from enacting any special or private law granting any special privilege or franchise whatever, "means, generally, a right or immunity granted to a person either against or beyond the course of the common or general law."—Dike v. State, 38 N.W. 95, 38 Minn. 366.

Mo. 1959. The statute relating to the location and removal of pipelines within right of way of state highway requires that the matter of the relocation of the lines be determined after a hearing before the State Highway Commission acting as an administrative "agency" which is to determine a "privilege", and therefore the order of the commission in respect to location of pipelines is subject to review under the Administrative Procedure and Review Act. Section 227.240, 536.010(1), 536.100 536.100 RSMo 1949, V.A.M.S.—State ex rel. State Highway Commission v. Weinstein, 322 S.W.2d 778.—High 88.

Mo. 1942. The right to vote is not a "privilege".—State ex inf. McKittrick ex rel. Ham v. Kirby, 163 S.W.2d 990, 349 Mo. 988.

Mo.App. 1967. Under statute providing that a physician or surgeon is incompetent to testify concerning any information which he may have acquired from any patient while attending him in a professional character which information was necessary to enable him to prescribe for such patient as a physician or do any act for him as a surgeon, a "privilege" is thereby conferred upon the patient to suppress, as evidence, information acquired by a physician from a patient while attending him in a professional capacity, which privilege the patient may waive. Section 491.060 RSMo 1959, V.A.M.S.—State ex rel. Williams v. Vardeman, 422 S.W.2d 400.—Witn 208(1), 219(4.1).

Mo.App. 1948. The rule of absolute "privilege" is broad and comprehensive, including within its scope all proceedings of judicial nature, whether pending in some court of justice or before a tribunal or officer clothed with judicial or quasi-judicial powers, and applies to communication made before tribunals having attributes similar to those of courts.—White v. United Mills Co., 208 S.W.2d 803, 240 Mo.App. 443.—Libel 38(1).

Mont. 1941. Where candidate for office of clerk of district court designated by Democratic Party who was the only candidate for such office died 24 days before election and his name appeared on official ballots, person receiving highest number of votes cast for any living person could not be deprived of office on ground that failure of party committee to supply a candidate to fill vacancy on ticket deprived electors of opportunity of expressing their choice, since the nomination of party candidates is a "privilege" and not essential to holding an election, and selection of persons for office is not necessarily made from a list of regularly nominated candidates, but electors may vote for any person of their choice. Rev.Codes 1935, §§ 540, 696, 795; Const. art. 9, §§ 2, 13.—State ex rel. Wolff v. Geurkind, 109 P.2d 1094, 111 Mont. 417, 133 A.L.R. 304.—Elections 235.

Neb. 1942. The Fourteenth Amendment does not grant right to practice law, nor is the right to practice law in the courts a "privilege" or "immunity" within meaning of Fourteenth Amendment. U.S.C.A. Const.Amend. 14.—State ex rel. Ralston v. Turner, 4 N.W.2d 302, 141 Neb. 556, 144 A.L.R. 138.—Const Law 206(4).

N.H. 1951. Where heating of express cars transporting hatching eggs is a service available to all shippers without special charge, such service is not a "privilege" or special benefit within meaning of the Interstate Commerce Act, providing that "privileges" shall not be extended to any shipper except as specified in tariffs. Interstate Commerce Act, § 6(7), 49 U.S.C.A. § 6(7).—Akerly v. Railway Exp. Agency, 77 A.2d 856, 96 N.H. 396.—Carr 30.

N.J. 1999. Boy Scouts of America's (BSA) revocation of registration of openly gay assistant scoutmaster based on his "avowed" homosexuality denied scoutmaster of "privilege" and "advantage" of Boy Scout membership, in violation of Law Against Discrimination (LAD). N.J.S.A. 10:5–4, 10:5–5, subd. *l*.—Dale v. Boy Scouts of America, 734 A.2d 1196, 160 N.J. 562, certiorari granted 120 S.Ct. 865, 528 U.S. 1109, 145 L.Ed.2d 725, reversed and remanded 120 S.Ct. 2446, 530 U.S. 640, 147 L.Ed.2d 554.—Civil R 1050.

N.J.Err. & App. 1934. Right of member to withdraw from building and loan association is essentially a "privilege," since ostensibly one becomes member for duration of scheme. Comp.St.Supp. §§ 27–R(49), R(55).—Thirteenth Ward Bldg. & Loan Ass'n of Newark v. Weissberg, 170 A. 662, 115 N.J.Eq. 487, 98 A.L.R. 134.—B & L Assoc 14(1).

N.J.Super.A.D. 1998. Boy Scouts of America's (BSA) expulsion of volunteer assistant scoutmaster for being openly homosexual denied scoutmaster of "privilege" under Law Against Discrimination (LAD). N.J.S.A. 10:5–12, subd. f.—Dale v. Boy Scouts of America, 706 A.2d 270, 308 N.J.Super. 516, certification granted 718 A.2d 1210, 156 N.J. 381, certification granted 718 A.2d 1210, 156 N.J. 382, affirmed 734 A.2d 1196, 160 N.J. 562, certiorari granted 120 S.Ct. 865, 528 U.S. 1109, 145 L.Ed.2d 725, reversed and remanded 120 S.Ct. 2446, 530 U.S. 640, 147 L.Ed.2d 554.—Civil R 1050.

N.J.Super.A.D. 1998. Opportunity to serve as volunteer is "privilege" within meaning of Law Against Discrimination (LAD), whether despite, or because of, duties attached. N.J.S.A. 10:5–12, subd. f.—Dale v. Boy Scouts of America, 706 A.2d 270, 308 N.J.Super. 516, certification granted 718 A.2d 1210, 156 N.J. 381, certification granted 718 A.2d 1210, 156 N.J. 382, affirmed 734 A.2d 1196, 160 N.J. 562, certiorari granted 120 S.Ct. 865, 528 U.S. 1109, 145 L.Ed.2d 725, reversed and remanded 120 S.Ct. 2446, 530 U.S. 640, 147 L.Ed.2d 554.—Civil R 1033(2).

N.J.Sup. 1946. A liquor license is not "property" but is a "privilege" that usually has some money value, and no revocation of a license shall be made until notice of charges shall be given to licensee and an opportunity to be heard is afforded. N.J.S.A. 33:1–31.—Drozdowski v. Mayor and Borough Council of Borough of Sayreville, 45 A.2d 313, 133 N.J.L. 536.—Int Liq 99, 108.2.

N.J.Sup. 1935. Statute extending right of service of process upon nonresidents in actions by residents of state arising out of operation of automobile not licensed within state held not unconstitutional abridgment of "privilege" of citizens of other states, since privilege to bring suit within state is not affected, and discrimination in service of process is based on "residence" rather than "citizenship," which are not synonymous; "resident" in strict primary sense meaning person who lives in place for a time, irrespective of domicile. N.J.S.A. 39:7-2 et seq.; Const.U.S. art. 4, § 2; Amend. 14, § 1.—Charles v. Fischer Baking Co., 182 A. 30, 14 N.J.Misc. 18, affirmed 187 A. 175, 117 N.J.L. 115.—Const Law 207(3).

N.J.Super.Ch. 1950. The "dower" interest of a widow before assignment is authentically a "right", "benefit", "privilege", "inchoate expectancy" and "chose in action" and lacks the essential qualities of an estate.—Skovborg v. Smith, 74 A.2d 910, 9 N.J.Super. 389.—Dower & C 54.

N.J.Ch. 1924. A provision in a lease contract in which the "first privilege" was "extended" to lessee to purchase *held* to give lessee an absolute right or option to purchase at his election, and not to limit such right to lessee personally, the word "privilege" as therein used being synonymous with "right," and the word "extended" synonymous with "given."—Tantum v. Keller, 123 A. 299, 95 N.J.Eq. 466, affirmed 126 A. 925, 96 N.J.Eq. 672.—Land & Ten 92(1).

N.M. 1950. A license for sale of intoxicating liquor is a "privilege" and not "property" within due process and contract clauses of the state and federal Constitutions, and in such licenses licensees have no vested property rights. 1941 Comp. §§ 61-501, 61-516.—Yarbrough v. Montoya, 214 P.2d 769, 54 N.M. 91.—Const Law 101, 136, 287.2(3).

N.M. 1942. A license for the sale of intoxicating liquor is a "privilege" and not "property" within meaning of the due process and contract clauses of the state and federal constitutions, and in such licenses licensees have no "vested property rights".—Chiordi v. Jernigan, 129 P.2d 640, 46 N.M. 396.—Const Law 101, 136, 287.2(3).

N.M. 1940. Suffrage is a "privilege", "franchise", or "trust", conferred by the people upon such persons as are deemed the most fit to represent it in the choice of magistrates or in the performance of political duties which it would be inexpedient or inconvenient for the people to perform in a body.—Wilson v. Gonzales, 106 P.2d 1093, 44 N.M. 599.—Elections 1.

N.M.App. 1982. "Privilege" to interfere with an existing contract is a good faith assertion or threat by the one interfering to protect a legally protected interest of his own which he believes might otherwise be impaired or destroyed by performance of the contract.—Speer v. Cimosz, 642 P.2d 205, 97 N.M. 602, certiorari denied New Hampshire Insurance Group v. Speer, 644 P.2d 1039, 98 N.M. 50.—Torts 220.

N.Y. 1892. The words "privilege" and "right," when used in statutes, are sometimes synonymous, and are held to be so in the Brooklyn city charter, Laws 1888, c. 583, providing that members of the

police force cannot be removed, except for cause, after notice and hearing, and also providing for the appointment of boiler inspectors, who shall possess the same powers and privileges as members of the police force, so that the commissioner has no power to remove such an inspector, except for cause, after notice and hearing.—People ex rel. Fox v. Hayden, 30 N.E. 970, 133 N.Y. 198.

N.Y.A.D. 1 Dept. 1946. Statements by hospital trustee to another trustee and to member of ladies league of the hospital that staff member was suspended or was going to be suspended for charging a charity patient were protected by qualified "privilege", meaning that though the statements might be false, trustee was privileged to make them provided he did not make them with express malice.—Loewinthan v. LeVine, 60 N.Y.S.2d 433, 270 A.D. 512.—Libel 44(1).

N.Y.A.D. 4 Dept. 1941. An automobile operator's license is not "property" within statute defining "extortion" as obtaining property from owner with his consent by unlawful use of force or fear and providing that fear constituting extortion may be induced by threat to do unlawful injury to person or property of individual threatened, as use of word "rights", which is defined as "privilege", in statute defining "oppression", as unlawful official act whereby a person is injured in his person, property or rights, shows that legislature did not intend word "property" to include a "privilege". Penal Law, §§ 850, 851, 854.—People v. Learman, 28 N.Y.S.2d 360, 261 A.D. 748.—Extort 25.1.

N.Y.A.D. 4 Dept. 1917. The charter of the city of Fulton, Laws 1902, c. 63, shows that it was created from the former village of Fulton and village of Oswego Falls. Section 3, subd. 4, of such charter continued the rules and regulations of fire departments of said villages, and sections 115, 116, 117, and 119 provided for the organization of a fire department, volunteer firemen of the villages to be preferred, and prescribed the pay of firemen, distinguishing between "paid firemen" and "call men," and also provided that "the call men shall be entitled to the same privileges and exemptions as are accorded by the laws of this state to volunteer firemen." At the time of adoption of this charter, Laws 1895, c. 615, required a village or town to pay $500 for death in discharge of his duties of an active member of a volunteer fire company in any incorporated village or in any fire district of a town outside of an incorporated village, but at that time there existed no general law of the state entitling the estate of a fireman in a city to any sum of money in case of his death. Held, that the charter provisions did not carry to any persons who became "call firemen" under the charter the benefit of the 1895 law, for, even if they had been volunteer firemen in the villages, they would not retain their status as volunteer firemen after appointment to any of the positions in the fire department of the city; nor does the provision that the call men shall be entitled to the same "privileges, and exemptions" as are accorded by the laws of the state to volunteer firemen give call fireman the right to death payment given by Laws 1906, c. 49, incorporated into General Municipal Law, Consol.Laws, c. 24, § 205, as amended by Laws 1914, c. 400, amending the 1895 law to extend death payments to active members of volunteer fire departments in cities, for the words "privileges and exemptions" are to be construed in view of what they covered at the time of the adoption of the charter, and while the word "privilege" may be used in a variety of senses, it was used in the statute as meaning a special and exclusive right conferred by law on particular persons or classes of persons and in derogation of the common right, so that the rule applies that privileges in derogation of the common right should not be enlarged, unless the legislative intention to enlarge them is unmistakable.—Hammond v. City of Fulton, 163 N.Y.S. 51, 176 A.D. 343, reversed 115 N.E. 998, 220 N.Y. 337, Am.Ann.Cas. 1917C, 1137.

N.Y.Sup. 1993. Because possession of handgun license is "privilege" rather than right, it is unnecessary to furnish quasi-judicial or formal adversarial hearing before pistol license is revoked, and thus, no question of substantial evidence may be properly raised in a proceeding to review revocation of license, and transfer of such proceeding to Appellate Division based on raising of issue of substantial evidence is not appropriate. McKinney's CPLR 7803, subd. 4, 7804, 7804(g), 7804 comment; McKinney's Penal Law §§ 400.00, 400.00, subd. 11; New York City Administrative Code, §§ 10–131, 10–131, subd. a, par. 1.—Shapiro v. New York City Police Dept. (License Div.), 595 N.Y.S.2d 864, 157 Misc.2d 28, affirmed 607 N.Y.S.2d 320, 201 A.D.2d 333.—Weap 12.

N.Y.Sup. 1964. "Privilege" does not extend to a report or independent investigation, since if knowledge in and of itself is not privileged, it cannot acquire a privileged status merely because it may have been communicated to the attorney. CPLR § 3101.—Montgomery Ward Co. v. City of Lockport, 255 N.Y.S.2d 433, 44 Misc.2d 923.—Pretrial Proc 34.

N.Y.Sup. 1942. The right to hold public employment is a "privilege" which may reasonably be qualified by legislative action.—Goldway v. Board of Higher Ed., 37 N.Y.S.2d 34, 178 Misc. 1023.—Offic 18.

N.Y.Sup. 1942. Immunity from arrest is a personal "privilege" available only to the person subject to arrest, and may be waived by him, and unless the privilege is claimed, the arresting officer has no excuse for failure to execute the process. Civil Practice Act, §§ 764 et seq., 826, 833 et seq.—Family Finance Corp. v. Starke, 36 N.Y.S.2d 858.—Arrest 9.

N.Y.Sup. 1941. The right to be appointed to any public office is not a "vested right" nor is it a "natural right" or an "inalienable right" and it is but a "privilege".—Fink v. Kern, 26 N.Y.S.2d 891, 176 Misc. 114, affirmed 29 N.Y.S.2d 502, 262 A.D. 829.—Const Law 102(1).

N.Y.Sup. 1937. Taxicab industry is so closely affected with public interest as to be subject to public regulation, since use of public streets for hire is not a "right" but "privilege" granted by city.—

Rudack v. Valentine, 295 N.Y.S. 976, 163 Misc. 326, affirmed 10 N.E.2d 577, 274 N.Y. 615.—Autos 59.

N.Y.Sup. 1927. Privileges and exemptions granted by Laws 1870, c. 291, tit. 3, § 5, to volunteer village firemen, including among others, exemptions from summary removal from civil service, was only a "privilege" granted by the Legislature, and not a "right," in the strict sense of the word, and Legislature could take privilege away, if it so desired.—Pettit v. Boyle, 223 N.Y.S. 521, 129 Misc. 873.—Mun Corp 215.

N.Y.Sup. 1926. The words "franchise," "privilege," and "consent" are often used synonymously.—Colonial Motor Coach Corporation v. City of Oswego, 215 N.Y.S. 159, 126 Misc. 829, affirmed 217 N.Y.S. 907, 217 A.D. 816, affirmed 222 N.Y.S. 789, 220 A.D. 809.

N.Y.Sup. 1916. A publication by a newspaper, relating to the manufacture and sale of a patent medicine and the conduct of the manufacturer and seller, is neither privileged nor qualifiedly so; "privilege" being a defense to what might otherwise be libelous.—Patten v. Harper's Weekly Corp., 158 N.Y.S. 70, 93 Misc. 368.

N.Y.Sup. 1894. The word "right," as used in a deed conveying certain premises, but excepting and reserving the right and privilege of taking water from a stream, is synonymous with the word "privilege," and is limited to the use for the convenience of the grantor and his heirs and assigns.—Smith v. Cornell University, 45 N.Y.S. 640, 21 Misc. 220.

N.Y.City Ct. 1934. Contract under which plaintiff paid stated sum for "privilege" of selling ice to tenants of apartment house which was substantially completed held illegal, precluding plaintiff's recovery of any money paid when electric refrigerators were installed. Penal Law, § 861, as added by Laws 1917, c. 702.—Arbuzzese v. Norge Realty Corp., 271 N.Y.S. 889, 151 Misc. 463.—Monop 17(1.3).

N.Y.Gen.Sess. 1936. Right to practice law is not a "right," but merely a "privilege," and may be withdrawn by state through its proper disciplinary body when such privilege has been violated.—People v. Speiser, 292 N.Y.S. 481, 162 Misc. 9.—Atty & C 34.

N.C. 1948. Generic term "privilege" as applied to tax, contractually unaided, cannot be arbitrarily construed to mean or to include, ex vi termini, a franchise tax on every occasion of its use in scheduled divisions of taxable subjects. G.S. §§ 105–33, 105–114, 105–116(6).—Duke Power Co. v. Bowles, 48 S.E.2d 287, 229 N.C. 143.—Tax 2233.

N.C. 1948. Statute imposing tax on gross revenues of utility companies and providing that no city or town should impose greater "privilege" or license tax on such companies that aggregate privilege or license tax, "which is now imposed by any such city or town" did not apply to franchise tax imposed by city of Greensboro and did not limit authority of city of Greensboro to impose a greater "franchise tax" than that imposed prior to enactment of the statute. G.S. § 105–116(6).—Duke Power Co. v. Bowles, 48 S.E.2d 287, 229 N.C. 143.—Licens 5.5.

N.C. 1947. The business of carrying passengers and freight for hire by motor vehicles over public highways is not a "right", but a "privilege", licensing of which is exclusively a legislative prerogative, and such privilege may be granted or withheld at Legislature's will.—North Carolina Utilities Commission v. McLean, 44 S.E.2d 210, 227 N.C. 679.—Autos 69.

N.C. 1942. In determining court's right to review action of Commissioner of Banks in certifying to Secretary of State the Commissioner's conclusion that public convenience would not be promoted by the establishment of a proposed bank, the Commissioner did not decide any "personal" or "property right" of the applicants, but acted primarily for benefit of the public at large, since applicants in applying for certificate of incorporation were seeking a "privilege" or "franchise" and were not asserting a "right". Code 1939, § 217(a) et seq.—Pue v. Hood, 22 S.E.2d 896, 222 N.C. 310.—Banks 6.

N.C. 1906. A "privilege" is said to be a particular or peculiar benefit enjoyed by a person, company, or class beyond the common advantages of other citizens, an exception or extraordinary exemption, or an immunity held beyond the course of the law. And again it is defined to be an exemption from some burden or attendance, with which certain persons are indulged, from a supposition of the law that their public duties or services, or the offices in which they are engaged, are such as require all their time and care, and and that therefore, without this indulgence, those duties could not be performed to that advantage which the public good demands.—State v. Cantwell, 55 S.E. 820, 142 N.C. 604, 8 L.R.A.N.S. 498, 9 Am.Ann.Cas. 141.

N.D. 2006. For purposes of statute providing that a person is guilty of criminal trespass if, knowing he is not licensed or privileged to do so, he enters or remains in a dwelling, term "privilege" means the freedom or authority to act and to use property; "licensed" means a consensual entry. NDCC 12.1–22–03(1).—State v. Bertram, 708 N.W.2d 913, 2006 ND 10, rehearing denied.—Tresp 84.

N.D. 2004. For purposes of statute providing that person is guilty of criminal trespass if, knowing he is not licensed or privileged to do so, he enters or remains in a dwelling, "privilege" is the freedom or authority to act and to use property. NDCC 12.1-22-03, subd.1.—State v. Morales, 673 N.W.2d 250, 2004 ND 10.—Tresp 84.

N.D. 1996. "Confidentiality" and "privilege" are not synonymous, and are two compatible, yet distinct, concepts; "privilege" addresses person's right not to have another testify as to certain matters as part of judicial process, while "confidentiality" addresses obligation to refrain from disclosing information to third parties other than as part of legal process.—Trinity Medical Center, Inc. v. Holum, 544 N.W.2d 148.—Witn 184(1).

N.D. 1993. Allowing indigent parent opportunity to receive assistance of appointed counsel to protect parental rights is "privilege" within meaning of equal protection provision of State Constitution. Const. Art. 1, § 21.—Matter of Adoption of K.A.S., 499 N.W.2d 558.—Const Law 248(2).

N.D. 1992. For purposes of criminal trespass statute providing that person is guilty of class A misdemeanor "if, knowing that he is not licensed or privileged to do so," he enters or remains in building, term "privilege" means freedom or authority to act and to use the property; "licensed" means a consensual entry. NDCC 12.1–22–03, subd. 2, par. a.—State v. Purdy, 491 N.W.2d 402.—Tresp 84.

N.D. 1990. Court's instruction in burglary prosecution that "privilege" meant "some legal right to enter the premises" was not necessarily "erroneous and misleading" so as to cause prejudice to substantial rights of defendant. NDCC 12.1–22–02, subd. 1.—State v. Haugen, 458 N.W.2d 288.—Crim Law 1172.1(4).

N.D. 1968. Legislature used the words "franchise" and "privilege" interchangeably in statute empowering municipalities to grant franchises or privileges to extend for a period of not to exceed 20 years. NDCC 40–05–01, subd. 57.—Williams Bros. Pipe Line Co. v. City of Grand Forks, 163 N.W.2d 517.—Mun Corp 682(3).

N.D.App. 2005. For purposes of statute providing that person is guilty of criminal trespass if, knowing he is not privileged or licensed to do so, he enters or remains in a dwelling, term "privilege" means the freedom or authority to act and to use the property; "licensed" means a consensual entry. NDCC 12.1–22–03, subd. 3.—State v. Bernstein, 697 N.W.2d 371.—Tresp 76, 84.

Ohio 1895. "Privilege" is a comprehensive term, and to enter on and occupy lands that form a part of the canal system of the state, by any one, is exercising a privilege, in one sense of that term; and, if this is done without authority from the state, it is exercising a privilege not conferred by law. In considering a statute authorizing proceedings in quo warranto against a corporation whenever it exercised any franchise or privilege not conferred upon it by law, the court said: "The contention that the word 'privilege' was used advisedly by the Legislature, as more comprehensive than 'franchise,' and in a sense broad enough to comprehend a specific grant in respect of public property, is not without reason for its support. If the word 'privilege' was employed as synonymous with 'franchise,' its use was superfluous."—State ex rel. Richards v. Pittsburgh, C., C. & St. L.R. Co., 41 N.E. 205, 53 Ohio St. 189, 34 W.L.B. 15, 2 Ohio Leg. N. 618.

Ohio App. 1 Dist. 1998. "Privilege," as may provide defense to charge of obstructing official business, refers to a positive grant of authority entitling one to deliberately obstruct or interfere with a police officer performing his lawful duty. R.C. § 2921.31.—State v. Stayton, 709 N.E.2d 1224, 126 Ohio App.3d 158, dismissed, appeal not allowed 694 N.E.2d 75, 82 Ohio St.3d 1412.—Obst Just 8.

Ohio App. 1 Dist. 1998. Defendant who was arrested based on her conduct in placing coins in expired parking meters just as police officer was about to issue citations to vehicles parked at meters did not have "privilege" to engage in such conduct, as would prevent conviction for obstructing official business. R.C. § 2921.31.—State v. Stayton, 709 N.E.2d 1224, 126 Ohio App.3d 158, dismissed, appeal not allowed 694 N.E.2d 75, 82 Ohio St.3d 1412.—Obst Just 8.

Ohio App. 1 Dist. 1983. Under statute defining offense of obstructing official business, "privilege" is immunity, license or right that springs from constitutional law, statutory law or common law, that is bestowed by express or implied grant. R.C. § 2921.31.—State v. Gordon, 458 N.E.2d 1277, 9 Ohio App.3d 184, 9 O.B.R. 294.—Obst Just 8.

Ohio App. 4 Dist. 1992. Person who had privilege to enter property is not guilty of criminal trespass; "privilege" means immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity, and, for purposes of criminal trespass, includes permission to enter premises given by resident of that premises. R.C. § 2901.01(L).—State v. Clelland, 615 N.E.2d 276, 83 Ohio App.3d 474, dismissed, jurisdictional motion overruled 608 N.E.2d 1082, 66 Ohio St.3d 1437.—Tresp 84.

Ohio App. 9 Dist. 1995. "Privilege" is right to preserve confidentiality of certain private communications.—Springfield Local School Dist. Bd. of Edn. v. Ohio Assn. of Pub. School Emp. Local 530, 667 N.E.2d 458, 106 Ohio App.3d 855.—Witn 184(1).

Ohio App. 10 Dist. 1998. A party is not liable for intentionally interfering with a contract if that party is privileged or justified in doing so; in such cases, the terms "privilege" and "justification" relate to circumstances that excuse conduct that would ordinarily subject the actor to liability.—Ricker v. John Deere Ins. Co., 729 N.E.2d 1202, 133 Ohio App.3d 759, appeal allowed 705 N.E.2d 1244, 84 Ohio St.3d 1504, appeal dismissed as improvidently allowed 725 N.E.2d 281, 88 Ohio St.3d 1229, 2000-Ohio-321, reconsideration denied 728 N.E.2d 403, 88 Ohio St.3d 1516.—Torts 220.

Okla. 1994. "Immunity" is based chiefly upon person's status, while scope of "privilege" to be applied is determined by either transactional or relational analysis.—Wright v. Grove Sun Newspaper Co., Inc., 873 P.2d 983, 1994 OK 37.—Torts 121.

Okla. 1940. Authority granted by the Legislature to one to assert a right against the state is not a "special right", "privilege", or "immunity", which is in derogation of the common right.—State v. Adams, 105 P.2d 416, 187 Okla. 673, 1940 OK 320.—States 191.8(1).

Okla. 1911. The accepted meaning of the term "privilege" is a "peculiar advantage." In re Hopper, 132 N.Y.S. 730, 734, 73 Misc. 369. A special enjoyment of a good, or exemption from an evil or burden.—Wisener v. Burrell, 118 P. 999, 28 Okla.

546, 34 L.R.A.N.S. 755, Am.Ann.Cas. 1912D,356, 1911 OK 128.

Or. 1990. Opportunity for indigent parent to receive assistance of appointed counsel to protect parental rights is a "privilege" within the meaning of the equal privileges and immunities provision of the State Constitution and is not limited to termination proceedings in juvenile court. ORS 109.324, 419.525(2); Const. Art. 1, § 20.—Zockert v. Fanning, 800 P.2d 773, 310 Or. 514.—Const Law 205(2); Infants 205.

Or. 1989. Term "privilege" in statute establishing general applicability of evidentiary privilege rules, encompassed all privileges, including constitutional privileges not encumbered within the evidence code. Rules of Evid., Rules 513(1), 513 comment; U.S.C.A. Const.Amend. 5.—John Deere Co. v. Epstein, 769 P.2d 766, 307 Or. 348.—Witn 185, 293.

Or. 1985. A "privilege" for purposes of privileges and immunities clause of Oregon Constitution, Const. Art. 1, § 20, has same meaning whether it arises in context of a challenge to invidious class discrimination, or to standardless grant or denial of privileges to individual citizens.—City of Salem v. Bruner, 702 P.2d 70, 299 Or. 262.—Const Law 205(1).

Or. 1913. Since the title to wild game is in the state, and no person has an absolute property right therein while in a state of nature and at large, the taking thereof is not a right, but a "privilege," which may be restricted, prohibited, or conditioned, as the lawmaking power may see fit; and hence the Legislature may prohibit the having in possession of the carcasses of wild game out of season, though the game was lawfully killed in season.—State v. Pulos, 129 P. 128, 64 Or. 92.

Or. 1910. The word "right" denotes, among other things, "property," "interest," "power," "prerogative," "immunity," and "privilege"; and in law is most frequently applied to property in its restricted sense. As an enforceable legal right it means that which one has a legal right to do.—Shaw v. Proffitt, 109 P. 584, 57 Or. 192, Am.Ann.Cas. 1913A,63, rehearing denied 110 P. 1092, 57 Or. 192, Am.Ann.Cas. 1913A,63.

Pa. 1993. Operating motor vehicle upon Commonwealth highway is not "property right" but "privilege"; as such, Commonwealth has right to control and regulate its use, subject to adherence to precepts of due process of law. U.S.C.A. Const. Amend. 14.—Plowman v. Com., Dept. of Transp., Bureau of Driver Licensing, 635 A.2d 124, 535 Pa. 314.—Autos 136; Const Law 277(1), 287.3.

Pa. 1975. Fact that a "liquor license" is sometimes referred to as a "privilege" rather than a "right" is not relevant to issue of whether, in eminent domain proceeding, a condemnee whose retail liquor license loses value as a result of condemnation of premises for which license was issued is entitled to have such loss considered in award of just compensation to be paid by the condemnor; rigid labels such as "right" or "privilege" cannot determine a person's constitutional and statutory right to "just compensation". P.S.Const. art. 1, § 10; art. 10, § 4.—Redevelopment Authority of City of Philadelphia v. Lieberman, 336 A.2d 249, 461 Pa. 208.—Em Dom 141(1).

Pa. 1939. A license to operate an automobile on highways of the commonwealth is a "privilege" and not a "property right" and the power of the secretary of revenue to suspend or revoke such operating privileges is not a "judicial function" but an "administrative" one which can be performed without allowing motorist accused of violating traffic laws the right to confront and cross-examine his accuser. 75 P.S. §§ 618, 620.—Com. v. Cronin, 9 A.2d 408, 336 Pa. 469, 125 A.L.R. 1455.—Autos 142, 144.2(1).

Pa. 1924. An agreement and subsequent deed, conveying to grantees, their heirs and assigns, a small tract with salt wells, buildings, etc., with "privilege" of mining and taking coal from land of the grantor, "as long as they may think proper," did not amount to a sale of the coal in place, but the grantor of a privilege which ended when grantee finally closed his salt works, since the word "privilege" standing alone imported permissive use.—Saltsburg Colliery Co. v. Trucks Coal Mining Co., 123 A. 409, 278 Pa. 447.—Mines 55(3).

Pa. 1895. In our own, as in the Roman jurisprudence, a "privilege" means the exemption of any person or class of persons from the operation of any law. Thus it is settled that the right of a debtor or widow to exemption is a personal privilege.—Commonwealth v. Henderson, 33 A. 368, 172 Pa. 135.

Pa.Super. 1992. Common-law "executive" or "governmental" "privilege" is qualified privilege protecting information from being discovered during ongoing government investigation; court balances government's interest in ensuring secrecy of documents whose discovery is sought against need of private litigant to obtain discovery of relevant materials in possession of government.—Com. v. Kauffman, 605 A.2d 1243, 413 Pa.Super. 527.—Pretrial Proc 33.

Pa.Super. 1953. A certificate of public convenience issued by Public Utility Commission is a "privilege," not a "property right," and confers no vested rights upon its holder, so that Commission's cancellation of certificate which had been issued to partnership, was not a "deprivation of property."—Slater v. Pennsylvania Public Utility Commission, 98 A.2d 743, 173 Pa.Super. 404.—Autos 106; Const Law 101.

Pa.Super. 1940. A liquor license, even when granted, is not a "property right," but is only a "privilege." 47 P.S. § 744–404.—Appeal of Spankard, 10 A.2d 899, 138 Pa.Super. 251.—Int Liq 99.

Pa.Super. 1935. Statute imposing tax on "privilege" of producing, manufacturing, distilling, rectifying, or compounding distilled spirits, rectified spirits or wine, held to apply to an illicit manufacturer without permit, since "privilege" as used in statute imports the doing of an act which is not a

common right. 47 P.S. §§ 746–748.—Com. v. Miller, 180 A. 144, 118 Pa.Super. 58.—Int Liq 90(1).

Pa.Super. 1935. Statute imposing tax on "privilege" of producing, manufacturing, distilling, rectifying, or compounding distilled spirits, rectified spirits or wine, held to apply to an illicit manufacturer without permit, since "privilege" as used in statute imports the doing of an act which is not a common right. 47 P.S. §§ 746-748. A "privilege" is a right or immunity granted, as a peculiar advantage and in derogation of the common right; yet we frequently speak of taking "privileges" to which one may not be entitled.—Com. v. Miller, 180 A. 144, 118 Pa.Super. 58.

R.I. 1948. The right of ingress to and egress from a highway to one's land is not a mere "privilege" but a "property right" appurtenant to the land.—Newman v. Mayor of City of Newport, 57 A.2d 173, 73 R.I. 385.—High 85.

R.I. 1939. The public showing in city of a motion picture to which general public is invited upon payment of an admission fee is a "privilege" and not a "right of property," so that the granting of such a license rests in the discretion of the licensing authority, and an applicant for a license has no right to a hearing before his application is denied unless statute expressly authorizes one or is necessarily implied by language of statute. Gen.Laws 1923, c. 129, § 2, as amended.—Thayer Amusement Corp. v. Moulton, 7 A.2d 682, 63 R.I. 182, 124 A.L.R. 236.—Pub Amuse 19.

R.I. 1915. Under a deed conveying land subject to any rights of easement acquired by a railway under a condemnation proceeding, by the habendum clause of which the grantee was to have and hold the granted premises with all the privileges and appurtenances, the claim for damages for the taking of such easement was not a "privilege" nor an "appurtenance" belonging to the land and passing to the grantee.—In re Southern New England Ry. Co., 94 A. 853.

S.C. 1940. Although the public has an absolute right to use of streets for their primary purpose which is for travel, the use of streets for purpose of parking automobiles is a "privilege", and not a "right", and the privilege of parking must be accepted with such reasonable burdens as the city may place as conditions to the exercise of such privilege.—Owens v. Owens, 8 S.E.2d 339, 193 S.C. 260.—Autos 5(3).

S.D. 1933. Taxable "privilege" embraces any occupation, business, employment, or the like affecting public which Legislature sees fit to tax as privilege.—State ex rel. Botkin v. Welsh, 251 N.W. 189, 61 S.D. 593.—Licens 11(1).

Tenn. 1960. Right to receive income or earnings is right belonging to every person, and realization and receipt of income is therefore not a "privilege" that can be taxed. Const. art. 2, § 28.—Jack Cole Co. v. MacFarland, 337 S.W.2d 453, 206 Tenn. 694.—Tax 3405.

Tenn. 1939. Under statute providing for the payment of privilege tax, the essential element of the definition of "privilege" is occupation and business and not the ownership simply of property or its possession or keeping it, and the tax is on the occupation, business pursuit, vocation or calling, it being one in which a profit is supposed to be derived by its exercise from the general public and not a tax on the property itself or the mere ownership of it. Williams' Code, § 1248.41.—Draughon v. Fox-Pelletier Corp., 126 S.W.2d 329, 174 Tenn. 457.—Licens 1.

Tenn. 1936. Term "privilege," within constitutional provision that Legislature shall have power to tax merchants, peddlers, and privileges in such manner as they may from time to time direct, refers to activity or occupation and not to character of person or entity that pursues activity or occupation; tax being upon privilege itself and not upon form in which business is conducted. Const. art. 2, § 28.—Corn v. Fort, 95 S.W.2d 620, 170 Tenn. 377, 106 A.L.R. 647.—Tax 3250.

Tenn. 1936. Right to do business in Tennessee in corporate form is a taxable "privilege," since right of a corporation to engage in intrastate business within state depends solely upon will of state which, having power to exclude entirely, has power to impose as condition the payment of a license fee. Const. art. 2, § 28.—Corn v. Fort, 95 S.W.2d 620, 170 Tenn. 377, 106 A.L.R. 647.—Tax 3250.

Tenn. 1927. Term "privilege" embraces any and all occupations that Legislature may choose to declare a privilege and tax as such.—Seven Springs Water Co. v. Kennedy, 299 S.W. 792, 156 Tenn. 1, 56 A.L.R. 496.—Licens 1.

Tenn. 1926. State may grant or refuse permission to foreign corporations to do business within its borders and determine what they shall pay for such "privilege" and it may expel them after they have been admitted.—Camden Fire Ins. Ass'n v. Haston, 284 S.W. 905, 153 Tenn. 675.—Corp 636.

Tenn. 1924. A "privilege" is whatever business, pursuit, occupation, or vocation affecting the public the Legislature chooses to declare and tax as such.—H.G. Hill Co. v. Whitice, 258 S.W. 407, 149 Tenn. 168.

Tenn. 1919. As was done in Priv.Acts 1915, c. 407, the use of automobiles on highways for pleasure may be declared a "privilege."—Ogilvie v. Hailey, 210 S.W. 645, 141 Tenn. 392.—Autos 4, 28.

Tenn. 1903. A "privilege," under Const. art. 2, § 28, providing that the Legislature may tax merchants, peddlers, and privileges, is a business, pursuit, or avocation, so that the words, "whether they make a business of it, or not," in Acts 1901, p. 227, c. 128, § 14, providing that any persons exercising any of the enumerated privileges must pay the tax for the exercise thereof, whether they make a business of it or not, are not nugatory; and a person who merely casually buys a single note, without seeking the transaction or holding himself out as a dealer therein, is not subject to the privilege tax for shaving notes.—Trentham v. Moore, 76 S.W. 904, 111 Tenn. 346.

Tenn. 1887. Const. art. 2, § 28, provides that "the Legislature shall have power to tax merchants, peddlers, and privileges in such manner as they may from time to time direct." Construing this section of our Constitution, this court has defined a "privilege" to be whatever the Legislature chooses to declare to be a privilege, meaning thereby that whatever occupation affects the public may be so classed and be taxed as such.—Kurth v. State, 5 S.W. 593, 86 Tenn. 134.

Tenn.Ct.App. 1995. Practice of law is "privilege" that may be taxed, not absolute right. West's Tenn.Code, Const. Art. 2, § 28(c); West's Tenn. Code, §§ 23-1-108, 67-4-1702(a)(5).—Cox v. Huddleston, 914 S.W.2d 501, appeal denied.—Atty & C 9; Const Law 88.

Tex. 1918. Exemption of property passing to certain specified classes from payment of inheritance tax and from lien securing it, under Rev.St. art. 7487, confers on such classes a "privilege."—State v. Yturria, 204 S.W. 315, 109 Tex. 220, L.R.A. 1918F,1079.—Tax 3325.

Tex. 1887. The word "privilege" in a city ordinance granting to a water company the right and privilege for a term of 25 years of supplying the city and inhabitants thereof with water is evidently not used in the technical sense in which it is used in the civil law, or even under the common law, when used in the sense of priority, but was intended to be given its ordinary signification; meaning a right peculiar to the person on whom conferred, not to be exercised by another or others.—City of Brenham v. Brenham Water Co., 4 S.W. 143, 67 Tex. 542.

Tex.Crim.App. 1952. A "privilege" is a grant of a special right or immunity.—Ferrantello v. State, 256 S.W.2d 587, 158 Tex.Crim. 471.

Tex.Civ.App.-Galveston 1939. The right granted to electric utility by city, under general statute applicable alike to all corporations furnishing electric service and meeting its requirements, is not a "special privilege or immunity" within constitutional provision prohibiting irrevocable or uncontrollable grants of special privileges or immunities, but is a "privilege" or "franchise" granted direct by the state through the legislature. Vernon's Ann.Civ.St. art. 1436; Vernon's Ann.St.Const. art. 1, § 17.—Houston Lighting & Power Co. v. Fleming, 128 S.W.2d 487, reversed 138 S.W.2d 520, 135 Tex. 463, rehearing denied 143 S.W.2d 923, 135 Tex. 463, certiorari denied 61 S.Ct. 836, 313 U.S. 560, 85 L.Ed. 1520.—Const Law 205(2).

Utah 1997. "Privilege" protects those who make otherwise defamatory statements from legal liability.—Price v. Armour, 949 P.2d 1251.—Libel 34.

Utah 1948. A "privilege" which Constitution prohibits Legislature from granting, is peculiar benefit, favor, or advantage, a right not enjoyed by all, or special right or power conferred on or possessed by one or more individuals in derogation of general right. Const. art. 1, § 23; art. 6, § 26.—Thomas v. Daughters of Utah Pioneers, 197 P.2d 477, 114 Utah 108, appeal dismissed 69 S.Ct. 739, 336 U.S. 930, 93 L.Ed. 1090.—Const Law 205(1).

Utah 1943. An attorney's right to practice law in the state courts is not a "privilege" or an "immunity" of a United States citizen within the fourteenth amendment. U.S.C.A.Const. Amend. 14.—Ruckenbrod v. Mullins, 133 P.2d 325, 102 Utah 548, 144 A.L.R. 839.—Const Law 206(4).

Va. 1954. License to operate an automobile is a "privilege", not a "contract," and may, upon abuse, be withdrawn.—Tate v. Lamb, 81 S.E.2d 743, 195 Va. 1005.—Autos 142, 144.1(1).

Va. 1938. A license to operate an automobile is a "privilege" and not a "contract," and may, upon abuse, be withdrawn.—Law v. Com., 199 S.E. 516, 171 Va. 449.—Autos 142, 144.1(1).

Wash. 2004. Petition method of annexation statutes did not violate privileges and immunities clause of state constitution by affording authority to certain landowners to petition for annexation; statutory right to petition for annexation did not constitute a "privilege," or fundamental right of state citizenship, for purposes of privileges and immunities clause, authority granted to landowners to petition for annexation was advisory only, legislature enjoyed plenary power over adjustment of municipal boundaries, and, when that power was constitutionally delegated, power to annex was in fact exercised by city, rather than landowners. West's RCWA Const. Art. 1, § 12; West's RCWA 35.13.130, 35A.14.120.—Grant County Fire Protection Dist. No. 5 v. City of Moses Lake, 83 P.3d 419, 150 Wash.2d 791.—Const Law 205(7); Mun Corp 29(1).

Wash. 1984. Matter may be nondiscoverable either because it is subject to immunity from discovery or because it is privileged; "immunity" may make matter nondiscoverable but does not control its potential admissibility at trial, whereas "privilege" is rule of evidence expressly incorporated into rules of discovery, and thus matter which is privileged is both nondiscoverable and inadmissible. CR 26(b)(1).—Coburn v. Seda, 677 P.2d 173, 101 Wash.2d 270.—Pretrial Proc 33; Witn 184(1).

Wash. 1942. An oral agreement by carrier's station agent to notify shipper of accomplishment of a diversion order, was a "privilege."—Oregon-Washington R. & Nav. Co. v. C. M. Kopp Co., 120 P.2d 845, 12 Wash.2d 146, 138 A.L.R. 633.

Wash. 1937. Claim for change of venue independent of merits of issues pending is "right" rather than "privilege" which is properly tested by extraordinary legal remedy, such as certiorari, mandamus, or prohibition. Rem.Rev.Stat. §§ 680, 702.—State ex rel. Gamble v. Superior Court for King County, 66 P.2d 1135, 190 Wash. 127.—Cert 17; Mand 44; Prohib 5(2).

Wash. 1931. Corporation, by contract, was given exclusive right to use and possession of 334,400 square feet of warehouse space on pier, and exclusive right to store its canned salmon, as well as preferential right to use of berthing space. Contract provided that corporation should repair equipment

and bear and pay all operating expenses; that port should receive as compensation for use of premises established tariff on certain goods, and, on others, certain percentage of tariff rate; that corporation should pay as 'rental' for office space certain rate per square foot; that agreement, to be effective for five years, was renewable for five-year term at option of corporation; and that "privilege" granted might not be assigned or underlet without written consent of port.—Barnett v. Lincoln, 299 P. 392, 162 Wash. 613.—Mun Corp 719(4).

Wash. 1931. Contract, whereby port gave a private corporation exclusive right to use and possession of warehouse space on pier and other rights, held "lease," not "license" or mere "privilege," as regards bond requirement. RCW 53.08.010 et seq., 53.36.020, 53.36.030.—Barnett v. Lincoln, 299 P. 392, 162 Wash. 613.—Mun Corp 719(4).

W.Va. 1940. Use of public highways for private profit is a "privilege" and not a "right."—Darnall Trucking Co. v. Simpson, 12 S.E.2d 516, 122 W.Va. 656, appeal dismissed 61 S.Ct. 1121, 313 U.S. 549, 85 L.Ed. 1514.—High 167.

Wis. 1934. Defense of statute of limitations held not "privilege" within Constitution providing that citizens of each state shall be entitled to all privileges and immunities of citizens in several states, and hence, nonresident defendants may be deprived of defense of limitations, notwithstanding resident defendants are not deprived thereof (St. 1931, §§ 85.05(3), 330.19(5), 330.30; Const. art. 4, § 2).—Bode v. Flynn, 252 N.W. 284, 213 Wis. 509, 94 A.L.R. 480.—Const Law 207(3).

Wis. 1929. Note for 10 years with "privilege" of 10 years' extension by payees held to grant such privilege to payees, not makers.—Schmeider v. Maughan, 227 N.W. 294, 199 Wis. 592.—Bills & N 137(1).

Wis. 1926. A "right" is a claim for enforcement, redress, or protection of which jurisdiction of a court may properly be invoked, as distinguished from a "privilege," which releases one from performance of a duty or obligation, or exempts one from a liability which he would otherwise be required to perform, or sustain in common with all other persons.—State v. Grosnickle, 206 N.W. 895, 189 Wis. 17.

Wis. 1912. A "privilege" within the public utility law, whether a license, permit, or technically a franchise, is the latter in the statutory sense.—Calumet Service Co. v. City of Chilton, 135 N.W. 131, 148 Wis. 334.

Wis.App. 1997. Use of term "privilege" in context of discussing certain constitutional provisions does not illuminate how that term is used, as in criminal defamation statute, in context of defamation. W.S.A. 942.01(3).—State v. Cardenas-Hernandez, 571 N.W.2d 406, 214 Wis.2d 71, review granted 579 N.W.2d 44, 216 Wis.2d 611, affirmed 579 N.W.2d 678, 219 Wis.2d 516.—Libel 148.

Wyo. 1994. "Privilege" is limitation on court's ability to compel testimony regarding confidential communications that occur in certain relationships. W.S.1977, § 1-12-104.—Curran v. Pasek, 886 P.2d 272.—Witn 184(1).

Wyo. 1978. The tax on insurance companies that is based on gross premiums is a "privilege" or "franchise tax."—Tri-County Elec. Ass'n, Inc. v. City of Gillette, 584 P.2d 995.—Insurance 1127.

PRIVILEGE AGAINST SELF-INCRIMINATION

U.S.N.Y. 1948. The "privilege against self-incrimination", which exists as to private papers, does not protect individuals against being forced to produce records required by law to be kept in order that there may be suitable information of transactions which are appropriate subjects of governmental regulation and enforcement of restrictions validly established.—Shapiro v. U.S., 68 S.Ct. 1375, 335 U.S. 1, 92 L.Ed. 1787, rehearing denied 69 S.Ct. 9, 335 U.S. 836, 93 L.Ed. 388.—Witn 298.

U.S.Pa. 1990. "Testimonial evidence" within the scope of the "privilege against self-incrimination" encompasses all responses to questions that, if asked of a sworn suspect during a criminal trial, could place the suspect in the "cruel trilemma" of self-accusation, perjury or contempt, and suspect confronts that trilemma whenever a suspect is asked for a response requiring him to communicate an express or implied assertion of fact or belief. U.S.C.A. Const.Amend. 5.—Pennsylvania v. Muniz, 110 S.Ct. 2638, 496 U.S. 582, 110 L.Ed.2d 528.—Crim Law 393(1).

U.S.Pa. 1944. The constitutional "privilege against self-incrimination" is essentially a personal one, applying only to natural individuals, and cannot be utilized by or on behalf of any organization, such as a corporation, since the privilege is designed to prevent the use of legal process to force from lips of accused individual evidence necessary to convict him or to force him to produce and authenticate any personal documents or effects that might incriminate him. U.S.C.A.Const. Amends. 4, 5.—U.S. v. White, 64 S.Ct. 1248, 322 U.S. 694, 88 L.Ed. 1542, 152 A.L.R. 1202.—Witn 297(1), 298.

U.S.Pa. 1944. The papers and effects which the constitutional "privilege against self-incrimination" protects must be the private property of person claiming the privilege or at least in his possession in a purely personal capacity. U.S.C.A.Const. Amends. 4, 5.—U.S. v. White, 64 S.Ct. 1248, 322 U.S. 694, 88 L.Ed. 1542, 152 A.L.R. 1202.—Witn 298.

U.S.Pa. 1944. Where subpoena duces tecum was directed to labor union and demanded the production only of its official documents and records, a union officer in possession of demanded documents could not claim the personal "privilege against self-incrimination", and decline to produce the documents on ground that they might tend to incriminate the union. U.S.C.A.Const. Amends. 4, 5.—U.S. v. White, 64 S.Ct. 1248, 322 U.S. 694, 88 L.Ed. 1542, 152 A.L.R. 1202.—Witn 298.

App.D.C. 1942. The "privilege against self-incrimination" protects against the force of the court itself and guards against the ancient abuse of judi-

Amend. 5.—Ridgell v. U.S., 54 A.2d 679.—Crim Law 393(1).

Ill. 1943. The "privilege against self-incrimination" is not identical with "unreasonable search and seizure" though they have their point of contact and the seizure or compulsory production of a man's private papers, properties or effects to be used in evidence against him, is equivalent to compelling him to give evidence against himself, and in a criminal case is prohibited by the constitution. S.H.A.Const. art. 2, §§ 6, 10; U.S.C.A.Const. Amends. 4, 5.—People v. Exum, 47 N.E.2d 56, 382 Ill. 204.—Crim Law 393(1); Searches 23.

Ill. 1943. Where allegedly stolen property found in defendant's automobile at time of his arrest did not belong to defendant, and he did not assert any interest or right of possession, he could not complain either of its seizure or of its use in evidence, in larceny prosecution, as violation of his constitutional "privilege against self-incrimination" and "unreasonable search and seizure." S.H.A.Const. art. 2, §§ 6, 10.—People v. Exum, 47 N.E.2d 56, 382 Ill. 204.—Crim Law 394.5(2); Searches 165.

Mich. 1943. A witness is not sole judge of whether answers to question asked will incriminate him, but it is largely discretionary with trial judge in first instance to determine whether witness should be obliged to answer when he invokes his constitutional "privilege against self-incrimination", and, in absence of manifest error, the ruling of the trial judge will not be reversed.—People v. Kert, 7 N.W.2d 251, 304 Mich. 148.—Crim Law 1170.5(1); Witn 308.

Mich. 1943. In perjury prosecution based on testimony given before examining magistrate, which proceeding was outgrowth of an investigation in a one-man grand jury proceeding which resulted in charges of conspiracy to obstruct justice being made against several persons, trial judge did not abuse his discretion in sustaining refusal of police inspector who was one of persons against whom conspiracy charges were made to testify as to questions as to whether he had gone to defendant's cafe adjoining a gambling house and as to meeting defendant and others there, on ground that constitutional "privilege against self-incrimination" would be violated.—People v. Kert, 7 N.W.2d 251, 304 Mich. 148.—Witn 308.

N.H. 1948. The "privilege against self-incrimination" is strictly a personal one applicable to records held by an individual in a purely personal capacity and does not apply to organizations or companies, incorporated or unincorporated, whose character is essentially impersonal rather than purely private and personal. Const. pt. 1, art. 15.—State v. Cote, 58 A.2d 749, 95 N.H. 108.—Witn 298.

N.Y.Sup. 1948. The "privilege against self-incrimination" applies to a prosecution for being a disorderly person in failing to adequately support wife and child, which is classified as an offense of a criminal nature rather than a felony or misdemeanor, and conduct of trial with respect to such privilege must be precisely the same as that upon a charge of misdemeanor. Penal Law, § 2; Code Cr.Proc. §§ 2, 899.—People v. Chlebowy, 78 N.Y.S.2d 596, 191 Misc. 768.—Witn 300.

N.Y.Sup. 1942. The section of the New York City Charter providing for the termination of the employment of any city employee who shall, upon appearing before any legislative committee, refuse to waive immunity from prosecution, is not unconstitutional as denying employee his constitutional "privilege against self-incrimination". New York City Charter 1936, § 903.—Goldway v. Board of Higher Ed., 37 N.Y.S.2d 34, 178 Misc. 1023.—Witn 293.

N.Y.Co.Ct. 1943. In abortion prosecution, female on whom abortion was allegedly performed could not invoke constitutional "privilege against self-incrimination", on ground that it might appear from her answers that she allegedly became pregnant by a person other than her husband, and might subsequently be charged with adultery and become the defendant in a divorce action. Penal Law, § 81–a; Const.N.Y. art. 1, § 6.—People v. Nowacki, 40 N.Y.S.2d 131, 180 Misc. 100.—Witn 297(10).

PRIVILEGE AND BENEFIT OF COUNSEL

Ga.App. 1938. The "privilege and benefit of counsel" guaranteed by constitutional provision that every person charged with an offense against the laws of state shall have the privilege and benefit of counsel is a substantial right and should be strictly guarded and preserved. Const. art. 1, § 1, par. 5.—Jones v. State, 195 S.E. 316, 57 Ga.App. 344.—Crim Law 641.1.

PRIVILEGE AND IMMUNITY

Ill. 1907. Words "privilege and immunity," as used in S.H.A.Const.1870, art. 4, § 22, include all rights which state government was created to establish, and which can be conferred or granted by state law.—Jones v. Chicago, R.I. & P. Ry. Co., 83 N.E. 215, 121 Am.St.Rep. 313, 231 Ill. 302.—Const Law 205(1).

Ohio 1914. The right of the employes of a municipal government to hold employment is not a "privilege and immunity," within the meaning of the fourteenth amendment to the Constitution of the United States.—Green v. State Civil Service Commission, 107 N.E. 531, 12 Ohio Law Rep. 63, 12 Ohio Law Rep. 77, 90 Ohio St. 252.

PRIVILEGED

U.S.Pa. 1953. Federal Rule of Civil Procedure relating to discovery and compelling production only of matters not privileged, uses the term "privileged" as that term is understood in the law of evidence, and includes the Government's privilege against revealing military secrets. Fed.Rules Civ. Proc. rules 1 et seq., 34, 37, 28 U.S.C.A.; 5 U.S.C.A. § 22.—U.S. v. Reynolds, 73 S.Ct. 528, 345 U.S. 1, 97 L.Ed. 727, 32 A.L.R.2d 382.—Fed Civ Proc 1593, 1600(4).

C.A.D.C. 1958. "Privileged" means that contents of communication are of such character that law as matter of public policy protects them against

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U.S.Pa. 1953. Federal Rule of Civil Procedure relating to discovery and compelling production only of matters not privileged, uses the term "privileged" as that term is understood in the law of evidence, and includes the Government's privilege against revealing military secrets. Fed.Rules Civ. Proc. rules 1 et seq., 34, 37, 28 U.S.C.A.; 5 U.S.C.A. § 22.—U.S. v. Reynolds, 73 S.Ct. 528, 345 U.S. 1, 97 L.Ed. 727, 32 A.L.R.2d 382.—Fed Civ Proc 1593, 1600(4).

C.A.D.C. 1958. "Privileged" means that contents of communication are of such character that law as matter of public policy protects them against

disclosure.—Communist Party of U.S. v. Subversive Activities Control Bd., 254 F.2d 314, 102 U.S.App. D.C. 395.—Witn 298.

C.A.9 (Cal.) 1979. For purposes of the rule which provides that discovery may be had only of matter not "privileged" and which is relevant to the subject matter in pending action, what is "privileged" is defined by the Federal Rules of Evidence and these rules include the privilege against self-incrimination. Fed.Rules Civ.Proc. rule 26, 28 U.S.C.A.; U.S.C.A.Const. Amend. 5.—Campbell v. Gerrans, 592 F.2d 1054.—Fed Civ Proc 1272.1.

C.A.7 (Ind.) 1969. Under Illinois law, communication to psychologist at rehabilitation institute who interviewed plaintiff for purpose of grouping was not "privileged". S.H.A.Ill. ch. 51, § 5.2.—Elliott v. Watkins Trucking Co., 406 F.2d 90.—Witn 208(1).

C.A.2 (N.Y.) 1955. Tug approaching on starboard hand of tug on crossing course was "privileged" tug which had duty to hold course and speed, and other tug was "burdened" tug which had duty to pass under stern of privileged tug. Inland Rules, arts. 19, 21, 33 U.S.C.A. §§ 204, 206.—Red Star Towing & Transportation Co. v. the Hudson, 219 F.2d 307.—Collision 35.

C.A.5 (Tex.) 1985. For purposes of Freedom of Information Act exemption protecting trade secrets and commercial or financial information obtained from a person and privileged or confidential, word "privileged" refers only to privileges created by the Constitution, statute, or common law. 5 U.S.C.A. § 552(b)(4).—Sharyland Water Supply Corp. v. Block, 755 F.2d 397, certiorari denied 105 S.Ct. 2678, 471 U.S. 1137, 86 L.Ed.2d 697.—Records 59.

C.A.5 (Tex.) 1982. Communication is not "privileged" if it includes matter not embraced by privilege.—Gaines v. CUNA Mut. Ins. Soc., 681 F.2d 982.—Libel 34.

C.C.A.3 (Pa.) 1945. Memoranda of talks with witnesses by defendants' lawyer, signed statements made by witnesses, and such lawyer's recollection of talks with witnesses in course of investigation of accident wherein defendants' tug capsized with result that five members of crew drowned, were "privileged" within federal rule authorizing discovery of matters not privileged, and hence were not required to be disclosed in answer to interrogatory filed by administrator of estate of deceased crewman, who was bringing suit under the Jones Act. Fed.Rules Civ.Proc. rule 26, 28 U.S.C.A.; Jones Act, 46 U.S.C.A. § 688.—Hickman v. Taylor, 153 F.2d 212, certiorari denied 66 S.Ct. 961, 327 U.S. 808, 90 L.Ed. 1032, vacated 66 S.Ct. 1337, 328 U.S. 876, 90 L.Ed. 1645, certiorari granted 66 S.Ct. 1337, 328 U.S. 876, 90 L.Ed. 1645, affirmed 67 S.Ct. 385, 329 U.S. 495, 34 O.O. 395, 91 L.Ed. 451.—Fed Civ Proc 1515.

C.C.A.10 (Utah) 1948. Where plaintiff was a private citizen not connected with any public institution or enterprise, although he had published various tracts and pamphlets and made public addresses, statements in book charging plaintiff, in effect, with being disloyal to United States in wartime were not "privileged."—Derounian v. Stokes, 168 F.2d 305.—Libel 48(1).

N.D.Cal. 1946. Statements taken by railroad from employees concerning accident for purpose of defending prospective or pending litigation were "privileged" within meaning of federal rule dealing with discovery and production of documents and things for inspection, and motion of plaintiff in action against railroad for inspection of such statements was therefore denied. Fed.Rules Civ.Proc. rule 34, 28 U.S.C.A.—Thiel v. Southern Pac. Co., 6 F.R.D. 219.—Fed Civ Proc 1602; Pretrial Proc 386.

S.D.Cal. 1953. Order of United States Attorney General instructing Justice Department employees to decline to produce information contained in Department files merely reserves to Attorney General decision whether some privilege recognized in law of evidence shall be claimed by Government against court order calling for production or disclosure from such files, and, therefore, assertion that to grant motion for such a court order would violate Attorney General's order falls short of a claim that the documents which would be demanded are "privileged" within discovery rule since term "not privileged", as used in rule, refers to "privileges" as that term is understood in the law of evidence. Fed.Rules Civ.Proc. rule 34, 28 U.S.C.A.—U.S. v. Certain Parcels of Land, Etc., 15 F.R.D. 224.—Fed Civ Proc 1600(4).

D.Del. 1966. A communication is "privileged" within the attorney-client and work product privilege where written by a client to an outside attorney who is acting as a lawyer in connection with the communication, but a communication from a client to an outside attorney is not privileged if the attorney is not acting as a lawyer. Fed.Rules Civ.Proc. rule 34, 28 U.S.C.A.—Sperti Products, Inc. v. Coca-Cola Co., 262 F.Supp. 148.—Fed Civ Proc 1600(3); Witn 200.

D.D.C. 1992. For purposes of confidential commercial information exemption to Freedom of Information Act (FOIA), materials are "confidential" or "privileged" if disclosure of information is likely to impair government's ability to obtain necessary information in the future or if disclosure is likely to cause substantial harm to competitive position of person from whom information was obtained, for purposes of applying test to cases involving information that persons were required to provide to government. 5 U.S.C.A. § 552(b)(4).—Allnet Communication Services, Inc. v. F.C.C., 800 F.Supp. 984.—Records 59.

D.D.C 1953. A communication is "privileged" when it relates to a matter of interest to one or both parties to communication and when means of publication are reasonably adapted to protection of that interest.—Hunt v. Calacino, 114 F.Supp. 254.—Libel 45(1).

D.Md. 1974. Under rule permitting discovery regarding any matter not privileged, "privileged" refers to those evidentiary privileges applicable in a trial proceeding. Fed.Rules Civ.Proc. rules 26(b)(1), 43(a), 28 U.S.C.A.—Boyd v. Gullett, 64 F.R.D. 169.—Fed Civ Proc 1600(1).

W.D.Mich. 1986. Under rule limiting discovery to relevant matters not "privileged," such term refers to "privileges" as that term is understood in law of evidence. Fed.Rules Civ.Proc.Rule 26(b)(1), 28 U.S.C.A.—Schuler v. U.S., 113 F.R.D. 518.—Fed Civ Proc 1272.1.

D.Minn. 1999. Under Minnesota law, communication is considered "privileged," for purposes of defense to defamation claim, if made upon a proper occasion, from a proper motive, and based upon reasonable or probable cause; actual malice must be proved, before there can be a recovery on defamation claim.—Thompson v. Olsten Kimberly Qualitycare, Inc., 33 F.Supp.2d 806.—Libel 4, 34.

D.Neb. 1960. Word "privileged" as used in Federal Rule of Civil Procedure authorizing examination of deponent of matter, which is not "privileged," and which is relevant to subject matter, refers to "privilege" as term is understood in law of evidence. Fed.Rules Civ.Proc. rule 26(b), 28 U.S.C.A.—Mitchell v. Neylon, 27 F.R.D. 438.—Fed Civ Proc 1414.1.

D.Neb. 1960. Names of informers who had given representatives of Secretary of Labor information concerning alleged violations of Fair Labor Standards Act by employer were "privileged," and Secretary of Labor, in answering interrogatories propounded by employer, was not required to give names of informers. Fair Labor Standards Act of 1938, §§ 1–19 as amended 29 U.S.C.A. §§ 201–219; 5 U.S.C.A. § 22; Fed.Rules Civ.Proc. rules 26(b), 33, 28 U.S.C.A.—Mitchell v. Neylon, 27 F.R.D. 438.—Fed Civ Proc 1515.

D.Nev. 2005. For purposes of determining whether defamation has been established under Nevada law, a publication is "privileged" where a defamatory statement is made in good faith on any subject matter in which the person communicating has an interest, or in reference to which he has a right or a duty, if it is made to a person with a corresponding interest or duty.—Neason v. Clark County, Nevada, 352 F.Supp.2d 1133.—Libel 41.

D.N.J. 1959. Where there was grand jury investigation as to whether producers and sellers of soap and detergents had violated federal antitrust laws, no indictment was returned, government used grand jury transcript in preparation of its instant civil antitrust suit and defendants demanded that they also be permitted to use grand jury transcript subsequent to government's determination not to proceed criminally, the government, when called upon to produce information as to time when government decided not to proceed criminally, could not assert that such information was "privileged" and was not subject of discovery, on any theory that "mental process" or "work project" of Department of Justice was involved. Sherman Anti-Trust Act, §§ 1–8 as amended 15 U.S.C.A. §§ 1–7, 15 note; Clayton Act, §§ 1–26 as amended 15 U.S.C.A. §§ 12–27.—U. S. v. Procter & Gamble Co., 174 F.Supp. 233.—Monop 25(1).

E.D.N.Y. 2005. A confinement is "privileged" or "justified," precluding a claim of false arrest under New York law, if there was probable cause to believe that the arrestee committed the crime for which he or she was arrested.—Breitbard v. Mitchell, 390 F.Supp.2d 237.—False Imp 13.

N.D.N.Y. 1948. Where discharged employee applied to the New York Labor Department for unemployment insurance benefits, and the department requested the former employer to report details and reasons for employee's discharge, and employer, under compulsion of law, made a report to the department, the report was "privileged" under New York laws, and could not be used in employee's libel action against employer. Labor Law N.Y. §§ 537, 592, subd. 2; Penal Law N.Y. § 1275.—Simpson v. Oil Transfer Corp, 75 F.Supp. 819.—Libel 43.

S.D.N.Y. 1946. "Privileged" within federal rule relating to depositions on matters not privileged and within rule dealing with discovery and production of documents not privileged should be interpreted as it is in the law of evidence. Federal Rules of Civil Procedure, rules 26(b), 34, 28 U.S.C.A.—Wild v. Payson, 7 F.R.D. 495.—Fed Civ Proc 1414.1, 1600(1).

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N.D.Ohio 1947. Where information obtained by X-ray metallography expert by making tests and photographs of metal samples pursuant to employment by attorney for plaintiff was essential to vital issue in action as to validity of plaintiff's patent and could be obtained only from such expert, such information was not "privileged" and expert must answer relevant questions with respect thereto pertinent to the issue asked by defendant in taking expert's deposition. Federal Rules of Civil Procedure, rule 26, 28 U.S.C.A.—Cold Metal Process Co. v. Aluminum Co. of America, 7 F.R.D. 425, affirmed Sachs v. Aluminum Co. of America, 167 F.2d 570.—Fed Civ Proc 1415.

W.D.Pa. 1979. Term "privileged" as used in rule providing that the parties may obtain discovery regarding any relevant matter not privileged is generally understood to refer to those evidentiary privileges applicable at trial. Fed.Rules Civ.Proc. rule 26(b)(1), 28 U.S.C.A.—Robinson v. Magovern, 83 F.R.D. 79.—Fed Civ Proc 1272.1.

W.D.Pa. 1946. If reports relative to accident were made personally to defendant's counsel, upon his examination, for his use at trial, such reports were "privileged", and defendant was not required to answer interrogatories respecting such reports. Fed.Rules Civ.Proc. rule 33, 28 U.S.C.A.—Potter Title & Trust Co. v. Pennsylvania R. Co., 6 F.R.D. 609.—Fed Civ Proc 1515.

Bkrtcy.S.D.N.Y. 1996. Under New York law, "privileged" communications are only those which would not have been made but for the absolute

confidence in, and induced by, the marital relationship. N.Y.McKinney's CPLR 4502(b).—In re Donald Sheldon & Co., Inc., 191 B.R. 39.—Witn 192.

Ala. 1978. As used in discovery rule, the term "privileged" means the same as it does in the law of evidence. Rules of Civil Procedure, rule 26(b)(1).—Assured Investors Life Ins. Co. v. National Union Associates, Inc., 362 So.2d 228.—Pretrial Proc 33.

Ariz.App. Div. 2 1983. County sheriff's actions in releasing report stating that inmate had been accused of forcible oral sex upon a fellow jail inmate was "privileged" as a matter of law, since sheriff had a duty to make report and to release it; therefore, sheriff could not be liable for defamation for releasing offense report on theory that release of information was an unwarranted invasion of inmate's personal privacy. 5 U.S.C.A. § 552 et seq.; A.R.S. §§ 11–441, subd. A, pars. 1, 5, 31–101, 31–121, 39–121.01, subd. B.—Carlson v. Pima County, 687 P.2d 1272, 141 Ariz. 517, approved as supplemented 687 P.2d 1242, 141 Ariz. 487.—Libel 42(2).

Cal.App. 2 Dist. 1995. As used in rule governing discovery, "privileged" refers to constitutional and statutory privileges, attorney-client privilege, spousal communication privilege, clergyman-penitent privilege, sexual assault victim-counselor privilege, official information privilege, and qualified privileges for such things as trade secrets, police personnel files, and tax returns. West's Ann.Cal.C.C.P. § 2017(a); West's Ann.Cal.Evid. Code §§ 940, 950 et seq., 980, 990 et seq., 1010 et seq., 1030 et seq., 1035 et seq., 1040, 1043, 1060 et seq.—Gonzalez v. Superior Court, 39 Cal.Rptr.2d 896, 33 Cal.App.4th 1539.—Pretrial Proc 33, 34.

Cal.App. 2 Dist. 1976. Where attorney for corporation sent demand letter containing defamatory material preliminary to judicial proceeding, corporation had no attorney of record at time letter was sent since no judicial proceeding had yet begun, and other of corporation's attorneys subsequently brought proceedings pursuant to demand communicated in letter, letter was fully "privileged" publication within meaning of statute making publications in judicial proceedings privileged. West's Ann.Civ. Code, § 47, subd. 2.—Lerette v. Dean Witter Organization, Inc., 131 Cal.Rptr. 592, 60 Cal.App.3d 573.—Libel 38(1).

Cal.App. 2 Dist. 1966. A statement is "privileged" if it was made without malice to one who has an interest therein by one who is also interested and has a reasonable moral or legal duty to disclose the information. West's Ann.Civ.Code, § 47, subd. 3.—Brokate v. Hehr Mfg. Co., 52 Cal.Rptr. 672, 243 Cal.App.2d 133.—Libel 45(1).

Fla. 1946. For defamatory words, published by parties, counsel, or witnesses in due course of a judicial procedure, to be absolutely "privileged", so that their publication will not amount to a contempt, they must be connected with or relevant or material to, the cause in hand or subject of inquiry.—State ex rel. Giblin v. Sullivan, 26 So.2d 509, 157 Fla. 496.—Contempt 9.

Ga.App. 1985. Communications made in good faith in performance of legal or moral private duty or with good-faith intent on part of speaker to protect his interest in matter in which he is concerned are "privileged." O.C.G.A. § 51–5–7(2, 3).—Arrowsmith v. Williams, 331 S.E.2d 30, 174 Ga.App. 690, certiorari dismissed.—Libel 44(1), 46.

Ill.App. 1 Dist. 1997. In intentional interference with contract cases, defendant's conduct is considered "privileged" if he acts to preserve conflicting interest which law deems to be of equal or greater value than contractual rights at issue.—Guice v. Sentinel Technologies, Inc., 228 Ill.Dec. 483, 689 N.E.2d 355, 294 Ill.App.3d 97.—Torts 220.

Ill.App. 1 Dist. 1959. The report of a medical expert, which was made for attorney for plaintiff in a personal injury case, by "examining physician" or "medical expert", who is one who examines a patient not with a view to treating him, but to report his findings to the attorney and ultimately to testify if the case goes to trial, was a "report made by or for a party in preparation for trial" and hence under the Supreme Court Rule was not available to defendants' attorney on discovery proceedings, although the report might become relevant upon trial, and if so it would not be exempt as a "privileged" document. S.H.A. ch. 110, § 101.19–5(1).—Kemeny v. Skorch, 159 N.E.2d 489, 22 Ill.App.2d 160.—Pretrial Proc 379.

Ill.App. 2 Dist. 1968. Where newspaper is under duty to disclose information to radio station, disclosure which is made in good faith is "privileged."—Windsor Lake, Inc. v. WROK, 236 N.E.2d 913, 94 Ill.App.2d 403.—Libel 44(1).

Iowa 1995. Statement is said to be "privileged" when one is justified in communicating defamatory information which would ordinarily be actionable without incurring liability.—Marks v. Estate of Hartgerink, 528 N.W.2d 539, rehearing denied.—Libel 34.

Kan. 1959. The term "privileged" as applied to a publication alleged to be libelous means that circumstances under which publication was made are such as to repel the legal inference or presumption of malice, and to place upon plaintiff the burden of affirmatively pleading and proving its actual existence beyond the mere falsity of the charge.—Stice v. Beacon Newspaper Corp., 340 P.2d 396, 185 Kan. 61, 76 A.L.R.2d 687.—Libel 51(1), 100(7).

Ky. 1954. Automobile liability policy was not within "privileged" class of writings, which, under rules, a deponent or party may not be required to produce for inspection. CR 34, 37.02.—Maddox v. Grauman, 265 S.W.2d 939, 41 A.L.R.2d 964.—Pretrial Proc 381.

La. 1958. The term "privileged" is applied to statements which except for the occasion would be defamatory.—Madison v. Bolton, 102 So.2d 433, 234 La. 997.—Libel 34.

Mass. 1950. An occasion is "privileged" where publisher and recipient have a common interest and the communication is of a kind reasonably calculat-

ed to protect or further it.—Sheehan v. Tobin, 93 N.E.2d 524, 326 Mass. 185.—Libel 45(1).

Minn. 1954. Within rule permitting discovery of matters not "privileged," the quoted word refers to privileges as that term is understood in the law of evidence. Rules Civ.Proc. rule 34 (27A M.S.A.)—Brown v. Saint Paul City Ry. Co., 62 N.W.2d 688, 241 Minn. 15, 44 A.L.R.2d 535.—Pretrial Proc 33.

Mo.App. S.D. 1996. For purposes of rule allowing parties normally to obtain discovery regarding any matter not privileged which is relevant to subject matter involved, term "privileged" refers to professionally oriented communication between attorney and client. V.A.M.R. 56.01(b)(1).—In re Marriage of Hershewe, 931 S.W.2d 198, transfer denied.—Pretrial Proc 34.

Mo.App. S.D. 1988. "Privileged" as used in rule providing generally that parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, refers to any professionally oriented communication between attorney and client, and does not refer to work product. V.A.M.R. 56.01(b)(1).—State ex rel. Seitrich v. Franklin, 761 S.W.2d 756.—Pretrial Proc 34.

Mo.App. 1978. Not all communications between counsel and client are privileged; to be "privileged," the communication must relate to attorney-client business and not to extraneous matters.—State v. Fingers, 564 S.W.2d 579.—Witn 201(1).

N.H. 1980. At common law a person is "privileged," within meaning of burglary statute, if he may naturally be expected to be on premises often and in normal course of his duties or habits. RSA 635:1.—State v. Thaxton, 419 A.2d 392, 120 N.H. 526.—Burg 9(2).

N.Y.A.D. 1 Dept. 1946. Alleged defamatory statements made by defendant in course of his official duties as municipal court judge were absolutely "privileged" and could not afford basis of slander action.—Salomon v. Mahoney, 66 N.Y.S.2d 598, 271 A.D. 478, motion denied 73 N.E.2d 579, 296 N.Y. 1004, affirmed 75 N.E.2d 749, 297 N.Y. 643.—Libel 38(1).

N.Y.Sup. 1958. A communication is "privileged" when the occasion on which it was made, rebuts the inference arising, prima facie, from a statement prejudicial to character of plaintiff, and puts it upon him to prove that there was malice in fact, and that defendant was actuated by motives of personal spite or ill will, independent of circumstances in which communication was made.—Anonymous v. Health Ins. Plan of Greater New York, 173 N.Y.S.2d 74, 12 Misc.2d 1051, affirmed Shapiro v. Health Ins. Plan of Greater New York, 180 N.Y.S.2d 573, 7 A.D.2d 733, appeal granted 182 N.Y.S.2d 303, 7 A.D.2d 867, reversed 194 N.Y.S.2d 509, 7 N.Y.2d 56, 163 N.E.2d 333.—Libel 34, 101(4).

N.Y.Sup. 1945. The statement by defendants' attorney, in summing up a trial in action to recover for alleged assault, that "any man whose wife has eight miscarriages was a brute", was relevant to issues involved and therefore absolutely "privileged".—Feinstein v. Kaye, 57 N.Y.S.2d 54, 185 Misc. 185, affirmed 59 N.Y.S.2d 277, 269 A.D. 1044, appeal denied 59 N.Y.S.2d 628, 270 A.D. 765.—Libel 38(5).

N.C. 1954. Ordinarily, statements, which are made in an affidavit, and which are pertinent to matters involved in a judicial proceeding, or which affiant has reasonable grounds to believe are pertinent, are "privileged" and, though defamatory, are not actionable.—Jarman v. Offutt, 80 S.E.2d 248, 239 N.C. 468.—Libel 38(2).

N.D. 1990. Person is "privileged," within meaning of burglary statute, if he may naturally be expected to be on premises often and in natural course of his duties or habits; further, person who is privileged may still commit burglary if he enters at a time when he would not reasonably be expected to be present or if he goes into a room as to which his privilege does not extend. NDCC 12.1–22–02, subd. 1.—State v. Haugen, 458 N.W.2d 288.—Burg 9(3), 14.

N.D. 1946. The dictation of an alleged libelous letter by secretary of hospital to his private stenographer and the publication thereof was not a communication of matter "to a person interested therein by one who also is interested", so as to render the dictation "privileged." R.C.1943, 14–0205, subd. 3.—Rickbeil v. Grafton Deaconess Hospital, 23 N.W.2d 247, 74 N.D. 525, 166 A.L.R. 99.—Libel 45(1).

Ohio App. 6 Dist. 1988. Alleged "statements" by attorneys for corporation to members of board of directors accusing president of being "crook" were "privileged" as relating to proposed litigation, and could not be basis for slander suit by president against attorneys.—Palmer v. Westmeyer, 549 N.E.2d 1202, 48 Ohio App.3d 296.—Libel 34.

Pa. 1961. In order to be "privileged", a communication must be made upon proper occasion from proper motive and must be based upon reasonable or probable cause.—Biggans v. Foglietta, 170 A.2d 345, 403 Pa. 510.—Libel 34.

Pa. 1952. A "communication" to be "privileged" must be made upon a proper occasion from a proper motive, and must be based upon reasonable or probable cause and when so made, in good faith, the law does not imply malice from the communication itself as in the ordinary case of libel, and actual malice must be proved before there can be a recovery.—Morgan v. Bulletin Co., 85 A.2d 869, 369 Pa. 349.—Libel 34.

R.I. 1978. Within context of rule authorizing discovery of any matter not privileged which is relevant to subject matter involved in pending action, term "privileged" denotes recognized exclusions found in law of evidence. Rules of Civil Procedure, rule 26(b)(1).—Fireman's Fund Ins. Co. v. McAlpine, 391 A.2d 84, 120 R.I. 744.—Pretrial Proc 33.

Tex.App.–Corpus Christi 1997. Communication "privileged" from slander liability is one fairly made

by person in discharge of some private or public duty, either legal or moral, or in conduct of her own affairs, in matters where her interest is concerned.—Gray v. HEB Food Store No. 4, 941 S.W.2d 327, rehearing overruled, and writ denied.—Libel 36.

Va. 1956. Publication of newspaper article giving fair and substantially correct report of proceeding in corporation court to disqualify judge of juvenile and domestic relations court from acting as counsel for complainant in divorce suit pending in corporation court was "privileged" as a matter of law and such privilege was not abused.—Alexandria Gazette Corp. v. West, 93 S.E.2d 274, 198 Va. 154.—Libel 42(1).

PRIVILEGED ACT

Cal.App. 3 Dist. 1991. Act resulting in justifiable homicide, as defined by Penal Code, is in legal effect a "privileged act," which is generally defined as one that would ordinarily be tortious, but which, under circumstances, does not subject the actor to liability. West's Ann.Cal.Penal Code § 197, subd. 4.—Gilmore v. Superior Court, 281 Cal.Rptr. 343, 230 Cal.App.3d 416.—Death 21.

PRIVILEGED COMMUNICATION

C.A.D.C. 1958. Admission of defendant to Lutheran minister that she had chained her children, after he had urged her to confess her sins, was a "privileged communication" and testimony thereof by minister was inadmissible in prosecution under statute making it a crime to torture, cruelly beat, abuse, or otherwise willfully maltreat a child. D.C.Code 1951, § 22-901.—Mullen v. U.S., 263 F.2d 275, 105 U.S.App.D.C. 25.—Witn 215.

C.A.8 (Iowa) 1968. Medical examiner's report was not a "privileged communication" under statute dealing with required reports to be filed with Department of Public Safety. I.C.A. §§ 321.271, 339.5.—Jacobsen v. International Transport, Inc., 391 F.2d 49, certiorari denied 89 S.Ct. 105, 393 U.S. 833, 21 L.Ed.2d 104.—Witn 216(1).

C.A.10 (Okla.) 1955. Memorandum prepared by client to supply her attorney with information was a "privileged communication" inadmissible in evidence against client in action by third person, even though memorandum had been delivered by client to such third person to be sent to attorney.—Blankenship v. Rowntree, 219 F.2d 597.—Witn 206.

C.A.4 (W.Va.) 1948. Ordinarily, identity of attorney's client, or name of real party in interest, and terms of the employment, will not be considered as "privileged communication."—Behrens v. Hironimus, 170 F.2d 627.—Witn 199(1), 199(2).

C.A.4 (W.Va.) 1948. Where one of issues in habeas corpus proceeding to secure release from custody under conviction was whether petitioner acted all through proceedings resulting in her conviction without benefit of counsel, attorney's testimony which was limited to fact that she had been consulted by petitioner and that she had given petitioner advice on certain subject matter was not inadmissible as a "privileged communication." Code W.Va. 50-6-10; Federal Rules of Criminal Procedure, rule 26, 18 U.S.C.A.—Behrens v. Hironimus, 170 F.2d 627.—Witn 199(2), 201(1).

C.A.7 (Wis.) 1956. Statement which witness in criminal prosecution made to his attorney, allegedly indicating witness' willingness to testify falsely in the prosecution in return for leniency in prosecution of witness was not a "privileged communication".—Petition of Sawyer, 229 F.2d 805, certiorari denied Sawyer v. Barczak, 76 S.Ct. 1025, 351 U.S. 966, 100 L.Ed. 1486, rehearing denied 77 S.Ct. 24, 352 U.S. 860, 1 L.Ed.2d 70.—Witn 201(2).

C.C.A.9 1942. Testimony of decedent's attorney that he had advised her to leave her property to her son and thus avoid probate expenses rather than leave it by will was not a "privileged communication" so as to be inadmissible in proceeding to subject the transfer to estate taxes as against contention that the testimony was merely as to the fact of execution and delivery of the deed and therefore made with a view to publicity. Revenue Act 1926, § 302(c), 26 U.S.C.A.Int.Rev.Acts, p. 227.—Baldwin v. C I R, 125 F.2d 812, 141 A.L.R. 548.—Witn 201(1).

C.C.A.5 (Fla.) 1942. Where insurer defended actions on life policies on ground that insured committed suicide, insured's statements to attorney, on day preceding his death, that he intended to "go west" or that "they'd find him in the river", did not constitute a "privileged communication", and court erred in excluding evidence of such statements.—Modern Woodmen of America v. Watkins, 132 F.2d 352.—Witn 201(1).

C.C.A.5 (Fla.) 1942. A communication to attorney of a confidential character, made to him in connection with business in which he has been retained, is a "privileged communication".—Modern Woodmen of America v. Watkins, 132 F.2d 352.—Witn 198(1).

C.C.A.5 (Fla.) 1942. A privilege given to communications between an attorney and client does not extend to every statement made to attorney, and if statement is about matters unconnected with business at hand, or in a general conversation, or to an attorney merely as a personal friend, the statement is not a "privileged communication".—Modern Woodmen of America v. Watkins, 132 F.2d 352.—Witn 201(1).

C.C.A.8 (Iowa) 1928. Knowledge of physician, obtained as result of post mortem examination, held not to be "privileged communication" (Code Iowa 1924, Sec. 11263). Knowledge of physician, obtained as result of a post mortem examination, held not to be "privileged communication," within meaning of Code Iowa 1924, Sec. 11263, and court erred in excluding physician's testimony concerning facts discovered in such examination, in action on policy of accident insurance.—Travelers' Ins. Co. of Hartford, Conn., v. Bergeron, 25 F.2d 680, 58 A.L.R. 1127, certiorari denied 49 S.Ct. 33, 278 U.S. 638, 73 L.Ed. 553.—Witn 212.

PRIVILEGES

U.S.N.Y. 1942. Patents are "privileges" restrictive of a free economy, and the rights which Congress has attached to them must be strictly construed so as not to derogate from the general law beyond the necessary requirements of the patent statute. 35 U.S.C.A. § 154.—U.S. v. Masonite Corporation, 62 S.Ct. 1070, 316 U.S. 265, 86 L.Ed. 1461, rehearing denied 62 S.Ct. 1302, 316 U.S. 713, 86 L.Ed. 1778.—Pat 191.

U.S.Or. 2001. Golf tours sponsored by nonprofit professional golf association, and their qualifying rounds, fit within the coverage of Title III of the ADA, as golf courses are specifically identified by the Act as a public accommodation, association leased and operated golf courses to conduct its qualifying tournaments and tours, as a lessor and operator of golf courses, association must not discriminate against any individual in the "full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations" of those courses, and among the "privileges" offered by association on the courses are those of competing in the qualifying tournaments and playing in the tours. Americans with Disabilities Act of 1990, §§ 301(7)(L), 302(a), 42 U.S.C.A. §§ 12181(7)(L), 12182(a).—PGA Tour, Inc. v. Martin, 121 S.Ct. 1879, 532 U.S. 661, 149 L.Ed.2d 904.—Civil R 1047.

U.S.Or. 1998. For purposes of the filed rate doctrine, discriminatory "privileges" under the Interstate Commerce Act (ICA) come in many guises, and are not limited to discounted rates; a preference or rebate is the necessary result of every violation of the ICA where the carrier renders or pays for a service not covered by the prescribed tariffs. Interstate Commerce Act, § 2(2), as amended, 49 U.S.C.A. § 501.—American Tel. and Tel. Co. v. Central Office Telephone, Inc., 118 S.Ct. 1956, 524 U.S. 214, 141 L.Ed.2d 222, rehearing denied 119 S.Ct. 20, 524 U.S. 972, 141 L.Ed.2d 781.—Carr 189.

U.S.Or. 1886. Any definition of the word "franchise" must include the word "privileges."—Willamette Woolen Mfg. Co. v. Bank of British Columbia, 7 S.Ct. 187, 119 U.S. 191, 30 L.Ed. 384.

C.A.3 (Pa.) 1959. The term "not privileged" within Federal Rule providing that deponent may be examined regarding any matter not privileged which is relevant to subject matter involved in pending action refers to "privileges" as that term is understood in the law of evidence. Fed.Rules Civ. Proc. rule 26(b), 28 U.S.C.A.—Mitchell v. Roma, 265 F.2d 633.—Fed Civ Proc 1414.1.

C.A.5 (Tex.) 1962. The "privileges" to which rule governing production of documents refers are common law, evidentiary privileges. Fed.Rules Civ. Proc. rule 34, 28 U.S.C.A.—Campbell v. Eastland, 307 F.2d 478, certiorari denied 83 S.Ct. 502, 371 U.S. 955, 9 L.Ed.2d 502.—Fed Civ Proc 1600(1).

S.D.Cal. 1953. Order of United States Attorney General instructing Justice Department employees to decline to produce information contained in Department files merely reserves to Attorney General decision whether some privilege recognized in law of evidence shall be claimed by Government against court order calling for production or disclosure from such files, and, therefore, assertion that to grant motion for such a court order would violate Attorney General's order falls short of a claim that the documents which would be demanded are "privileged" within discovery rule since term "not privileged", as used in rule, refers to "privileges" as that term is understood in the law of evidence. Fed.Rules Civ.Proc. rule 34, 28 U.S.C.A.—U.S. v. Certain Parcels of Land, Etc., 15 F.R.D. 224.—Fed Civ Proc 1600(4).

N.D.Ga. 1940. The right to due process of law and exemption from compulsory self-accusation constitute "privileges" and "immunities" secured and protected by the federal constitution. U.S.C.A.Const. Amend. 14.—U.S. v. Sutherland, 37 F.Supp. 344.—Const Law 207(1); Crim Law 393(1).

N.D.Ga. 1940. Acts of assault and torture by state officer in the performance of his duties as such and for the purpose of extorting a confession of crime constituted denial of "due process of law" and deprivation of "rights," "privileges" and "immunities" secured and protected by the federal constitution, in violation of the civil rights statute. Cr.Code, § 20, 18 U.S.C.A. § 52; U.S.C.A.Const. Amend. 14.—U.S. v. Sutherland, 37 F.Supp. 344.—Civil R 1088(2); Const Law 266.1(4).

N.D.Ill. 1993. Law schools' recommendations of their students for membership to bar are "services" and "privileges" within meaning of Americans with Disabilities Act (ADA); law schools are expected to recommend their students, and refusal to certify student's bar application probably will prevent that student from practicing law. Americans with Disabilities Act of 1990, § 302, 42 U.S.C.A. § 12182.—Rothman v. Emory University, 828 F.Supp. 537.—Civil R 1069.

S.D.Iowa 1946. Rights of free speech and assembly under First Amendment are "privileges" of citizens of the United States guaranteed against state infringement by Fourteenth Amendment. U.S.C.A.Const. Amends. 1, 14.—Sellers v. Johnson, 69 F.Supp. 778, reversed 163 F.2d 877, certiorari denied 68 S.Ct. 356, 332 U.S. 851, 92 L.Ed. 421.—Const Law 274.1(1).

W.D.Mich. 1986. Under rule limiting discovery to relevant matters not "privileged," such term refers to "privileges" as that term is understood in law of evidence. Fed.Rules Civ.Proc.Rule 26(b)(1), 28 U.S.C.A.—Schuler v. U.S., 113 F.R.D. 518.—Fed Civ Proc 1272.1.

Ala.Civ.App. 1988. Even if "implied consent" statute required that arresting officer inform motorist that "driver license" would be suspended for refusal to take breathalyzer test, while officer told motorist that he would have his "privileges" suspended if he refused, motorist would not be entitled to relief from suspension inasmuch as "driving privilege" was statutorily defined to mean "driver license". Code 1975, §§ 32-5-191, 32-5-192(a).—Smith v. Director of Alabama Dept. of Public Safety, 531 So.2d 674.—Autos 144.1(1.20).

Ariz. 1940. The permits issued by the forest service allowing persons to graze livestock on public lands in Prescott National Forest Reserve are only "privileges", which may be conferred or refused as the forest service may determine under its regulations relating to qualifications of applicants for permits.—Atkins v. Hooker, 106 P.2d 485, 56 Ariz. 197.—Woods 8.

Ark. 1943. The word "privileges", means that the Legislature has power to tax occupations.—McLeod v. Kansas City Southern Ry. Co., 175 S.W.2d 391, 206 Ark. 281.

Cal.App. 2 Dist. 1941. The section of Welfare and Institutions Code, providing for proceedings against kindred of aged person receiving aid where kindred filed income tax return, did not create "privileges" or "discriminations" as inhibited by Fourteenth Amendment to Federal Constitution, and did not lack "uniformity of operation" required by California Constitution, where filing of income tax return was merely sufficient basis for continued investigation. St.1937, p. 1094; U.S.C.A.Const. Amend. 14; Const.Cal. art. 1, § 11.—Los Angeles County v. Hurlbut, 111 P.2d 963, 44 Cal.App.2d 88.

Cal.App. 2 Dist. 1941. The section of Welfare and Institutions Code providing for proceedings against kindred of aged person receiving aid where kindred filed income tax return, did not create "privileges".—Los Angeles County v. Hurlbut, 111 P.2d 963, 44 Cal.App.2d 88.

Cal.App. 3 Dist. 1914. Pol.Code, § 2283 (repealed. See West's Ann.Welfare & Inst.Code, §§ 1501–1503, 1511), as amended by St.1913, p. 629, in so far as it withdrew aid from native-born citizen children of alien parents, held violative of West's Ann.Const. art. 1, § 21, providing that no citizen or class of citizens shall be granted privileges or immunities which on the same terms shall not be granted to all citizens; the words "privileges" and "immunities" being nearly synonymous to denote a peculiar advantage, privilege, or immunity.—Sacramento Orphanage & Children's Home v. Chambers, 144 P. 317, 25 Cal.App. 536.—Asyl 2; Const Law 205(1).

Cal.App. 3 Dist. 1914. Pol.Code, § 2283, appropriates money from the state treasury to institutions conducted for the support of needy orphan children, and St.1913, p. 629, amending such section, provides that no child whose parent or parents have not resided in the state for at least three years prior to the application for aid, or whose parent or parents have not become citizens of the state, shall be deemed a minor orphan within such chapter. Held, that such amendment, in so far as it withdrew aid from native-born citizen children of alien parents, was violative of Const. art. 1, § 21, providing that no citizen or class of citizens shall be granted privileges or immunities which on the same terms shall not be granted to all citizens; the words "privileges" and "immunities" being nearly synonymous, the term "privilege" signifying a peculiar advantage, exemption, or immunity, and the word "immunity" signifying an exemption or privilege.—Sacramento Orphanage & Children's Home v. Chambers, 144 P. 317, 25 Cal.App. 536.

Conn. 1989. Appointment of liquor distributor was one of its "rights," "privileges," "immunities," and "franchises" under statute automatically vesting surviving corporation with rights, privileges, immunities, and franchises of terminating corporation upon merger. C.G.S.A. § 33-369(c).—All Brand Importers, Inc. v. Department of Liquor Control, 567 A.2d 1156, 213 Conn. 184.—Corp 589.

Fla. 1947. The meaning of the word "privileges" as used in city charter of Miami authorizing city to license and tax privileges, business, occupations and professions must be gathered from the context and when so construed, quoted word refers to right to engage in occupations or vocations the pursuit of which may be regulated by law and cannot be applied so as to authorize a head tax on individuals for the privilege of attending a sports event, night club or other like entertainment.—City of Miami v. Kayfetz, 30 So.2d 521, 158 Fla. 758.—Licens 6.

Fla. 1890. In the act establishing the municipality of Jacksonville, where power is given to levy taxes on "all property and privileges taxable by law for state purposes," and to tax and regulate auctioneers and other named avocations, "and all other privileges taxable by the state," the word "privileges" does not mean technical privileges, but occupations like those designated, and a market, being a franchise or technical privilege, is not taxable by the city for revenue purposes.—City of Jacksonville v. Ledwith, 7 So. 885, 26 Fla. 163, 23 Am.St.Rep. 558, 9 L.R.A. 69.—Licens 15(1).

Ill. 1895. The word "privileges," as used in Smith-Hurd Stats. c. 37, § 297, which provides that the county judges of the several counties, with like privileges as the judges of the circuit courts, may interchange with each other, hold court for each other, and perform each other's duties when necessary or convenient, confers a like authority and power on county judges as previously conferred on circuit judges; in other words, by the use of the word "privileges" the Legislature meant official right or authority.—Pike v. City of Chicago, 40 N.E. 567, 155 Ill. 656.

Ind. 1948. The word "immunities" and the word "privileges" as used in the privilege and immunity clause of the federal constitution, are synonymous terms, and mean a right conferred peculiar to some individual or body, a favor granted, a special privilege, an affirmative act of selection of special subjects of favors not enjoyed by citizens in general. U.S.C.A.Const. Amend. 14, § 1.—State v. Griffin, 79 N.E.2d 537, 226 Ind. 279.—Const Law 206(1).

Iowa 1941. Where more than 80 county auditors, in computing tax rate, failed to deduct from total budget requirements the tax to be derived from moneys and credits in compliance with statute, but in some of the counties where there was no compliance with the statute some refunds of the excesses were made, statute legalizing the error of the auditors did not amount to a denial of the "equal protection of laws" and grant to citizens in counties where auditors made the required deduc-

tion and in counties where refunds were made "privileges" and "immunities" which were denied to taxpayers in counties in which the curative act was operative and no refunds were made. Code 1935, § 7164; Acts 48th Gen.Assem. c. 250; Const. Iowa art. 1, § 6; U.S.C.A. Const.Amend. 14.—Cook v. Hannah, 297 N.W. 262, 230 Iowa 249, certiorari denied 62 S.Ct. 361, 314 U.S. 691, 86 L.Ed. 553.—Const Law 229(3); Statut 73(2); Tax 2106.

Ky. 1895. Immunity from taxation is not included in the word "privileges," as used in an act incorporating a railroad company, and clothing it with all the rights, privileges, and powers embraced in the charter of another railroad company named.—Nashville, C. & St. L.R. Co. v. Commonwealth, 30 S.W. 200, 97 Ky. 162, 17 Ky.L.Rptr. 28.

N.H. 1983. Individual members of public entitled to enjoy public right in public lands enjoy right in personal capacity only derivatively, and their rights are not "property rights," and are not "vested rights" and rights are more properly to be termed "privileges" which may be taken away, altered or qualified. Const. Pt. 1, Art. 8.—Appeal of Committee to Save the Upper Androscoggin, 466 A.2d 1308, 124 N.H. 17.—Const Law 93(1).

N.H. 1951. Where heating of express cars transporting hatching eggs is a service available to all shippers without special charge, such service is not a "privilege" or special benefit within meaning of the Interstate Commerce Act, providing that "privileges" shall not be extended to any shipper except as specified in tariffs. Interstate Commerce Act, § 6(7), 49 U.S.C.A. § 6(7).—Akerly v. Railway Exp. Agency, 77 A.2d 856, 96 N.H. 396.—Carr 30.

N.H. 1942. Each member of the public has rights in the nature of privileges granted by the state and which the state may uphold in litigation either by taking original action or by intervention and the individual's "privileges" are a form of "rights" for the violation of which by another individual he may have recourse in the courts for their vindication and redress but the determination of the issue is not "res judicata" except between the parties to the controversy and the state, if not a party, is bound only to the extent any one is bound by judicial declaration of law.—St. Regis Paper Co. v. New Hampshire Water Resources Board, 26 A.2d 832, 92 N.H. 164.—Judgm 668(1).

N.H. 1942. Individual members of the public entitled to enjoy the public right in river or stream enjoy the right in a personal capacity only derivatively, and their rights are not "property rights," and are not "vested rights" and the rights are more properly to be termed "privileges" which may be taken away, altered, or qualified.—St. Regis Paper Co. v. New Hampshire Water Resources Board, 26 A.2d 832, 92 N.H. 164.—Const Law 92; Nav Wat 2; Propty 1.

N.J.Ch. 1908. As between the grantor retaining the bed of a stream and the grantee of the ripa, with restrictions or limitations by contract as to boundaries or other express limitations of the natural riparian rights, the rights conveyed may perhaps be strictly called "easements" or "privileges," and not "riparian rights." But as between the grantee of these rights from the riparian owner who retains title to the bed of the stream and to lands overflowed and an upper riparian owner or occupant as to whom the grantor and those claiming under him are only riparian owners of lower riparian lands with their incidents, the grantee, as deriving title to certain riparian rights from such lower riparian owner, may be, by reason of such grant, a riparian owner and entitled as against upper riparian owners or diverters to all the rights of a riparian owner conferred upon him by his grantor, the true riparian owner. Technically and legally, perhaps, such rights, which are described to be of the character of riparian rights, arise by nature, by reason of the ownership of riparian lands; but they are easements which, as against upper riparian owners, are effective only to the extent that their exercise comes within the limits of the natural riparian rights of the lower owner.—City of Paterson v. East Jersey Water Co., 70 A. 472, 74 N.J.Eq. 49, affirmed 78 A. 1134, 77 N.J.Eq. 588.

N.Y. 1917. "Privileges" of volunteer firemen under state laws given by City of Fulton Charter (Laws 1902, c. 63), § 119, to "call" men of its fire department *held* to mean rights, and so include right of pay in case of injury.—Hammond v. City of Fulton, 115 N.E. 998, 220 N.Y. 337, Am.Ann.Cas. 1917C, 1137.—Mun Corp 200.

N.Y.Sup. 1985. "Privileges" are in nature evidentiary rules of exclusion which require balancing of interest of society in protecting certain relationships with that of the need for fair administration of justice.—People v. Pena, 487 N.Y.S.2d 935, 127 Misc.2d 1057.—Witn 184(1).

Pa. 1911. Act May 3, 1909, P.L. 417, requires exits, fire escapes, fire extinguishers, and fire preventives for buildings of a certain character such as theaters, public halls, and other places where persons assemble or the public resort, "other than buildings situated in the cities of the first and second classes." The provisions of the act are enforceable by state officers, no duty to be performed, nor responsibility to be incurred, being imposed upon any city, county, borough, or school district officer, and the fees of any such officer are not regulated thereby, and it has nothing to do with the revenues of counties, cities, or townships. Held, that the act grants no "powers" or "privileges" within Const. art. 3, § 7, providing that no law shall be passed granting powers or privileges in any case, where the granting of such powers or privileges shall have been provided by general law.—A. L. Roumfort Co. v. Delaney, 79 A. 653, 230 Pa. 374.—Statut 76(1).

Pa.Super. 1935. Statute imposing tax on "privilege" of producing, manufacturing, distilling, rectifying, or compounding distilled spirits, rectified spirits or wine, held to apply to an illicit manufacturer without permit, since "privilege" as used in statute imports the doing of an act which is not a common right. 47 P.S. §§ 746-748. A "privilege" is a right or immunity granted, as a peculiar advantage and in derogation of the common right; yet we frequently speak of taking "privileges" to which one

may not be entitled.—Com. v. Miller, 180 A. 144, 118 Pa.Super. 58.

Tenn. 1924. The term "privileges," within Const. art. 2, § 28, authorizing Legislature "to tax merchants, peddlers and privileges," refers to the activity or occupation, and not to the character of the person or entity that pursues the occupation.—Bank of Commerce & Trust Co. v. Senter, 260 S.W. 144, 149 Tenn. 569.—Tax 3250.

Va. 1905. While the term "privileges" has been held to include immunity from taxation in cases where other provisions of the statute in question have given such meaning to it, the better opinion seems to be that, unless other provisions remove the doubt of the intention of the Legislature to include the immunity in the term "privileges," it will not be so construed.—Lake Drummond Canal & Water Co. v. Commonwealth, 49 S.E. 506, 103 Va. 337, 68 L.R.A. 92.

Wis. 1934. Only fundamental privileges are protected by Constitution providing that citizens of each state shall be entitled to all "privileges" and immunities of citizens in several states (Const. art. 4, § 2).—Bode v. Flynn, 252 N.W. 284, 213 Wis. 509, 94 A.L.R. 480.—Const Law 207(1).

Wis. 1916. A contract placing minor child with foster parents construed, and held not to grant a right of heirship to the child by the use of the word "privileges."—Winke v. Olson, 160 N.W. 164, 164 Wis. 427.—Adop 6.

Wyo. 1986. Pursuing a common calling, plying a trade, and doing business in another state are "privileges" protected by the privileges and immunities clause of the Federal Constitution. U.S.C.A. Const. Art. 4, § 2, cl. 1.—Powell v. Daily, 712 P.2d 356.—Const Law 207(2).

PRIVILEGES AND IMMUNITIES

U.S.Cal. 1934. "Privileges and immunities" protected by Fourteenth Amendment are only those that belong to citizens of the United States as distinguished from citizens of the states, or those that arise from the Constitution and laws of the United States as contrasted with those that spring from other sources. U.S.C.A.Const. Amend. 14.—Hamilton v. Regents of the University of Calif., 55 S.Ct. 197, 293 U.S. 245, 79 L.Ed. 343, rehearing denied 55 S.Ct. 345, 293 U.S. 633, 79 L.Ed. 717.—Const Law 206(1).

U.S.Ill. 1944. The "privileges and immunities" protected by the Fourteenth Amendment include those rights and privileges which, under the laws and Constitution of the United States, are incident to citizenship of the United States, but do not include rights pertaining to state citizenship and derived solely from the relationship of the citizen and his state established by state law. U.S.C.A.Const. Amend. 14.—Snowden v. Hughes, 64 S.Ct. 397, 321 U.S. 1, 88 L.Ed. 497, rehearing denied 64 S.Ct. 778, 321 U.S. 804, 88 L.Ed. 1090.—Const Law 206(1).

U.S.Ky. 1940. The rights to operate an independent slaughter-house, to sell wine on terms of equality with fruit growers, and to operate businesses free from state regulation, have been determined not to be "privileges and immunities" protected by the Fourteenth Amendment.—Madden v. Commonwealth of Kentucky, 60 S.Ct. 406, 309 U.S. 83, 84 L.Ed. 590, 125 A.L.R. 1383.

U.S.Mass. 1890. The term "privileges and immunities," as used in U.S.C.A.Const. art. 4, § 2, includes the right to institute actions; but a decree of a state court restraining citizens of that state from prosecuting attachment suits in another state, brought in order to evade the laws of the first state, is not in violation of such section of the Constitution.—Cole v. Cunningham, 10 S.Ct. 269, 133 U.S. 107, 33 L.Ed. 538.

U.S.N.Y. 1915. "Privileges and immunities" of the citizens of the several states are not abridged, contrary to U.S.C.A.Const. art. 4, § 2, by the provisions of N.Y.Consol.Laws, c. 31, § 14, that only citizens of the United States may be employed in the construction of public works by or for the state or a municipality, and that in such employment citizens of New York state must be given preference.—Heim v. McCall, 36 S.Ct. 78, 239 U.S. 175, Am.Ann.Cas. 1917B, 287, 60 L.Ed. 206.

C.C.A.6 (Mich.) 1947. The "equal protection of law" clause of Fourteenth Amendment extends its protection to any person within jurisdiction of the state and is a right in itself, independent of rights protected by the"privileges and immunities" clause which is restricted to citizens of the United States. U.S.C.A.Const. Amend. 14.—Glicker v. Michigan Liquor Control Commission, 160 F.2d 96.—Const Law 210(2).

C.C.A.6 (Mich.) 1947. Intentional discrimination by a state against a person within its jurisdiction violates the "equal protection of laws" clause of Fourteenth Amendment, although it does not violate the "privileges and immunities" clause. U.S.C.A. Const.Amend. 14.—Glicker v. Michigan Liquor Control Commission, 160 F.2d 96.—Const Law 211(1).

E.D.Tenn. 1984. "Substantive due process" is a shorthand term for those substantive rights that the Supreme Court had interpreted the due process clause of the Fourteenth Amendment to confer and such rights have been found either specifically or by application in the Bill of Rights and the "privileges and immunities" clause of the Fourteenth Amendment. U.S.C.A. Const.Amend. 14.—Bullard v. Valentine, 592 F.Supp. 774.—Const Law 251.

Cal. 1942. A suit in California by Ohio superintendent of banks to enforce stockholder's superadded liability for Ohio bank's debts is not on the assessment, so that California court is not required to hold that statute of limitations began to run on date of assessment in order to accord "full faith and credit" to assessment as a "public act" or avoid violation of "privileges and immunities" clause of Federal Constitution. Code Civ.Proc. § 359; Gen. Code Ohio, §§ 710–75, 710–95; U.S.C.A.Const. art. 4, §§ 1, 2.—State of Ohio ex rel. Squire v. Porter, 129 P.2d 691, 21 Cal.2d 45, 143 A.L.R. 1432, certiorari denied 63 S.Ct. 531, 318 U.S. 757,

87 L.Ed. 1131, rehearing denied 63 S.Ct. 759, 318 U.S. 800, 87 L.Ed. 1164.—Const Law 207(3); Lim of Act 58(5).

Cal.App. 3 Dist. 1914. The "privileges and immunities" of citizens of the United States protected by U.S.C.A.Const. art. 14, § 1, providing that no state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, are those which arise out of the nature and essential character of the national government, the provisions of its Constitution, or its laws and treaties made in pursuance thereof.—Sacramento Orphanage & Children's Home v. Chambers, 144 P. 317, 25 Cal.App. 536.

Colo. 1886. As the term "privileges and immunities" is used in federal and state Constitutions guarantying to the citizens of the several states all the privileges and immunities of the citizens of the several states, it means the right to be protected in life and liberty, and in the acquisition of property, under equal and impartial laws which govern the whole community. This puts the state upon its true foundation–a society for the establishment and administration of general justice to all, equal and fixed, recognizing individual rights, and not impairing them.—In re Lowrie, 9 P. 489, 8 Colo. 499, 54 Am.Rep. 558.

Fla. 1919. A corporation is not a "citizen," within the "privileges and immunities" provisions of the federal Constitution.—Adams v. American Agricultural Chemical Co., 82 So. 850, 78 Fla. 362.

Ga.App. 1951. The right of the people under Fourth Amendment to federal Constitution to be secure in their persons, houses, papers and effects relates only to federal action and is not one of the "privileges and immunities" of citizens of the United States which the Fourteenth Amendment to federal Constitution forbids the states to abridge. U.S.C.A.Const. Amends. 4, 14.—Walker v. Whittle, 64 S.E.2d 87, 83 Ga.App. 445.—Const Law 206(1); Searches 32.

Idaho 1907. The "privileges and immunities" guarantied to the citizens of the United States by the fourteenth amendment to the federal Constitution are those which arise out of the nature of the general government, its Constitution, or the laws made in pursuance thereof, and these are placed by the Constitution under the protection of Congress; but the privileges and immunities of the citizens of the states, with those exceptions, embrace, generally, those fundamental rights, for the security and establishment of which society is instituted; and they remain under the care of the state governments. The privileges and immunities involved under a statute prohibiting certain trades and amusements on Sunday belong to that class characterized as those of the citizens of the state, and are not referred to by the federal Constitution. They do not arise out of the nature of the general government, its constitution, or laws.—State v. Dolan, 92 P. 995, 13 Idaho 693.

Ind. 1943. The statute requiring a convict on parole from Indiana Reformatory found guilty of a new crime to serve his original sentence before serving new sentence, violates the "equal protection of law" clause of the Fourteenth Amendment and Indiana constitutional provisions forbidding grant of special "privileges and immunities", and passage of "local" or "special laws" and requiring laws to be "general" and of uniform operation, where Indiana Reformatory was for male convicts between the ages of 16 and 30, and one convicted first when he was above the age of 30 and convicted of a new crime on parole was only required to serve his sentences concurrently. Burns' Ann.St. §§ 9–1821, 13–246—13–254; Burns Ann.St. § 13–411; Const. art. 1, § 23; art. 4, § 22, subd. 2, and § 23; U.S.C.A. Const.Amend. 14.—Dowd v. Stuckey, 51 N.E.2d 947, 222 Ind. 100.—Const Law 205(1), 250.3(2); Pardon 43; Statut 72, 76(1), 87.

Ind. 1910. The "privileges and immunities" referred to in Const.Ind. art. 1, § 23, prohibiting any law granting privileges or immunities to one class of persons which upon the same terms are not open to all citizens, and U.S.C.A.Const. Amend. 14, § 1, prohibiting the abridgment of the privileges and immunities of citizens of the United States, are general abstract personal rights, in their nature fundamental and pertain to all citizens in free governments, and which they are entitled to enjoy throughout the several states as well as in the state of residence, such as freedom of travel, pursuit of any lawful vocation or of pleasure, enjoyment of life and liberty, acquisition of property, the right to control it in security and peace, and the right to resort to the courts for its protection without restriction other than those usually affecting all persons.—Strange v. Board of Com'rs of Grant County, 91 N.E. 242, 173 Ind. 640.

Kan. 1943. Alleged discriminatory enforcement of filled-milk statute against corporate defendant did not deny to it "equal protection of law" nor abridge "privileges and immunities" of corporate defendant as a "citizen" of the United States since corporation does not possess privileges and immunities of a citizen. Gen.St.1935, 65–707(F)(2); Const.Kan. Bill of Rights, § 1, art. 2, § 17; U.S.C.A.Const. Amend. 14.—State ex rel. Mitchell v. Sage Stores Co., 141 P.2d 655, 157 Kan. 404, rehearing denied 143 P.2d 652, 157 Kan. 622, certiorari granted 64 S.Ct. 937, 321 U.S. 762, 88 L.Ed. 1059, affirmed 65 S.Ct. 9, 323 U.S. 32, 89 L.Ed. 25.—Const Law 206(7), 240(4).

Ky. 1888. The words "privileges and immunities," as used in Act Feb. 22, 1871, incorporating a railroad company, and investing it with all the privileges, rights, and immunities of another railroad company, whose road it had bought at judicial sale, did not carry exemption from taxation conferred by statute on the road purchased.—Kentucky Cent. R. Co. v. Commonwealth, 10 S.W. 269, 87 Ky. 661, 10 Ky.L.Rptr. 706.

Me. 1900. The use of the phrase "privileges and immunities," in the federal Constitution, plainly and unmistakably secures and protects the right of a citizen of one state to pass into any other state in the Union for the purpose of engaging, and, when there, of engaging, in lawful trade, commerce, or business, without molestation. The business of ped-

dling, which is itself a lawful business, cannot be regulated by the state so as to discriminate against citizens of the United States. It is a privilege to be enjoyed on equal footing with citizens of the state.—State v. Montgomery, 47 A. 165, 94 Me. 192, 80 Am.St.Rep. 386.

Miss. 1893. The words "privileges and immunities," as used in Act Feb. 19, 1890, authorizing a railroad to sell absolutely all of its property, together with rights, privileges, and immunities, and authorizing the company and another named railroad company to consolidate, give to the consolidated company all of the privileges of the railroad sold, including its exemption from taxation.—Natchez, J. & C.R. Co. v. Lambert, 13 So. 33, 70 Miss. 779.

N.J.Sup. 1935. "Privileges and immunities" of citizens in state which may not be abridged are confined to fundamental privileges and immunities which belong, of right, to citizens of all free governments and which have been enjoyed by citizens of several states, and include privilege to institute and maintain actions in courts of state. Const.U.S. art. 4, § 2; Amend. 14, § 1.—Charles v. Fischer Baking Co., 182 A. 30, 14 N.J.Misc. 18, affirmed 187 A. 175, 117 N.J.L. 115.—Const Law 207(3).

N.M. 1941. One of the "privileges and immunities" referred to in the Federal Constitution is the right to bring and maintain an action in the courts of the state on a transitory cause of action.—In re Goldsworthy's Estate, 115 P.2d 627, 45 N.M. 406, 148 A.L.R. 722.

N.Y.A.D. 3 Dept. 1955. A statute which unjustifiably discriminates against "residents" of other states has necessary effect of including in discrimination those who are "citizens" of other states, and therefore it falls within condemnation of "privileges and immunities" clause. U.S.C.A. Const. art. 4, § 2.—Goodwin v. State Tax Commission, 146 N.Y.S.2d 172, 286 A.D. 694, affirmed 150 N.Y.S.2d 203, 1 N.Y.2d 680, 133 N.E.2d 711, appeal dismissed 77 S.Ct. 47, 352 U.S. 805, 1 L.Ed.2d 38.—Const Law 207(1).

N.Y.A.D. 3 Dept. 1909. The "privileges and immunities" protected by U.S.C.A.Const. Amend. 14, § 1, are only those arising under the federal Constitution, and not under the state Constitution or laws.—People ex rel. Lasher v. City of New York, 118 N.Y.S. 742, 134 A.D. 75, affirmed People ex rel. Burhans v. City of New York, 92 N.E. 18, 198 N.Y. 439.

Okla. 1942. The rights of a nonresident obtaining part of his income from within Oklahoma to the full personal exemption applicable to those whose income arises wholly within Oklahoma's jurisdiction are not the "privileges and immunities" within the Fourth Amendment which are protected by the Fourteenth Amendment, since they are not of the nature that inhere in national citizenship. U.S.C.A. Const. Art. 4, § 2, and Amend. 14, § 1.—McCutchan v. Oklahoma Tax Com'n, 132 P.2d 337, 191 Okla. 578, 1942 OK 416.—Const Law 206(1).

R.I. 1949. The protection extended to citizens of the United States by the "privileges and immunities" clause of the federal Constitution includes those rights and privileges which, under the Constitution and laws of the United States, are incident to citizenship of the United States, but it does not include rights pertaining to state citizenship, which are derived solely from the relationship of the citizen and his state, and are established by state law. U.S.C.A.Const. Amend. 14, § 1.—Morrison v. Lamarre, 65 A.2d 217, 75 R.I. 176.—Const Law 206(1).

S.C. 1943. Requirement of Compensation Act that employee be resident of state before compensation can be recovered for injury or death occurring outside the state does not amount to denial of "equal protection of the law" or "due process of law" or violation of guaranty that citizens of each state shall be entitled to all "privileges and immunities" of citizens in the several states. Code 1942, § 7035–39; Const. S.C. art. 1, § 5; U.S.C.A. Const. art. 4, § 2; Amend. 14, § 1.—Tedars v. Savannah River Veneer Co., 25 S.E.2d 235, 202 S.C. 363, 147 A.L.R. 914.—Const Law 207(1), 245(4), 301(4); Work Comp 20.

S.C. 1916. Under U.S.C.A.Const. art. 4, § 2, entitling citizens of each state to all privileges and immunities of citizens in the several states, the term "privileges and immunities" means those privileges and immunities which are in their nature fundamental, which belong of right to the citizens of all free governments, and which have at all times been enjoyed by the citizens of the several states, and includes protection by the government, the enjoyment of life and liberty, the right to acquire and possess property and to pursue happiness and safety, subject to such restraints as the government may justly prescribe for the general good.—La Tourette v. McMaster, 89 S.E. 398, 104 S.C. 501, affirmed 39 S.Ct. 160, 248 U.S. 465, 63 L.Ed. 362.

S.C. 1908. "Privileges and immunities" of a citizen within the guarantees of U.S.C.A.Const. Amend. 14, involve the right not only to be free from physical restraint, but the right to follow any lawful business or avocation in life and to make all proper contracts in furtherance thereof.—Ex parte Hollman, 60 S.E. 19, 79 S.C. 9, 21 L.R.A.N.S. 242, 14 Am.Ann.Cas. 1105.

Wis. 1940. The "privileges and immunities" of citizens of the United States are privileges and immunities arising out of the nature and essential character of the national government and granted or secured by the Federal Constitution, and the right to sell intoxicating liquors is not one of the rights growing out of such citizenship.—Weinberg v. Kluchesky, 294 N.W. 530, 236 Wis. 99.—Const Law 206(2).

PRIVILEGES OF CITIZENS

N.Y.Sup. 1931. Only arbitrary or unreasonable discriminations are prohibited by constitutional guaranties of "equal protection of law" and against abridgment of "privileges of citizens" (Const. U. S. Amend. 14).—Gianatasio v. Kaplan, 255 N.Y.S. 102, 142 Misc. 611, affirmed 178 N.E. 782, 257 N.Y.

531, appeal dismissed 52 S.Ct. 203, 284 U.S. 595, 76 L.Ed. 512.—Const Law 206(1), 213.1(2).

PRIVILEGES OF EMPLOYMENT

U.S.Ga. 1984. An employer may provide its employees with many benefits that it is under no obligation to furnish by any express or implied contract, and such benefit, although not a contractual right of employment, may qualify as one of the "privileges of employment" within meaning of Title VII. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C.A. § 2000e et seq.—Hishon v. King & Spalding, 104 S.Ct. 2229, 467 U.S. 69, 81 L.Ed.2d 59.—Civil R 1136.

PRIVILEGES OR FACILITIES

U.S.Iowa 1960. Where railroad rendered a 14-day delayed lumber service over a route ordinarily requiring from two to four days by holding cars on sidings at certain points on its trunk lines awaiting diversion orders to move shipment forward over railroad's regular service, thereby affording shipper additional time to find a market for the lumber while it was in transit, and resulting in incurring of additional operational problems and costs for the railroad, not present in railroad's fast freight service and not included in its published tariff, such delayed service constituted furnishing of additional "privileges or facilities" under the Interstate Commerce Act, and filing and publication of such privileges in its tariff was necessary. Interstate Commerce Act, § 6(1, 7), 49 U.S.C.A. § 6(1, 7).—Union Pac. R. Co. v. U.S., 80 S.Ct. 737, 362 U.S. 327, 4 L.Ed.2d 766.—Carr 32(1).

N.Y.A.D. 4 Dept. 1911. The furnishing of lumber for bulkheads for a grain car was not the furnishing of "privileges or facilities" within Interstate Commerce Act Feb. 4, 1887, c. 104, § 6, 24 Stat. 380, as amended by Act June 29, 1906, c. 3591, § 2, 34 Stat. 586 (49 USCA § 6), requiring the schedules filed by a carrier with the Interstate Commerce Commission to state the privileges and facilities granted or allowed by the carrier, and the fact that a carrier's printed schedule did not show that bulkheads were furnished in grain cars would not prevent a shipper, who furnished material for constructing bulkheads in cars furnished him for shipping grain, in order to make the cars available for use, from recovering the expense of such bulkheads from the carrier; the carrier being under a common-law obligation to pay such expense.—Loomis v. Lehigh Valley R. Co., 132 N.Y.S. 138, 147 A.D. 195, modified 101 N.E. 907, 208 N.Y. 312, affirmed 36 S.Ct. 228, 240 U.S. 43, 60 L.Ed. 517.—Carr 40.

PRIVILEGES OR IMMUNITIES

U.S.Mo. 1922. The "privileges or immunities" of citizens of the United States protected by U.S.C.A.Const. Amend. 14, § 1, are not those inherent in state citizenship, but only those which owe their existence to the federal government, its national character, its Constitution, or its laws.—Prudential Ins. Co. of America v. Cheek, 42 S.Ct. 516, 259 U.S. 530, 66 L.Ed. 1044, 27 A.L.R. 27.

C.C.A.10 (Okla.) 1941. Freedom of worship, freedom of speech, and freedom of the press are not "privileges or immunities" peculiar to citizenship of the United States, to which alone the privileges and immunities clause of the Fourteenth Amendment refers, but are privileges and immunities secured by the "due process of law" clause of the Fourteenth Amendment and are within ambit of statutes relating to cause of action for deprivation of rights, privileges, or immunities secured by the Constitution and laws. 8 U.S.C.A. § 43; Jud. Code, § 24(14), 28 U.S.C.A. § 41(14); U.S.C.A.Const. Amend. 14, § 1.—Oney v. Oklahoma City, 120 F.2d 861.—Civil R 1028; Const Law 206(1), 274(2).

Fla. 1941. One of the "privileges or immunities" within meaning of the provision of the Federal Constitution that no state shall make or enforce any law which shall abridge the "privileges or immunities" of citizens of the United States is the liberty of speech or of the press. U.S.C.A.Const. Amend. 14, § 1; F.S.A.Const. Declaration of Rights, § 13.—Stephens v. Stickel, 200 So. 396, 146 Fla. 104.—Const Law 206(1).

Fla. 1941. The provision of the Federal Constitution that no state shall make or enforce any law which shall abridge the "privileges or immunities" of citizens of the United States does not intend that the exercise of guaranteed civil liberties shall subordinate reasonable regulations for the preservation of human life and safety. U.S.C.A.Const. Amend. 14, § 1.—Stephens v. Stickel, 200 So. 396, 146 Fla. 104.—Const Law 206(1).

Fla. 1941. Enforcement of an ordinance making it unlawful to stand or go on certain city street crossings or intersections to distribute literature to occupants of a motor vehicle at certain times or for any other purpose than that commonly accorded to the general traveling public would not be temporarily restrained pending suit for permanent injunction, on ground that it violated provision of State Constitution that no laws shall be passed to restrain or abridge the liberty of speech, or of the press, or the provision of the Federal Constitution that no state shall make or enforce any law which shall abridge the "privileges or immunities" of citizens of the United States. U.S.C.A.Const. Amend. 14, § 1; F.S.A.Const. Declaration of Rights, § 13.—Stephens v. Stickel, 200 So. 396, 146 Fla. 104.—Inj 138.48.

S.D. 1940. The Fair Trade Law as applied to proprietary medicine known as "Alka-Seltzer" which was registered as a trade-mark in the Patent Office and which was in competition with similar commodities manufactured by other manufacturers was not unconstitutional as depriving retailer, who was prohibited from selling below minimum price established, of property without "due process of law" or as granting manufacturer "privileges or immunities" not equally granted to other citizens in violation of provisions of State and Federal Constitutions. SDC 54.0401 et seq.; Const. art. 6, §§ 2, 18; U.S.C.A.Const. Amend. 14.—Miles Laboratories v. Owl Drug Co., 295 N.W. 292, 67 S.D. 523.—Const Law 205(1), 206(4), 298(1); Trade Reg 953.

Wash. 1910. Act March 8, 1910, creating a municipal plans commission to be formed from members of various city boards and by appointment by the mayor from eligibles nominated by 14 different associations, clubs, and corporations in the city, all of the members to be citizens of the city, was not in violation of Const. art. 1, § 12, prohibiting the passing of any law granting to any citizen, class of citizens, or corporation, other than municipalities, privileges or immunities which, on the same terms, shall not equally belong to all citizens or corporations, on the theory that the privilege of nomination granted to the organizations mentioned was not granted to the members of other similar organizations; the right to make such nominations not being one of the "privileges or immunities" granted by the Constitution.—Bussell v. Gill, 108 P. 1080, 58 Wash. 468, 137 Am.St.Rep. 1070.—Const Law 205(2).

PRIVILEGES WITH RESPECT TO

N.D.Ga. 1997. Stock appreciation rights, entitling executives to payment from corporation equal to difference between grant value of the privilege and fair market value of stock on date executive exercised the option, were not "privileges with respect to" the stock, within meaning of section of Securities Exchange Act making insider trader in such privileges liable to buyer or seller of the related security; although value of the rights varied directly with value of the stock, rights did not provide the holder with any rights relating to any stock, exercise of the rights did not affect legal or beneficial ownership of any stock or right to own, purchase or sell any stock and there was no market on which the rights could be traded. Securities Exchange Act of 1934, § 20(d), as amended, 15 U.S.C.A. § 78t(d).—Clay v. Riverwood Intern. Corp., 964 F.Supp. 1559, affirmed 157 F.3d 1259, opinion vacated in part on rehearing 176 F.3d 1381, rehearing and suggestion for rehearing denied 182 F.3d 938.—Sec Reg 60.28(1).

PRIVILEGE TAX

U.S.Ct.Cl. 1931. Statute increasing tax on gifts in contemplation of death, made before passage of act, during existence of prior act, did not change tax from "privilege tax" to unapportioned "direct tax". Revenue Act 1918, § 402(c), 40 Stat. 1097; U.S.C.A.Const. art. 1, §§ 2, 9.—Milliken v. U.S., 51 S.Ct. 324, 283 U.S. 15, 75 L.Ed. 809.—Int Rev 4146.

C.C.A.2 1948. Tax paid by New York corporation engaged in gold and silver mining operations in Republic of Honduras to Honduras government pursuant to contract requiring payment of tax of 7 per cent. of its net operating profits, which contract was entered into by the government under statute authorizing contract fixing percentage of liquid profits of exploitation to be paid by all mining enterprises in amount not less than 5 per cent. of the liquid profits, was an "income tax" and not a "privilege tax" paid to foreign country, so that corporation was entitled to have such amount credited in computing its United States income taxes for the same year. 26 U.S.C.A. (I.R.C.1939) § 131(a)(1).—New York & Honduras Rosario Min. Co. v. C.I.R., 168 F.2d 745, 12 A.L.R.2d 355.—Int Rev 4100.

C.C.A.9 (Cal.) 1938. A motor vehicle license or registration fee is a "privilege tax" levied in the exercise of the police power to control and regulate travel on the public highways, and is not considered as a "tax" on the motor vehicle itself, but for the privilege of using the highways.—Ingels v. Boteler, 100 F.2d 915, certiorari granted 59 S.Ct. 792, 307 U.S. 617, 83 L.Ed. 1497, certiorari granted 59 S.Ct. 792, 307 U.S. 617, 83 L.Ed. 1497, affirmed 60 S.Ct. 29, 308 U.S. 57, 308 U.S. 521, 84 L.Ed. 78, 84 L.Ed. 442.—Autos 21.

C.C.A.8 (Minn.) 1942. Under Hayden-Cartwright Act permitting state taxes in connection with sales of gasoline and motor vehicle fuel by post exchanges on United States military or other reservations, state of Minnesota was entitled to collect gasoline tax on motor fuel which was sold on a military reservation, and which was not for exclusive use of United States, notwithstanding that Minnesota gasoline tax was a "use tax" or "privilege tax" rather than a technical "sales tax". Hayden-Cartwright Act § 10, 4 U.S.C.A. § 12; M.S.A. § 296.02.—State of Minn. v. Keeley, 126 F.2d 863.—Tax 3609.

D.Minn. 1940. A "use tax" or "privilege tax" is a tax imposed on property when such property is put to use in the manner contemplated by a given taxing act, with a presupposition of ownership, while a "sales tax" is one imposed on property at the time of the sale thereof, and the amount of the tax may be fixed in the taxing statute by different formulae.—State of Minnesota v. Ristine, 36 F.Supp. 3, reversed State of Minn. v. Keeley, 126 F.2d 863.—Tax 3603.

E.D.S.C. 1937. Franchise tax is "privilege tax" imposed on privilege of doing business as corporation within state.—U.S. Rubber Co. v. Query, 19 F.Supp. 191.—Tax 2256.

M.D.Tenn. 1932. The terms "excise tax" and "privilege tax" are synonymous. State statute, imposing tax on persons selling, storing, and distributing gasoline, held not to impose property tax on gasoline, but excise or privilege tax on business of selling, storing, and withdrawing it.—American Airways v. Wallace, 57 F.2d 877, affirmed 53 S.Ct. 15, 287 U.S. 565, 77 L.Ed. 498.

Ala. 1938. The franchise tax levied on foreign corporations doing business in the state is not a "qualifying fee" or a "fee for an annual permit" paid as a condition to their right to do business in the state, nor is it a "license" or "privilege tax" imposed for doing a specified business, nor is it a "property tax" or a tax on the privilege of owning property in the state, although the value of property in the state may be material in determining amount of the tax. Gen.Acts 1935, pp. 385, 387, 388, 392, §§ 315, 318, 329; Const.1901, § 232.—Consolidated Coal Co. v. State, 183 So. 650, 236 Ala. 489.—Tax 2256.

Ala. 1937. A 2 per cent. gross sales tax on retail sales is a "privilege tax" and not a "property tax".