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U.B. An abbreviation for "Upper Bench."

Uberrima fides /yúwbéhramə fáydiz/. Lat. The most abundant good faith; absolute and perfect candor or openness and honesty; the absence of any concealment or deception, however slight. A phrase used to express the perfect good faith, concealing nothing, with which a contract must be made; for example, in the case of insurance, the insured must observe the most perfect good faith towards the insurer. Gulfstream Cargo, Ltd. v. Reliance Ins. Co., C.A.Fla., 409 F.2d 974, 981. Contracts of life insurance are said to be "uberrimæ fidæ" when any material misrepresentation or concealment is fatal to them.

Ubi aliquid conceditur, conceditur et id sine quo res ipsa esse non potest /yúwbay álkəwəd kənsiydətər, kənsiydətər èt id sáyniy kwòw riyz ipsə ésiy nòn pòwtəst/. When anything is granted, that also is granted without which the thing granted cannot exist.

Ubi aliquid impeditur propter unum, eo remoto, tollitur impedimentum /yúwbay álkəwəd impiydətər pròptər yúwnəm, iyow rəmówtow, tóltər impèdəmèntow/. Where anything is impeded by one single cause, if that be removed, the impediment is removed.

Ubi cessat remedium ordinarium, ibi decurritur ad extraordinarium /yúwbay sésət rəmiyd(i)yəm, òrdənəriyəm, áybay dəkəhrətər əd èkstrəòrdənəriyəm/. Where the ordinary remedy fails, recourse must be had to an extraordinary one.

Ubi culpa est, ibi pœna subesse debet /yúwbay kəlpə èst, áybay piynə səbésiy débət/. Where the crime is committed, there ought the punishment to be undergone.

Ubi cunque est injuria, ibi damnum sequitur /yúwbaykəŋkwiy èst injúriyə, áybay dəmnəm sékwətər/. Wherever there is a wrong, there damage follows.

Ubi damna dantur, victus victori in expensis condemnari debet /yúwbay dəmnə dántər viktəs viktóray in əkspénsəs kondəmnéray débət/. Where damages are given, the vanquished party ought to be condemned in costs to the victor.

Ubi eadem ratio, ibi eadem lex; et de similibus idem est iudicium /yúwbay iyéydəm réysh(iy)ow, áybay iyéydəm léks; èt díy səmiləbəs áydəm èst juwdísh(iy)əm/. Where the same reason exists, there the same law prevails; and, of things similar, the judgment is similar. Where there is the same reason, there is the same law,

and the same judgment should be rendered on the same state of facts.

Ubi est forum, ibi ergo est jus /yúwbay èst fórem, áybay érgow èst jəs/. The law of the forum governs.

Ubi est specialis, et ratio generalis generaliter accipienda est /yúwbay èst spəshiyéyləs, èt réysh(iy)ow jənərəyləs jənərəylətər əksipiyéndə èst/. See *Ubi lex est specialis*, etc.

Ubi et dantis et accipientis turpitude versatur, non posse repeti dicimus; quotiens autem accipientis turpitude versatur, repeti posse /yúwbay èt dántəs èt əksipiyéntəs tərpat(y)úwdow vərséytər, nòn pòsiy rəpétay dísməs; kwówshənz ótəm əksipiyéntəs tərpat(y)úwdow vərséytər, rəpétay pòsiy/. Where there is turpitude on the part of both giver and receiver, we say it cannot be recovered back; but as often as the turpitude is on the side of the receiver [alone] it can be recovered back.

Ubi factum nullum, ibi fortia nulla /yúwbay fáktəm náləm, áybay fórh(iy)ə nálə/. Where there is no principal fact, there can be no accessory. Where there is no act, there can be no force.

Ubi jus, ibi remedium /yúwbay jəs, áybay rəmiyd(i)yəm/. Where there is a right, there is a remedy. It is said that the rule of primitive law was the reverse: Where there is a remedy, there is a right.

Ubi jus incertum, ibi jus nullum /yúwbay jəs insárdəm, áybay jəs náləm/. Where the law is uncertain, there is no law.

Ubi lex aliquem cogit ostendere causam, necesse est quod causa sit justa et legitima /yúwbay léks əlkəkwəm kó(w)jət osténdəriy kózəm, nəsésiy èst kwòd kózá sit jəstə èt ləjitəmə/. Where the law compels a man to show cause, it is necessary that the cause be just and lawful.

Ubi lex est specialis, et ratio ejus generalis, generaliter accipienda est /yúwbay léks èst spəshiyéyləs, èt réysh(iy)ow iyjəs, jənərəylətər əksipiyéndə èst/. Where the law is special, and the reason of it general, it ought to be taken as being general. When the reason for a particular legislative act and acts of the same general character is the same, they should have the same effect. *Guile v. La Crosse Gas & Electric Co.*, 145 Wis. 157, 130 N.W. 234, 241.

Ubi lex non distinguit, nec nos distinguere debemus /yúwbay léks nòn dástingwət, nèk nòws dástingwəriy dəbiyməs/. Where the law does not distinguish, neither ought we to distinguish.

Ubi major pars est, ibi totum /yúwbay méyjər párz èst, áybay tówtám/. Where the greater part is, there the whole is. That is, majorities govern.

Ubi matrimonium, ibi dos /yúwbay mætrəmówn(i)yəm, áybay dóws/. Where there is marriage, there is dower.

Ubi non adest norma legis, omnia quasi pro suspectis habenda sunt /yúwbay nòn ádest nórmə liyjəs, ómn(i)yə kwéysay pròw səspéktəs hərbəndə sánt/. When the law fails to serve as a rule, almost everything ought to be suspected.

Ubi non est annua renovatio, ibi decimæ non debent solvi /yúwbay nòn èst ànyuwə rənəvéysh(i)yow, áybay désəmiy nòn débənt sólvay/. Where there is no annual renovation, there tithes ought not to be paid.

Ubi non est condendi auctoritas, ibi non est parendi necessitas /yúwbay nòn èst kəntənday októhrətəs, áybay nòn èst pərənday nəsesətəs/. Where there is no authority for establishing a rule, there is no necessity of obeying it.

Ubi non est directa lex, standum est arbitrio iudicis, vel procedendum ad similia /yúwbay nòn èst dərèktə léks, stəndəm èst arbítriyow júwdəsəs, vèl pròwsədəndəm əd səmil(i)yə/. Where there is no direct law, the opinion of the judge is to be taken, or references to be made to similar cases.

Ubi non est lex, ibi non est transgressio, quoad mundum /yúwbay nòn èst léks, áybay nòn èst trənzgrəsh(i)yow, kwówəd mändəm/. Where there is no law, there is no transgression, so far as relates to the world.

Ubi non est manifesta injustitia, iudices habentur pro bonis viris, et iudicatum pro veritate /yúwbay nòn èst mənəfəstə injəstish(i)yə, júwdəsiyz hərbəntar pròw bównəs vírəs, èt júwdəkéytəm pròw vèhrətéytiy/. Where there is no manifest injustice, the judges are to be regarded as honest men, and their judgment as truth.

Ubi non est principalis, non potest esse accessorius /yúwbay nòn èst prinsəpéyləs, nòn pówtəst ésiy əksəsóriyəs/. Where there is no principal, there cannot be an accessory.

Ubi nulla est conjectura quæ ducat alio, verba intelligenda sunt ex proprietate, non grammatica, sed populari ex usu /yúwbay nálə èst kənjəkt(y)úra kwiy d(y)úwkət éyl(i)yow, vərbə intələjəndə sànt əks prəprəyətéytiy, nòn grəmátəkə, sèd pòpyəléray əks yúws-yuw/. Where there is nothing to call for a different construction, [the] words [of an instrument] are to be understood, not according to their strict grammatical meaning, but according to their popular and ordinary sense.

Ubi nullum matrimonium, ibi nulla dos /yúwbay náləm mætrəmówn(i)yəm, áybay nálə dóws/. Where there is no marriage, there is no dower.

Ubi periculum, ibi et lucrum collocatur /yúwbay pərik(y)ələm, áybay èt l(y)úwkrəm kòləkéytər/. He at whose risk a thing is, should receive the profits arising from it.

Ubi pugnancia inter se in testamento juberentur, neutrum ratum est /yúwbay pəgnəns(i)yə intər siy in tɛstəməntow júwbərəntər, n(y)úwtrəm réytəm èst/. Where repugnant or inconsistent directions are contained in a will, neither is valid.

Ubi quid generaliter conceditur inest hæc exceptio, si non aliquid sit contra jus fasque /yúwbay kwid jenərəýlətər kənsiydətər inest híyk əksépsh(i)yow, sày nòn ələkwəd sit kóntrə jəs fəskwiy/. Where a thing is conceded generally [or granted in general terms], this exception is implied: that there shall be nothing contrary to law and right.

Ubi quis delinquit, ibi punietur /yúwbay kwis dəlínkwət, áybay púwniyiytər/. Where a man offends, there he shall be punished. In cases of felony, the trial shall be always by the common law in the same place where the offense was, and shall not be supposed in any other place.

Ubiquity /yuwbikwətiy/. Omnipresence; presence in several places, or in all places, at one time. A fiction of English law is the "legal ubiquity" of the sovereign, by which he is constructively present in all the courts. 1 Bl.Comm. 270.

Ubi re vera /yúwbay riý vírə/. Where in reality; when in truth or in point of fact.

Ubi supra /yúwbay s(y)úwprə/. Lat. Where above mentioned.

Ubi verba conjuncta non sunt sufficit alterutrum esse factum /yúwbay vərbə kənjəktə nòn sànt sáfəsət òltər(y)úwtrəm ésiy fəktəm/. Where words are not conjoined, it is enough if one or other be complied with. Where words are used disjunctively, it is sufficient that either one of the things enumerated be performed.

U.C. An abbreviation for "Upper Canada," used in citing the reports.

U.C.C. See Uniform Commercial Code.

U.C.C.C. See Uniform Consumer Credit Code.

U.C.C.J.A. Uniform Child Custody Jurisdiction Act. See Custody of children.

U.C.M.J. Uniform Code of Military Justice; consisting of rules of conduct and criminal behavior for members of the Armed Forces. See Code of Military Justice.

UCP. See Uniform Customs and Practice for Commercial Documentary Credits.

U.C.R. Uniform Crime Reports as compiled by the Federal Bureau of Investigation.

UDITPA. The Uniform Division of Income for Tax Purposes Act has been adopted in some form by many of the states. The Act develops criteria by which the total taxable income of a multistate corporation can be assigned to specific states.

UFCA. Uniform Fraudulent Conveyance Act, which many states have adopted. See Fraudulent conveyance.

UFTA. Uniform Fraudulent Transfer Act (1984), which is the successor to the UFCA.

Ukaas, ukase /uwkás/yuwkéyz/. Originally, a law or ordinance made by the czar of Russia.

Hence, any official decree or proclamation.

ULA. See Uniform Laws or Acts.

Ullage /óləj/. In commercial law, the amount wanting when a cask, on being gauged, is found not to be completely full.

Ulna ferrea /ólnə féhriyə/. L. Lat. In old English law, the iron ell; the standard ell of iron, kept in the exchequer for the rule of measure.

Ulnage /ólnəj/. Alnage. See Alnager.

Ulterior. Beyond what is manifest, seen or avowed, intentionally kept concealed. *Harding v. McCullough*, 236 Iowa 556, 19 N.W.2d 613, 616.

Ultima ratio /últəmə réysh(iy)ow/. Lat. The last argument; the last resort; the means last to be resorted to.

Ultimate. At last, finally, or at the end. The last in the train of progression or sequence tended toward by all that precedes; arrived at as the last result; final. *Texas Employers Ins. Ass'n v. Reed*, Tex.Civ.App., 150 S.W.2d 858, 862.

Ultimate facts. Issuable facts; facts essential to the right of action or matter of defense. *Allied Stores of Texas, Inc. v. McClure*, Tex.Civ.App., 595 S.W.2d 165, 169. Facts necessary and essential for decision by court. *People ex rel. Hudson & M.R. Co. v. Sexton*, Sup., 44 N.Y.S.2d 884, 885. Facts which are necessary to determine issues in case, as distinguished from evidentiary facts supporting them. *O'Shea v. Hatch*, App., 97 N.M. 409, 640 P.2d 515, 520. The logical conclusions deduced from certain primary evidentiary facts. *Mining Securities Co. v. Wall*, 99 Mont. 596, 45 P.2d 302, 306. Final facts required to establish plaintiff's cause of action or defendant's defense. *Williams v. Pilot Life Ins. Co.*, 288 N.C. 338, 218 S.E.2d 368, 371.

One that is essential to the right of action or matter of defense, and the trial court is under the duty of submitting only ultimate or controlling issues. *Perales v. Braslau's Furniture Co.*, Tex.Civ.App., 493 S.W.2d 638, 640.

Ultimate issue. That question which must finally be answered as, for example, the defendant's negligence is the ultimate issue in a personal injury action. See also Ultimate facts.

Ultimatum /últəméytəm/. Lat. The last. The final and ultimate proposition made in negotiating a treaty, a contract, or the like. The word also means the result of a negotiation, and it comprises the final determination of a party concerned in the matter in dispute.

Ultima voluntas testatoris est perimplenda secundum veram intentionem suam /últəmə vəlántəs testátóras èst pèrəmpléndə səkándəm vírəm inténshiyównəm s(y)úwəm/. The last will of a testator is to be fulfilled according to his true intention.

Ultimum supplicium /últəməm səplish(iy)əm/. Lat. The last or extreme punishment; the extremity of punishment; the punishment of death. 4 Bl.Comm. 17.

Ultimum supplicium esse mortem solam interpretamur /últəməm səplish(iy)əm ésiy mórtəm sówłəm əntərpətéymər/. The extremest punishment we consider to be death alone.

Ultimus hæres /últəməs híriyz/. Lat. The last or remote heir; the lord. So called in contradistinction to the *hæres proximus* and the *hæres remotior*.

Ultra /óltrə/. Lat. Beyond; outside of; in excess of.

Damages ultra. Damages beyond a sum paid into court.

Ultra mare /óltrə mériy/. Beyond sea. One of the old essoins or excuses for not appearing in court at the return of process.

Ultra reprises. After deduction of drawbacks; in excess of deductions or expenses.

Ultra vires /óltrə váyriyz/. An act performed without any authority to act on subject. *Haslund v. City of Seattle*, 86 Wash.2d 607, 547 P.2d 1221, 1230. Acts beyond the scope of the powers of a corporation, as defined by its charter or laws of state of incorporation. *State ex rel. v. Holston Trust Co.*, 168 Tenn. 546, 79 S.W.2d 1012, 1016. The term has a broad application and includes not only acts prohibited by the charter, but acts which are in excess of powers granted and not prohibited, and generally applied either when a corporation has no power whatever to do an act, or when the corporation has the power but exercises it irregularly. *People ex rel. Barrett v. Bank of Peoria*, 295 Ill.App. 543, 15 N.E.2d 333, 335. Act is ultra vires when corporation is without authority to perform it under any circumstances or for any purpose. By doctrine of ultra vires a contract made by a corporation beyond the scope of its corporate powers is unlawful. *Community Federal Sav. & Loan Ass'n of Independence, Mo. v. Fields*, C.C.A. Mo., 128 F.2d 705, 708. Ultra vires act of municipality is one which is beyond powers conferred upon it by law. *Charles v. Town of Jeanerette, Inc.*, La.App., 234 So.2d 794, 798.

Ultra posse non potest esse, et vice versa /óltrə pósiy nõn pówtəst ésiy, èt váysiy vèrsə/. What is beyond possibility cannot exist, and the reverse [what cannot exist is not possible].

Umpirage /əmpərəj/. The decision of an umpire. The word "Umpirage," in reference to an umpire, is the same as the word "award," in reference to arbitrators; but "award" is commonly applied to the decision of the umpire also.

Umpire /əmpay(ə)r/. Third party selected to arbitrate labor dispute. One clothed with authority to act alone in rendering a decision where arbitrators have disagreed. *Hughes v. National Fuel Co.*, 121 W.Va. 392, 3 S.E.2d 621, 626. When matters in dispute are submitted to two or more arbitrators, and they do not agree in their decision, it is usual for another person to be called in as "umpire," to whose sole judgment it is then re-

ferred. An umpire, strictly speaking, makes his award independently of that of the arbitrators. *See also* Arbitrator; Mediator.

Un- A prefix used indiscriminately, and may mean simply "not." Thus, "unlawful" means "not authorized by law."

Unable /ənéybəl/. This term, as used in a statute providing that evidence given in a former trial may be proved in a subsequent trial, where the witness is unable to testify, means mentally and physically unable.

Unaccrued /ənəkrúwd/. Not become due, as rent on a lease.

Unadjusted /ənəjástəd/. Uncertain; not agreed upon.

Unalienable /ənéyl(i)yənəbəl/. Inalienable; incapable of being aliened, that is, sold and transferred.

Inalienable rights. Rights which can never be abridged because they are so fundamental.

Unambiguous /ənəmbígyuwəs/. Susceptible of but one meaning. *Lawrie v. Miller*, Tex.Com.App., 45 S.W.2d 172, 173. A contract provision is "unambiguous" if its meaning is so clear as to preclude doubt by a reasonable person. *Deerfield Commodities, Ltd. v. Nerco, Inc.*, 72 Or.App. 305, 696 P.2d 1096, 1104.

Unanimity /yúwnənímətiy/. Agreement of all the persons concerned, in holding one and the same opinion or determination of any matter or question; as the concurrence of a jury in deciding upon their verdict or of judges in concurring in their decision. *See* Unanimous.

Unanimous /yənánəməs/. To say that a proposition was adopted by a "unanimous" vote does not always mean that every one present voted for the proposition, but it may, and generally does, mean, when a *viva voce* vote is taken, that no one voted in the negative. *See also* Unanimity.

Una persona vix potest supplere vices duarum /yúwnə pərsównə viks pówtəst sɒplíriy váysiyz d(y)uwerəm/. One person can scarcely supply the place of two.

Unascertained. Not certainly known or determined. *Commissioner of Internal Revenue v. Owens*, C.C.A.10, 78 F.2d 768, 773. *See* Uncertainty.

Unascertained duties. Payment in gross, on an estimate as to amount, and where the merchant, on a final liquidation, will be entitled by law to allowances or deductions which do not depend on the rate of duty charged, but on the ascertainment of the quantity of the article subject to duty.

Unauthorized. That which is done without authority, as a signature or indorsement made without actual, implied or apparent authority and this includes a forgery. U.C.C. § 1-201(43).

Unauthorized use. The criminal offense of use of a motor vehicle without authority of the owner, knowing that such use is without his permission. It differs from larceny to the extent that in the crime of unauthorized use, the government need not prove the intent to de-

prive permanently the owner of the vehicle. *See* Joyriding.

Unavailability. In law of evidence, on a showing that a witness or his testimony is not available, prior reported testimony of that witness which can be faithfully reproduced is admissible as an exception to the hearsay rule. A witness is unavailable if he is dead, insane or beyond reach of a summons. Unavailability as a witness also includes situations in which the declarant is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement. *See* Fed.Evid.R. 804.

Unavailability as defined in rule providing for admission of prior testimony, requires, among other things, either that the witness be beyond the jurisdiction of the court's process to compel his appearance, or that the proponent of the prior statement be unable, despite due diligence, to obtain the attendance of the witness. *Sacawa v. Polikoff*, 150 N.J.Super. 172, 375 A.2d 279, 283.

Una voce /yúwnə wóvsiy/. Lat. With one voice; unanimously; without dissent.

Unavoidable. Not avoidable, incapable of being shunned or prevented, inevitable, and necessary.

Unavoidable accident. An inevitable accident; one which could not have been prevented by exercise of due care by both parties under circumstances prevailing. *Woodiwiss v. Rise*, 3 Wash.App. 5, 471 P.2d 124, 126. Not necessarily an accident which was physically impossible, in the nature of things for the person to have prevented, but one not occasioned in any degree, either remotely or directly, by the want of such care or skill as the law holds every person bound to exercise. Such type accident is present when an event occurs which was not proximately caused by the negligence of any party to the event. *Molina v. Payless Foods, Inc.*, Tex.Civ.App., 615 S.W.2d 944, 946. *See also* Accident; Act of God.

Unavoidable casualty. An event or accident which human prudence, foresight, and sagacity cannot prevent, happening against will and without negligence. *Sabin v. Sunset Garden Co.*, 184 Okl. 106, 85 P.2d 294, 295. Within the meaning of statutes in several states relating to the vacation of judgments, means some casualty or misfortune growing out of conditions or circumstances that prevented the party or his attorney from doing something that, except therefor, would have been done, and does not include mistakes or errors of judgment growing out of misconstruction or understanding of the law, or the failure of parties or counsel through mistake to avail themselves of remedies, which if resorted to would have prevented the casualty or misfortune. If by any care, prudence, or foresight a thing could have been guarded against, it is not unavoidable. The term is not ordinarily limited to an act of God. *See also* Accident; Act of God; Unavoidable accident.

Unavoidable cause. A cause which reasonably prudent and careful men under like circumstances do not and would not ordinarily anticipate, and whose effects, under similar circumstances, they do not and would not ordinarily avoid. *See also* Unavoidable accident.

Unavoidable dangers. This term in a marine policy covering unavoidable dangers of the river includes those unpreventable by persons operating the vessel, and, like the term perils of the sea, includes all kinds of marine casualties, thus including accidents in which there is human intervention.

Unborn beneficiaries. Those persons named in a general way as sharing in an estate or gift though not yet born. Commonly, a court appoints a guardian ad litem to protect and to represent their interests.

Unborn child. The individual human life in existence and developing prior to birth.

A child not yet born at the happening of an event. A child not born at the time of an injury to his mother which causes the child to suffer an injury may recover in most jurisdictions after birth if the child were viable in his mother's womb at the time of the defendant's wrongdoing. In the majority of states, injuries sustained by a viable, unborn child which cause the child's death may form the basis of a wrongful death action brought by the estate of the stillborn child. *Amadio v. Levin*, 509 Pa.199, 501 A.2d 1085, 1087.

See also Child; Viable child; Wrongful death statutes.

Unbroken. Continuous, as adverse possession.

Unceasesath. In Saxon law, an oath by relations not to avenge a relation's death.

Uncertainty. The state or quality of being unknown or vague. Such vagueness, obscurity, or confusion in any written instrument, *e.g.*, a will, as to render it unintelligible to those who are called upon to execute or interpret it, so that no definite meaning can be extracted from it. See also Ambiguity.

Unchastity. Impurity in mind and conduct, which may exist without actually engaging in unlawful sexual intercourse.

Uncia /*ʌnshiyə*/. Lat. In Roman law, an ounce; the twelfth of the Roman "as," or pound. The twelfth part of anything; the proportion of one-twelfth. 2 Bl.Comm. 462, note *m*.

Uncia agri, uncia terræ /*ʌnsh(iy)ə ægray, ʌnsh(iy)ə téhriy*/. These phrases often occur in the charters of the British kings, and signify some measure or quantity of land. It is said to have been the quantity of twelve *modii*; each *modius* being possibly one hundred feet square.

Uncarius hæres /*ʌnshiyériyəs híriyz*/. Lat. In Roman law, an heir to one-twelfth of an estate or inheritance.

Uncle. The brother of one's father or mother.

Unclean hands doctrine. Doctrine simply means that in equity, as in law, plaintiff's fault, like defendant's, may be relevant to question of what, if any, remedy plaintiff is entitled to. *Shondel v. McDermott*, C.A.Ind., 775 F.2d 859, 868. Principle that one who has unclean hands is not entitled to relief in equity. Doctrine means no more than that one who has defrauded his adversary in the subject matter of the action will not be heard to

assert right in equity. Under this doctrine, a court of equity may deny relief to a party whose conduct has been inequitable, unfair, and deceitful, but doctrine applies only when the reprehensible conduct complained of pertains to the controversy at issue. *Goben v. Barry*, 234 Kan. 721, 676 P.2d 90, 97.

Uncollected funds. A credit, such as an increase in the balance of a checking or other deposit account in a bank, that is given on the basis of a check or other right to payment that has not been paid by the drawee or other payor.

Unconditional. Not limited or affected by any condition; applied especially to the quality of an insured's estate in the property insured. See *Owner (Sole and unconditional owner)*.

Unconditional discharge. One whose term of confinement has expired is unconditionally discharged if there are attached no parole provisions to his release.

A release from liability without any terms or delimiting conditions attached.

Unconscionability. A doctrine under which courts may deny enforcement of unfair or oppressive contracts because of procedural abuses arising out of the contract formation, or because of substantive abuses relating to terms of the contract, such as terms which violate reasonable expectations of parties or which involve gross disparities in price; either abuse can be the basis for a finding of unconscionability. *Remco Enterprises, Inc. v. Houston*, 9 Kan.App.2d 296, 677 P.2d 567, 572.

Basic test of "unconscionability" of contract is whether under circumstances existing at time of making of contract and in light of general commercial background and commercial needs of particular trade or case, clauses involved are so one-sided as to oppress or unfairly surprise party. *Division of Triple T Service, Inc. v. Mobil Oil Corp.*, 60 Misc.2d 720, 304 N.Y.S.2d 191, 201. Unconscionability is generally recognized to include an absence of meaningful choice on the part of one of the parties, to a contract together with contract terms which are unreasonably favorable to the other party. *Gordon v. Crown Central Petroleum Corp.*, D.C.Ga., 423 F.Supp. 58, 61.

Typically the cases in which unconscionability is found involve gross overall one-sidedness or gross one-sidedness of a term disclaiming a warranty, limiting damages, or granting procedural advantages. In these cases one-sidedness is often coupled with the fact that the imbalance is buried in small print and often couched in language unintelligible to even a person of moderate education. Often the seller deals with a particularly susceptible clientele. *Kugler v. Romain*, 58 N.J. 522, 279 A.2d 640.

Uniform Commercial Code. (1) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconsciona-

ble result. (2) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose and effect to aid the court in making the determination. U.C.C. § 2-302.

Section 2-302 should be considered in conjunction with the obligation of good faith imposed at several places in the Code. See *e.g.* U.C.C. § 1-203.

Restatement of Contracts. If a contract or term thereof is unconscionable at the time the contract is made a court may refuse to enforce the contract, or may enforce the remainder of the contract without the unconscionable term, or may so limit the application of any unconscionable term as to avoid any unconscionable result. Restatement, Second, Contracts, § 208.

Unconscionable bargain or contract. A contract, or a clause in a contract, that is so grossly unfair to one of the parties because of stronger bargaining powers of the other party; usually held to be void as against public policy. An unconscionable bargain or contract is one which no man in his senses, not under delusion, would make, on the one hand, and which no fair and honest man would accept, on the other. *Hume v. U. S.*, 132 U.S. 406, 10 S.Ct. 134, 33 L.Ed. 393. See also Unconscionability.

Unconscious. Not possessed of mind. *Wilson v. Ray*, 64 Ga.App. 540, 13 S.E.2d 848, 852. A state of mind of persons of sound mind suffering from some voluntary or involuntary agency rendering them unaware of their acts. *Greenfield v. Com.*, 214 Va. 710, 204 S.E.2d 414, 417. Insensible to the reception of any stimuli and incapable of performing or experiencing any controlled functions. One who engages in what would otherwise be criminal conduct is not guilty of a crime if he does so in a state of unconsciousness. See *e.g.* Calif. Penal Code § 26(4). See also Automatism.

Unconstitutional. That which is contrary to or in conflict with a constitution. The opposite of "constitutional." *Norton v. Shelby County*, 118 U.S. 425, 6 S.Ct. 1121, 30 L.Ed. 178.

This word is used in two different senses. One, which may be called the English sense, is that the legislation conflicts with some recognized general principle. This is no more than to say that it is unwise, or is based upon a wrong or unsound principle, or conflicts with a generally accepted policy. The other, which may be called the American sense, is that the legislation conflicts with some provision of our written Constitution, which it is beyond the power of a legislative body to change. *U. S. v. American Brewing Co.*, D.C.Pa., 1 F.2d 1001, 1002.

See also Unlawful.

Uncontestable clause. Provision in a life insurance policy that prevents the carrier from contesting a claim if the policy has been in force for a certain number of years (commonly two years).

Uncontrollable. Incapable of being controlled or unmanageable.

Uncontrollable impulse. As an excuse for the commission of an act otherwise criminal, this term means an impulse towards its commission of such fixity and intensity that it cannot be resisted by the person subject to it, in the enfeebled condition of his will and moral sense resulting from derangement or mania. See *Insanity*.

Uncore prist /'ɛnkor prist/. L. Fr. Still ready. A species of plea or replication by which the party alleges that he is still ready to pay or perform all that is justly demanded of him. In conjunction with the phrase "*tout temps prist*," it signifies that he has always been and still is ready to do what is required, thus saving costs where the whole cause is admitted, or preventing delay where it is a replication, if the allegation is made out. 3 Bl.Comm. 303.

Uncuth /'ɛnkúwθ/. In Saxon law, unknown; a stranger. A person entertained in the house of another was, on the first night of his entertainment, so called. See *Twa night gest*.

Unde nihil habet /'ɛndiy náy(h)əl héybət/. Lat. In old English law, the name of the writ of dower, which lay for a widow, where *no dower* at all had been assigned her within the time limited by law. 3 Bl.Comm. 183.

Under. Sometimes used in its literal sense of below in position, beneath, but more frequently in its secondary meaning of "inferior" or "subordinate." Also according to; as, "under the testimony."

Under and subject. Words frequently used in conveyances of land which is subject to a mortgage, to show that the grantee takes subject to such mortgage.

Undercapitalization. A term used in reference to a business which does not have enough cash or "capital" to effectively carry on the business. See also Thin capitalization.

Under-chamberlains of the exchequer. In old English law, two officers who cleaved the tallies written by the clerk of the tallies, and read the same, that the clerk of the pell and comptrollers thereof might see their entries were true. They also made searches for records in the treasury, and had the custody of Domesday Book. The office is now abolished.

Under color of law. See Color of law.

Under control. This phrase does not necessarily mean the ability to stop instantaneously under any and all circumstances, an automobile being "under control" within the meaning of the law if it is moving at such a rate, and the mechanism and power under such control, that it can be brought to a stop with a reasonable degree of celerity. And motorist is only bound to use that degree of care, caution, and prudence that an ordinarily careful, cautious, and prudent man would have used at the time under same or similar circumstances in operation of said automobile. In general, as applied to street cars or railroad trains, the term denotes the control and preparation appropriate to probable emergencies. It is such control as will enable a train to be stopped promptly if need should arise. It implies the ability to stop

within the distance the track is seen to be clear. *See also* Control; Lookout.

Undercover agent. A person who works as an agent without disclosing his role as an agent. In police work, one who makes contact with suspected criminals without disclosing his role as an agent of the police. He gathers evidence of criminal activity which may later be used at trial of the criminals. Such agents are commonly used in narcotic investigations. *See also* Informer.

Undercurrent or underflow of surface stream. Those waters which slowly find their way through sand and gravel constituting bed of a stream, or lands under or immediately adjacent to stream, and are themselves part of surface stream. *Maricopa County Municipal Water Conservation Dist. No. 1 v. Southwest Cotton Co.*, 39 Ariz. 65, 4 P.2d 369, 380.

Underflow. *See* Undercurrent or underflow of surface stream.

Underground waters. *See* Water (*Subterranean waters*).

Under herd. A term conveying the idea that a considerable number of domestic animals are gathered together and held together by herders in constant attendance and in control of their movements from place to place on a public range or within certain areas.

Under insurance. Insurance coverage in an amount less than the value of the property insured or less than the risk exposure.

Underinsured motorist coverage. Such insurance provides for situations in which offending motorist does not carry enough coverage to pay damages incurred by the injured party. Over half of the states have statutes providing for some form of underinsured coverage. It is not designed to relieve an insured or his family from the failure to purchase adequate liability coverage. *Linder by Linder v. State Farm Mut. Auto. Ins.*, Minn., 364 N.W.2d 481, 483. *Compare* Uninsured motorist coverage.

Under-lease. Exists where lessee lets premises for less time than period of his unexpired term; a sub-lease. Also the transfer of a part only of the lands, though for the whole term.

Under protest. A payment made or an act done under compulsion while the payor or actor asserts that he waives no rights by making the payment or by doing the act. U.C.C. § 1-207. *See* Protest.

Under-sheriff. An officer who acts directly under the sheriff, and performs all the duties of the sheriff's office, a few only excepted where the personal presence of the high-sheriff is necessary. *See* *Delfelder v. Teton Land and Investment Co.*, 46 Wyo. 142, 24 P.2d 702.

A sheriff's deputy, who, being designated by the sheriff as an "under sheriff," becomes his chief deputy with authority by virtue of his appointment to execute all the ordinary duties of the office of sheriff. A distinction is sometimes made between this officer and a *deputy*, the latter being appointed for a special occasion or purpose, while the former discharges, in general, all the duties required by the sheriff's office. *See also* Deputy.

Undersigned, the. The person whose name is signed or the persons whose names are signed at the end of a document; the subscriber or subscribers.

Understand. To know; to apprehend the meaning; to appreciate; as, to understand the nature and effect of an act. *International-Great Northern R. Co. v. Pence*, Tex. Civ.App., 113 S.W.2d 206, 210. To have a full and clear knowledge of; to comprehend. Thus, to invalidate a deed on the ground that the grantor did not understand the nature of the act, the grantor must be incapable of comprehending that the effect of the act would divest him of the title to the land set forth in the deed. As used in connection with the execution of wills and other instruments, the term includes the realization of the practical effects and consequences of the proposed act. *See* Capacity.

Understanding. In the law of contracts, an agreement. An implied agreement resulting from the express terms of another agreement, whether written or oral. An informal agreement, or a concurrence as to its terms. A valid contract engagement of a somewhat informal character. This is a loose and ambiguous term, unless it is accompanied by some expression to show that it constituted a meeting of the minds of parties upon something respecting which they intended to be bound. *See* Agreement; Contract.

Understood. The phrase "it is understood," when employed as a word of contract in a written agreement, has the same general force as the words "it is agreed."

Undertake. To take on oneself; to engage in; to enter upon; to take in hand; set about; attempt; as, to undertake a task or a journey; and, specifically, to take upon oneself solemnly or expressly. To lay oneself under obligation or to enter into stipulation; to perform or to execute; to covenant; to contract. Hence, to guarantee; be surety for; promise; to accept or take over as a charge; to accept responsibility for the care of. To engage to look after or attend to, as to undertake a patient or guest. To endeavor to perform or try; to promise, engage, agree, or assume an obligation.

Undertaker. One who undertakes (to do something). In a mechanic's lien statute, the word has been held not to include a mere furnisher of material in connection with the erection of the building. One whose business is to prepare the dead for burial and to take the charge and management of funerals.

Undertaking. A promise, engagement, or stipulation. An engagement by one of the parties to a contract to the other, as distinguished from the mutual engagement of the parties to each other. It does not necessarily imply a consideration. In a somewhat special sense, a promise given in the course of legal proceedings by a party or his counsel, generally as a condition to obtaining some concession from the court or the opposite party. A promise or security in any form. *See* Stipulation.

Under-tenant. A tenant under one who is himself a tenant; one who holds by under-lease. *See also* Under-lease.

Under the influence of intoxicating liquor or drugs.

Phrase as used in statutes or ordinances prohibiting the operation of motor vehicle by a party under the influence of intoxicating liquor or drugs covers not only all well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition which is the result of indulging in any degree in intoxicating liquors or drugs, and which tends to deprive one of that clearness of intellect and control of himself which he would otherwise possess. Any condition where intoxicating liquor or drugs has so far affected the nervous system, brain or muscles of the driver as to impair, to an appreciable degree, his ability to operate a motor vehicle in the manner that an ordinary, prudent and cautious man, in full possession of his faculties, using reasonable care, would operate or drive under like conditions. *Luellen v. State*, 64 Okl.Cr. 382, 81 P.2d 323, 328. A condition that makes a person less able, either mentally or physically, or both, to exercise clear judgment, and with steady hands and nerves, to operate an automobile with safety to himself and to the public. *Village of Park Forest v. Angel*, 37 Ill.App.3d 746, 347 N.E.2d 278, 285. *See also* Intoxication.

Undertook. Agreed; promised; assumed. This is the technical word to be used in alleging the promise which forms the basis of an action of *assumpsit*.

Under-treasurer of England. He who transacted the business of the lord high treasurer.

Under-tutor. In Louisiana, in every tutorship there shall be an under-tutor, whom it shall be the duty of the judge to appoint at the time letters of tutorship are certified for the tutor. It is the duty of the under-tutor to act for the minor whenever the interest of the minor is in opposition to the interest of the tutor. *Civ.Code La. Art. 273*.

Underwrite. To insure life or property. *See* Insurance.

To agree to sell bonds, etc., to the public, or to furnish the necessary money for such securities, and to buy those which cannot be sold. An underwriting contract, aside from its use in insurance, is an agreement, made before corporate shares are brought before the public, that in the event of the public not taking all the shares of the number mentioned in the agreement, the underwriter will take the shares which the public do not take; "underwriting" being a purchase, together with a guaranty of a sale of the bonds. *In re Hackett, Hoff and Thiermann*, C.C.A.Wis., 70 F.2d 815, 819. *See also* Offering (*Public offerings*); Prospectus; Underwriter.

Underwriter. Any person, banker, or syndicate that guarantees to furnish a definite sum of money by a definite date to a business or government entity in return for an issue of bonds or stock. A professional firm (e.g., investment banker) that handles the marketing of a corporate or government security offering to the public; it either buys all of a new security offering for a specified price and then sells it to the public, either directly or through dealers, or takes a commission on the securities it actually sells.

Term refers to any person who has purchased from an issuer with a view to, or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributor's or seller's commission. *Investment Company Act, § 2, 15 U.S.C.A. § 80a-2(40)*.

See also Investment banker; Underwrite.

In insurance, the party assuming a risk in return for the payment of a premium (the insurer).

Underwriting agreement. Agreement between corporation and underwriter covering terms and conditions of new issue of securities to be offered to public. *See* Underwriter.

Underwriting spread. The difference between the selling price to the public of a new security offering and the proceeds received by the offering firm. This is also termed an *underwriting discount*.

Undisclosed agency. Exists where agent deals with a third person without notifying that person of the agency. An agency relationship in which the third party has no knowledge of the existence of the agency.

Undisclosed principal. A principal whose identity is unknown by a third person, and the third person has no knowledge that the agent is acting in an agency capacity at the time the contract is made. *See also* Principal.

Undisputed. Not questioned or challenged; uncontested.

Undisputed fact. An admitted fact, which the court has not deemed sufficiently material to add to the finding, or has inadvertently omitted from it; a fact not found by the court does not become an "undisputed fact," merely because one or more witnesses testify to it without direct contradiction.

Undistributed profits. *See* Undivided profits.

Undistributed profits tax. Tax imposed on the unreasonable accumulation of profits by a corporation which has sufficient surplus for expansion and other needs beyond the amount which it could but does not pay out in dividends. *I.R.C. § 531 et seq. See also* Accumulated earnings tax.

Undivided interest. *See* Tenancy (*Joint tenancy; Tenancy by the entirety; Tenancy in common*).

Undivided profits. Profits which have not been distributed as dividends or set aside as surplus. Current undistributed earnings. *Edwards v. Douglas*, 269 U.S. 204, 46 S.Ct. 85, 89, 70 L.Ed. 235.

Undivided right. An undivided right or title, or a title to an undivided portion of an estate, is that owned by one of two or more tenants in common or joint tenants before partition. Held by the same title by two or more

persons, whether their rights are equal as to value or quantity, or unequal.

Undres /*ándarz/*. In old English law, minors or persons under age not capable of bearing arms.

Undue. More than necessary; not proper; illegal. It denotes something wrong, according to the standard of morals which the law enforces in relations of men, and in fact illegal, and qualifies the purpose with which influence is exercised or result which it accomplishes. *Morris v. Morris*, 192 Miss. 518, 6 So.2d 311, 312.

Undue influence. Persuasion, pressure, or influence short of actual force, but stronger than mere advice, that so overpowers the dominated party's free will or judgment that he or she cannot act intelligently and voluntarily, but acts, instead, subject to the will or purposes of the dominating party.

Any improper or wrongful constraint, machination, or urgency of persuasion whereby the will of a person is overpowered and he is induced to do or forbear an act which he would not do or would do if left to act freely. Influence which deprives person influenced of free agency or destroys freedom of his will and renders it more the will of another than his own. Misuse of position of confidence or taking advantage of a person's weakness, infirmity, or distress to change improperly that person's actions or decisions.

Term refers to conduct by which a person, through his power over mind of testator, makes the latter's desires conform to his own, thereby overmastering the volition of the testator. *Parrisella v. Fotopulos*, 111 Ariz. 4, 522 P.2d 1081, 1083. For purpose of executing instruments, such exists when there was such dominion and control exercised over mind of person executing such instruments, under facts and circumstances then existing, as to overcome his free agency and free will and to substitute will of another so as to cause him to do what he would not otherwise have done but for such dominion and control. *Board of Regents of University of Tex. v. Yarbrough*, Tex.Civ.App., 470 S.W.2d 80, 86, 92.

See also Coercion; Duress.

Unearned income. *See* Income.

Unearned increment. Value due to no labor or expenditure on the part of an owner but to natural causes making an increased demand for it, such as increase of population or the general progress of society. *Miller v. Huntington & Ohio Bridge Co.*, 123 W.Va. 320, 15 S.E.2d 687, 699.

Unearned interest. Interest generally received by a financial institution in advance of the time in which it is earned.

Unearned surplus. As distinguished from "earned surplus" includes: (a) "paid-in surplus"—amounts contributed for or assigned to shares in excess of stated capital applicable thereto; (b) "revaluation surplus"—surplus arising from a revaluation of assets above cost, and (c) "donated surplus"—contributions other than for shares, whether from shareholders or others. *Conine v. Leikam*, Okl., 570 P.2d 1156, 1160. *See also* Surplus.

Unemployment. State of being not employed; lack of employment. *A. J. Meyer & Co. v. Unemployment Compensation Commission*, 348 Mo. 147, 152 S.W.2d 184, 189. *See also* Seasonal employment.

Structural unemployment. Unemployment that results when there is a shift in the demand for a particular product or service such that certain skills and jobs are no longer needed or desired.

Unemployment tax. *See* Tax.

Unencumbered. Without any impediments, *e.g.*, an unencumbered title to property.

Unenforceable contract. A contract having no legal effect or force in a court action. *See* Void contract. *Compare* Valid contract.

Unequal. Not uniform. *Los Angeles County v. Ransohoff*, 24 Cal.App.2d 238, 74 P.2d 828, 830. Ill-balanced; uneven; partial; discriminatory; prejudicial; unfair;—not synonymous with inappropriate, which means unsuitable, unfit, or improper. *See* Discrimination; Separate but equal doctrine.

Unequivocal. Clear; plain; capable of being understood in only one way, or as clearly demonstrated. Free from uncertainty, or without doubt; and, when used with reference to the burden of proof, it implies proof of the highest possible character and it imports proof of the nature of mathematical certainty. *Berry v. Maywood Mut. Water Co.* No. 1, 11 Cal.App.2d 479, 53 P.2d 1032. *See also* Unambiguous.

Unerring. Incapable of error or failure; certain; sure; infallible.

Unethical. Not ethical; hence, colloquially, not according to business or professional standards.

Unethical conduct. *See* Rules of Professional Conduct.

Unexceptionable. Without any fault; not subject to any objection or criticism.

Unexpected. Not expected, coming without warning, sudden. *See* Act of God; Accident.

Unexpired term. Remainder of a period prescribed by law or provided for in lease after a portion of such time has passed, and phrase is not synonymous with "vacancy." *State ex rel. Sanchez v. Dixon*, La.App., 4 So.2d 591, 596.

Unfair competition. A term which may be applied generally to all dishonest or fraudulent rivalry in trade and commerce, but is particularly applied to the practice of endeavoring to substitute one's own goods or products in the markets for those of another, having an established reputation and extensive sale, by means of imitating or counterfeiting the name, title, size, shape, or distinctive peculiarities of the article, or the shape, color, label, wrapper, or general appearance of the package, or other such simulations, the imitation being carried far enough to mislead the general public or deceive an unwary purchaser, and yet not amounting to an absolute counterfeit or to the infringement of a trademark or trade-name. *Singer Mfg. Co. v. June Mfg. Co.*,

163 U.S. 169, 16 S.Ct. 1002, 41 L.Ed. 118. Tort involving the misappropriation for commercial advantage of a benefit or property right belonging to another. *Marcraft Recreation Corp. v. Francis Devlin Co., Inc.*, D.C. N.Y., 506 F.Supp. 1081, 1087.

The simulation by one person of the name, materials, color scheme, symbols, patterns, or devices employed by another for purpose of deceiving the public, or substitution of goods, or wares of one person for those of another, thus falsely inducing purchase of goods and obtaining benefits belonging to competitor. *Mathews Conveyor Co. v. Palmer-Bee Co.*, C.C.A.Mich., 135 F.2d 73, 84. Passing off, or attempting to pass off upon the public the goods or business of one person as the goods or business of another. *Socony-Vacuum Oil Co. v. Oil City Refiners*, C.C.A.Ohio, 136 F.2d 470, 474. The selling of another's product as one's own. *A. L. A. Schechter Poultry Corporation v. United States*, N.Y., 295 U.S. 495, 55 S.Ct. 837, 844, 79 L.Ed. 1570. Also, deceitful advertising which injures a competitor, bribery of employees, secret rebates and concessions, and other devices of unfair trade. *In re Northern Pigment Co.*, Cust. & Pat.App., 71 F.2d 447, 453.

The equitable doctrine of "unfair competition" is not confined to cases of actual market competition between similar products of different parties, but extends to all cases in which one party fraudulently seeks to sell his goods as those of another. *Wisconsin Electric Co. v. Dumore Co.*, C.C.A.Ohio, 35 F.2d 555, 557.

Under statute providing for enjoining of unfair competition and defining the same as meaning and including "unlawful, unfair or fraudulent business practice" courts may enjoin on-going wrongful business conduct in whatever context such activity may occur; "unfair competition" within such statute is not limited to deceptive or fraudulent conduct. As used in statute prohibiting unfair competition and defining the same as meaning and including "unlawful, unfair or fraudulent business practice," "unfair competition" is not confined to practices involving competitive injury but extends to practices resulting in injury to consumers. *Barquis v. Merchants Collection Ass'n of Oakland, Inc.*, 7 Cal.3d 94, 101 Cal.Rptr. 745, 496 P.2d 817, 828, 829.

Test of "unfair competition" is, not whether distinction between two competing products can be recognized when placed alongside each other, but whether, when the two products are not viewed together, a purchaser of ordinary prudence would be induced by reason of the marked resemblance in general effect to mistake one for the other despite differences in matters of detail. *Ralston Purina Co. v. Checker Food Products Co.*, Mo.App., 80 S.W.2d 717, 719, 720.

See also Antitrust acts; Unfair methods of competition; Uniform Deceptive Trade Practices Act.

Unfair hearing. Where the defect, or the practice complained of, was such as might have led to a denial of justice, or where there was absent one of the elements deemed essential to due process. *Buhalino v. Irvine*, C.C.A.Kan., 103 F.2d 830, 832.

Unfair labor practice. Within National Labor Relations Act, it is an unfair labor practice for an employer: (1) To interfere with, restrain, or coerce employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection. (2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it. (3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. (4) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under the Act. (5) To refuse to bargain collectively with the representatives of his employees. National Labor Relations Act, §§ 7, 8; 29 U.S.C.A. §§ 102 et seq., 157, 158.

The following acts have been held to be unfair labor practices under National Labor Relations Act:

Failure to re-employ striking employees. *Western Cartridge Co. v. National Labor Relations Board*, C.C.A.7, 139 F.2d 855, 858. Refusal of employer to reinstate union members who were evicted from plant unless members would withdraw from union. Refusal of employer to bargain collectively in good faith. *National Labor Relations Board v. Somerset Shoe Co.*, C.C.A.1, 111 F.2d 681, 688, 689. Threats by employer to close if union gained a foothold in plant. *National Labor Relations Board v. J. G. Boswell Co.*, C.C.A.9, 136 F.2d 585, 590, 592, 596. Anti-union statements made by employer's supervisory employees during and after strike, together with statement to one of the strikers that he would never get a job in that town anymore. *N. L. R. B. v. Indiana Desk Co.*, C.C.A.7, 149 F.2d 987, 992, 996. Refusal of employer to permit posting of a notice that employer would not discriminate against employees who wished to join union. *National Labor Relations Board v. J. G. Boswell Co.*, C.C.A.9, 136 F.2d 585, 590, 592, 596. Discharge of an employee because of membership in or activity on behalf of a labor organization. *National Labor Relations Board v. Bank of America Trust & Savings Ass'n*, C.C.A.9, 130 F.2d 624, 628, 629. Employer's interference with and his dominating formation and administration of new labor organization. *National Labor Relations Board v. Swift & Co.*, C.C.A.8, 116 F.2d 143, 145, 146. Refusal of employer which had refused to bargain with union which had been certified as the exclusive bargaining agent. *National Labor Relations Board v. John Engelhorn & Sons*, C.C.A.3, 134 F.2d 553, 558. Assault by persons employed by manufacturer upon union organizers or sympathizers. *National Labor Relations Board v. Ford Motor Co.*, C.C.A.6, 114 F.2d 905, 911, 915. Discharge of employee because he would not become member of union in accordance with closed shop agreement. *Virginia Electric & Power Co. v. National Labor Relations Board*, C.C.A.4, 132 F.2d 390, 396.

Unfair methods of competition. This phrase within Federal Trade Commission Act has broader meaning

than common-law term "unfair competition," but its scope cannot be precisely defined, and what constitutes "unfair methods of competition" must be determined in particular instances, upon evidence, in light of particular competitive conditions and of what is found to be a specific and substantial public interest. Federal Trade Commission Act § 5, 15 U.S.C.A. § 45. *A. L. A. Schechter Poultry Corporation v. United States*, N. Y., 295 U.S. 495, 55 S.Ct. 837, 844, 79 L.Ed. 1570.

The term though not defined by the statute is clearly inapplicable to practices never heretofore regarded as opposed to good morals because characterized by deception, bad faith, fraud, or oppression, or as against public policy because of their dangerous tendency unduly to hinder competition or create monopoly. The act was not intended to fetter free and fair competition as commonly understood and practiced by honorable opponents in trade. In *re Amtorg Trading Corporation*, Cust. & Pat.App., 75 F.2d 826, 830. But a method was said to be an unfair method if it does not leave to each actual or potential competitor a fair opportunity for play of his contending force engendered by an honest desire for gain. *California Rice Industry v. Federal Trade Commission*, C.C.A.9, 102 F.2d 716, 721.

See also Antitrust acts; Unfair competition; Uniform Deceptive Trade Practices Act; Vertical restraints of trade.

Unfair prejudice. Within context of rule regarding admission of evidence means undue tendency to suggest decision on improper basis, commonly, though not necessarily, emotional one. Generally, danger of unfair prejudice in admission of evidence always exists where it is used for something other than its logical probative force. *Empire Gas Corp. v. American Bakeries Co.*, N.D.Ill., 646 F.Supp. 269, 276. Such is caused by evidence that is likely to arouse emotional response rather than rational decision among jurors. *State v. Rice*, 48 Wash.App. 7, 737 P.2d 726, 730.

Unfair trade practices. See Unfair competition; Unfair methods of competition.

Unfaithful. Characterized by bad faith; not synonymous with "illegal," which means unlawful or contrary to law, nor with "improper," which, as applied to conduct, implies such conduct as a man of ordinary and reasonable prudence would not, under the circumstances, have been guilty of.

Unfinished. Not completed; not brought to an end; imperfect; the last effort, as a final touch is given to a work. *Bell & Graddy v. O'Brien*, Tex.Civ.App., 113 S.W.2d 560, 562.

Unfit. Unsuitable; incompetent; not adapted or qualified for a particular use or service; having no fitness. As applied to relation of rational parents to their child, word "unfit" usually, though not necessarily, imports something of moral delinquency, but, unsuitability for any reason, apart from moral defects, may render a parent unfit for custody. In *Interest of Johnson*, 214 Kan. 780, 522 P.2d 330, 334.

Unforeseen. Not foreseen, not expected. *Pampel v. Board of Examiners*, 114 Mont. 380, 136 P.2d 991, 994.

Ungeld. In Saxon law, an outlaw; a person whose murder required no composition to be made, or *weregeld* to be paid, by his slayer.

Unharmful. Within provision of Federal Kidnapping Act that death sentence shall not be imposed if kidnapped person has been liberated unharmed, means uninjured. Federal Kidnapping Act § 1 et seq., as amended, 18 U.S.C.A. § 1201 et seq. See also *Robinson v. U. S.*, Ky., 324 U.S. 282, 65 S.Ct. 666, 668, 89 L.Ed. 944.

Unica taxatio /yúwnakə tækséysh(iy)ow/. The obsolete language of a special award of *venire*, where, of several defendants, one pleads, and one lets judgment go by default, whereby the jury, who are to try and assess damages on the issue, are also to assess damages against the defendant suffering judgment by default.

Unifactorial obligation /yúwnafáktərəl òbləgéyshən/. See Contract.

Unified. Made one. *Adams v. Salt River Valley Water Users' Ass'n*, 53 Ariz. 374, 89 P.2d 1060, 1071. See Consolidation; Joinder; Merger.

Unified bar. See Integrated bar.

Unified estate and gift tax. See Unified transfer tax.

Unified tax credit. A credit against the federal Unified Transfer Tax, replacing the former lifetime gift tax exemption and the estate tax exemption. I.R.C. §§ 2010-2505.

Unified transfer tax. A federal tax levied on the transfer of property through an estate at the time of death or on a taxable transfer by gift. The estate or the donor is responsible for payment of the tax. The unified credit may be applied against the unified transfer tax.

Uniform. Conforming to one rule, mode, pattern, or unvarying standard; not different at different times or places; applicable to all places or divisions of a country. Equable; applying alike to all within a class; sameness.

A statute is general and uniform in its operation when it operates equally upon all persons who are brought within the relations and circumstances provided for; when all persons under the same conditions and in the same circumstances are treated alike, and classification is reasonable and naturally inherent in the subject-matter. The words "general" and "uniform" as applied to laws have a meaning antithetical to special or discriminatory laws.

The burdens of taxation, to be uniform, must have the essential of equality, and must bear alike upon all the property within the limits of the unit wherein it is lawful to levy taxes for a purpose, whether that unit be the state, county, or a municipality. And requirement is met when tax is equal on all persons belonging to described class on which tax is imposed. With reference to locality, a tax is "uniform" when it operates with equal force and effect in every place where the subject of it is found, and with reference to classification, it is

uniform when it operates without distinction or discrimination upon all persons composing the described class. Uniformity in taxation implies equality in the burden of taxation, which cannot exist without uniformity in the mode of assessment, as well as in the rate of taxation. Further, the uniformity must be coextensive with the territory to which it applies. And it must be extended to all property subject to taxation, so that all property may be taxed alike and equally. *Edey v. Robertson*, 112 U.S. 580, 5 S.Ct. 247, 28 L.Ed. 798.

Uniform Child Custody Jurisdiction Act. See Custody of children.

Uniform Code of Military Justice. The body of law which governs military persons in their conduct as military personnel. 10 U.S.C.A. §§ 801-940. See Code of Military Justice.

Uniform Commercial Code. One of the Uniform Laws drafted by the National Conference of Commissioners on Uniform State Laws and the American Law Institute governing commercial transactions (including sales and leasing of goods, transfer of funds, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, investment securities, and secured transactions). The U.C.C. has been adopted in whole or substantially by all states.

Uniform Consumer Credit Code. (Also called the "U.3C.") A Uniform Law, adopted by some states: (a) to simplify, clarify, and modernize the law governing consumer credit and usury; (b) to provide rate ceilings to assure an adequate supply of credit to consumers; (c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost; (d) to protect consumers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors; (e) to permit and encourage the development of fair and economically sound consumer credit practices; (f) to conform the regulation of disclosure in consumer credit transactions to the Federal Truth-in-Lending Act; and (g) to make uniform the law, including administrative rules, among the various jurisdictions. See also Consumer Credit Protection Act; Truth-in-Lending Act.

Uniform Controlled Substances Act. A uniform and comprehensive law governing use, sale, and distribution of drugs and narcotics adopted by most states, including Puerto Rico and the Virgin Islands. See 21 U.S.C.A. § 801 *et seq.* for federal Act. See also Controlled Substance Acts.

Uniform Customs and Practice for Commercial Documentary Credits (UCP). A publication of the International Chamber of Commerce which codifies the widespread understanding of bankers and merchants about the mechanics and operations of letters of credit. The UCP is law in the sense that the typical commercial credit is issued subject to the UCP, and courts refer to the UCP to interpret and supplement primary sources of credit law, such as U.C.C. Article 5.

Uniform Deceptive Trade Practices Act. One version of a "baby" F.T.C. Act that provides private remedies for a variety of unfair and deceptive acts, including false advertising and disparagement. The remedies under this particular uniform statute, as enacted by certain states, are limited to injunctive relief.

Uniform Divorce Recognition Act. One of the Uniform Laws adopted by some states governing questions of full faith and credit and recognition of divorces of sister states.

Uniform Gifts to Minors Act. See Gifts to Minors Act; Transfers to Minors Act.

Uniformity. See Uniform.

Uniform Laws or Acts. Laws in various subject areas, approved by the Commissioners on Uniform State Laws, that are often adopted, in whole or substantially, by individual states; their purpose being to make the laws on various subjects uniform throughout the states. Examples are the Uniform Anatomical Gifts Act; Uniform Partnership Act; and the Uniform Commercial Code. See also Model act.

Uniform Principal and Income Act. One of the Uniform Laws adopted by some states governing allocation of principal and income in trusts and estates.

Uniform Simultaneous Death Act. See Simultaneous Death Act.

Uniform State Laws. See Model act; Uniform Laws or Acts.

Uniform Transfers to Minors Act. See Transfers to Minors Act.

Unify. To cause to be one; to make into a unit; to unite; to become one; to consolidate.

Unigeniture /yüwnäjénatyər/. The state of being the only begotten.

Unilateral. One-sided; *ex parte*; having relation to only one of two or more persons or things.

Unilateral contract. See Contract.

Unilateral mistake. A mistake or misunderstanding as to the terms or effect of a contract, made or entertained by one of the parties to it but not by the other.

Unilateral record. Records are unilateral when offered to show a particular fact, as a *prima facie* case, either for or against a stranger.

Unimproved land. A statutory term which includes lands, once improved, that have reverted to a state of nature, as well as lands that have never been improved.

Uninclosed place. A place not entirely inclosed, an "inclosed" place being a place inclosed on all sides by some sort of material.

Unincorporated association. Voluntary group of persons, without a charter, formed by mutual consent for purpose of promoting common enterprise or prosecuting common objective. *Local 4076, United Steelworkers of America v. United Steelworkers of America, AFL-CIO*,

D.C.Pa., 327 F.Supp. 1400, 1402. An organization composed of a body of persons united with a charter for the prosecution of a common enterprise. *Heifetz v. Rockaway Point Volunteer Fire Dept.*, Sup., 124 N.Y.S.2d 257, 260. *See also* Partnership.

Uninfected. Untainted or uncontaminated, not affected unfavorably, not impregnated or permeated with that which is bad or harmful. *Leonardi v. A. Habermann Provision Co.*, 143 Ohio St. 623, 56 N.E.2d 232, 237, 28 O.O. 511.

Uninsured motorist coverage. Protection afforded an insured by first party insurance against bodily injury inflicted by an uninsured motorist, after the liability of the uninsured motorist for the injury has been established. *Sturdy v. Allied Mut. Ins. Co.*, 203 Kan. 783, 457 P.2d 34, 36. Purpose is to guarantee that the injured insured will be in the same position in the event of injury attributable to negligence of an uninsured motorist as the insured would be if he were injured through the negligence of a motorist carrying liability insurance. *Jarstad v. National Farmers Union Property & Cas. Co.*, Nev., 552 P.2d 49, 50.

Uninsured motorist coverage in automobile liability policies is designed to close the gaps inherent in motor vehicle financial responsibility and compulsory insurance legislation, and this insurance coverage is intended, within fixed limits, to provide financial recompense to innocent persons who receive injuries and dependents of those who are killed, through the wrongful conduct of motorists who, because they are uninsured and not financially responsible, cannot be made to respond in damages. *Wright v. Fidelity & Cas. Co. of New York*, 270 N.C. 577, 155 S.E.2d 100, 106.

See also Unsatisfied judgment funds. *Compare* Underinsured motorist coverage.

Unintelligible. That which cannot be understood.

Unio /yúwn(i)yow/. Lat. In canon law, a consolidation of two churches into one.

Union. An organization of workers, formed for the purpose of negotiating with employers on matters of wages, seniority, working conditions, fringe benefits, and the like.

A league; a federation; an unincorporated association of persons for a common purpose; as, a trade or labor union. A joinder of separate entities. *State ex rel. Dawson v. Dinwiddie*, 186 Okl. 63, 95 P.2d 867, 869.

A popular term in America for the United States; also, in Great Britain, for the consolidated governments of England and Scotland, or for the political tie between Great Britain and Ireland.

See also Agency shop; Bargaining unit; Craft union; Credit union; Decertification; Labor organization; Labor union; Open shop; Preferential shop; Right-to-work laws.

Closed union. Union with highly restrictive membership requirements such as high initiation fees, and long apprenticeship periods. *See also* Closed shop; *compare* Open union, below.

Company union. Union formed or sponsored by the employer. For all practical purposes, such union is now illegal because employers are prohibited from interfering with union representation by the National Labor Relations Act.

Craft union. Union composed of members of the same trade or craft, as carpenters, plumbers, etc. regardless of the company for which they work.

Horizontal union. A craft union which cuts across employer or industry lines.

Independent union. Union formed by employees of a particular employer without affiliation with an international union.

Industrial union. Union composed of workers in a particular industry regardless of their particular trade or craft, as for example, the United Automobile Workers union.

International union. A parent union with affiliates in other countries such as Canada and Mexico.

Local union. A union of workers in one plant or location but affiliated with a parent or larger union. The local is the bargaining unit of the union.

National union. A parent union with locals in various parts of the United States, though not outside the country.

Open union. A union whose admission requirements are relatively easy to meet. *See also* Open shop; *compare* Closed union, above.

Trade union. Generically, a labor union. Restrictively, a craft union.

Union shop. Exists where all workers, once employed, must become union members within a specified period of time as a condition of their continued employment. *See also* Closed shop; Open shop; Right to work laws.

Vertical union. An industrial union organized along lines of industry and not craft.

Union certification. The process by which an official, governmental body such as the National Labor Relations Board declares that a particular union has qualified as the bargaining representative of the employees of a company or industry by reason of a majority vote of the workers.

Union contract. A written agreement between the union and employer covering such matters as wages, seniority rights and working conditions.

Union-jack. The national flag of Great Britain and Ireland, which combines the banner of St. Patrick with the crosses of St. George and St. Andrew. The word derives from the jack of a ship, a flag flown at the bow of a ship since the seventeenth century, other than the ensign which designates the ship's status as merchant or military. The jack designates the ship's nationality.

Union mortgage clause. A clause, as in a fire policy (together with the rider making the loss, if any, payable to the mortgagee), which provides that if the policy is

made payable to a mortgagee of the insured real estate, no act or default of any person other than such mortgagee, or his agents or those claiming under him, shall affect his right to recover in case of loss on such real estate. Such clause creates independent contract between insurer and mortgagee and is distinguished from "open mortgage clause" in that latter clause simply provides that policy is payable to mortgagee as his interest may appear. *Prudential Ins. Co. of America v. German Mut. Fire Ins. Ass'n of Lohman*, 231 Mo.App. 699, 105 S.W.2d 1001. And mortgagee under such latter clause is merely an appointee to receive fund recoverable in case of loss to extent of his interest. *Capital Fire Ins. Co. of Cal. v. Langhorne*, C.C.A.Minn., 146 F.2d 237, 241.

Union rate. The wage scale set by a union as a minimum wage to be paid and generally expressed as an hourly rate or piece-work rate.

Union security clause. Provision in union contract which establishes status of union in a plant. It provides for the relation of the union to the workers and their positions. Any contract clause requiring some or all employees represented by a union to become or remain members of the union as a condition of employment.

Unissued stock. Stock of a corporation which has been authorized but is not outstanding (*i.e.* not issued).

Unit. A single thing of any kind. A term sometimes used in the sense of a share, as in an oil syndicate, or as equivalent to an investment security. With respect to labor unit, *see* Bargaining unit.

Unitary business. "Unitary business operation," to which unitary apportionment method of reporting business income is applied, is one in which there is high degree of interrelationship and interdependence between, typically, one corporation, which generally is a parent corporation, and its corporate subsidiaries or otherwise associated corporations, which are usually engaged in multistate, and in some instances in international, business operations. *PMD Inv. Co. v. State, Dept. of Revenue*, 216 Neb. 553, 345 N.W.2d 815, 817. For purpose of determining taxable corporate income, recognized test for a "unitary business" is whether operation of portion of business within the state is dependent upon or contributory to operation of the business outside the state. *Joslin Dry Goods Co. v. Dolan*, 200 Colo. 291, 615 P.2d 16, 17. *See also* Unitary theory; Tax (*Unitary tax*).

Unitary tax. *See* Unitary business; Tax (*Unitary tax*).

Unitary theory. Under the unitary theory, the sales, property, and payroll of related corporations are combined for nexus and apportionment purposes, and the worldwide income of the unitary entity is apportioned to the state. Subsidiaries and other affiliated corporations that are found to be part of the corporation's unitary business (because they are subject to overlapping ownership, operation, or management) are included in the apportionment procedure. *See also* Tax (*Unitary tax*); Unitary business.

Unitas personarum. Lat. The unity of persons, as that between husband and wife, or ancestor and heir.

Unite. To join in an act; to concur; to act in concert.

United in interest. A statutory term applicable to codefendants only when they are similarly interested in and will be similarly affected by the determination of the issues involved in the action; *e.g.*, joint obligors upon a guaranty.

United Kingdom of Great Britain and Ireland. The official title of the kingdom composed of England, Scotland, Ireland, and Wales, and including the colonies and possessions beyond the seas, under the act of January 1, 1801, effecting the union between Ireland and Great Britain.

United Nations. An organization started by the allied powers in World War II for the stated purposes of preventing war, providing justice and promoting welfare and human rights of peoples. Its membership is made up of nearly all nations of the world. New members may be admitted by a two-thirds vote of the General Assembly. It consists of a Security Council and a General Assembly and subordinate agencies.

United States. This term has several meanings. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in family of nations, it may designate territory over which sovereignty of United States extends, or it may be collective name of the states which are united by and under the Constitution. *Hooven & Allison Co. v. Evatt*, U.S. Ohio, 324 U.S. 652, 65 S.Ct. 870, 880, 89 L.Ed. 1252.

United States Attorney. A United States Attorney is appointed by the President for each judicial district. The general duties of U.S. attorneys are to: prosecute for all offenses against the United States; prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned; appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to these officers, and by them paid into the Treasury; institute and prosecute proceedings for the collection of fines, penalties, and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings. 28 U.S.C.A. § 547.

United States Code. Prior to 1926, the positive law for federal legislation was contained in the one volume of the Revised Statutes of 1875 and then in each subsequent volume of the Statutes at Large. In 1925, Congress authorized the preparation of the United States Code. This was prepared by a Revisor of Statutes appointed by Congress, who extracted all sections of the Revised Statutes of 1875 that had not been repealed and then all of the public and general laws from the Statutes at Large since 1873 that were still in force. These were then rearranged into fifty titles and published as the United States Code, 1926 ed., in four volumes. Each

year thereafter a cumulative supplement containing the laws passed since 1926 was published. In 1932 a new edition was issued which incorporated the cumulated supplements to the 1926 edition, and this became the United States Code, 1932 ed. Every six years a new edition of the U.S. Code is published with cumulative supplement volumes being issued during the intervening years.

United States Code Annotated. This multi-volume publication includes the complete text of the United States Code, together with case notes of state and federal decisions which construe and apply specific Code sections, cross references to related sections, historical notes, and library references. U.S.C.A. is further supplemented with the United States Code Congressional and Administrative News and periodic pamphlet supplements containing laws as passed by Congress during the current session.

United States Commissioners. See Magistrate.

United States Courts. Except in the case of impeachments, the judicial power of the United States is vested by the Constitution in a Supreme Court and such other inferior courts as may be from time to time established by congress. All the judges are appointed by the President, with the advice and consent of the senate, to hold office during good behavior, and their compensation cannot be diminished during their term of office. Art. III, U.S.Const. Such "inferior" courts include the Courts of Appeals, District Courts, Claims Court, Bankruptcy Courts, and Tax Court. 28 U.S.C.A. § 1 *et seq.* See also specific courts.

United States currency. Commonly understood to include every form of currency authorized by the United States government, whether issued directly by it or under its authority. See Legal tender.

United States Government Securities. See Government securities.

United States Magistrates. See Magistrate.

United States notes. See Treasury bill; Treasury note.

United States officer. Usually and strictly, in United States statutes, a person appointed in the manner declared under Art. II, § 2, U.S.Const., providing for the appointment of officers, either by the President and the Senate, the President alone, the courts of law, or the heads of departments. *Steele v. U. S.*, 267 U.S. 505, 45 S.Ct. 417, 418, 69 L.Ed. 761.

United States Reports. The official printed record of cases heard and decided by the U.S. Supreme Court which usually includes a syllabus of each case, the opinion of the Court, concurring and dissenting opinions, if any, the disposition made of each case, and orders of the Court. Originally a series of Reports was issued during the incumbency of each successive court reporter and such were cited as Dallas (1790-1800); Cranch (1801-1815); Wheaton (1816-1827); Peters (1828-1843); Howard (1843-1860); Black (1861-1862); and Wallace (1863-1874). By 1874, when the number of volumes

totalled 90, the practice began of eliminating the reporter's name and citing them as United States Reports.

United States Supreme Court. See Supreme Court.

United States trustee. See Bankruptcy proceedings (*Bankruptcy trustee*).

Unit investment trust. An investment company organized under a trust indenture, contract of custodianship or agency or similar instrument. 15 U.S.C.A. § 80a-4(2). The most common form of organization is the trust indenture. The holder of shares in this investment vehicle has an undivided interest in a fixed pool of securities held by the trustee or custodian.

Unit of production. The "unit of production" method of determining the taxable net income or profit in the oil or gas business is accomplished by a system of accounting by which is ascertained, as nearly as science will permit, the total amount of recoverable oil in the property, and to each barrel of this oil is assigned its part of the capital investment, and from the sale price of each barrel produced and sold there is deducted the expenses of producing it, and its proportion of the capital investment, leaving the balance as profit, and thus, when the property is exhausted, the operator has received back his capital and expenses, and accounted for his net income or loss.

Unit ownership acts. State laws governing condominium ownership. See Planned unit development.

Unit pricing. System under which contract items are priced per unit and not on the basis of a flat contract price.

Unit rule. A method of valuing securities by multiplying the total number of shares held by the sale price of one share sold on a licensed stock exchange, ignoring all other facts regarding value. *Citizens Fidelity Bank & Trust Co. v. Reeves, Ky.*, 259 S.W.2d 432, 434.

Unitrust. A trust from which a fixed percentage of the net fair market value of the trust's assets, valued annually, is paid each year to the beneficiary. See also Trust.

Unity. Under common law, "four unities" had to be present to create a joint tenancy: *interest*—the tenants must have one and the same interest; *title*—the interests must accrue by one and the same instrument or conveyance; *time*—the interests must commence at one and the same time; and *possession*—the property must be held by one and the same undivided possession. If any one of these unities were lacking, the estate was not one in joint tenancy. *Robertson v. Ludwig*, 12 Kan. App.2d 571, 752 P.2d 690, 695. 2 Bl.Comm. 180. See also these specific unities, *infra*.

Unity of interest. As required in case of joint tenancy, means that interests must accrue by one and same conveyance. *Hernandez v. Becker, C.C.A.N.M.*, 54 F.2d 542, 547. It also signifies that the interests must be equal; that is, no one of joint tenants can have a greater interest in the property than each of the others, while, in the case of tenants in common, one of them may have a larger share than any of the others. However, this

unity of interest requisite refers to equality among the cotenants only as to their interests in the estate; it does not relate to quality in contribution of purchase money. *Carozza v. Murray*, 63 Md.App. 496, 492 A.2d 1349, 1352. See Unity.

Unity of possession. Joint possession of two rights by several titles. Exists for example where a person takes a lease of land from another at a certain rent, and afterwards purchases the fee-simple of such land. By this he acquires unity of possession, by which the lease is extinguished. It is also one of the essential properties of a joint estate, requiring that the joint tenants must hold the same undivided possession of the whole and enjoy same rights until death of one. *Hernandez v. Becker*, C.C.A.N.M., 54 F.2d 542, 547. See Unity.

Unity of seisin. Exists where a person seised of land which is subject to an easement, *profit à prendre*, or similar right, also becomes seised of the land to which the easement or other right is annexed.

Unity of time. One of the four unities recognized at common law to create a joint tenancy. The interests of the parties commence at one and the same time. 2 Bl.Comm. 181. *Robertson v. Ludwig*, 12 Kan.App.2d 571, 752 P.2d 690, 696. See also Unity.

Unity of title. As applied to joint tenants, signifies that they hold their property by one and the same title, while tenants in common may take property by several titles. See Unity.

The majority rule regarding water rights that all land within the watershed that forms a part of a contiguous whole belonging to one person and bordering on the water is riparian land regardless of when ownership of the part was acquired.

Uniuscujusque contractus initium spectandum est, et causa /yənäyæsk(y)əjəskwiy kəntræktəs ənish(iy)əm spektændəm èst, ét kózə/. The commencement and cause of every contract are to be regarded.

Unius omnino testis responsio non audiatur /yuwnäyəs omnáynow téstəs rəspónsh(iy)ow nón odiyéytər/. The answer of one witness shall not be heard at all; the testimony of a single witness shall not be admitted under any circumstances. A maxim of the civil and canon law.

Universal. Having relation to the whole or an entirety; pertaining to all without exception; a term more extensive than "general," which latter may admit of exceptions.

Universal agent. One who is appointed to do all the acts which the principal can personally do, and which he may lawfully delegate the power to another to do. See also Agent.

Universalia sunt notiora singularibus /yüwnävərséyl(i)yə sànt nówshiyórə sɪngylérəbəs/. Things universal are better known than things particular.

Universal legacy. See Legacy.

Universal partnership. See Partnership.

Universal succession. In the civil law, succession to the entire estate of another, living or dead, though generally the latter, importing succession to the entire property of the predecessor as a juridical entirety, that is, to all his active as well as passive legal relations.

Universitas /yüwnävərsətæəs/. Lat. In the civil law, a corporation aggregate. Literally, a whole formed out of many individuals. 1 Bl.Comm. 469.

Universitas facti /yüwnävərsətæəs fáktay/. In the civil law, a plurality of corporeal things of the same kind, which are regarded as a whole; e.g., a herd of cattle, a stock of goods.

Universitas juris /yüwnävərsətæəs júrəs/. In the civil law, a quantity of things of all sorts, corporeal as well as incorporeal, which, taken together, are regarded as a whole; e.g., an inheritance, an estate.

Universitas rerum /yüwnävərsətæəs rírəm/. In the civil law, literally, a whole of things. Several single things, which, though not mechanically connected with one another, are, when taken together, regarded as a whole in any legal respect.

Universitas vel corporatio non dicitur aliquid facere nisi id sit collegialiter deliberatum, etiamsi major pars id faciat /yüwnävərsətæəs vèl kòrpəréysh(iy)ow nón disətər ələkwid fəəsəriy náysay id sít kəlyjjiyéylətar dəlibərəytəm, èshiyæmsay méyjtər párz id féysh(iy)ət/. A university or corporation is not said to do anything unless it be deliberated upon as a body, although the majority should do it.

University. An institution of higher learning, consisting of an assemblage of colleges united under one corporate organization and government, affording instruction in the arts and sciences and the learned professions, and conferring degrees.

Universus /yüwnävərsəs/. Lat. The whole; all together.

Unjust. Contrary to right and justice, or to the enjoyment of his rights by another, or to the standards of conduct furnished by the laws.

Unjust enrichment doctrine. General principle that one person should not be permitted unjustly to enrich himself at expense of another, but should be required to make restitution of or for property or benefits received, retained or appropriated, where it is just and equitable that such restitution be made, and where such action involves no violation or frustration of law or opposition to public policy, either directly or indirectly. *Tulalip Shores, Inc. v. Mortland*, 9 Wash.App. 271, 511 P.2d 1402, 1404. Unjust enrichment of a person occurs when he has and retains money or benefits which in justice and equity belong to another. *L & A Drywall, Inc. v. Whitmore Const. Co., Inc.*, Utah, 608 P.2d 626, 630.

Three elements must be established in order to sustain a claim based on unjust enrichment: A benefit conferred upon the defendant by the plaintiff; an appreciation or knowledge by the defendant of the benefit; and the acceptance or retention by the defendant of the

benefit under such circumstances as to make it inequitable for the defendant to retain the benefit without the payment of its value. *Everhart v. Miles*, 47 Md.App. 131, 136, 422 A.2d 28. *See also* Quantum meruit.

Unknown Injury rule. *See* Injury.

Unknown persons. Persons whose identities cannot be ascertained.

Unkouth /ənkúwθ/. Unknown. The law French form of the Saxon "uncouth."

Unlage. Sax. An unjust law.

Unlawful. That which is contrary to, prohibited, or unauthorized by law. That which is not lawful. The acting contrary to, or in defiance of the law; disobeying or disregarding the law. Term is equivalent to "without excuse or justification." *State v. Noble*, 90 N.M. 360, 563 P.2d 1153, 1157. While necessarily not implying the element of criminality, it is broad enough to include it. *See* Crime; Criminal.

Term as applied to agreements and the like, denotes they are ineffectual in law, for they involve acts which, though not positively forbidden, are disapproved by law and are therefore not recognized as ground of legal rights because they are against public policy. *Conine v. Leikam*, Okl., 570 P.2d 1156, 1159.

Unlawful act. Act contrary to law, and presupposes that there must be an existing law. A violation of some prohibitory law and includes all willful, actionable violations of civil rights, and is not confined to criminal acts. *State v. Hailey*, 350 Mo. 300, 165 S.W.2d 422, 427. *See also* Unconstitutional.

Unlawful assembly. At common law, the meeting together of three or more persons, to the disturbance of the public peace, and with the intention of co-operating in the forcible and violent execution of some unlawful private enterprise. If they take steps towards the performance of their purpose, it becomes a *rout*; and, if they put their design into actual execution, it is a *riot*. 4 Bl.Comm. 146. An unlawful assembly is a meeting of three or more persons with a common plan in mind which, if carried out, will result in a riot. In other words, it is such a meeting with intent to (a) commit a crime by open force, or (b) execute a common design lawful or unlawful, in an unauthorized manner likely to cause courageous persons to apprehend a breach of the peace.

Unlawful assembly is the meeting or coming together of not less than five (5) persons for the purpose of engaging in conduct constituting either disorderly conduct, or a riot, or when in a lawful assembly of not less than five (5) persons, agreeing to engage in such conduct. *Kansas Criminal Code*, 21-4102.

See also Assembly, right of; Riot.

Unlawful belligerents. Enemies passing the boundaries of the United States for purpose of destroying war industries and supplies without a uniform or other emblem signifying their belligerent status or discarding

that means of identification after entry. *Ex parte Quinn*, App.D.C., 317 U.S. 1, 63 S.Ct. 2, 15, 87 L.Ed. 3.

Unlawful detainer. The unjustifiable retention of the possession of real property by one whose original entry was lawful and of right, but whose right to the possession has terminated and who refuses to quit, as in the case of a tenant holding over after the termination of the lease and in spite of a demand for possession by the landlord. *Brandley v. Lewis*, 97 Utah 217, 92 P.2d 338, 339. Actions of "unlawful detainer" concern only right of possession of realty, and differ from ejectment in that no ultimate question of title or estate can be determined. *McCracken v. Wright*, 159 Kan. 615, 157 P.2d 814, 817. *See also* Detainer; Ejectment; Eviction; Forcible detainer; Forcible entry and detainer; Process (*Summary process*).

Unlawful detainer proceeding. A statutory procedure by which a landlord can legally evict a tenant in default on his or her rent. *See* Unlawful detainer.

Unlawful entry. An entry upon lands effected peaceably and without force, but which is without color of title and is accomplished by means of fraud or some other willful wrong.

Unlawfully. Illegally; wrongfully. *See* Criminal; Unlawful; Unlawful act.

This word is frequently used in indictments in the description of the offence; it was formerly necessary when the crime did not exist at common law, and when a statute, in describing an offence which it created, used the word; but was unnecessary whenever the crime existed at common law and was manifestly illegal.

Unlawful picketing. Picketing which is not honest or truthful. *Magill Bros. v. Building Service Employees' International Union*, 20 Cal.2d 506, 127 P.2d 542, 543. Picketing which involves false statements or misrepresentations of facts. *Wiest v. Dirks*, 215 Ind. 568, 20 N.E.2d 969, 971. Exists when force or violence is used to persuade or prevent workers from continuing their employment. *Ex parte Bell*, 37 Cal.App.2d 582, 100 P.2d 339, 343. Examples include secondary picketing in violation of 29 U.S.C.A. § 158(b)(4)(ii)(B); *N.L.R.B. v. Omaha Bldg. and Const. Traders Council*, 856 F.2d 47 (8th Cir.); recognitional picketing in violation of 29 U.S.C.A. § 158(b)(7)(A) and (C); *N.L.R.B. v. Local 3, Intern. Broth. of Elec. Wkrs.*, C.A.2, 861 F.2d 44. *See also* Secondary boycott; Picketing.

Unless. If it be not that; if it be not the case that; if not; supposing not; if it be not; except. A reservation or option to change one's mind provided a certain event happens, a conditional promise. A subordinate conjunction in common usage, connecting a dependent or subordinate clause to the main clause of a sentence. *Kansas City Structural Steel Co. v. L. G. Barcus & Sons, Inc.*, 217 Kan. 88, 535 P.2d 419, 423.

Unless lease. An oil and gas lease which provides that lease will be rendered null and void and lessee will automatically be relieved from liability, upon failure to commence operations or to pay rent. It must be ex-

pressly stipulated in the lease that lease shall become null and void at a certain time "unless" the lessee begins operations or pays the rental stipulated. Where the word "unless" precedes the description of the act to be performed under an oil lease, no obligation to perform that act is imposed by the lease. *McCrabb v. Moulton*, C.C.A.Mo., 124 F.2d 689, 691.

Unlimited. Without confines, unrestricted, boundless.

Unliquidated. Not ascertained in amount; not determined; remaining unassessed or unsettled, as unliquidated damages. *Davies v. Turner*, 61 Ga.App. 531, 6 S.E.2d 356, 358.

Unliquidated claim or demand. A claim which has not been finally determined either as to liability or amount of damages. A disputed claim. Under the law of accord and satisfaction, a claim or debt will be regarded as unliquidated if it is in dispute as to the proper amount. *Paulsen Estate v. Naches-Selah Irr. Dist.*, 190 Wash. 205, 67 P.2d 856, 858.

For purposes of rule that prejudgment interest is allowed if a claim is liquidated but not if a claim is unliquidated, claim is "unliquidated" when the amount of the damages cannot be computed except on conflicting evidence, inferences and interpretations. *Town of Longboat Key v. Carl E. Widell & Son*, Fla.App., 362 So.2d 719, 723.

See also Unliquidated.

Unliquidated damages. Damages which have not been determined or calculated. Those which are not yet reduced to a certainty in respect to amount, nothing more being established than the plaintiff's right to recover, or such as cannot be fixed by a mere mathematical calculation from ascertainable data in the case. *Costello v. Hartford Institute of Accounting, Inc.*, 193 Conn. 160, 475 A.2d 310, 314. *See also* Damages.

Unliquidated debt. An obligation which has not been reduced to a specific money amount; also, there may be a bona fide dispute between the parties as to this undetermined amount. *Compare* Liquidated debt.

Unlisted security. Security that is not listed on an organized exchange (*e.g.*, New York Stock Exchange) and, as such, is traded on over-the-counter markets.

Unlivery. A term used in maritime law to designate the unloading of cargo of a vessel at the place where it is properly to be delivered.

Unloading. Act of discharging a cargo; taking a load from; disburdening or removing from. *American Oil & Supply Co. v. United States Casualty Co.*, 19 N.J.Misc. 7, 18 A.2d 257, 259.

An unloading clause in an automobile liability policy covers the entire process involved in the movement of articles by and from a motor vehicle to the place where they are turned over to the one to whom the insured is to make delivery, if the clause is construed in accordance with what may be called the "complete operation" rule. *Pacific Auto. Ins. Co. v. Commercial Cas. Ins. Co. of N. Y.*, 108 Utah 500, 161 P.2d 423. There are,

however, two other rules or doctrines used by various courts in applying the unloading clause of such a policy. One is known as the "coming to rest" rule, and the other is the "continuous passage" rule. But the complete operation rule is said to be the modern doctrine, supported by the trend of the later cases. *London Guarantee & Acc. Co. v. C. B. White & Bros.*, 188 Va. 195, 49 S.E.2d 254.

In determining whether activity constitutes "unloading" within meaning of insurance policy which provides coverage for liability arising out of loading and unloading truck, "complete operations" rule is followed under which "unloading" embraces all operations required in any specific situation to effect a complete delivery of the article; the number of temporary or intermediate stops or resting places is immaterial. *Manhattan Fire & Marine Ins. Co. v. Travelers Ins. Co.*, 66 Cal.App.3d 794, 136 Cal.Rptr. 400, 402. "Loading or unloading" within homeowner's policy excluding personal liability coverage with respect to "loading or unloading" of automobiles has primary reference to objects transported from one place for delivery to some at least temporary final destination. *Morari v. Atlantic Mut. Fire Ins. Co.*, 10 Ariz.App. 142, 457 P.2d 304, 306. "Unloading" as used in a motor vehicle liability policy has been completed when, following removal of the material from the vehicle, the deliverer has finished his handling of it and has placed the material in the hands of the receiver at the designated reception point, even though it is necessary for the consignee, or someone in his behalf, to transport it thereafter to another point. *General Acc. Fire & Life Assur. Corp. v. Liberty Mut. Ins. Co.*, Fla. App., 260 So.2d 249, 255.

Unlooked for mishap or untoward event. One occurring unexpectedly and not naturally or in ordinary course of events.

Unmarketable title. Exists when for vendee to accept title proffered such would lay him open to fair probability of vexatious litigation with possibility of serious loss. It being sufficient to render it so if ordinarily prudent man with knowledge of the facts and aware of legal questions involved would not accept it in the ordinary course of business but title need not be bad in fact. *Stover v. Whiting*, 157 Mich.App. 462, 403 N.W.2d 575, 578. Exists where some defect of substantial character exists and facts are known which fairly raise reasonable doubt as to title. *Schul v. Clapp*, 154 Kan. 372, 118 P.2d 570, 574. Title is "unmarketable" where it is of such a character as to expose the purchaser to the hazards of litigation and where there are outstanding possible interests in third persons. *Boecher v. Borth*, 377 N.Y.S.2d 781, 784. And mere quibbles and picaresques which the ingenuity of counsel can raise against a title do not alone render it an "unmarketable title". *Barrett v. McMannis*, 153 Kan. 420, 110 P.2d 774, 778. *Compare* Marketable title.

Unmarried. Its primary meaning is never having been married; but it is a word of flexible meaning and it may be construed as not having a husband or wife at the time in question; *e.g.* widow or widower or divorcee.

Unnatural offense. The infamous crime against nature; *i.e.*, sodomy or buggery.

Unnatural will. An expression applied to disposition of estate or large portion thereof to strangers, to exclusion of natural objects of testator's bounty without apparent reason.

Unnecessary. Not required by the circumstances of the case.

Unnecessary hardship. As considered, sufficient to establish basis for granting zoning variance, is shown by establishing that: physical characteristics of property are such that it could not be used for any permitted purpose; property could be so used only at prohibitive expense; or that characteristics of area are such that property has no value or any distress value for any permitted purpose. *Eighteenth & Rittenhouse Associates v. Zoning Bd. of Adjustment*, 26 Pa.Cmwlth. 554, 364 A.2d 973, 975. Within zoning ordinance so as to authorize granting of variance on such ground if land cannot yield a reasonable return if used only for a purpose allowed in zone, such exists where the plight of owner is due to unique circumstances not to general conditions in the neighborhood and use to be authorized will not alter essential character of the locality. *Calcagno v. Town Board of Town of Webster*, 265 App.Div. 687, 41 N.Y.S.2d 140, 142. It has also been said that test whether terms of zoning ordinance impose an "unnecessary hardship" depends on whether use restriction is so unreasonable as to constitute an arbitrary interference with basic right of private property. *Scaduto v. Town of Bloomfield*, 127 N.J.L. 1, 20 A.2d 649, 650. *See also Variance (Zoning)*.

Un ne doit prise avantage de son tort demesne /ən nə dwá priyz advontázh də sòn tór dəméyn/. One ought not to take advantage of his own wrong.

Uno absurdo dato, infinita sequuntur /yúwnow əbsərdow déytow infənáytə səkwántər/. One absurdity being allowed, an infinity follows.

Uno actu /yúwnow ákt(y)uw/. Lat. In a single act; by one and the same act.

Unoccupied. Within fire policy exempting insurer from liability in case dwelling is "unoccupied," means when it is not used as a residence, when it is no longer used for the accustomed and ordinary purposes of a dwelling or place of abode, or when it is not the place of usual return and habitual stoppage. Hence a mere temporary absence of occupants of dwelling house from such premises, with intention to return thereto does not render dwelling "unoccupied". *Foley v. Sonoma County Farmers' Mut. Fire Ins. Co.*, 18 Cal.2d 232, 115 P.2d 1, 2, 3. *See Occupation*.

Uno flatu /yúwnow fléyt(y)uw/. Lat. In one breath. *Uno flatu, et uno intuitu*, at one breath, and in one view.

Unprecedented. Having no precedent or example, novel, new, unexampled. *State v. Malone*, Tex.Civ.App., 168 S.W.2d 292, 300. Unusual and extraordinary; affording no reasonable warning or expectation of recurrence.

Unprecedented rainfall. An unusual and extraordinary rainfall as has no example or parallel in the history of rainfall in the vicinity affected, or as affords no reasonable warning or expectation that it will likely occur again.

Unprofessional conduct. That which is by general opinion considered to be unprofessional because immoral, unethical or dishonorable. *State Board of Dental Examiners v. Savelle*, 90 Colo. 177, 8 P.2d 693, 697. That which violates ethical code or rules of profession (*e.g.* Model Rules of Professional Conduct) or such conduct which is unbecoming member of profession in good standing. It involves breach of duty which professional ethics enjoin. Within statutes, rules, etc., promulgating standards of professional conduct for attorneys denotes conduct which it is recommended be made subject to disciplinary sanctions. *Hawk v. Superior Court In and For Solano County*, 42 C.A.3d 108, 116 Cal.Rptr. 713, 721. *See Rules of Professional Conduct*.

Unqualified opinion. The version of an audit opinion rendered when a certified public accountant is satisfied that the financial statements are fairly presented and are consistent with those of the preceding year, and that the audit was performed in accordance with generally accepted auditing standards.

Unques /əŋkwíyz/əŋkwíyz/. L. Fr. Ever; always. *Ne unques*, never.

Unques prist /əŋkwíyz prist/. L. Fr. Always ready. Another form of *tout temps prist*.

Unrealized profit or loss. A profit or loss that has not yet materialized. An example of an unrealized profit would be in the appreciation of stock. Although the stock price has increased, if the stock is not sold, the profit is considered a "paper" profit or unrealized profit.

Unrealized receivables. Amounts earned by a cash basis taxpayer but not yet received. Because of the method of accounting used by the taxpayer, such amounts have no income tax basis.

Unreasonable. Irrational; foolish; unwise; absurd; silly; preposterous; senseless; stupid. *Southern Kansas State Lines Co. v. Public Service Commission*, 135 Kan. 657, 11 P.2d 985, 987. Not reasonable; immoderate; exorbitant. *Cass v. State*, 124 Tex.Cr.R. 208, 61 S.W.2d 500. Capricious; arbitrary; confiscatory. *Harris v. State Corporation Commission*, 46 N.M. 352, 129 P.2d 323, 328.

Unreasonable appreciation. An unrealized holding gain; frequently used in the context of marketable securities. A paper profit (*q.v.*) *See also Equity*.

Unreasonable compensation. Under the Internal Revenue Code, a deduction is allowed for "reasonable" salaries or other compensation for personal services actually rendered. To the extent compensation is "excessive" (*i.e.*, "unreasonable"), no deduction will be allowed. The problem of unreasonable compensation usually is limited to closely-held corporations where the motivation is to pay out profits in some form deductible to the corporation. Deductible compensation, therefore, becomes an

attractive substitute for nondeductible dividends when the shareholders also are employed by the corporation.

Unreasonable decision. Term can be applied to an administrative agency's decision only when it is determined that the evidence presented leaves no room for difference of opinion among reasonable minds. *South Cent. Bell Telephone Co. v. Public Service Com'n, Ky. App.*, 702 S.W.2d 447, 451.

Unreasonable refusal to submit to operation. An injured employee's refusal to submit to an operation is unreasonable, so as to deprive him or her of right to workers' compensation if it appears that an operation of a simple character not involving serious suffering or danger will result in substantial physical improvement. *Black Star Coal Co. v. Surgener*, 297 Ky. 653, 181 S.W.2d 53, 54.

Unreasonable restraint of trade. Restraint of trade is "unreasonable," for purpose of Sherman Anti-Trust Act (15 U.S.C.A. § 1), only where it produces significant anticompetitive effect. *Kerasotes Michigan Theatres, Inc. v. National Amusements, Inc., D.C.Mich.*, 658 F.Supp. 1514, 1518. A conclusion that a restraint of trade is unreasonable may be based either (1) on the nature or character of the contracts, or (2) on surrounding circumstances giving rise to the inference or presumption that they were intended to restrain trade and enhance prices. Under either branch of the test, the inquiry is confined to a consideration of impact on competitive conditions. *National Society of Professional Engineers v. United States*, 435 U.S. 679, 690, 98 S.Ct. 1355, 1364, 55 L.Ed.2d 637. Within Sherman Act, term includes agreements for price maintenance of articles moving in interstate commerce. *American Tobacco Co. v. U.S., C.A.Ky.*, 147 F.2d 93, 108. That is, any combination or conspiracy that operates directly on prices or price structure and has for its purpose the fixing of prices. *United States v. Waltham Watch Co., D.C.N.Y.*, 47 F.Supp. 524, 531. *See* Price-fixing; Restraint of trade; Robinson-Patman Act.

Unreasonable restraint on alienation. Such act is brought about by gift of absolute ownership in property followed by such condition as takes away incidents of such ownership.

Unreasonable search and seizure. *See* Exclusionary Rule; Fourth Amendment; Probable cause; Search.

Unrelated business income. Income recognized by an exempt organization that is generated from activities not related to the exempt purpose of the entity. For instance, the pharmacy located in a hospital often generates unrelated business income. I.R.C. § 511.

In order for income of tax exempt organization to be "unrelated business taxable income" income must be derived from an activity which is a trade or business, the trade or business must not be substantially related to the exempt purposes of the organization and the exempt organization must regularly carry on the trade or business. *Oklahoma Cattlemen's Ass'n v. U.S., D.C. Okl.*, 310 F.Supp. 320, 321.

Unrelated business income tax. Tax levied on the unrelated business taxable income of an exempt organization. *See* Unrelated business income.

Unrelated offenses. A violation of law which is independent of the offense being charged. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. Fed.Evid.R. 404(b).

Unresponsive evidence. In evidence, an answer to a question which is irrelevant to the question asked.

Unruly and dangerous animals. Within the meaning of the law, such as are likely to injure other domestic animals and persons.

Unsafe. Dangerous; not secure.

Unsatisfied judgment funds. Fund created by state law in several states to reimburse persons having claims arising out of automobile accidents who have been unable to collect from the party responsible for the accident because such party is not insured or is financially not able to pay. *See also* Uninsured motorist coverage.

Unseaworthy. A vessel which is unable to withstand the perils of an ordinary voyage at sea. *Fireman's Fund Ins. Co. v. Compania de Navegacion, Interior, S. A., C.C.A.La.*, 19 F.2d 493, 495. A condition which arises from a defect in a vessel's hull, gear, appurtenances, and in some circumstances her crew. *Klarman v. Santini, D.C.Conn.*, 363 F.Supp. 910, 915. One that could not reasonably have been expected to make the voyage. *Interlake Iron Corporation v. Gartland S. S. Co., C.C.A. Mich.*, 121 F.2d 267, 269, 270. One not manned by a competent crew; or not carrying proper navigational charts. But a ship is not unseaworthy where defect in ship is such that defect can be remedied on the spot in a short time by materials available. *Middleton & Co. (Canada) Limited v. Ocean Dominion Steamship Corporation, C.C.A.N.Y.*, 137 F.2d 619, 622. *Compare* Seaworthy.

Unsecured debt. Debt obligations that are not backed by pledged collateral or security agreement.

Unsolemn war. War denounced without a declaration; war made not upon general but special declaration; imperfect war. *People v. McLeod*, 1 Hill, N.Y., 409, 37 Am.Dec. 328.

Unsolemn will. In the civil law, one in which an executor is not appointed.

Unsound mind. Non-legal term referring to one who from infirmity of mind is incapable of managing himself or his affairs. The term, therefore, includes insane persons (*see* Insanity). It exists where there is an essential deprivation of the reasoning faculties, or where a person is incapable of understanding and acting with discretion in the ordinary affairs of life. *Oklahoma Natural Gas Corporation v. Lay*, 175 Okl. 75, 51 P.2d 580, 582. But eccentricity, uncleanness, slovenliness,

neglect of person and clothing, and offensive and disgusting personal habits do not constitute unsoundness of mind. *See also* Capacity.

Untenantable. Term frequently used in landlord-tenant law to mean the condition of leased premises that are not fit for occupancy or rental. *See also* Warranty (*Warranty of habitability*).

Unthrif. A prodigal; a spendthrift. 1 Bl.Comm. 306.

Until. Up to time of. A word of limitation, used ordinarily to restrict that which precedes to what immediately follows it, and its office is to fix some point of time or some event upon the arrival or occurrence of which what precedes will cease to exist. *Empire Oil and Refining Co. v. Babson*, 182 Okl. 336, 77 P.2d 682, 684.

Untoward event. *See* Unlooked for mishap or untoward event.

Untrue. *Prima facie* inaccurate, but not necessarily wilfully false. A statement is "untrue" which does not express things exactly as they are. *Zolintakis v. Equitable Life Assur. Soc. of United States, C.C.A.Utah*, 108 F.2d 902, 905. *See* Misrepresentation.

Unumquodque dissolvitur eodem ligamine quo ligatur /yũwnæmkwódkwiý dæzólwætær iyówdæm lægýmæniý kwów lægýwtær/. Every obligation is dissolved by the same solemnity with which it is created.

Unumquodque eodem modo quo colligatum est, dissolvitur,—quo constituitur, destruitur /yũwnæmkwódkwiý iyówdæm mówdow kwów kolægýwtæm èst, dæzólwætær, kwów kónstætýwætær, dæstrúwætær/. Everything is dissolved by the same means by which it is put together,—destroyed by the same means by which it is established.

Unumquodque est id quod est principalius in ipso /yũwnæmkwódkwiý èst íd kwòd èst prinsépýl(i)ýs in ípsow/. That which is the principal part of a thing is the thing itself.

Unumquodque principiorum est sibimetipsi fides; et perspicua vera non sunt probanda /yũwnæmkwódkwiý prinsipiýóræm èst síbaymætípsay fáydiyýz, èt pærspíkyuwæ víræ nón sànt prøbændæ/. Every general principle [or maxim of law] is its own pledge or warrant; and things that are clearly true are not to be proved.

Unus nullus rule, the /ðæ yúwnæs nálæs rúwl/. The rule of evidence which obtains in the civil law, that the testimony of one witness is equivalent to the testimony of none.

Unusual. Uncommon; not usual, rare. *Thompson v. Anderson*, 107 Utah 331, 153 P.2d 665, 666.

Unusual punishment. *See* Corporal punishment; Punishment (*Cruel and unusual punishment*).

Unvalued policy. One where the value of property insured is not settled in policy, and in case of loss must be agreed on or proved. *Hartford Live Stock Ins. Co. v. Gibson*, 256 Ky. 338, 76 S.W.2d 17, 18.

Unwholesome food. Food not fit to be eaten; food which if eaten would be injurious.

Unworthy. Unbecoming; discreditable; not having suitable qualities or value.

Unwritten law. All that portion of the law, observed and administered in the courts, which has not been enacted or promulgated in the form of a statute or ordinance, including the unenacted portions of the common law, general and particular customs having the force of law, and the rules, principles, and maxims established by judicial precedents or the successive like decisions of the courts. *See also* Natural law.

UPA. Uniform Partnership Act.

Upkeep. The act of keeping up or maintaining; maintenance, repair.

Uplands. Lands bordering on bodies of waters.

Uplifted hand. The hand raised towards the heavens, in one of the forms of taking an oath, instead of being laid upon the Gospels.

Upper bench. The court of king's bench, in England, was so called during the interval between 1649 and 1660, the period of the commonwealth, Rolle being then chief justice. *See* 3 Bl.Comm. 202.

Upset price. The price at which any subject, as lands or goods, is exposed to sale by auction, below which it is not to be sold. In a final decree in foreclosure, the decree should name an upset price large enough to cover costs and all allowances made by the court, receiver's certificates and interest, liens prior to the bonds, amounts diverted from the earnings, and all undetermined claims which will be settled before the confirmation and sale.

Upstreaming. Practice by parent corporation of using cash flow or other assets of subsidiary for its own use or for purposes not necessarily tied to those of subsidiary.

U.R. Initials of "uti rogas," be it as you desire, a ballot thus inscribed, by which the Romans voted in favor of a bill or candidate.

Urban. Of or belonging to a city or town. Within city limits. Derived from the Latin "urbanis," which in that language imports the same meaning. *City of South Pasadena v. City of San Gabriel*, 134 Cal.App. 403, 25 P.2d 516.

Urban homestead. *See* Homestead.

Urban renewal. Comprehensive term embracing redevelopment plan indicating its relationship to such local objectives as appropriate land uses, improved traffic, public transportation, public utilities, recreation, community facilities and other public improvements. It also includes acquisition of air rights over highways and railroads which have a blighting influence if the rights are developed for low or moderate income housing.

Urban servitude. In the civil law, city servitudes, or servitudes of houses are called "urban." They are the easements appertaining to the building and construction of houses; as, for instance, the right to light and air, or the right to build a house so as to throw the rain-water on a neighbor's house.

Urbs /úrzb/. Lat. In Roman law, a city, or a walled town. Sometimes it is put for *civitas*, and denotes the inhabitants, or both the city and its inhabitants; *i.e.*, the municipality or commonwealth. By way of special pre-eminence, *urbs* meant the city of Rome.

Ure /yúr/. L. Fr. Effect; practice. *Mis en ure*, put in practice; carried into effect.

URESA. Uniform Reciprocal Enforcement of Divorce Act.

U.S. An abbreviation for "United States."

Usage. A reasonable and lawful public custom in a locality concerning particular transactions which is either known to the parties, or so well established, general, and uniform that they must be presumed to have acted with reference thereto. Practice in fact. Electrical Research Products v. Gross, C.C.A.Alaska, 120 F.2d 301, 305. Uniform practice or course of conduct followed in certain lines of business or professions or some procedure or phase thereof. Turner v. Donovan, 3 Cal. App.2d 485, 39 P.2d 858, 859. Usage cannot be proved by isolated instances, but must be certain, uniform and notorious. Unkovich v. New York Cent. R. Co., 128 N.J.Eq. 377, 16 A.2d 558, 561. Habitual or customary practice which prevails within geographical or sociological area, and is course of conduct based upon series of actual occurrences, and in order to be controlling upon parties to contract, it must be adopted by them, or be well known to parties or to persons in their circumstances. Sam Levitz Furniture Co. v. Safeway Stores, Inc., 10 Ariz.App. 225, 457 P.2d 938, 941. *See also* Custom and usage; Local usage; Trade usage.

"Custom" distinguished. "Usage" is a repetition of acts, and differs from "custom" in that the latter is the law or general rule which arises from such repetition; while there may be usage without custom, there cannot be a custom without a usage accompanying or preceding it. U. S. for Use of E & R Const. Co., Inc. v. Guy H. James Const. Co., D.C.Tenn., 390 F.Supp. 1193, 1209. It is distinguished from "custom" in that "usage" derives its efficacy from assent of parties to transaction, and hence is important only in consensual agreements, while "custom" derives its efficacy from its adoption into the law, is binding irrespective of any manifestation of assent by parties concerned, and may be of importance in any department of law. Gulf Refining Co. v. Universal Ins. Co., C.C.A.N.Y., 32 F.2d 555, 557.

Fair usage. *See* Fair use doctrine.

General usage. One which prevails generally throughout the country, or is followed generally by a given profession or trade, and is not local in its nature or observance.

Usage of trade. The prevailing and accepted customs within a particular trade or industry. It is implied that merchants are cognizant of the usage of their trade. A usage of trade is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question.

See U.C.C. § 1-205(2). *See also* Course of dealing; Trade usage.

Usance. In mercantile law, the common period fixed by the usage or custom or habit of dealing between the country where a bill is drawn, and that where it is payable, for the payment of bills of exchange. It means, in some countries, a month, in others two or more months, and in others half a month.

U.S.C. *See* United States Code.

U.S.C.A. *See* United States Code Annotated.

U.S.D.C. United States District Court.

Use, v. To make use of; to convert to one's service; to employ; to avail oneself of; to utilize; to carry out a purpose or action by means of; to put into action or service, especially to attain an end. State v. Howard, 221 Kan. 51, 557 P.2d 1280, 1281.

Term "use" of narcotics, for purposes of statute defining offense of narcotics use, refers to act of injecting or ingesting controlled substance or narcotic. People v. Jones, 5 Dist., 189 C.A.3d 398, 234 Cal.Rptr. 408, 412.

Use, n. Act of employing everything, or state of being employed; application, as the use of a pen, or his machines are in use. Also the fact of being used or employed habitually; usage, as, the wear and tear resulting from ordinary use. Berry-Kofron Dental Laboratory Co. v. Smith, 345 Mo. 922, 137 S.W.2d 452, 454, 455, 456. The purpose served; a purpose, object or end for useful or advantageous nature. Brown v. Kennedy, Ohio App., 49 N.E.2d 417, 418. To put or bring into action or service; to employ for or apply to a given purpose. Beggs v. Texas Dept. of Mental Health and Mental Retardation, Tex.Civ.App., 496 S.W.2d 252, 254. To avail oneself of; to employ; to utilize; to carry out a purpose or action by means of; to put into action or service, especially to attain an end. State v. Howard, 221 Kan. 51, 557 P.2d 1280, 1281.

A confidence reposed in another, who was made tenant of the land, or terre-tenant, that he would dispose of the land according to the intention of the *cestui que use*, or him to whose use it was granted, and suffer him to take the profits. 2 Bl.Comm. 328.

That enjoyment of property which consists in its employment, occupation, exercise or practice. Central Sur. & Ins. Corp. v. Anderson, Tex.Civ.App., 446 S.W.2d 897, 903.

A right in one person, called the "*cestui que use*," to take the profits of land of which another has the legal title and possession, together with the duty of defending the same, and of making estates thereof according to the direction of the *cestui que use*.

Uses and trusts are not so much different things as different aspects of the same subject. A use regards principally the beneficial interest; a trust regards principally the nominal ownership. The usage of the two terms is, however, widely different. The word "use" is employed to denote either an estate vested since the statute of uses, and by force of that statute, or to denote such an estate created before the statute as, had it been

created since, would have become a legal estate by force of the statute. The word "trust" is employed since that statute to denote the relation between the party invested with the legal estate (whether by force of that statute or independently of it) and the party beneficially entitled, who has hitherto been said to have the equitable estate.

See also Beneficial use; Best use; Charitable use; Conforming use; Exclusive use; Highest and best use; Non-conforming use; Public use; Raising a use; Unauthorized use.

Civil law. A right of receiving so much of the natural profits of a thing as is necessary to daily sustenance. It differs from "usufruct," which is a right not only to use, but to enjoy.

Conveyancing. "Use" literally means "benefit;" thus, in an ordinary assignment of chattels, the assignor transfers the property to the assignee for his "absolute use and benefit." In the expressions "separate use," "superstitious use," and "charitable use," "use" has the same meaning.

Non-technical sense. The "use" of a thing means that one is to enjoy, hold, occupy, or have some manner of benefit thereof. Use also means usefulness, utility, advantage, productive of benefit.

Generally

Cestui que use. A person for whose use and benefit lands or tenements are held by another. The latter, before the statute of uses, was called the "feoffee to use," and held the nominal or legal title.

Charitable use. *See* Charitable.

Conditional use. *See* Special exception.

Contingent use. A use limited to take effect upon the happening of some future contingent event; as where lands are conveyed to the use of A. and B., after a marriage shall be had between them.

Exclusive use. *See* that title.

Executed use. The first use in a conveyance upon which the statute of uses operates by bringing the possession to it, the combination of which, *i.e.*, the use and the possession, form the legal estate, and thus the statute is said to execute the use.

Executory uses. These are springing uses, which confer a legal title answering to an executory devise; as when a limitation to the use of A. in fee is defeasible by a limitation to the use of B., to arise at a future period, or on a given event.

Feoffee to uses. A person to whom (before the statute of uses) land was conveyed "for the use" of a third person. He held the nominal or legal title, while the third person, called the "*cestui que use*," was entitled to the beneficial enjoyment of the estate.

Official use. An active use before the statute of uses, which imposed some duty on the legal owner or feoffee to uses; as a conveyance to A. with directions for him to

sell the estate and distribute the proceeds among B., C., and D. To enable A. to perform this duty, he had the legal possession of the estate to be sold.

Passive use. A permissive use (*q.v.*).

Patent infringement. *See* Infringement.

Permissive use. A passive use which was resorted to before the statute of uses, in order to avoid a harsh law; as that of mortmain or a feudal forfeiture. It was a mere invention in order to evade the law by secrecy; as a conveyance to A. to the use of B. A. simply held the possession, and B. enjoyed the profits of the estate.

Resulting use. A use raised by equity for the benefit of a feoffor who has made a voluntary conveyance to uses without any declaration of the use. A resulting use arises where the legal seisin is transferred, and no use is expressly declared, nor any consideration or evidence of intent to direct the use. The use then remains in the original grantor, for it cannot be supposed that the estate was intended to be given away, and the statute immediately transfers the legal estate to such resulting use.

Secondary use. A use limited to take effect in derogation of a preceding estate, otherwise called a "shifting use," as a conveyance to the use of A. and his heirs, with a proviso that, when B. returns from India, then to the use of C. and his heirs.

Shifting use. A use which is so limited that it will be made to shift or transfer itself, from one beneficiary to another, upon the occurrence of a certain event after its creation. For example, an estate is limited to the use of A. and his heirs, provided that, upon the return of B. from Rome, it shall be to the use of C. and his heirs; this is a shifting use, which transfers itself to C. when the event happens. 2 Bl.Comm. 335. These shifting uses are common in all settlements; and, in marriage settlements, the first use is always to the owner in fee till the marriage, and then to other uses. The fee remains with the owner until the marriage, and then it *shifts* as uses arise.

Springing use. A use limited to arise on a future event where no preceding use is limited, and which does not take effect in derogation of any other interest than that which results to the grantor, or remains in him in the meantime.

Statute of uses. An English statute enacted in 1536 (27 Hen. VIII, c. 10), directed against the practice of creating uses in lands, and which converted the purely equitable title of persons entitled to a use into a legal title or absolute ownership with right of possession. The statute is said to "execute the use," that is, it abolishes the intervening estate of the feoffee to uses, and makes the beneficial interest of the *cestui que use* an absolute legal title.

Superstitious use. *See* that title.

Use and habitation. Within a grant does not mean the exclusive use and habitation, but the necessities of the

grantee are determinative of extent of privileges to be enjoyed. *Barrett v. Barrett*, La.App., 5 So.2d 381, 383.

Use and occupation. This is the name of an action, being a variety of *assumpsit*, to be maintained by a landlord against one who has had the occupation and enjoyment of an estate, under a contract to pay therefor, express or implied, but not under such a lease as would support an action specifically for rent. *Thackray v. Ritz*, 130 Misc. 403, 223 N.Y.S. 668, 669.

Use plaintiff. In common law pleading, one for whose use (benefit) an action is brought in the name of another. Thus, where the assignee of a chose in action is not allowed to sue in his own name, the action would be entitled "A. B. (the assignor) for the Use of C. D. (the assignee) against E. F." In this case, C. D. is called the "use plaintiff."

Usee. A person for whose use a suit is brought; otherwise termed the "use plaintiff."

Useful. The basic quid pro quo contemplated by the Constitution and the congress for granting a patent monopoly is the benefit derived by the public from an invention with substantial utility. Specific benefit must exist in currently available form. *Brenner v. Manson*, 383 U.S. 519, 534, 535, 86 S.Ct. 1033, 1041, 1042, 16 L.Ed.2d 69. By "useful" is meant such an invention as may be applied to some beneficial use in society, in contradistinction to an invention which is illegal, injurious to morals or against public policy.

Useful life. In accounting and taxation, the period of time for which an asset is capable of being used for the production of income.

For income tax purposes, the "useful life" of depreciable property is period over which asset may reasonably be expected to be useful to taxpayer in his trade or business or in production of income, and such is necessarily an estimate made at time when property is first put to use. *Cohn v. U. S.*, C.A.Tenn., 259 F.2d 371, 377. Useful life for depreciation purposes is an estimate; length of the useful period must be shown by evidence that allows it to be estimated with reasonable accuracy. *Richard S. Miller & Sons, Inc. v. U. S.*, Ct.Cl., 537 F.2d 446, 455. The term "depreciable life," as used in general excise tax law, is synonymous with the term "useful life" as used for purpose of the depreciation deduction under income tax law. *Matter of 711 Motors, Inc.*, 56 Hawaii 644, 547 P.2d 1343, 1347.

Usefulness. Capabilities for use. The word pertains to the future as well as to the past.

Use immunity. Term generally refers to order of court which compels witness to give testimony of self-incriminating nature but provides that such testimony may not be used as evidence in subsequent prosecution of such witness. *People v. Koba*, 55 Ill.App.3d 298, 13 Ill.Dec. 306, 371 N.E.2d 1. Such immunity protects a witness only against actual use of his compelled testimony and evidence derived directly or indirectly therefrom, while "transactional immunity" protects the person against all later prosecutions relating to matters about which he

testifies. *People v. Sutter*, 134 C.A.3d 806, 184 Cal.Rptr. 829, 833. *See also* Immunity.

Use in commerce. A prerequisite for trademark registration. An applicant must show a bona fide intention to use the mark in commerce with respect to the goods or services for which registration is sought and not merely to reserve any rights in a mark. 15 U.S.C.A. § 1051(b). *See also* Trademark.

User. The actual exercise or enjoyment of any right, property, drugs, franchise, etc.

Adverse user. Such a use of the property under claim of right as the owner himself would make, asking no permission, and disregarding all other claims to it, so far as they conflict with this use. *See also* Adverse possession.

User de action /yúwzər dákshən/. L. Fr. In old practice, the pursuing or bringing an action.

User fee. Charges imposed on persons for the use of a particular facility. A charge designed only to make the user of state-provided facilities pay a reasonable fee to help defray the costs of their construction and maintenance may be constitutionally imposed on interstate and domestic users alike. *Evansville-Vanderburgh A.A. Dist. v. Delta Airlines, Inc.*, 405 U.S. 707, 714, 92 S.Ct. 1349, 1354, 31 L.Ed.2d 620. Such charges are usually upheld as long as they are neither discriminatory nor excessive.

Use tax. A sales tax that is collectible by the seller where the purchaser is domiciled in a different state. A tax on the use, consumption, or storage of tangible property, usually at the same rate as the sales tax, and levied for the purpose of preventing tax avoidance by the purchase of articles in a state or taxing jurisdiction which does not levy sales taxes or has a lower rate. A tax on the use, consumption, or storage of tangible property, usually at the same rate as the sales tax, and levied for the purpose of preventing tax avoidance by the purchase of articles in a state or taxing jurisdiction which does not levy sales taxes or has a lower rate.

A levy on privilege of using, within taxing state, property purchased outside the state, if the property would have been subject to the sales tax had it been purchased at home. *King v. L & L Marine Service, Inc.*, Mo., 647 S.W.2d 524, 526. Such tax ordinarily serves to complement sales tax by eliminating incentive to make major purchases in states with lower sales taxes; it requires resident who shops out-of-state to pay use tax equal to sales tax savings. *Minneapolis Star and Tribune Co. v. Minnesota Com'r of Revenue*, U.S.Min., 460 U.S. 575, 103 S.Ct. 1365, 1370, 75 L.Ed.2d 295.

Use variance. *See* Variance.

Usher. This word is said to be derived from "*huissier*," and is the name of a subordinate officer in some English courts of law.

Usher of the Black Rod. In old English law, the gentleman usher of the black rod is an officer of the House of Lords appointed by letters patent from the crown. The office was instituted in 1350. So named for

the staff of office, an ebony stick surmounted with a gold lion. His duties are, by himself or deputy, to desire the attendance of the Commons in the House of Peers when the royal assent is given to bills, either by the king or queen in person or by commission, to execute orders for the commitment of persons guilty of breach of privilege, and also to assist in the introduction of peers when they take the oaths and their seats. As to the first he must knock three times at the door of the House of Commons to announce the entry, a ceremony dating from the House's indignation at Charles I's attempt to arrest Pym, Hampden and 3 other members of the House in 1642.

Using mail to defraud. The elements of this offense are the formation of a scheme or artifice to defraud, and use of mails for purpose of executing or attempting to execute such scheme or artifice; the latter element being gist of the offense. 18 U.S.C.A. § 1341. *Stryker v. United States*, C.C.A.Colo., 95 F.2d 601, 604, 605. The crime is complete when mails are used in such scheme, and what happened subsequently is not controlling. *United States v. Ames*, D.C.N.Y., 39 F.Supp. 885, 886. See Mail fraud.

Using the service of another for pay. This phrase as used in Compensation Act defining employer means right to control the means and manner of that service, as distinguished from results of such service; the word "service" meaning the performance of labor for the benefit of another. *Rutherford v. Tobin Quarries*, 336 Mo. 1171, 82 S.W.2d 918, 923.

Uso /úwsow/. In Spanish law, usage; that which arises from certain things which men say and do and practice uninterruptedly for a great length of time, without any hindrance whatever.

Usque /áskwiý/. Lat. Up to; until. This is a word of exclusion, and a release of all demands *usque ad* a certain day does not cover a bond made on that day. Usually applied to ownership of property. Applied to right to air it has been held that ownership extends "*usque ad coelum*." See *A cælo usque ad centrum*.

Usque ad filum aquæ, or viæ /áskwiý æd fáyləm ækwíý/°váyiy/. Up to the middle of the stream or road.

Usual. Habitual; ordinary; customary; according to usage or custom; commonly established, observed, or practiced. That which happens in common use or occurs in ordinary practice or course of events. Synonymous with custom, common, normal, regular. *Dancy v. Abraham Bros. Packing Co.*, 171 Tenn. 311, 102 S.W.2d 526, 528.

Usual covenants. See Covenant.

Usual place of abode. Within meaning of statute or rule relating to service of process is place where defendant is actually living at time of service; is place where person would most likely have knowledge of service of process and is generally considered to be place where person is living at time of service. *Plonski v. Halloran*, 36 Conn.Sup. 335, 420 A.2d 117. See Domicile; Residence.

Usual terms. A phrase in the common-law practice, which meant pleading issuably, rejoining *gratis*, and taking short notice of trial. When a defendant obtained further time to plead, these were the terms usually imposed.

Usuarium /yúwsyuwériyəs/. Lat. In the civil law, one who had the mere use of a thing belonging to another for the purpose of supplying his daily wants; a usuary.

Usucapio, or usucaptio /yúwsyuwkéyp(i)yow/yúwsyuwkápsh(i)yow/. A term of Roman law used to denote a mode of acquisition of property. It corresponds very nearly to the term "prescription." But the prescription of Roman law differed from that of the English law, in this: that no *mala fide* possessor (*i.e.*, person in possession knowingly of the property of another) could, by however long a period, acquire title by possession merely. The two essential requisites to *usucapio* were *justa causa* (*i.e.*, title) and *bona fides* (*i.e.*, ignorance). The term "*usucapio*" is sometimes, but erroneously, written "*usucaptio*." As to "*lucrativa usucapio*," see that title.

Usucapio constituta est ut aliquis litium finis esset /yúwsyuwkéyp(i)yow kónstat(y)úwtæ èst æd ælækwæs lish(i)yəm fáynæs ésæt/. Prescription was instituted that there might be some end to litigation.

Usufruct /yúwz(y)əfrákt/. In the civil law, a real right of limited duration on the property of another. The features of the right vary with the nature of the things subject to it as consumables or nonconsumables. Civ. Code La. art. 535. The right of using and enjoying and receiving the profits of property that belongs to another, and a "usufructuary" is a person who has the usufruct or right of enjoying anything in which he has no property interest. *Marshall v. Marshall*, Tex.App.—Dallas, 735 S.W.2d 587, 598.

There are three types of "usufructs": natural profits produced by the subject of the usufruct, industrial profits produced by cultivation, and civil profits, which are rents, freights and revenues from annuities and from other effects or rights. *Marshall v. Marshall*, Tex.App.—Dallas, 735 S.W.2d 587, 598. See also Legal Usufruct.

Usufructuary /yúwz(y)əfráktiyuəriy/. In the civil law, one who has the usufruct or right of enjoying anything in which he has no property.

Usufruit /yúwz(y)əfrúwt/. In French law, the same as the *usufruct* of the English and Roman law.

Usura /yuwz(y)úrá/. Lat. In the civil law, money given for the use of money; interest. Commonly used in the plural, "*usura*" /yuwz(y)úriy/yúwzheriy/.

Usura est commodum certum quod propter usum rei mutuata recipitur. Sed secundario spirare de aliqua retributione, ad voluntatem ejus qui mutuatus est, hoc non est vitiosum /yuwz(y)úrá èst kómədəm særtəm kwòd próptar yúwsəm riýay myúwtiyuwéyiy rəsípətər. sèd sèkændériyow spərériy diy ælækwæ rètrəb(y)uwshiyówniy, æd vòlèntéytəm iyjəs kwáy myúwtiyuwéyitəs èst, hók nón èst vishiyówsəm/. Usury is a certain benefit which is received for the use of a thing lent. But to have an understanding [literally, to

breathe or whisper], in an incidental way, about some compensation to be made at the pleasure of the borrower, is not lawful.

Usura manifesta /yʊwz(y)úrə mənəféstə/. Manifest or open usury; as distinguished from *usura velata*, veiled or concealed usury, which consists in giving a bond for the loan, in the amount of which is included the stipulated interest.

Usura maritima /yʊwz(y)úrə mərítəmə/°mərətáyə/. Interest taken on bottomry or respondentia bonds, which is proportioned to the risk, and is not affected by the usury laws.

Usurarius /yúwzhəríyəs/. In old English law, a usurer.

Usurious /yúwzhúriyəs/. Pertaining to usury; partaking of the nature of usury; involving usury; tainted with usury; as, a usurious contract. *See Usury.*

Usurious contract. A contract where interest to be paid exceeds the rate established by statute. *Commerce Farm Credit Co. v. Ramp, Tex.Civ.App., 116 S.W.2d 1144, 1149. See also Usury.*

Usurp /yúwsərp/. To seize and hold any office by force, and without right; applied to seizure of office, place, functions, powers, rights, etc. of another. *State ex rel. Scanes v. Babb, 124 W.Va. 428, 20 S.E.2d 683, 686.*

Usurpatio /yúwsərpéysh(iy)ow/. Lat. In the civil law, the interruption of a usucaption, by some act on the part of the real owner.

Usurpation /yúwsərpéyshən/. The unlawful encroachment or assumption of the use of property, power or authority which belongs to another. An interruption of the disturbing a man in his right and possession.

The unlawful seizure or assumption of sovereign power. The assumption of government or supreme power by force or illegally, in derogation of the constitution and of the rights of the lawful ruler.

Usurpation for which writ of prohibition may be granted involves attempted exercise of power not possessed by inferior officer.

Usurpation of advowson /yúwsərpéyshən əv ədváwzən/. An injury which consists in the absolute ouster or dispossession of the patron from the advowson or right of presentation, and which happens when a stranger who has no right presents a clerk, and the latter is thereupon admitted and instituted.

Usurpation of franchise or office /yúwsərpéyshən əv fránchayz əv ófəs/. The unjustly intruding upon or exercising any office, franchise, or liberty belonging to another. "Usurpation" of public office authorizing quo warranto action under statute may be with or without forcible seizure of office and prerogatives thereof, and may consist of mere unauthorized assumption and exercise of power in performing duties of office upon claim of right thereto. *State ex rel. Kirk v. Wheatley, 133 Ohio St. 164, 12 N.E.2d 491, 493, 10 O.O. 236. See also Usurpation.*

Usurped power. *See Usurp; Usurpation.*

Usurper. One who assumes the right of government by force, contrary to and in violation of the constitution of the country.

Usurper of a public office. One who either intrudes into a vacant office or ousts the incumbent without any color of title. *Neal v. Parker, 200 Ark. 10, 139 S.W.2d 41, 44.* One who intrudes on office and assumes to exercise its functions without legal title or color of right thereto. *Alleger v. School Dist. No. 16, Newton County, Mo.App., 142 S.W.2d 660, 663.* Any person attempting to fill pretended office attempted to be created by an unconstitutional law. *Bodcaw Lumber Co. of Louisiana v. Jordan, La.App., 14 So.2d 98, 101.*

Usury. Charging an illegal rate of interest. Collectively, the laws of a jurisdiction regulating the charging of interest rates. A usurious loan is one whose interest rates are determined to be in excess of those permitted by the usury laws. An illegal contract for a loan or forbearance of money, goods, or things in action, by which illegal interest is reserved, or agreed to be reserved or taken. An unconscionable and exorbitant rate or amount of interest. An unlawful contract upon the loan of money, to receive the same again with exorbitant increase. The reserving and taking, or contracting to reserve and take, either directly or by indirection, a greater sum for the use of money than the lawful interest. *See also Legal interest; Loansharking; Usury laws.*

Old English law. Interest of money; increase for the loan of money; a reward for the use of money. 2 Bl.Comm. 454. The taking of any compensation whatever for the use of money.

Usury laws. Statutes that prohibit finance charges (interest and other forms of compensation for loaning money) above a certain level for debt. *See 18 U.S.C.A. § 891 et seq.* with respect to extortionate credit transactions. *See also Loan sharking; Usury.*

Usus /yúwsəs/. Lat. In Roman law, a precarious enjoyment of land, corresponding with the right of *habitatio* of houses, and being closely analogous to the tenancy at sufferance or at will of English law. The *usuarius* (i.e., tenant by *usus*) could only hold on so long as the owner found him convenient, and had to go so soon as ever he was in the owner's way (*molestus*). The *usuarius* could not have a friend to share the produce. It was scarcely permitted to him (Justinian says) to have even his wife with him on the land; and he could not let or sell, the right being strictly personal to himself.

Usus bellici /yúwsəs béləsay/. Lat. In international law, warlike uses or objects. It is the *usus bellici* which determine an article to be contraband.

Usus est dominium fiduciarium /yúwsəs èst dəminiyəm fəd(y)úwshiyériyəm/. Use is a fiduciary dominion.

Usus et status sive possessio potius differunt secundum rationem fori, quam secundum rationem rei /yúwsəs èt stéytəs sáyviy pəzəsh(iy)ow pówsh(iy)əs difərənt səkəndəm rəshiyównəm fóray, kwəm səkəndəm rəshiyównəm riyay/. Use and estate, or possession,

differ more in the rule of the court than in the rule of the matter.

Usus fructus /yúwsəs fráktəs/. Lat. In Roman law, usufruct; usufructuary right or possession. The temporary right of using a thing, without having the ultimate property, or full dominion, of the substance. 2 Bl. Comm. 327.

Utas /yúwtəs/. In old English practice, octave; the octave; the eighth day following any term or feast.

Ut currere solebat /ət káhrəriy səllybət/. Lat. As it was wont to run; applied to a water-course.

Ut de feodo /ət diy fyúwdow/. L. Lat. As of fee.

Uterine /yúwtərən/. Born of the same mother. A uterine brother or sister is one born of the same mother, but by a different father.

Utero-gestation /yúwtərowjéstéyshən/. Pregnancy.

Uterque /yúwtárkwiy/. Lat. Both; each. "The justices, being in doubt as to the meaning of this word in an indictment, demanded the opinions of grammarians, who delivered their opinions that this word doth aptly signify *one of them*."

Utfangthef, or utfangenethef /áwtfæŋ(ə)nθiyf/. In Saxon and old English law, the privilege of a lord of a manor to judge and punish a thief dwelling out of his liberty, and committing theft without the same, if he were caught within the lord's jurisdiction.

The right of the lord of a manor to hang a thief caught with the stolen goods, whether or not the capture was made on the manor. See *Infangenthef*.

Ut hospites /ət hópətiyz/. Lat. As guests.

Uti /yúwtay/. Lat. In the civil law, to use. Strictly, to use for necessary purposes; as distinguished from "*frui*," to enjoy.

Uti frui /yúwtay frúway/. Lat. In the civil law, to have the full use and enjoyment of a thing, without damage to its substance.

Utile per inutile non vitiatur /yúwtəliy pər inyúwtəliy nón vishiyétər/. The useful is not vitiated by the useless. Surplusage does not spoil the remaining part if that is good in itself.

Utilidad /uwtiliyóád/. Span. In Spanish law, the profit of a thing.

Utilis /yúwtəlas/. Lat. In the civil law, useful; beneficial; equitable; available. *Actio utilis*, an equitable action. *Dies utilis*, an available day.

Utility. In patent law, a patent applicant must demonstrate that his invention performs some function that is of benefit to society. This utility requirement is in addition to the requirements of non-obviousness and novelty. Examples of items that have been held to lack utility include devices the sole purposes of which were immoral (*Mitchell v. Tilghman*, 86 U.S. (19 Wall.) 287, 22 L.Ed. 125), and compositions of matter that, although new, have no purpose other than further research.

Brenner v. Manson, 383 U.S. 519, 86 S.Ct. 1033, 16 L.Ed.2d 69.

Utility is established if only partial success is attained. *Emery Industries v. Schumann*, C.C.A.III., 111 F.2d 209, 211.

Uti possidetis /yúwtay pəsidiyéytəs/. Lat. *Civil law*. A species of interdict for the purpose of retaining possession of a thing, granted to one who, at the time of contesting suit, was in possession of an immovable thing, in order that he might be declared the legal possessor. See *Utrubi*.

International law. A phrase used to signify that the parties to a treaty are to retain possession of what they have acquired by force during the war. A treaty which terminates a war may adopt this principle or that of the *status quo ante bellum*, or a combination of the two. In default of any treaty stipulation, the former doctrine prevails. *Guillermo Alvarez y Sanches v. U. S.*, 42 Ct.Cl. 458.

Uti rogas /yúwtay rówgəs/. Lat. In Roman law, the form of words by which a vote in favor of a proposed law was orally expressed. *Uti rogas, volo vel jubeo*, as you ask, I will or order; I vote as you propose; I am for the law. The letters "U. R." on a ballot expressed the same sentiment.

Utlagatus, or utlagatum /ətləgéytəs/əm/. In old English law, an outlawed person; an outlaw.

Utlagatus est quasi extra legem positus. Caput gerit lupinum /ətləgéytəs ɛst kwéysay ékstrə líjəm pózətəs. káepət jérət l(y)uwpáynəm/. An outlaw is, as it were, put out of the protection of the law. He bears the head of a wolf.

Utlagatus pro contumacia et fuga, non propter hoc convictus est de facto principali /ətləgéytəs prów kóntəméysh(iy)ə èt fyúwga, nón próptər hók kónviktəs ɛst diy fáktow prinsepéyay/. One who is outlawed for contumacy and flight is not on that account convicted of the principal fact.

Utlage. L. Fr. An outlaw.

Utlesse. An escape of a felon out of prison.

Utmost care. Term is substantially synonymous with "highest care."

Utmost resistance. This term, under the rule that to constitute rape there must be utmost resistance by the woman, is a relative rather than a positive term, and means that greatest effort of which she is capable must be used to foil assailant. Most states have eliminated this as a requirement to prove nonconsent in rape cases; e.g. *State v. Salkil, Mo.*, 659 S.W.2d 330.

Ut poene ad paucos, metus ad omnes perveniat /ət píyniy æd pókows, miytəs æd ómniyz pərvíyn(i)yət/. That the punishment may reach a few, but the fear of it affect all. A maxim in criminal law, expressive of one of the principal objects of human punishment. 4 Bl. Comm. 11.

Ut res magis valeat quam pereat /ət ríyz méyjəs vǎliyət kwəm péhriyət/. That the thing may rather have effect than be destroyed. Charitable bequests are also governed by this maxim. *King v. Richardson*, C.C. A.N.C., 136 F.2d 849, 858.

Utrubi /ətrəbay/. In the civil law, the name of a species of interdict for retaining a thing, granted for the purpose of protecting the possession of a movable thing, as the *uti possidetis* was granted for an immovable.

Utrumque nostrum /yuwtrámkiwiy nóstrəm/. Both of us. Words used formerly in bonds.

Ut summæ potestatis regis est posse quantum velit, sic magnitudinis est velle quantum possit /ət sámiy pòwdástéytəs riyjəs èst pòsiy kwóntəm víylət, sík mǎgnət(y)úwdənəs èst véliy kwóntəm pòsət/. As the highest power of a king is to be able to do all he wishes, so the highest greatness of him is to wish all he is able to do.

Utter, v. To put or send (as a forged check) into circulation; to publish or put forth; to offer. To utter and publish an instrument, as a counterfeit note, is to declare or assert, directly or indirectly, by words or actions, that it is good; uttering it is a declaration that it is good, with an intention or offer to pass it. To utter, as used in a statute against forgery and counterfeiting, means to offer, whether accepted or not, a forged instrument, with the representation, by words or actions, that the same is genuine.

The phrase "utters or publishes as true", as used in federal forgery statute, means to make or attempt any use of a written or printed instrument or document, such as an attempt to place a check in circulation (as when it is presented for payment), whereby, or in connection with which, some assertion, representation or claim is made to another in some way or manner, directly or indirectly, expressly or impliedly, or by words or conduct, that the check or document is genuine. *United States v. Rader*, W.D.Ark., 185 F.Supp. 224, aff'd 288 F.2d 452.

Uttering a forged instrument. The crime of passing a false or worthless instrument, such as a check, or counterfeit security, with the intent to defraud or injure the

recipient. See *e.g.* 18 U.S.C.A. §§ 472, 479, 483. See Counterfeit; Forgery; Utter.

Utter, adj. Entire; complete; absolute; total.

Utterance. See Excited utterance; Spontaneous declarations.

Utter bar. In English law, the bar at which those barristers, usually junior men, practice who have not yet been raised to the dignity of king's counsel. These junior barristers are said to plead without the bar; while those of the higher rank are admitted to seats within the bar, and address the court or a jury from a place reserved for them, and divided off by a bar. Also called "outer bar."

Utter barrister. In English law, those barristers who plead without the bar, and are distinguished from benchers, or those who have been readers, and who are allowed to plead within the bar, as the king's counsel are.

Uxor /əksor/. Lat. In the civil law, a wife; a woman lawfully married.

Et uxor. And his wife. A term used in indexing, abstracting, and describing conveyances made by a man and his wife as grantors, or to a man and his wife as grantees. Often abbreviated "*et ux.*" Thus, "John Doe *et ux.* to Richard Roe."

Jure uxoris. In right of his wife. A term used of a husband who joins in a deed, is seised of an estate, brings a suit, etc., in the right or on the behalf of his wife. 3 Bl.Comm. 210.

Uxor et filius sunt nomina naturæ /əksor èt fíliyəs sànt nómənə nətýúriy/. Wife and son are names of nature.

Uxoricide /əksórəsàyd/. The killing of a wife by her husband; one who murders his wife. Not a technical term of the law.

Uxor non est sui juris, sed sub potestate viri /əksor nòn èst s(y)úway júrəs, sэд səb pòwtástéytiy víray/. A wife is not her own mistress, but is under the power of her husband.

Uxor sequitur domicilium viri /əksor sékwətər dóməsíl(i)yəm víray/. A wife follows the domicile of her husband.

V

V. As an abbreviation, this letter may stand for "Victoria," "volume," or "verb;" also "*vide*" (see) and "*voce*" (word). It is also a common abbreviation of "*versus*," in the titles of causes, and reported cases.

V.A. Veterans Affairs (Department of); Veterans Administration. See Veterans Administration.

Vacancy. A place or position which is empty, unfilled, or unoccupied. An unoccupied or unfilled post, position, or office. An existing office, etc., without an incumbent. The state of being destitute of an incumbent, or a proper or legally qualified officer. The term is principally applied to an interruption in the incumbency of an office, or to cases where the office is not occupied by one who has a legal right to hold it and to exercise the rights and perform the duties pertaining thereto. The word "vacancy," when applied to official positions, means, in its ordinary and popular sense, that an office is unoccupied, and that there is no incumbent who has a lawful right to continue therein until the happening of a future event, though the word is sometimes used with reference to an office temporarily filled.

A strip of unsurveyed and unsold public lands. *Hughes v. Rhodes*, Tex.Civ.App., 137 S.W.2d 820, 821.

See also Vacant.

Vacant. Empty; unoccupied; as, a "vacant" office or parcel of land. Deprived of contents, without inanimate objects. It implies entire abandonment, nonoccupancy for any purpose. *Foley v. Sonoma County Farmers' Mut. Fire Ins. Co. of Sonoma*, Cal.App., 108 P.2d 939, 942. Absolutely free, unclaimed, and unoccupied.

In fire policy insuring dwelling, term "vacant" means empty, without inanimate objects, deprived of contents; a thing is vacant when there is nothing in it; "vacant" means abandoned and not used for any purpose. *Alcock v. Farmers Mut. Fire Ins. Co. of DeKalb County*, Mo. App., 591 S.W.2d 126, 128.

See also Vacancy, and as to *vacant* Possession and Succession, see those titles.

Vacantia bona /vəkánsh(iy)ə bównə/. Lat. In the civil law, goods without an owner, or in which no one claims a property; escheated goods.

Vacate. To annul; to set aside; to cancel or rescind. To render an act void; as, to vacate an entry of record, or a judgment. As applied to a judgment or decree it is not synonymous with "suspend" which means to stay enforcement of judgment or decree.

To put an end to; as, to vacate a street. To move out; to make vacant or empty; to leave; especially, to surrender possession by removal; to cease from occupancy.

See also Annul; Reverse; Vacancy.

Vacatio /vəkéysh(iy)ow/. Lat. In the civil law, exemption; immunity; privilege; dispensation; exemption from the burden of office.

Vacation. A recess or leave of absence; a respite or time of respite from active duty or employment; an intermission or rest period during which activity or work is suspended. It is a period of freedom from duty or work, but not the end of employment. In re *Dauber*, 151 Pa.Super. 293, 30 A.2d 214, 216. The act or result of vacating. An intermission of procedure. It is not a termination of the relation of master and servant or employer and employee. In schools, there are customary vacations at Christmas, Easter, other holidays, and during the summer.

That period of time between the end of one term of court and the beginning of another. Compare Recess.

Vacation of judgment. The setting aside of a judgment on grounds that it was issued by mistake, inadvertence, surprise, excusable neglect or fraud. While the term "vacate" has been replaced by Fed.R.Civil P. 60, the basis for relief from judgment is the same as formerly when one sought to vacate a judgment.

Vacatur /vəkéytər/. Lat. Let it be vacated. In practice, a rule or order by which a proceeding is vacated; a vacating.

Vacatura /vèykət(y)úrə/. An avoidance of an ecclesiastical benefice.

Vacua possessio /vákýuwə pəzəsh(iy)ow/. Lat. The vacant possession, *i.e.*, free and unburdened possession, which (*e.g.*) a vendor had and has to give to a purchaser of lands.

Vacuity /vákýúwətiy/. Emptiness; vacancy; want of reality; nihility.

Vacuus /vákýuwəs/. Lat. In the civil law, empty; void; vacant; unoccupied.

Vadelet /vælət/. See Valec, valect, or vadelet.

Vades /véydiyz/. Lat. In the civil law, pledges; sureties; bail; security for the appearance of a defendant or accused person in court.

Vadiare duellum /vædiériy d(y)uwéləm/. L. Lat. In old English law, to wage or gage the *duellum*; to wage

battle; to give pledges mutually for engaging in the trial by combat.

Vadimonium /vədəməwɪn(i)yəm/. Lat. In Roman law, bail or security; the giving of bail for appearance in court; a recognizance. An ancient form of suretyship.

Vadium /véyd(i)yəm/. Lat. A pledge; security by pledge of property.

Vadium mortuum /véyd(i)yəm mórtyuwəm/. A mortgage or *dead pledge*; a security given by the borrower of a sum of money, by which he grants to the lender an estate in fee, on condition that, if the money be not repaid at the time appointed, the estate so put in pledge shall continue to the lender as dead or gone from the mortgagor. 2 Bl.Comm. 157.

Vadium ponere /véyd(i)yəm pównəriy/. To take bail for the appearance of a person in a court of justice.

Vadium vivum /véyd(i)yəm váyvəm/. A species of security by which the borrower of a sum of money made over his estate to the lender until he had received that sum out of the issues and profits of the land. It was so called because neither the money nor the lands were lost, and were not left in dead pledge, but this was a *living* pledge, for the profits of the land were constantly paying off the debt.

Vadlet /vædlət/. In old English law, the king's eldest son; hence the valet or knave follows the king and queen in a pack of cards.

Vadum /véydəm/. In old records, a ford, or wading place.

Vagabond. A vagrant or homeless wanderer without means of honest livelihood. *Neering v. Illinois Cent. R. Co.*, 383 Ill. 366, 50 N.E.2d 497, 502. One who wanders from place to place, having no fixed dwelling, or, if he has one, not abiding in it; a wanderer, especially such a person who is lazy and generally worthless and without means of honest livelihood. *See also* Vagrant.

Vagabonds are described in old English statutes as "such as wake on the night and sleep on the day, and haunt customable taverns and ale-houses and routs about; and no man wot from whence they came, nor whither they go." 4 Bl.Comm. 169.

Vagabundum nuncupamus eum qui nullibi domicilium contraxit habitationis /vægəbændəm nəŋkəpéyməs iyəm kwáy náləbáy doməsíl(i)yəm kəntɹæksət hæbətəy-shiyównəs/. We call him a "vagabond" who has acquired nowhere a domicile of residence.

Vagrancy. At common law, the act of going about from place to place by a person without visible means of support, who is idle, and who, though able to work for his or her maintenance, refuses to do so, but lives without labor or on the charity of others.

As defined by Kansas Criminal Code, vagrancy is: (a) Engaging in an unlawful occupation; or (b) Being of the age of eighteen (18) years or over and able to work and without lawful means of support and failing or refusing to seek employment; or (c) Loitering in any community without visible means of support; or (d) Loitering on the

streets or in a place open to the public with intent to solicit for immoral purposes; or (e) Deriving support in whole or in part from begging. KSA 21-4108. State vagrancy statutes, however, vary greatly, and many have been declared unconstitutional because, as drawn, they purport to punish conduct which is not criminal or are worded too vaguely to inform persons of the nature of the act declared criminal; *e.g.* *Papachristou v. City of Jacksonville*, 405 U.S. 156, 162, 92 S.Ct. 839, 843, 31 L.Ed.2d 110.

Vagrancy laws. *See* Vagrancy; Visible means of support.

Vagrant. At common law, wandering or going about from place to place by idle person who had no lawful or visible means of support and who subsisted on charity and did not work, though able to do so. *State v. Harlowe*, 174 Wash. 227, 24 P.2d 601.

A general term, including, in English law, the several classes of idle and disorderly persons, rogues, and vagabonds, and incorrigible rogues.

One who wanders from place to place; an idle wanderer, specifically, one who has no settled habitation, nor any fixed income or livelihood. A vagabond; a tramp. A person able to work who spends his time in idleness or immorality, having no property to support him and without some visible and known means of fair, honest and reputable livelihood. *State v. Oldham*, 224 N.C. 415, 30 S.E.2d 318, 319. One who is apt to become a public charge through his own laziness. *People, on Complaint of McDonough, v. Gesino*, Sp.Sess., 22 N.Y. S.2d 284, 285.

See Vagabond; Vagrancy.

Vagrant act. In English law, the statute 5 Geo. IV, c. 83, which is an act for the punishment of idle and disorderly persons. The act of 17 Geo. II divided vagrants into idle and disorderly persons; rogues and vagabonds; and incorrigible rogues. Other statutes were passed as late as 32 Geo. III bearing on this subject.

Vague. Indefinite. Uncertain; not susceptible of being understood. For purposes of determining whether statute is constitutionally infirm by reason of being vague, statute is "vague" if its prohibitions are not clearly defined, *State v. Fry*, 218 Neb. 558, 357 N.W.2d 216, 218; or if it does not provide explicit standards for its enforcement, *Pliscou v. Holtville Unified School Dist.*, D.C.Cal., 411 F.Supp. 842, 850. *See also* Vagueness doctrine.

Vagueness doctrine. Under this principle, a law (*e.g.*, criminal statute) which does not fairly inform a person of what is commanded or prohibited is unconstitutional as violative of due process. The doctrine originates in due process clause of Fourteenth Amendment, and is basis for striking down legislation which contains insufficient warning of what conduct is unlawful. *McCrary v. State*, Ala.Cr.App., 429 So.2d 1121, 1123. It requires that penal statutes give notice to ordinary person of what is prohibited and provide definite standards to guide discretionary actions of police officers so as to prevent arbitrary and discriminatory law enforcement. *Porta v. Mayor, City of Omaha, Neb.*, D.C.Neb., 593

F.Supp. 863, 865. See also *Vague*; Void for vagueness doctrine.

Vale /váley/veliy/. In Spanish law, a promissory note.

Valeat quantum valere potest /váliyət kwóntəm váliry pówtəst/. It shall have effect as far as it can have effect.

Valec, valect, or vadelet /válət/. In old English law, a young gentleman; also a servitor or gentleman of the chamber.

Valentia /váləsh(iy)ə/. L. Lat. The value or price of anything.

Valesheria /váləshír(i)yə/. In old English law, the proving by the kindred of the slain, one on the father's side, and another on that of the mother, that a man was a Welshman. See *Englshire*.

Valet /váley/váléy/. Anciently, a name denoting young gentlemen of rank and family, but afterwards applied to those of lower degree; now used for a personal servant, more particularly for hotel employee who performs personal services for guests.

Valid. Having legal strength or force, executed with proper formalities, incapable of being rightfully overthrown or set aside. *Bennett v. State*, 46 Ala.App. 535, 245 So.2d 570, 572. Founded on truth of fact; capable of being justified; supported, or defended; not weak or defective. *Kentucky Unemployment Ins. Commission v. Anaconda Aluminum Co., Ky.*, 433 S.W.2d 119, 121. Of binding force; legally sufficient or efficacious; authorized by law. Good or sufficient in point of law; efficacious; executed with the proper formalities; incapable of being rightfully overthrown or set aside; sustainable and effective in law, as distinguished from that which exists or took place in fact or appearance, but has not the requisites to enable it to be recognized and enforced by law. A deed, will, or other instrument, which has received all the formalities required by law, is said to be valid.

Meritorious, as, a *valid* defense.

See also *Legal*.

Validate. To make valid; confirm; sanction; affirm.

Validating statute. A statute, purpose of which is to cure past errors and omissions and thus make valid what was invalid, but it grants no indulgence for the correction of future errors. *Petition of Miller*, 149 Pa. Super. 142, 28 A.2d 257, 258.

Validation. Process of gathering evidence to show job-relatedness of employment test or selection device. *Brunet v. City of Columbus, S.D.Ohio*, 642 F.Supp. 1214, 1242.

Valid contract. A contract in which all of the elements of a contract are present and, therefore, enforceable at law by the parties. A properly constituted contract having legal force. Compare *Unenforceable contract*.

Validity. Legal sufficiency, in contradistinction to mere regularity.

Validity of a treaty. The term "validity," as applied to treaties, admits of two descriptions—necessary and voluntary. By the former is meant that which results from the treaties having been made by persons authorized by, and for purposes consistent with, the constitution. By voluntary validity is meant that validity which a treaty, voidable by reason of violation by the other party, still continues to retain by the silent acquiescence and will of the nation. It is voluntary, because it is at the will of the nation to let it remain or to extinguish it. The principles which govern and decide the necessary validity of a treaty are of a judicial nature, while those on which its voluntary validity depends are of a political nature.

Valid reason. These words, in a statute providing for the withdrawal of the names of petitioners for a road improvement district when valid reasons therefor are presented, mean a sound sufficient reason, such as fraud, deceit, misrepresentation, duress, etc.; a reason upon which the petitioner could support or justify his change in attitude. The word "valid" necessarily possesses an element of legal strength and force, and inconsistent positions have no such force.

Valley. As applied to a mountainous country, term refers to lowlands, in contradistinction to mountain slopes and ridges.

Valor beneficiorum /válər benəfshiyórəm/. L. Lat. The value of every ecclesiastical benefice and preferment, according to which the first fruits and tenths are collected and paid. It is commonly called the "king's books," by which the clergy are at present rated.

Valor maritaglii /válər mārətéjyiyay/. Lat. Value of the marriage. The amount forfeited under the ancient tenures by a ward to a guardian who had offered her a marriage without disparagement, which she refused. In feudal law, the guardian in chivalry had the right of tendering to his infant ward a suitable match, without "disparagement" (inequality), which, if the infants refused, they forfeited the value of the marriage (*valor maritaglii*) to their guardian; that is, so much as a jury would assess, or any one would *bona fide* give, to the guardian for such an alliance. 2 Bl.Comm. 70.

A writ which lay against the ward, on coming of full age, for that he was not married, by his guardian, for the *value of the marriage*, and this though no convenient marriage had been offered.

Valuable. Of financial or market value; commanding or worth a good price; of considerable worth in any respect, whether monetary or intrinsic.

Valuable consideration. A class of consideration upon which a promise may be founded, which entitles the promisee to enforce his claim against an unwilling promisor. For contract, may consist either in some right, interest, profit, or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility given, suffered, or undertaken by the other. *Atherton v. Atherton, Mo.App.*, 480 S.W.2d 513, 518. A gain or loss to either party is not essential, it is sufficient if the party in whose favor the contract is made parts with a

right which he might otherwise exert. *Miller Ice Co. v. Crim*, 299 Ill.App. 615, 20 N.E.2d 347. It need not be translatable into dollars and cents, but is sufficient if it consists of performance, or promise thereof, which promisor treats and considers of value to him. It is not essential that the person to whom the consideration moves should be benefited, provided the person from whom it moves is, in a legal sense, injured. The injury may consist of a compromise of a disputed claim or forbearance to exercise a legal right, the alteration in position being regarded as a detriment that forms a consideration independent of the actual value of the right forborne. Mutual promises in contract is sufficient. For Fair and valuable consideration, see that title. *See also* Consideration.

Valuable improvements. As used in a statute relating to the specific performance of a parol contract for the purchase of real estate, improvements of such character as add permanent value to the freehold, and such as would not likely be made by one not claiming the right to the possession and enjoyment of the freehold estate. Improvements of a temporary and unsubstantial character will not amount to such part performance as, when accompanied by possession alone, will take the contract out of the operation of the statute of frauds. The valuable improvements may, however, be slight and of small value, provided they are substantial and permanent in their nature, beneficial to the freehold, and such as none but an owner would ordinarily make.

Valuable papers. This term as used in statute requiring that a holographic will devising realty be found among the "valuable papers" of decedent, in order to be effective, refers to such papers as are regarded by the testator as worthy of preservation and therefore in his estimation of some value. *Fransioli v. Podesta*, 21 Tenn. App. 577, 113 S.W.2d 769, 773, 777. And does not refer only to papers having money value. *Pulley v. Cartwright*, 23 Tenn.App. 690, 137 S.W.2d 336, 340.

Valuation. The act of ascertaining the worth of a thing. The estimated worth or price of a thing. *See also* Appraisal; Assessed valuation; Fair value; Special use valuation; Value.

Valuation list. In English law, a list of all the ratable hereditaments in a parish, showing the names of the occupier, the owner, the property, the extent of the property, the gross estimated rental, and the ratable value; prepared by the overseers of each parish in a union under section 14 of the union assessment committee act, 1862 (St. 25 & 26 Vict., c. 103), for the purposes of the poor rate.

Value. The utility of an object in satisfying, directly or indirectly, the needs or desires of human beings, called by economists "value in use," or its worth consisting in the power of purchasing other objects, called "value in exchange." *Joint Highway Dist. No. 9 v. Ocean Shore R. Co.*, 128 Cal.App. 743, 18 P.2d 413, 417. Also the estimated or appraised worth of any object or property, calculated in money. To estimate the worth of; to rate at a certain price; to appraise; or to place a certain

estimate of worth on in a scale of values. *Hoard v. Wiley*, 113 Ga.App. 328, 147 S.E.2d 782, 784.

Any consideration sufficient to support a simple contract. The term is often used as an abbreviation for "valuable consideration," especially in the phrases "purchaser for value," "holder for value," etc. *See* Consideration; Valuable consideration.

In economic consideration, the word "value," when used in reference to property, has a variety of significations, according to the connection in which the word is employed. It may mean the cost of a production or reproduction of the property in question, when it is sometimes called "sound value;" or it may mean the purchasing power of the property, or the amount of money which the property will command in exchange, if sold, this being called its "market value," which in the case of any particular property may be more or less than either the cost of its production or its value measured by its utility to the present or some other owner; or the word may mean the subjective value of property, having in view its profitableness for some particular purpose, sometimes termed its "value for use."

Salable value, actual value, market value, fair value, reasonable value, and cash value may all mean the same thing and may be designed to effect the same purpose. *Cummings v. National Bank*, 101 U.S. 153, 25 L.Ed. 903.

"Value," as used in Art. I, § 8, U.S.Const., giving Congress power to coin money and regulate the value thereof, is the true, inherent, and essential value, not depending upon accident, place, or person, but the same everywhere and to every one, and in this sense regulating the value of the coinage is merely determining and maintaining coinage composed of certain coins within certain limitations at a certain specific composition and weight.

For taxation purposes, "value" is the worth established by bargaining process of willing buyer and willing seller. In *re Montpelier & Barre R.R. Corp.*, 135 Vt. 102, 369 A.2d 1379, 1381. *See* Fair market value.

Value as it relates to stolen property is the market value at the time and place of the taking, or, in case of property without a market value, the cost of replacing it. *Givens v. State*, 143 Tex.Cr.R. 277, 158 S.W.2d 535, 536. The National Stolen Property Act defines value as "face, par or market value, whichever is the greatest..." 18 U.S.C.A. § 2311. *U.S. v. Wentz*, C.A.W.Va., 800 F.2d 1325, 1326.

Value as used in eminent domain proceeding means market value (*q.v.*) *Epstein v. Boston Housing Authority*, 317 Mass. 297, 58 N.E.2d 135, 137. *See also* Just compensation; Market value.

Most generally, a legal basis for enforcing a transfer of property or an undertaking, including a promise or other commitment, which is different from common-law consideration. For purposes of the U.C.C. generally, see U.C.C. § 1-201(44); for purposes of due-course status, see U.C.C. §§ 3-303; 4-208 & 4-209.

Under U.C.C. § 1-201(44), a person gives "value" for rights if he acquires them: (a) in return for a binding

commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection; or (b) as security for or in total or partial satisfaction of a pre-existing claim; or (c) by accepting delivery pursuant to a pre-existing contract for purchase; or (d) generally, in return for any consideration sufficient to support a simple contract.

See also Actual value; Agreed value; Annual value; Appraisal; Assess; Cash value; Commuted value; Consideration; Diminution in value; Double value; Face value; Fair cash market value; Fair cash value; Fair market value; Fair value; Going concern value; Improved value; Insurable value; Intrinsic value; Just compensation; Leasehold value; Market value; Net asset value; Par value; Policy value; Present value.

Actual cash value. In insurance, its customary meaning is replacement cost new less normal depreciation, though it may be determined by current market value of similar property or by the cost to replace or repair the property.

Book value. The value at which assets of a business are carried on the books of the company. The book value of fixed assets is arrived at by subtracting accumulated depreciation from the cost of the fixed assets. It may also refer to the net worth of a business arrived at by subtracting liabilities from assets. *See also* Book.

Cash surrender value. In life insurance, the amount which the insurer will pay before death when the policy is cancelled. *See also* Cash value.

Intrinsic value. The value which a thing has as of itself, and not the value reflecting extrinsic factors such as market conditions.

Liquidation value. The value of a business or of an asset when it is sold other than in the ordinary course of business as in the liquidation of a business.

Market value. Fair value of property as between one who wants to purchase it and another who desires to sell it. What willing purchaser will give for property under fair market conditions. *People v. F. H. Smith Co.*, 230 App.Div. 268, 243 N.Y.S. 446, 451. Not what the owner could realize at a forced sale, but the price he could obtain after reasonable and ample time, such as would ordinarily be taken by an owner to make a sale of like property. *Wade v. Rathbun*, 23 Cal.App.2d Supp. 758, 67 P.2d 765, 766. *See* Fair cash market value; Fair market value; Fair value; Just compensation.

Net value. The "reserve" or "net value" of a life insurance policy is the fund accumulated out of the net premiums during the earlier years of the policy where the premium throughout life or a term of years exceeds the actual value of the risk. The "net value" of a policy is equivalent to "reserve," and means that part of the annual premium paid by insured which, according to the American Experience Table of Mortality, must be set apart to meet or mature the company's obligations to insured, the net value of a policy on a given date being its actual value, its reserve.

No par value. Stock of a corporation which has no par value but which represents a proportionate share of the ownership of the corporation.

Optimal use value. Synonym for Most suitable use value (*q.v.*).

Par value. The nominal value of stock arrived at by dividing the total stated capital stock by the number of shares authorized.

Residual value. Amount expected to be obtained when a fixed asset is disposed of at the end of its useful life (also called scrap or salvage value).

Scrap value. The value of the constituent materials and components of a thing; not its value for the purpose for which it was made.

Stated value. The dollar value of no par stock established by the corporation as constituting the capital of the corporation.

Surrender value. *See* Cash surrender value, above.

True value. As referring to value at which property must be assessed, is price which would be paid therefor on assessing date to willing seller, not compelled to sell, by willing purchaser, not compelled to purchase. *New York Bay R. Co. v. Kelly*, 22 N.J.Misc. 204, 37 A.2d 624, 628.

Use value. The value established by the usefulness of an object and not its value for sale or exchange.

Value of matter in controversy. *See* Amount in controversy; Jurisdictional amount.

Value received. A phrase usually employed in a bill of exchange or promissory note, to denote that a lawful consideration has been given for it. *Clayton v. Clayton*, 125 N.J.L. 537, 17 A.2d 496, 497. It is prima facie evidence of consideration, *Moses v. Bank*, 149 U.S. 298, 13 S.Ct. 900, 37 L.Ed. 743; although not necessarily in money.

Value added tax. *See* Tax.

Valued policy. Insurance policy in which a definite valuation is by agreement of both parties put on the subject-matter of the insurance and written in the face of the policy and such value, in the absence of fraud or mistake, is conclusive on the parties. One in which both property insured and loss are valued. It is distinguished from an "open policy", which is one where the value of the property insured is not settled in the policy. *Perez v. Los Fresnos State Bank*, Tex.Civ.App.1974, 512 S.W.2d 796, 800.

Valueless. Worthless.

Valuer /vályuwr/. A person whose business is to appraise or set a value upon property; an appraiser.

Valvasors, or vidames /vávəsòrz/víydámz/. An obsolete title of dignity next to a peer.

Vana est illa potentia quæ nunquam venit in actum /véynə èst ilə pótəns(h)(y)ə kwíy nánkwəm víynət ən áktəm/. That power is vain [idle or useless] which never comes into action [which is never exercised].

Vandalic /vændælik/. Willfully or ignorantly destructive. *Unkelsbee v. Homestead Fire Ins. Co. of Baltimore, D.C.Mun.App.*, 41 A.2d 168, 170.

Vandalism. Such willful or malicious acts as are intended to damage or destroy property. *Vort v. Westbrook*, 221 Ga. 39, 142 S.E.2d 813, 814, 815. Willful or ignorant destruction of property of another, commonly referring to artistic or literary treasures. Hostility to or contempt for what is beautiful or venerable. *Unkelsbee v. Homestead Fire Ins. Co. of Baltimore, D.C.Mun.App.*, 41 A.2d 168, 170, 172. Vandalism connotes act of vandal and in ordinary usage is not limited to destruction of works of art, but has broadened its meaning to include destruction of property generally. *Eis v. Hawkeye-Security Ins. Co.*, 192 Kan. 103, 386 P.2d 206, 210. Within dwelling policy means the willful and malicious destruction of property generally, and the destruction must have been intentional or in such reckless and wanton disregard of rights of others as to be equivalent of intent, and malice may be inferred from act of destruction. *Livaditis v. American Cas. Co. of Reading, Pa.*, 117 Ga.App. 297, 160 S.E.2d 449, 450. *See also* Deface; Desecrate.

Vani timores sunt estimandi, qui non cadunt in constantem virum /véynay tãmóriyz sânt èstãménday, kwáy nòn kéydtnt in konstántam vírsm/. Those are to be regarded as idle fears which do not affect a steady [firm or resolute] man.

Vani timoris justa excusatio non est /véynay tãmóræs jéstæ èkskyuwzèysh(i)yow nòn èst/. A frivolous fear is not a legal excuse.

Vantarius /vántèr(i)yæs/. L. Lat. In old records, a forefootman.

Vara /várə/. A Spanish-American measure of length, equal to 33 English inches or a trifle more or less, varying according to local usage. *See U. S. v. Perot*, 98 U.S. 428, 25 L.Ed. 251. A measure used in Mexican land grants equal to 32.9927 inches. *Ainsa v. U. S.*, 161 U.S. 208, 16 S.Ct. 544, 40 L.Ed. 673.

Variable annuity. An annuity whose periodic payments depend upon some uncertain outcome, such as stock market prices. An annuity contract in which the premiums or payments are invested in securities to keep pace with inflation. The payments, therefore, which the annuitant receives vary from time to time. *See also* Annuity.

Variable interest rate. Interest rate that is set according to fluctuation in the prime rate; it is a floating rate.

Variable-rate mortgage. *See* Mortgage.

Variance. *Civil and criminal practice*. A discrepancy or disagreement between two instruments or two pleading allegations in the same cause, which should by law be entirely consonant. Thus, if the evidence adduced by the plaintiff does not agree with the allegations of his pleadings, it is a variance. A disagreement between the allegations and the proof in some matter which, in point of law, is essential to the charge or claim. The test of materiality of "variance" in an information is whether

the pleading so fully and correctly informs a defendant of offense with which he is charged that, taking into account proof which is introduced against him, he is not misled in making his defense. *People v. Guerrero*, 22 Cal.2d 183, 137 P.2d 21, 24.

To constitute a fatal variance, there must be a real and tangible difference between the allegations in the pleading and the proof offered in its support. The difference must be substantial and material. It must be one that actually misleads the adverse party to his prejudice in maintaining his action or defense on the merits; or, in criminal cases, one which might mislead the defense or expose a defendant to being put twice in jeopardy for the same offense, as, *e.g.*, when evidence offered at trial proves facts materially different from those alleged in the indictment. *Gaither v. U.S.*, 413 F.2d 1061, 1071, 134 U.S.App.D.C. 154.

Stipulations to vary discovery procedures are governed by Fed.R. Civil P. 29.

The assertion of "variance" or discrepancy between the pleadings and proof has essentially been eliminated in *civil* cases by Fed.R.Civil P. 15(b) which permits liberal amendment of the pleadings to conform to the evidence. This same rule is followed by most state courts. In *criminal* cases, variances that do not affect the substantial rights of the accused will be disregarded. *See Fed.R.Crim.P.* 7(c), (e), 52(a).

See also Area variance; Departure; Fatal variance; Error (*Harmless error*); Irregularity.

Accounting. In accounting, a variance is the difference between the actual and standard cost of such things as direct materials, direct labor, and overhead. An unfavorable variance generally means that the actual costs incurred exceeded the budgeted amounts.

Zoning. Permission to depart from the literal requirements of a zoning ordinance by virtue of unique hardship due to special circumstances regarding person's property. It is in the nature of a waiver of the strict letter of the zoning law upon substantial compliance with it and without sacrificing its spirit and purpose. *Rosedale-Skinker Imp. Ass'n v. Board of Adjustment of City of St. Louis, Mo.*, 425 S.W.2d 929, 937. An authorization to a property owner to depart from literal requirements of zoning regulations in utilization of his property in cases in which strict enforcement of the zoning regulations would cause undue hardship. *Daniel v. District of Columbia Bd. of Zoning Adjustment, D.C. App.*, 329 A.2d 773, 775. A "use variance" is a variance permitting a use other than that permitted in particular district by zoning ordinance. *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md.App. 28, 322 A.2d 220, 225. *Compare* Area variance; Special exception; Special use permit; Unnecessary hardship.

Variou. Separate. *Simmons v. Ramsbottom*, 51 Wyo. 419, 68 P.2d 153, 156. Unlike; different; more than one; numerous; several; of diverse kinds.

Vas /væs/. Lat. In the civil law, a pledge; a surety; bail or surety in a criminal proceeding or civil action.

Vasectomy. Resection of the ductus deferens. Surgical excision of part of the vas deferens, resulting in sterilization of the male.

Vassal /väsəl/. A feudal tenant or grantee; a feudatory; the holder of a fief on a feudal tenure, and by the obligation of performing feudal services. The correlative term was "lord." The vassal himself might have been lord of some other vassal.

In later times, this word was used to signify a species of slave who owed servitude and was in a state of dependency on a superior lord. 2 Bl.Comm. 53.

Vassalage /väsələj/. The state or condition of a vassal.

Vassal states. In international law, states which were supposed to possess only those rights and privileges which had been expressly granted to them, but actually they seem to have been very independent. Egypt was such; also Crete.

Vasseleria /väsəliri(y)ə/. The tenure or holding of a vassal.

Vastum /véystəm/. L. Lat. A waste or common lying open to the cattle of all tenants who have right of commoning.

Vastum forestæ vel bosci /véystəm fəréstiy vèl bósay/. Waste of a forest or wood. That part of a forest or wood wherein the trees and underwood were so destroyed that it lay in a manner waste and barren.

VAT. Value added tax. *See Tax.*

Vauderie /vówd(ə)riy/. In old European law, sorcery; witchcraft; the profession of the Vaudois.

Vavasory /vávəs(ò)riy/. The lands that a vavasour held.

Vavasour /vávəsòr/. One who was in dignity next to a baron. One who held of a baron.

V.C. An abbreviation for "vice-chancellor."

V.C.C. An abbreviation for "vice-chancellor's court."

V.E. An abbreviation for "*venditioni exponas*" (*q.v.*).

Veal-money. The tenants of the manor of Bradford, in the county of Wilts, paid a yearly rent by this name to their lord, in lieu of veal paid formerly in kind.

Vecorin. In old Lombardic law, the offense of stopping one on the way; forestalling.

Vectigalia /vèktágyəl(i)yə/. In Roman law, customs-duties; taxes paid upon the importation or exportation of certain kinds of merchandise. They differed from tribute, which was a tax paid by each individual. Rent from state lands.

Vectigal judicarium /vèktágyəl juwdishiyér(i)yəm/. Lat. Fines paid to the crown to defray the expenses of maintaining courts of justice.

**Vectigal, origine ipsa, jus cæsarum et regum patri-
moniale est** /vèktágyəl, ərijəniy ípsə, jás siyzerəm èt
riygəm pàtrəmòwniyéyliy èst/. Tribute, in its origin, is
the patrimonial right of emperors and kings.

Vectura /vekt(y)ùrə/. In maritime law, freight.

Vehicle. That in or on which persons, goods, etc. may be carried from one place to another, especially along the ground. Any moving support or container fitted or used for the conveyance of bulky objects; a means of conveyance. That which is used as an instrument of conveyance, transmission or communication. Term refers to every device in, upon or by which a person or property is or may be transported upon a highway. Term has been held to include a "moped" (People v. Jordan, 75 Cal. App.3d Supp. 1, 142 Cal.Rptr. 401, 405). While a bicycle has been held by some courts to be a vehicle under traffic laws (Richards v. Goff, 26 Md.App. 344, 338 A.2d 80, 84), others have held that it is not (Fowles v. Dakin, 160 Me. 392, 205 A.2d 169, 173).

Vehicular crimes. Criminal acts committed while operating a motor vehicle, e.g. vehicular manslaughter (N.Y. Penal Law 125.13), vehicular assault (N.Y. Penal Law 120.04). *See also* Vehicular homicide.

Vehicular homicide. Homicide caused by the unlawful and negligent operation of a motor vehicle. Both intentional conduct and negligence may be the basis for such charge though statutes vary from state to state as to the elements of the crime. *See e.g.* Model Penal Code § 210.4 (negligent homicide); N.Y. Penal Law 125.13 (vehicular manslaughter). *See also* Homicide.

Veies /viy(iy)z/. L. Fr. Distresses forbidden to be replevied; the refusing to let the owner have his cattle which were distrained.

Vein. A continuous body of mineral or mineralized rock, filling a seam or fissure in the earth's crust, within defined boundaries in the general mass of the mountain (which boundaries clearly separate it from the neighboring rock), and having a general character of continuity in the direction of its length. McMullin v. Magnuson, 102 Colo. 230, 78 P.2d 964, 968. It includes all deposits of mineral matter found through a mineralized zone or belt coming from the same source, impressed with the same forms, and appearing to have been created by the same processes. Inyo Marble Co. v. Loundagin, 120 Cal.App. 298, 7 P.2d 1067, 1072.

The terms "principal," "original," and "primary," as well as "secondary," "accidental," and "incidental," have all been employed to describe the different veins found within the same surface boundaries, but their meaning is not entirely clear in all cases. They may refer to the relative importance or value of the different veins, or the relations to each other, or to the time of discovery, but the words "secondary," "accidental," and "incidental" are most frequently used to distinguish between the discovery vein and other veins within the same surface boundaries.

Discovery vein. That vein which served as a basis of the location, in contradistinction to secondary, accidental, and incidental veins. The primary vein for the purpose of locating a mining claim and determining which are the end and which the side lines. Where the discovery vein crosses the opposite side lines of the claim as located, the side lines become end lines, not only with respect to such vein, but for determination of extralater-

al rights in any other vein which apexes within the claim.

Vejours. Viewers; persons sent by the court to take a view of any place in question, for the better decision of the right. It signifies, also, such as are sent to view those that *essoïn* themselves *de malo lecti*, (i.e., excuse themselves on ground of illness) whether they be in truth so sick as that they cannot appear, or whether they do counterfeit.

Velabrum /vələbrəm/. In old English law, a tollbooth.

Velitis jubeatis quirites? /vələtəs juwbijəytəs kwəraytiyz/. Lat. Is it your will and pleasure, Romans? The form of proposing a law to the Roman people.

Velle non creditur qui obsequitur imperio patris vel domini /vəliy nòn krédətar kwáy əbsékwtər impir(i)yow pətrəs vèl dóməny/. He is not presumed to consent who obeys the orders of his father or his master.

Vel non /vèl nòn/. Or not. These words appear in the phrase "devisavit vel non" (*q.v.*), meaning, literally, "did he devise or not." Examples of their use by the courts may be seen in the following quotations: "So the sufficiency vel non of the order of publication is important"; "the negligence vel non of the owner was * * * for the jury"; and "We come at last to the merits vel non of this appeal".

Veltraria /veltrér(i)yə/. The office of dog-leader, or courser.

Venal /viynəl/. Pertaining to something that is bought; capable of being bought; offered for sale; mercenary. Used usually in an evil sense, such purchase or sale being regarded as corrupt and illegal.

Venaria /vənér(i)yə/. Beasts caught in the woods by hunting.

Venatio /vənəysh(i)yow/. Hunting.

Vend. To transfer to another for a pecuniary equivalent; to make an object of trade, especially by hawking or peddling; to sell. *Goins v. State*, 194 Ark. 598, 108 S.W.2d 1082, 1083. The term is not commonly applied to the sale of real estate, although its derivatives "vendor" and "vendee" are.

Vendee. A purchaser or buyer; one to whom anything is sold. Generally used of the purchaser of real property, one who acquires goods by sale being generally called a "buyer." *Compare* Vendor.

Vendens eandem rem duobus falsarius est /véndenz iyándəm rém dyuwóbəs fəlsér(i)yəs èst/. He is fraudulent who sells the same thing twice.

Vendetta. A private blood feud, in which a family seeks to avenge one of its members on the offender or his family. *Stephens v. Howells Sales Co.*, D.C.N.Y., 16 F.2d 805, 808.

Vendible /véndəbəl/. Fit or suitable to be sold; capable of transfer by sale; merchantable.

Venditæ /véndətiy/. In old European law, a tax upon things sold in markets and public fairs.

Venditio /vendish(i)yow/. Lat. In the civil law, in a strict sense, sale; the act of selling; the contract of sale, otherwise called "*emptio venditio*."

In a broader sense, any mode or species of alienation; any contract by which the property or ownership of a thing may be transferred.

Vendition /vendishən/. Sale; the act of selling.

Venditioni exponas /véndishiyównay ekspównəs/. Lat. You expose to sale. The name of a writ of execution, requiring a sale to be made, directed to a sheriff when he has levied upon goods under a *feri facias*, but returned that they remained unsold for want of buyers; and in some jurisdictions it is issued to cause a sale to be made of lands, seized under a former writ, after they have been condemned or passed upon by an inquisition. Frequently abbreviated to "*vend. ex.*" *Beeve v. U. S.*, 161 U.S. 104, 16 S.Ct. 532, 40 L.Ed. 633; *State ex rel. First Nat. Bank v. Ogden*, 173 Okl. 285, 49 P.2d 565, 567. The writ gives no new authority to the sheriff but only directs him to perform his duty under the execution. *Fannin's Ex'r v. Haney*, 283 Ky. 68, 140 S.W.2d 630, 632.

Venditor /véndətar/. Lat. A seller; a vendor.

Venditor regis /véndətar rijjəs/. In old English law, the king's seller or salesman; the person who exposed to sale those goods and chattels which were seized or distrained to answer any debt due to the king.

Venditrix /véndətrəks/. Lat. A female vendor.

Vendor. The person who transfers property or goods by sale. A seller of goods or services. *Cashway Bldg. Materials, Inc. v. McCurdy*, Tex.Civ.App., 553 S.W.2d 787, 789-90. A merchant, retail dealer, supplier, importer, wholesale distributor; one who buys to sell; a seller. *Compare* Vendee.

Vendor's lien. A creature of equity, being a lien impliedly belonging to a vendor for the unpaid purchase price of land, where he has not taken any other lien or security beyond the personal obligation of the purchaser. An equitable security which arises from the fact that a vendee has received from his vendor property for which he has not paid the full consideration, and such lien exists independently of any express agreement. *Causar v. Wilmoth*, Mo.App., 142 S.W.2d 777, 779. Also, a lien existing in the unpaid vendor of chattels, the same remaining in his hands, to the extent of the purchase price, where the sale was for cash, or on a term of credit which has expired, or on an agreement by which the seller is to retain possession.

In English and American law a vendor's lien is exceptional in character, and is an importation from the civil law, which found its recognition through courts of chancery, on the equitable principle that the person who had secured the estate of another ought not in conscience to be allowed to keep it and not pay full consideration money, and that to enforce that payment it was just that the vendor should have a lien upon the property.

Vendue /vendyúw/vénd(y)uw/. A sale; generally a sale at public auction; and more particularly a sale so made under authority of law, as by a constable, sheriff, tax collector, administrator, etc.

Vendue master /vénd(y)uw mástər/. An auctioneer.

Venereal /vənəriyəl/. Sexual; as, *venereal* diseases.

Venereal disease /vənəriyəl dəziyz/. One of several diseases identified with sexual intercourse. Collective term for gonorrhoea, chancroid, and syphilis.

Venia /viyn(i)yə/. A kneeling or low prostration on the ground by penitents; pardon.

Venia ætatis /viyn(i)yə ætéytəs/. A privilege granted by a prince or sovereign, in virtue of which a person is entitled to act, *sui juris*, as if he were of full age.

Veniæ facilitas incentivum est delinquendi /viyniyi fəsilətəs insentáyvəm èst dèliŋkwénday/. Facility of pardon is an incentive to crime.

Venire /vənáyriy/. Lat. To come; to appear in court. The group of citizens from whom a jury is chosen in a given case. Sometimes used as the name of the writ for summoning a jury, more commonly called a "venire facias." See also Jury panel. A special venire is sometimes prepared for a protracted case.

Venire de novo /vənáyriy diy nóvwow/. See Venire facias de novo.

Venire facias /vənáyriy féysh(iy)əs/. Lat. A judicial writ, directed to the sheriff of the county in which a cause is to be tried, commanding him that he "cause to come" before the court, on a certain day therein mentioned, twelve good and lawful men of the body of his county, qualified according to law, by whom the truth of the matter may be the better known, and who are in no wise of kin either to the plaintiff or to the defendant, to make a jury of the county between the parties in the action, because as well the plaintiff as the defendant, between whom the matter in variance is, have put themselves upon that jury, and that he return the names of the jurors, etc.

Venire facias ad respondendum /vənáyriy féysh(iy)əs æd rəspondéndəm/. A writ to summon a person, against whom an indictment for a misdemeanor has been found, to appear and be arraigned for the offense. A warrant is now more commonly used.

Venire facias de novo /vənáyriy féysh(iy)əs diy nóvwow/. A fresh or new *venire*, which the court grants when there has been some impropriety or irregularity in returning the jury, or where the verdict is so imperfect or ambiguous that no judgment can be given upon it, or where a judgment is reversed on error, and a new trial awarded. The ancient common-law mode of proceeding to a new trial was by a writ of venire facias de novo. The present day relief of "new trial" is intended to mitigate the severity of the proceeding to attain. While a venire de novo and new trial are quite different, they are alike in that a new trial takes place in both. The material difference between them is that a venire de novo must be granted upon matters appearing upon

the face of the record, but a new trial may be granted for things out of the record. The terms "venire facias de novo" and "venire de novo" are used interchangeably to denote a new trial. See also Trial (*New trial*).

Venire facias juratores /vənáyriy féysh(iy)əs jüratóriyz/. A common law judicial writ directed to the sheriff, when issue was joined in an action, commanding him to cause to come to Westminster, on such a day, twelve free and lawful men of his county by whom the truth of the matter at issue might be better known. This writ was abolished by section 104 of the common-law procedure act, 1852, and by section 105 a precept issued by the judges of assize is substituted in its place. The process so substituted is sometimes loosely spoken of as a "*venire*."

Venire facias tot matronas /vənáyriy féysh(iy)əs tòt mətrownəs/. A writ to summon a jury of matrons to execute the writ *de ventre inspiciendo*.

Venireman /vənáyriymən/. A member of a panel of jurors; a prospective juror. Before becoming a juror, a person must pass voir dire examination. U.S. v. Halde-man, 559 F.2d 31, 59, 181 U.S.App.D.C. 254. See Jury.

Venit et defendit /viynət èt dèfèndèt/. L. Lat. In old pleading, comes and defends. The proper words of appearance and defense in an action.

Venit et dicit /viynət èt dísət/. Lat. In old pleading, comes and says.

Vente /vónt/. In French law, sale; contract of sale.

Vente aleatoire /vónt àleyatwár/. A sale subject to an uncertain event.

Vente à réméré /vónt a rèyméréy/. A conditional sale, in which the seller reserves the right to redeem or repurchase at the same price. The term is used in Canada and Louisiana.

Vente aux enchères /vónt owz onshér/. An auction.

Venter /vèntər/. Lat. (*ventre*, Fr.) The belly; the womb; the wife. Used in law as designating the maternal parentage of children. Thus, where in ordinary phraseology we should say that A. was B.'s child by his first wife, he would be described in law as "by the first *venter*." A child is said to be *en ventre sa mere* before it is born; while is it a *foetus*.

Ventre inspiciendo /vèntriy inspishiyéndow/. See De ventre inspiciendo; Venire facias tot matronas.

Venture, *v.* To take (the) chances.

Venture, *n.* An undertaking attended with risk, especially one aiming at making money; business speculation. See also Joint enterprise; Joint venture.

Venture capital. Funding for new companies or others embarking on new or turnaround ventures that entails some investment risk but offers the potential for above average future profits. Venture capital is often provided by firms that specialize in financing new ventures with capital supplied by investors interested in speculative or high risk investments. See also Risk capital; Seed money.

Venue. Formerly spelled *visne*. In common law pleading and practice, a neighborhood; the neighborhood, place, or county in which an injury is declared to have been done, or fact declared to have happened. 3 Bl. Comm. 294.

The particular county, or geographical area, in which a court with jurisdiction may hear and determine a case. Venue deals with locality of suit, that is, with question of which court, or courts, of those that possess adequate personal and subject matter jurisdiction may hear the specific suit in question. *Japan Gas Lighter Ass'n v. Ronson Corp.*, D.C.N.J., 257 F.Supp. 219, 224. It relates only to place where or territory within which either party may require case to be tried. *Leege v. Strand*, 384 P.2d 665, 668. It has relation to convenience of litigants and may be waived or laid by consent of parties. *Iselin v. La Coste*, C.C.A.La., 147 F.2d 791, 795.

In the federal courts, the term refers to the district in which the suit is brought. Venue may be determined by where the action arose or where the parties reside or conduct their business. The venue statute for civil actions in federal district courts is 28 U.S.C.A. § 1391.

In federal cases the prosecutor's discretion regarding the location of the prosecution is limited by Article III, § 2, U.S.Const., which requires trial in the state where the offense "shall have been committed," and the Sixth Amendment, which guarantees an impartial jury "of the state and district wherein the crime shall have been committed." See also *Federal criminal cases*, below.

Venue does not refer to jurisdiction at all. *Arganbright v. Good*, 46 Cal.App.2d Supp. 877, 116 P.2d 186. "Jurisdiction" of the court means the inherent power to decide a case, whereas "venue" designates the particular county or city in which a court with jurisdiction may hear and determine the case. *Village of Oakdale v. Ferrante*, 44 Ohio App.2d 318, 338 N.E.2d 767, 769. As such, while a defect in venue may be waived by the parties, lack of jurisdiction may not.

See also Change of venue; Forum conveniens; Forum non conveniens.

Federal criminal cases. Except as otherwise permitted by statute or by the rules, the prosecution shall be had in a district in which the offense was committed. The court shall fix the place of trial within the district with due regard to the convenience of the defendant and the witnesses. Fed.R.Crim.P. 18 *et seq.*

Venue facts. Facts to be established at hearing on plea of privilege. *Central Motor Co. v. Roberson*, Tex.Civ. App., 139 S.W.2d 287, 289. Facts which by statute constitute an exception to the general right of a defendant to be sued in the county of his residence. *Crawford v. Sanger*, Tex.Civ.App., 160 S.W.2d 115, 116.

Venue jurisdiction. Power of the particular court to function. *Brand v. Pennsylvania R. Co.*, D.C.Pa., 22 F.Supp. 569, 571. See also Venue.

Veracity. Truthfulness; accuracy.

Veray /vəréy/. L. Fr. True. An old form of *vrai*. Thus, *veray*, or true *tenant*, is one who holds in fee-sim-

ple; *veray tenant by the manner*, is the same as *tenant by the manner* (*q.v.*), with this difference only: that the fee-simple instead of remaining in the lord, is given by him or by the law to another.

Verba /vərbə/. Lat. (Plural of *verbum*.) Words.

Verba accipienda sunt cum effectu, ut sortiantur effectum /vərbə əksipiyéndə sənt kəm əfékt(y)uw, ət sòrshiyəntər əféktəm/. Words are to be received with effect, so that they may produce effect.

Verba accipienda sunt secundum subjectam materiam /vərbə əksipiyéndə sənt səkəndəm səbjéktəm mətəriyəm/. Words are to be understood with reference to the subject-matter.

Verba accipienda ut sortiantur effectum /vərbə əksipiyéndə ət sòrshiyəntər əféktəm/. Words are to be taken so that they may have some effect.

Verba æquivoca, ac in dubio sensu posita, intelliguntur digniori et potentiori sensu /vərbə əkwívəka, ək in d(y)úwbiyow pòzətə, intələgəntər dign(i)yóray èt pətenshiyóray séns(y)uw/. Equivocal words, and such as are put in a doubtful sense, are [to be] understood in the more worthy and effectual sense [in their best and most effective sense].

Verba aliquid operari debent; debent intelligi ut aliquid operentur /vərbə ələkəwəd òpəréray débənt; débənt intələjay ət ələkəwəd òpərəntər/. Words ought to have some operation; they ought to be interpreted in such a way as to have some operation.

Verba aliquid operari debent, verba cum effectu sunt accipienda /vərbə ələkəwid òpəréray débənt, vərbə kəm əfékt(y)uw sənt əksipiyéndə/. Words are to be taken so as to have effect.

Verba artis ex arte /vərbə ártəs èks ártiy/. Terms of art should be explained from the art.

Verba cancellariæ /vərbə kənsəlériiy/. Words of the chancery. The technical style of writs framed in the office of chancery.

Verba chartarum fortius accipiuntur contra proferentem /vərbə kartérəm fórs(i)yəs əksipiyəntər kóntrə pròfərəntəm/. The words of charters are to be received more strongly against the grantor [or the person offering them].

Verba cum effectu accipienda sunt /vərbə kəm əfékt(y)uw əksipiyéndə sənt/. Words ought to be used so as to give them their effect.

Verba currentis monetæ, tempus solutionis designant /vərbə kəhréntəs məníyiy, témpəs səl(y)úwshiyównəs dézəgnənt/. The words "current money" designate current at the time of payment.

Verba debent intelligi cum effectu ut res magis valeat quam pereat /vərbə débənt intələjay kəm əfékt(y)uw, ət ríyz méyjas vəlíyət kwəm péhriyət/. Words ought to be understood with effect, that a thing may rather be preserved than destroyed.

Verba debent intelligi ut aliquid operentur /vǫrbǫ débǫnt intǫlǫjǫy ǫt ǫlǫkwǫd ǫpǫrǫntǫr/. Words ought to be understood so as to have some operation.

Verba dicta de persona intelligi debent de conditione personæ /vǫrbǫ diktǫ diy pǫrsǫwnǫ intǫlǫjǫy débǫnt diy kǫndishiyǫwniy pǫrsǫwniy/. Words spoken of a person are to be understood of the condition of the person.

Verba fortius accipiuntur contra proferentem /vǫrbǫ fǫrsh(i)yǫs ǫksipiyǫntǫr kǫntrǫ prǫfǫrǫntǫm/. Words are to be taken most strongly against him who uses them.

Verba generalia generaliter sunt intelligenda /vǫrbǫ jǫnǫrǫyl(i)yǫ jǫnǫrǫylǫtǫr sǫnt intǫlǫjǫndǫ/. General words are to be generally understood.

Verba generalia restringuntur ad habilitatem rei vel aptitudinem personæ /vǫrbǫ jǫnǫrǫyl(i)yǫ rǫstrǫngǫntǫr ǫd hǫbilǫtǫytǫm rǫiyǫy vǫl ǫptǫt(y)ǫwdǫnǫm pǫrsǫwniy/. General words must be narrowed either to the nature of the subject-matter or to the aptitude of the person.

Verba illata (relata) inesse videntur /vǫrbǫ ǫlǫytǫ inǫsiy vǫdǫntǫr/°rǫlǫytǫ/. Words referred to are to be considered as if incorporated.

Verba in differenti materia per prius, non per posterius, intelligenda sunt /vǫrbǫ in difǫrǫntǫy mǫtǫriyǫ pǫr prǫyǫs, nǫn pǫr postǫriyǫs, intǫlǫjǫndǫ sǫnt/. Words on a different subject are to be understood by what precedes, not by what comes after. A maxim of the civil law.

Verba intelligenda sunt in casu possibili /vǫrbǫ intǫlǫjǫndǫ sǫnt in kǫys(y)uw posibǫlǫy/. Words are to be understood in [or "of," or "in reference to"] a possible case. A maxim of the civil law.

Verba intentioni, non e contra, debent inservire /vǫrbǫ intǫnshiyǫwnǫy, nǫn iy kǫntrǫ, débǫnt insǫrvǫyriy/. 8 Coke, 94. Words ought to be made subservient to the intent, not the intent to the words. Bailey v. Abington, 201 Ark. 1072, 148 S.W.2d 176, 179.

Verba ita sunt intelligenda, ut res magis valeat quam pereat /vǫrbǫ ǫytǫ sǫnt intǫlǫjǫndǫ, ǫt rǫy mǫyǫjǫs vǫlǫiyǫt kwǫm pǫhriyǫt/. The words [of an instrument] are to be so understood, that the subject-matter may rather be of force than perish [rather be preserved than destroyed; or, in other words, that the instrument may have effect, if possible]. 2 Bl.Comm. 380.

Verbal. Strictly, of or pertaining to words; expressed in words, whether spoken or written, but commonly in spoken words; hence, by confusion, spoken; oral. Parol; by word of mouth; as, verbal agreement, verbal evidence; or written, but not signed, or not executed with the formalities required for a deed or prescribed by statute in particular cases.

Verbal act doctrine. Under this doctrine, utterances accompanying some act or conduct to which it is desired to give legal effect are admissible where conduct to be characterized by words is material to issue and equivocal in its nature, and words accompany conduct and aid in giving it legal significance. Keefe v. State, 50 Ariz. 293, 295, 72 P.2d 425, 427. Under doctrine, where

declarations of an individual are so connected with his acts as to derive a degree of credit from such connection, independently of the declaration, the declaration becomes part of the transaction and is admissible. The "verbal act doctrine" and the "res gestæ doctrine" coincide practically and serve equally to admit certain sorts of statements, but they are nevertheless wholly distinct in their nature and in their right to exist. American Employers Ins. Co. v. Wentworth, 90 N.H. 112, 5 A.2d 265, 269. See also Excited utterance; Res (*Res gestæ*); Verbal acts.

Verbal acts. Situations in which legal consequences flow from the fact that words were said, e.g. the words of offer and acceptance which create a contract, or words of slander upon which an action for damages is based. The rule against hearsay does not apply to proof of relevant verbal acts because evidence of such acts is being offered to prove something other than the truth of an out of court assertion. See Excited utterance; Res (*Res gestæ*); Verbal act doctrine.

Verbal assaults. See Threat.

Verbal contract. An oral, nonwritten agreement; a parol contract. See also Contract (*Parol contract*); Oral contract.

Verbal note. A memorandum or note, in diplomacy, not signed, sent when an affair has continued a long time without any reply, in order to avoid the appearance of an urgency which perhaps is not required; and, on the other hand, to guard against the supposition that it is forgotten, or that there is an intention of not prosecuting it any further.

Verbal process. In Louisiana, *procès verbal* (q.v.).

Verba mere æquivoca, si per communem usum loquendi in intellectu certo summuntur, talis intellectus præferendus est /vǫrbǫ mǫriy ǫkwǫvǫkǫytǫ, sǫy pǫr kǫmyǫwnǫm yǫwsǫm lowkwǫndǫy in intǫlǫkt(y)uw sǫrtǫw sǫmǫntǫr, tǫylǫs intǫlǫktǫs prǫfǫrǫndǫs ǫst/. [In the case of] words merely equivocal, if they are taken by the common usage of speech in a certain sense, such sense is to be preferred. A maxim of the civil law.

Verba nihil operari melius est quam absurde /vǫrbǫ nǫy(h)ǫl ǫpǫrǫray mǫyl(i)yǫs ǫst kwǫm ǫbsǫrdiy/. It is better that words should have no operation at all than [that they should operate] absurdly. A maxim of the civil law.

Verba non tam intuenda, quam causa et natura rei, ut mens contrahentium ex eis potius quam ex verbis appareat /vǫrbǫ nǫn tǫm int(y)uwǫndǫ, kwǫm kǫzǫ ǫt nǫt(y)ǫrǫ rǫiyǫy, ǫt mǫnz kǫntrǫhǫnsh(i)yǫm ǫks iyǫs pǫwsh(i)yǫs kwǫm ǫks vǫrbǫs ǫpǫriyǫt/. The words [of a contract] are not so much to be looked at as the cause and nature of the thing [which is the subject of it], in order that the intention of the contracting parties may appear rather from them than from the words.

Verba offendi possunt, imo ab eis recedere licet, ut verba ad sanum intellectum reducantur /vǫrbǫ ǫfǫndǫy pǫsǫnt, ǫymǫw ǫb iyǫs rǫsiyderiy lisǫt, ǫt vǫrbǫ ǫd sǫynǫm intǫlǫktǫm rǫiyd(y)uwkwǫntǫr/. Words may be

opposed [taken in a contrary sense], nay, we may disregard them altogether, in order that the [general] words [of an instrument] may be restored to a sound meaning. A maxim of the civilians.

Verba ordinationis quando verificari possunt in sua vera significatione, trahi ad extraneum intellectum non debent /vǫrbǫ ȳrdǫnǫyshiyȳwnǫs kwȳndow vǫhrǫfǫkǫray pȳsǫnt in s(y)ȳwǫ vȳrǫ signǫfǫkǫyshiyȳwniy, trǫyhay ǫd ǫkstrǫyn(i)yǫm intǫlǫktǫm nȳn dǫbǫnt/. When the words of an ordinance can be carried into effect in their own true meaning, they ought not to be drawn to a foreign intendment. A maxim of the civilians.

Verba posteriora propter certitudinem addita, ad priora quæ certitudine indigent, sunt referenda /vǫrbǫ postȳriyȳrǫ prȳptǫr sǫrdǫt(y)ȳwdǫnǫm ǫdǫtǫ, ǫd prayȳrǫ kwiy sǫrdǫt(y)ȳwdǫnȳy indǫyǫnt, sǫnt rǫfǫrǫndǫ/. Subsequent words, added for the purpose of certainty, are to be referred to the preceding words which require the certainty.

Verba precaria /vǫrbǫ prǫkǫr(i)yǫ/. In the civil law, precatory words; words of trust, or used to create a trust.

Verba pro re et subjecta materia accipi debent /vǫrbǫ prȳw rȳy ǫt sǫbjǫktǫ mǫtir(i)yǫ ǫksǫpay dǫbǫnt/. Words ought to be understood in favor of the thing and subject-matter. A maxim of the civilians.

Verba quæ aliquid operari possunt non debent esse superflua /vǫrbǫ kwiy ǫlǫkwǫd ȳpǫrǫray pȳsǫnt nȳn dǫbǫnt ǫsiy sǫpǫrfluwǫ/. Words which can have any kind of operation ought not to be [considered] superfluous.

Verba, quantumvis generalia, ad aptitudinem restringantur, etiamsi nullam aliam paterentur restrictionem /vǫrbǫ, kwontǫmvǫs jȳnǫrȳyl(i)yǫ, ǫd ǫptǫt(y)ȳwdǫnǫm rǫstringǫntǫr, ǫshiyǫmsay nǫlǫm ȳyl(i)yǫm pǫtǫrǫntǫr rǫstriksiyȳwnǫm/. Words, howsoever general, are restrained to fitness (i.e., to harmonize with the subject-matter), though they would bear no other restriction.

Verba relata hoc maxime operantur per referentiam, ut in eis inesse videntur /vǫrbǫ rǫlȳytǫ hȳk mǫksǫmiy ȳpǫrǫntǫr pǫr rǫfǫrǫnsh(i)yǫm, ǫt in iyǫs inȳsiy vǫdǫntǫr/. Related words [words connected with others by reference] have this particular operation by the reference, that they are considered as being inserted in those [clauses which refer to them]. Words to which reference is made in an instrument have the same effect and operation as if they were inserted in the clauses referring to them.

Verba relata inesse videntur /vǫrbǫ rǫlȳytǫ inȳsiy vǫdǫntǫr/. Words to which reference is made seem to be incorporated.

Verba secundum materiam subjectam intelligi nemo est qui nesciat /vǫrbǫ sǫkǫndǫm mǫtiriyǫm sǫbjǫktǫm intǫlǫyay niymow ǫst kwǫy nȳshiyȳt/. There is no one who does not know that words are to be understood according to their subject-matter.

Verba semper accipienda sunt in mitiori sensu /vǫrbǫ sȳmpǫr ǫksiyȳndǫ sǫnt in mishiyȳray sȳns(y)ȳw/. Words are always to be taken in the milder sense.

Verba strictæ significationis ad latam extendi possunt, si subsit ratio /vǫrbǫ strikȳtiy signǫfǫkȳyshiyȳwnǫs ǫd lȳytǫm ǫkstȳnday pȳsǫnt, sǫy sǫbsit rȳysh(i)yȳw/. Words of a strict or narrow signification may be extended to a broad meaning, if there be ground in reason for it. A maxim of the civilians.

Verba sunt indices animi /vǫrbǫ sǫnt indȳsiy ǫnǫmay/. Words are the indices or indicators of the mind or thought.

Verbis standum ubi nulla ambiguitas /vǫrbǫs stǫndǫm yȳwbay nǫlǫ ǫmbȳgyȳwǫtǫs/. One must abide by the words where there is no ambiguity.

Verbum imperfecti temporis rem adhuc imperfectam significat /vǫrbǫm impǫrfȳktay tȳmpǫrǫs rȳm ǫdhǫk impǫrfȳktǫm signȳfȳkǫt/. The imperfect tense of the verb indicates an incomplete matter.

Verderer, or verderor /vǫrdǫrǫr/. An officer of the king's forest, who is sworn to maintain and keep the assizes of the forest, and to view, receive, and enroll the attachments and presentments of all manner of trespasses of vert and venison in the forest.

Verdict. From the Latin "veredictum," a true declaration. *Clark v. State*, 170 Tenn. 494, 499, 97 S.W.2d 644, 646. The formal decision or finding made by a jury, impaneled and sworn for the trial of a cause, and reported to the court (and accepted by it), upon the matters or questions duly submitted to them upon the trial. The definitive answer given by the jury to the court concerning the matters of fact committed to the jury for their deliberation and determination. *Ralston v. Stump*, 75 Ohio App. 375, 62 N.E.2d 293, 294, 31 O.O. 43.

The usual verdict, one where the jury decides which side wins (and how much, sometimes), is called a general verdict. When the jury is asked to answer specific questions of fact, it is called a special verdict. See *General verdict* and *Special verdict* below.

In criminal cases the verdict shall be unanimous, and shall be returned by the jury to the judge in open court. Fed.R.Crim.P. 31. In civil cases the parties may stipulate that a verdict of a stated majority of the jurors shall be taken as the verdict of the jury. Fed.R.Civil.P. 48.

See also *Polling the jury*.

Chance verdict. One determined by hazard or lot, and not by the deliberate understanding and agreement of the jury. While formerly used, such are now illegal.

Compromise verdict. One which is the result, not of justifiable concession of views, but of improper compromise of the vital principles which should have controlled the decision. Although it is proper for jurors to harmonize their views and reach a verdict with proper regard for each other's opinions, it is not proper for any juror to surrender his conscientious convictions on any material issue in return for a relinquishment by others

of their like settled opinions on another issue, producing a result which does not command the approval of the whole panel. *See also* Quofient verdict.

Directed verdict. Verdict ordered by the judge as a matter of law when he rules that the party with the burden of proof has failed to make out a prima facie case. The judge under these circumstances orders the jury to return a verdict for the other party. *See* Fed.R. Civil P. 50. Motion for judgment of acquittal is used in place of directed verdict in criminal cases. *See* Fed.R. Crim.P. 29.

Excessive verdict. *See* that title.

False verdict. One obviously opposed to the principles of right and justice; an untrue verdict. Formerly, if a jury gave a false verdict, the party injured by it might sue out and prosecute a writ of attain against them, either at common law or on the statute 11 Hen. VII, c. 24, at his election, for the purpose of reversing the judgment and punishing the jury for their verdict; but not where the jury erred merely in point of law, if they found according to the judge's direction. The practice of setting aside verdicts and granting new trials, however, so superseded the use of attainments that there is no instance of one to be found in the books or reports later than in the time of Elizabeth, and it was altogether abolished by 6 Geo. IV, c. 50, § 60. *See* Non obstante veredicto.

General verdict. A verdict whereby the jury find either for the plaintiff or for the defendant in general terms; the ordinary form of a verdict. *Glenn v. Sumner*, 132 U.S. 152, 10 S.Ct. 41, 33 L.Ed. 301. A finding by the jury in the terms of the issue, or all the issues, referred to them. That by which they pronounce generally upon all or any of the issues, either in favor of the plaintiff or defendant;—distinguished from a special verdict, which is that by which the jury finds facts only.

General verdict with interrogatories. The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the appropriate judgment upon the verdict and answers shall be entered. When the answers are consistent with each other but one or more is inconsistent with the general verdict, judgment may be entered in accordance with the answers, notwithstanding the general verdict, or the court may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, judgment shall not be entered, but the court shall return the jury for further consideration of its answers and verdict or shall order a new trial. Fed.R.Civil P. 49(b).

Instructed verdict. *See* *Directed verdict, above.*

Joint verdict. *See* that title.

Judgment notwithstanding verdict. *See* Non obstante veredicto.

Open verdict. A verdict of a coroner's jury which finds that the subject "came to his death by means to the jury unknown," or "came to his death at the hands of a person or persons to the jury unknown," that is, one which leaves open either the question whether any crime was committed or the identity of the criminal.

Partial verdict. In criminal law, a verdict by which the jury acquits the defendant as to a part of the accusation and finds him guilty as to the residue.

Privy verdict. One given after the judge has left or adjourned the court, and the jury, being agreed, in order to be delivered from their confinement, obtain leave to give their verdict privily to the judge out of court. Such a verdict is of no force unless afterwards affirmed by a public verdict given openly in court. This practice is now superseded by that of rendering a sealed verdict.

Public verdict. A verdict openly delivered by the jury in court.

Quofient verdict. *See* that title.

Repugnant verdict. Verdicts are "repugnant" when there are charges of two crimes, each of which has identical elements, and there is finding of guilt on one but not on the other. *People v. Blandford*, 37 A.D.2d 1003, 325 N.Y.S.2d 486, 487.

Sealed verdict. *See* Sealed.

Several defendants. If there are two or more defendants, the jury at any time during its deliberations may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed; if the jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again. Fed.R.Crim.P. 31(b).

Special verdict. A special finding of the facts of a case by a jury, leaving to the court the application of the law to the facts thus found. The "special" verdict is a statement by the jury of the facts it has found—in essence, the jury's answers to questions submitted to it; the court determines which party, based on those answers, is to have judgment. With the advent of the apportionment rule among tortfeasors, closely followed by the adoption of a rule of comparative negligence to replace the traditional rule of contributory negligence, the need to have the jury reveal its specific findings of percentages of fault in personal injury and wrongful death cases has given rise to the increased use of the special verdict.

The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event, the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appro-

prate. The court shall give to the jury such explanation and instructions concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. Fed.R.Civil P. 49(a).

Split verdict. A verdict in which one party prevails on some claims in issue while the other party prevails on other claims. *Beckman Instruments v. LKB Produkter AB, C.A.*, 892 F.2d 1547. In criminal law, a verdict finding a defendant guilty of one charge but innocent of another, or finding one defendant guilty while acquitting a codefendant. See *e.g.* Fed.R.Crim.P. 31.

Stipulation on majority verdict. The parties may stipulate that a verdict of a stated majority of the jurors shall be taken as the verdict of the jury. Fed.R.Civil P. 48.

Verdict by lot. See *Chance verdict, above.*

Verdict contrary to law. A verdict which law does not authorize jury to render on evidence because conclusion drawn is not justified thereby. One which is contrary to the principles of law as applied to the facts which the jury were called upon to try and contrary to the principles of law which should govern the cause. *Piepho v. Gesse*, 106 Ind.App. 450, 18 N.E.2d 468, 471. See *Non obstante veredicto.*

Verdict for lesser offense. See *Lesser included offense.*

Verdict subject to opinion of court. A verdict returned by the jury, the entry of judgment upon which is subject to the determination of points of law reserved by the court upon the trial.

Verdict, estoppel by. Rule that where some controlling fact or question material to determination of both causes has been adjudicated in former suit by court of competent jurisdiction, and same fact or question is again an issue between the same parties, adjudication in first cause will, if properly presented, be conclusive of the same question in later suit, irrespective of whether cause of action is the same in both suits. *People v. Haran*, 27 Ill.2d 229, 188 N.E.2d 707, 709. "Estoppel by verdict" or "collateral estoppel" provides that prior judgment must be deemed conclusive as to all right of parties and their privies when same parties or their privies are involved with same issues actually or necessarily finally determined by court of competent jurisdiction in earlier, but different, cause of action. *Riley v. Unknown Owners of 304 North Oak Park Ave. Bldg., Oak Park*, 25 Ill.App.3d 895, 324 N.E.2d 78, 85. See also *Collateral estoppel doctrine; Judgment, estoppel by; Res (Res judicata).*

Verdictum /véhrədiktəm/. L. Lat. In old English law, a verdict; a declaration of the truth of a matter in issue, submitted to a jury for trial.

Verdictum, quasi dictum veritatis; ut iudicium quasi juris dictum /véhrədiktəm, kwéysay diktəm véhrətétās; èt juwdish(iy)əm kwéysay júras diktəm/. The verdict is, as it were, the *dictum* [saying] of truth; as the judgment is the *dictum* of law.

Verge, or virge /várj/. In old English law, the compass of the royal court, which bounds the jurisdiction of the lord steward of the household; it seems to have been twelve miles about. An uncertain quantity of land from fifteen to thirty acres. Also a stick, or rod, whereby one is admitted tenant to a copyhold estate.

Vergelt /vérgèlt/. In Saxon law, a mulct or fine for a crime. See *Weregild.*

Verification. Confirmation of correctness, truth, or authenticity, by affidavit, oath, or deposition. Affidavit of truth of matter stated and object of verification is to assure good faith in averments or statements of party. *Sheeley v. City of Santa Clara*, 215 Cal.App.2d 83, 30 Cal.Rptr. 121, 123. Sworn or equivalent confirmation of truth. For example, a verified complaint typically has an attached affidavit of plaintiff to the effect that the complaint is true. In accounting, the process of substantiating entries in books of account. See also *Acknowledgment; Affidavit; Authentication; Certification; Confirmation; Oath; Verify.*

Verified copy. Copy of document which is shown by independent evidence to be true. A copy, if successive witnesses trace the original into the hands of a witness who made or compared the copy. *Nu Car Carriers v. Traynor*, 75 U.S.App.D.C. 174, 125 F.2d 47, 48.

Verified names. Names verified by county clerk in accordance with his duty to check names of signers against official registration lists. *Allan v. Rasmussen*, 101 Utah 33, 117 P.2d 287, 289.

Verify. To confirm or substantiate by oath or affidavit. Particularly used of making formal oath to accounts, petitions, pleadings, and other papers. The word "verified," when used in a statute, ordinarily imports a verity attested by the sanctity of an oath. It is frequently used interchangeably with "sworn."

To prove to be true; to confirm or establish the truth or truthfulness of; to check or test the accuracy or exactness of; to confirm or establish the authenticity of; to authenticate; to maintain; to affirm; to support; second; back as a friend. *MacNeill v. Maddox*, 194 Ga. 802, 22 S.E.2d 653, 654.

See also *Verification.*

Verily /véhrəliy/. In very truth; beyond doubt or question; in fact; certainly; truly; confidently; really.

Veritas, a quocunq̄ue dicitur, a Deo est /véhrətàs, éy kwowkəŋkwiy dístatər, èy díyow èst/. Truth, by whomsoever pronounced, is from God.

Veritas demonstrationis tollit errorem nominis /véhrətàs dèmənstrejšiyównəs tólət èhrórəm nómanəs/. The truth of the description removes an error in the name.

Veritas habenda est in iuratore; justitia et iudicium in iudice /véhrətàs hàbèndə èst in júratóriy; jəstish(iy) èt juwdish(iy)əm in júwdsiy/. Truth is the desideratum in a juror; justice and judgment in a judge.

Veritas nihil veretur nisi abscondi /véhrætàs náy(h)əl vəriytər náysay əbskónday/. Truth fears nothing but to be hid.

Veritas nimium altercando amittitur /véhrætàs nímíyəm óltərkándow əmídətər/. Truth is lost by excessive altercation.

Veritas nominis tollit errorem demonstrationis /véhrætàs nómánəs tólst ehrórəm dèmánstrèyshiyównəs/. The truth of the name takes away the error of description.

Veritas, quæ minime defensatur opprimitur; et qui non improbat, approbat /véhrætàs, kwíy mínəmíy dèfenséytər əprímətər; èt kwáy nòn ímprəbət əprəbət/. Truth which is not sufficiently defended is overpowered; and he who does not disapprove, approves.

Veritatem qui non libere pronunciat proditor est veritatis /véhrətéydəm kwáy nòn líbəriy prənánshiyət prówdətər èst vehrətéytəs/. He who does not freely speak the truth is a betrayer of truth.

Verity. Truth; truthfulness; conformity to fact. The records of a court "import uncontrollable verity."

Verna /vórna/. Lat. In the civil law, a slave born in his master's house.

Versari /vərséray/. Lat. In the civil law, to be employed; to be conversant. *Versari male in tutela*, to misconduct one's self in a guardianship.

Versus /vərsəs/. Lat. Against. In the title of a cause, the name of the plaintiff is put first, followed by the word "*versus*," then the defendant's name. Thus, "Fletcher *versus* Peck," or "Fletcher *against* Peck." The word is commonly abbreviated "*vs.*" or "*v.*" *Vs.* and *versus* have become ingrafted upon the English language; their meaning is as well understood and their use quite as appropriate as the word *against* could be.

Vert /vərt/. In old English law, that power which a man had, by royal grant, to cut green wood in a forest. In heraldry, green color, called "venus" in the arms of princes, and "emerald" in those of peers, and expressed in engravings by lines in bend.

Vertical. Pertaining to a relationship between a buyer and a seller—*e.g.*, an agreement between a supplier and a retail dealer is called a vertical agreement. *See also* related terms below.

Vertical integration. Ownership or control of network of production and distribution of goods from raw materials to sale to ultimate consumer.

Vertical merger. Merger between two business firms that have a buyer-seller relationship; that is, one produces a product that is then sold to the other. *U.S. v. First Nat. Bank of Jackson, D.C.Miss., 301 F.Supp. 1161, 1190.* Acquisition of one company which buys product sold by acquiring company or which sells product bought by acquiring company. *U.S. v. International Tel. & Tel. Corp., D.C.Conn., 306 F.Supp. 766, 774.* If a producer or wholesaler acquires a retailer, it is a *forward* merger. If a retailer or distributor acquires its producer, it is a

backward merger. *See also* Merger. *Compare* Horizontal merger.

Vertical price-fixing contract. An illegal agreement to maintain prices between producers and wholesalers or distributors, between producers and retailers, or between wholesalers or distributors and retailers. An agreement between a supplier and a distributor, relating to the price at which the distributor will resell the supplier's product; also known as resale price maintenance, it exists if manufacturer or wholesaler suggests resale prices to his retailer and then secures compliance with those prices by doing more than announcing his price policy and refusing to deal. *Levicoff v. General Motors Corp., D.C.Pa., 551 F.Supp. 98, 104.* Such agreements are prohibited by antitrust laws. *See Monsanto Co. v. Spray-Rite Service Corp., 465 U.S. 752, 760, 104 S.Ct. 1464, 1469, 79 L.Ed.2d 775.* *See also* Price-fixing; Resale price maintenance. *Compare* Horizontal price-fixing.

Vertical restraints of trade. Anticompetitive agreements between entities operating at different levels of market structure, such as manufacturers and distributors (*e.g.*, vertical price-fixing; tying arrangement). *Cha-Car, Inc. v. Calder Race Course, Inc., C.A.Fla., 752 F.2d 609, 614.* *See also* Tying arrangement; Vertical price-fixing contract. *Compare* Horizontal restraints of trade.

Vertical nonprice restraint. A vertical restriction imposed by a supplier on its dealers, which does not govern the resale price. *See* Tying arrangement.

Vertical price restraint. A vertical restriction imposed by a supplier on its dealers, which governs the price at which the product can be resold. *See* Resale price maintenance; Vertical price-fixing contract.

Verus /vírəs/. Lat. True; truthful; genuine; actual; real; just.

Very. As an adjective means real, actual, or true, but as an adverb means in a high degree, exceedingly, extremely; to no small extent. *Benoist v. Driveaway Co. of Missouri, Mo.App., 122 S.W.2d 86, 90.*

Very high degree of care. That degree of care that would be used by a very cautious, prudent, and competent person under like or similar circumstances. *Wichita Valley Ry. Co. v. Williams, Tex.Civ.App., 3 S.W.2d 141, 142.*

Very lord and very tenant. They that are immediate lord and tenant one to another.

Vessel. A ship, brig, sloop, or other craft used, or capable of being used, in navigation on water.

In order to be a "vessel," for purposes of an action under Jones Act, the structure's purpose must to some reasonable degree be the transportation of passengers, cargo or equipment from place to place across navigable waters. *Buna v. Pacific Far East Line, Inc., D.C.Cal., 441 F.Supp. 1360, 1364.* Though, the term "vessel," in admiralty law, is not limited to ships or vessels engaged in commerce. *St. Hilaire Moye v. Henderson, C.A.Ark., 496 F.2d 973, 979.* Many special purpose craft, such as

dredges, floating derricks and barges equipped for special purposes or operations are "vessels" within meaning of Jones Act, and persons regularly employed aboard such a vessel in aid of its purposes are "seamen." *Hill v. Diamond*, C.A.Va., 311 F.2d 789, 791, 792. On the other hand, however, everything that floats is not necessarily a "vessel," in purview of Jones Act. *Bennett v. Perini Corp.*, C.A.Mass., 510 F.2d 114, 116. For example, a floating dry dock which was moored by chains and cables to shipyard dock at time of injury to shipyard employee and which was in use as a dry dock was not a "vessel" and therefore no warranty of seaworthiness arose. *Keller v. Dravo Corp.*, C.A.La., 441 F.2d 1239, 1244.

Foreign vessel. A vessel owned by residents in, or sailing under the flag of, a foreign nation.

Public vessel. One owned and used by a nation or government for its public service, whether in its navy, its revenue service, or otherwise.

Vest. To give an immediate, fixed right of present or future enjoyment. *Baldwin v. Fleck*, Tex.Civ.App., 168 S.W.2d 904, 909. To accrue to; to be fixed; to take effect.

To clothe with possession; to deliver full possession of land or of an estate; to give seisin; to enfeoff. *See also* Vested.

Vesta /véstə/. The crop on the ground.

Vested. Fixed; accrued; settled; absolute; complete. Having the character or given the rights of absolute ownership; not contingent; not subject to be defeated by a condition precedent. Rights are "vested" when right to enjoyment, present or prospective, has become property of some particular person or persons as present interest; mere expectancy of future benefits, or contingent interest in property founded on anticipated continuance of existing laws, does not constitute "vested right." *Vaughn v. Nadel*, 228 Kan. 469, 618 P.2d 778, 783. *See also* Accrue; Vest, and specific types of vested interests, *infra*.

Vested devise. *See* Devise.

Vested estate. An interest clothed with a present, legal, and existing right of alienation. *Chaison v. Chaison*, Tex.Civ.App., 154 S.W.2d 961, 964. Any estate, whether in possession or not, which is not subject to any condition precedent and unperformed. The interest may be either a present and immediate interest, or it may be a future but unconditioned, and therefore transmissible, interest. Estate by which present interest is invariably fixed to remain to determinate person on determination of preceding freehold estate. An estate, when the person or the class which takes the remainder is in existence or is capable of being ascertained when the prior estate vests, *Commissioner of Internal Revenue v. Kellogg*, C.C.A.3, 119 F.2d 54, 57; or when there is an immediate right of present enjoyment or a present right of future enjoyment.

Vested gift. A gift that is absolute and not contingent or conditional. A gift is vested if it is immediate,

notwithstanding that its enjoyment may be postponed. A future gift when the right to receive it is not subject to a condition precedent.

Vested in interest. A legal term applied to a present fixed right of future enjoyment; as reversions, vested remainders, such executory devises, future uses, conditional limitations, and other future interests as are not referred to, or made to depend on, a period or event that is uncertain.

Vested in possession. A legal term applied to a right of present enjoyment actually existing. *See* Vest.

Vested interest. A present right or title to a thing, which carries with it an existing right of alienation, even though the right to possession or enjoyment may be postponed to some uncertain time in the future, as distinguished from a future right, which may never materialize or ripen into title, and it matters not how long or for what length of time the future possession or right of enjoyment may be postponed, if the present right exists to alienate and pass title. *Fugazzi v. Fugazzi's Committee*, 275 Ky. 62, 120 S.W.2d 779, 781. A future interest not dependent on an uncertain period or event, or a fixed present right of future enjoyment. When a person has a right to immediate possession on determination of preceding or particular estate. One in which there is a present fixed right, either of present enjoyment or of future enjoyment. *Painter v. Herschberger*, 340 Mo. 347, 100 S.W.2d 532, 535. It is not the uncertainty of enjoyment in the future, but the uncertainty of the right of enjoyment, which makes the difference between a "vested" and a "contingent" interest. A future interest is vested when there is a person in being who would have a right, defeasible or indefeasible, to the immediate possession of the property, upon the ceasing of the intermediate or precedent interest.

Vested legacy. A legacy given in such terms that there is a fixed, indefeasible right to its payment. A legacy payable at a future time, certain to arrive, and not subject to conditions precedent, is vested, where there is a person in esse at the testator's death capable of taking when the time arrives, though his interest may be altogether defeated by his own death. A legacy is said to be vested when the words of the testator making the bequest convey a transmissible interest, whether present or future, to the legatee in the legacy. Thus a legacy to one to be paid when he attains the age of twenty-one years is a vested legacy, because it is given unconditionally and absolutely, and therefore vests an immediate interest in the legatee, of which the enjoyment only is deferred or postponed.

Vested pension. Said of a pension plan when an employee (or his or her estate) has rights to all the benefits purchased with the employer's contributions to the plan even if the employee is not employed by this employer at the time of retirement. One in which the right to be paid is not subject to forfeiture if the employment relationship terminates before the employee retires. *Johnson v. Johnson*, 131 Ariz. 38, 638 P.2d 705, 708. Vesting of qualified pension plans is governed by the Employees

Retirement Income Security Act (ERISA). *See also* Vesting.

Vested remainder. *See* Remainder.

Vested rights. In constitutional law, rights which have so completely and definitely accrued to or settled in a person that they are not subject to be defeated or canceled by the act of any other private person, and which it is right and equitable that the government should recognize and protect, as being lawful in themselves, and settled according to the then current rules of law, and of which the individual could not be deprived arbitrarily without injustice, or of which he could not justly be deprived otherwise than by the established methods of procedure and for the public welfare. Such interests as cannot be interfered with by retrospective laws; interests which it is proper for state to recognize and protect and of which individual cannot be deprived arbitrarily without injustice. *American States Water Service Co. of California v. Johnson*, 31 Cal.App.2d 606, 88 P.2d 770, 774. Immediate or fixed right to present or future enjoyment and one that does not depend on an event that is uncertain. A right complete and consummated, and of such character that it cannot be divested without the consent of the person to whom it belongs, and fixed or established, and no longer open to controversy. *State ex rel. Milligan v. Ritter's Estate*, Ind.App., 46 N.E.2d 736, 743.

Vestigial words /vestijəl wórdz/. Those contained in a statute which by reason of a succession of statutes on the same subject-matter, amending or modifying previous provisions of the same, are rendered useless or meaningless by such amendments. They should not be permitted to defeat the fair meaning of the statute. *Saltonstall v. Birtwell*, 164 U.S. 54, 70, 17 S.Ct. 19, 41 L.Ed. 348.

Vestigium /vestij(i)yəm/. Lat. In the law of evidence, a vestige, mark, or sign; a trace, track, or impression left by a physical object.

Vesting. Right that employee acquires to various employer-contributed benefits (e.g., pension) after having been employed for requisite number of years. Federal laws (e.g., ERISA) govern vesting rights. *See also* Vested pension.

Vesting order. In English law, an order which may be granted by the chancery division of the high court of justice (and formerly by chancery), passing the legal estate in lieu of a conveyance. Commissioners also, under modern statutes, have similar powers.

Vestry. In ecclesiastical law, the place in a church where the priest's vestures are deposited. Also an assembly of the minister, church-wardens, and parishioners, usually held in the vestry of the church, or in a building called a "vestry-hall," to act upon business of the church.

Vestry-cess /véstriykès/. A rate levied in Ireland for parochial purposes, abolished by St. 27 Vict., c. 17.

Vestry-clerk /véstriyklárk/°klark/. An officer appointed to attend vestries, and take an account of their proceedings, etc.

Vestry-men /véstriymən/. A select number of parishioners elected in large and populous parishes to take care of the concerns of the parish; so called because they used ordinarily to meet in the vestry of the church.

Vestura /vest(y)úrə/. A crop of grass or corn. Also a garment; metaphorically applied to a possession or seisin.

Vestura terræ /vest(y)úrə téhriy/. In old English law, the vesture of the land; that is, the corn, grass, underwood, sweepage, and the like.

Vesture /véstyər/. In old English law, profit of land. "How much the *vesture* of an acre is worth."

Vesture of land /véstyər əv lánd/. A phrase including all things, trees excepted, which grow upon the surface of the land, and clothe it externally.

Veteran. In general, any honorably discharged soldier, sailor, marine, nurse, or army field clerk, who has served in military service of the United States.

Veterans Administration. An independent federal agency that administers a system of benefit programs for veterans and their dependents. These benefits include compensation payments for disabilities or death related to military service; pensions; education and rehabilitation; home loan guaranty programs; burial, including cemeteries, markers, flags, etc.; and a comprehensive medical program involving a widespread system of nursing homes, clinics, and hospitals. Effective in 1989 the former Veterans Administration became the Department of Veterans Affairs, and was elevated to cabinet level status. *See also* Court of Veterans Appeals.

Veterans Affairs Department. *See* Veterans Administration.

Veterans Appeals Court. *See* Court of Veterans Appeals.

Vetera statuta /viytərə stət(y)úwtə/. Lat. Ancient statutes. The English statutes from *Magna Charta* to the end of the reign of Edward II are so called; those from the beginning of the reign of Edward III being contradistinguished by the appellation of "*Nova Statuta*."

Veterinarian. One who practices the art of treating diseases and injuries of domestic animals, surgically or medically.

Vetium namium /viytətəm néym(i)yəm/. L. Lat. Where the bailiff of a lord distrains beasts or goods of another, and the lord forbids the bailiff to deliver them when the sheriff comes to make replevin, the owner of the cattle may demand satisfaction in *placitum de vetito namio*.

Veto (Lat. I forbid.) The refusal of assent by the executive officer whose assent is necessary to perfect a law which has been passed by the legislative body, and the message which is usually sent to such body by the executive, stating such refusal and the reasons therefor.

A refusal by the president or a governor to sign into law a bill that has been passed by a legislature. In the case of a presidential veto, the bill can still become a law if two-thirds of each House of Congress votes to override the veto. Art. I, § 7, U.S.Const.

It is either absolute or qualified, according as the effect of its exercise is either to destroy the bill finally, or to prevent its becoming law unless again passed by a stated proportion of votes or with other formalities. Or the veto may be merely suspensive.

Line item veto. The power which governors possess in most States to veto items in appropriation bills without affecting any other provisions of such bills.

Overriding veto. Passing a law again that has already been vetoed (turned down and left unsigned) by a government official such as a governor, president, etcetera. In the federal government, a bill vetoed by the President must receive two-thirds majority in Congress to override the veto and enact the measure into law.

Pocket veto. Non-approval of a legislative act by the president or state governor, with the result that it fails to become a law. Such is not the result of a written disapproval (a veto in the ordinary form), but rather by remaining silent until the adjournment of the legislative body, when that adjournment takes place before the expiration of the period allowed by the constitution for the examination of the bill by the executive.

Inaction on the part of the President when sent a bill just passed by Congress which has the effect of vetoing it. While Presidential inaction for ten days after a bill's presentment normally results in the bill becoming law just as if signed, inaction by the President results in a "pocket veto" if Congress adjourns and thereby prevents the bill's return within the ten-day period after presentment. U.S. Const., Art. I, § 7.

Veto power. Executive's power conditionally to prevent acts passed by legislature, which have not yet become law, from becoming law. *Fitzsimmons v. Leon, C.C.A. Puerto Rico, 141 F.2d 886, 888. See Veto.*

Vetus jus /víytəs jəs/. Lat. A term used in the civil law, sometimes to designate the law of the Twelve Tables, and sometimes merely a law which was in force previous to the passage of a subsequent law.

Vex. To harass, disquiet, annoy; as by repeated litigation upon the same facts.

Vexari /vekséray/. Lat. To be harassed, vexed, or annoyed; to be prosecuted; as in the maxim, *Nemo debet bis vexari pro una et eadem causa* /níymow débət bis vekséray prów yúwnə èd iyéydam kózá/, no one should be twice prosecuted for one and the same cause.

Vexata quæstio /vekséyətə kwést(i)yow/. Lat. A vexed question; a question often agitated or discussed, but not determined or settled; a question or point which has been differently determined, and so left doubtful.

Vexation. The injury or damage which is suffered in consequence of the tricks of another.

Vexatious /vekséyshəs/. Without reasonable or probable cause or excuse. *Gardner v. Queen Ins. Co. of America, 232 Mo.App. 1101, 115 S.W.2d 4, 7.*

Vexatious Actions Act. An act of parliament of 1896, authorizing the High Court to make an order, on the application of the attorney-general, that a person shown to be habitually and vexatiously litigious, without reasonable ground, shall not institute legal proceedings in that or any other court, without leave of the High Court judge thereof, upon satisfactory proof that such legal proceedings are not an abuse of the process of the court and that there is a *prima facie* ground therefor. The order when made is published in the Gazette.

Vexatious delay or refusal to pay. Term used in insurance statutes providing for penalties for insurer's conduct in unjustifiably refusing to pay insurance claims, e.g., a refusal to pay insurance claim, based on suspicion without substantial fact to support that suspicion, is "vexatious refusal to pay." *Laster v. State Farm Fire and Cas. Co., Mo.App., 693 S.W.2d 195, 197.* An insurer is allowed an honest difference of opinion regarding its liability under a policy and so long as it acts in good faith, may contest either an issue of fact or an issue of law. *Camp v. John Hancock Mut. Life Ins. Co. of Boston, Mass., Mo.App., 165 S.W.2d 277, 283.*

Vexatious proceeding. Proceeding instituted maliciously and without probable cause. *Paramount Pictures v. Blumenthal, 256 App.Div. 756, 11 N.Y.S.2d 768, 772.* Type of malicious prosecution differing principally because based on civil action exists when the party bringing proceeding is not acting *bona fide*, and merely wishes to annoy or embarrass his opponent, or when it is not calculated to lead to any practical result. Such a proceeding is often described as "frivolous and vexatious," and the court may dismiss it on that ground. *See Malicious prosecution.*

Vexatious refusal to pay. *See Vexatious delay or refusal to pay.*

Vexed question. A question or point of law often discussed or agitated, but not determined or settled.

V.G. An abbreviation for "*verbi gratia*," for the sake of example.

Via /váyə/. Lat. Way, road.

In the civil law, way; a road; a right of way. The right of walking, riding, and driving over another's land. A species of rural servitude, which included *iter* (a footpath) and *actus* (a driftway).

In old English law, a way; a public road; a foot, horse, and cart way.

Via antiqua via est tuta /váyə æntáykwə váyə èst t(y)úwtə/. The old way is the safe way.

Viability. Capability of living. A term used to denote the power a new-born child possesses of continuing its independent existence. That stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems. The constitutionality of this statutory definition (V.A.M.S. (Mo.), § 188.015) was up-

held in *Planned Parenthood of Central Mo. v. Danforth*, 428 U.S. 52, 96 S.Ct. 2831, 49 L.Ed.2d 788.

For purposes of abortion regulation, viability is reached when, in the judgment of the attending physician on the particular facts of the case before him, there is a reasonable likelihood of the fetus' sustained survival outside the womb, with or without artificial support. *Colautti v. Franklin*, 439 U.S. 379, 388, 99 S.Ct. 675, 682, 58 L.Ed.2d 596. *See also* *Viable*; *Viable child*.

Viable. Livable; having the appearance of being able to live; capable of life. This term is applied to a newly-born infant, and especially to one prematurely born, which is not only born alive, but in such a state of organic development as to make possible the continuance of its life. *See* *Viability*; *Viable child*.

Viable child. Unborn child who is capable of independent existence outside his or her mother's womb, *Libbee v. Permanente Clinic*, 268 Or. 258, 518 P.2d 636, 637; even if only in an incubator, *Sylvia v. Gobeille*, 101 R.I. 76, 220 A.2d 222, 223. In most states a viable unborn child is considered a person under the wrongful death statute, e.g., *DiDonato v. Wortman*, 320 N.C. 423, 358 S.E.2d 489, and in some states is considered to be a person under a homicide statute, e.g., *Comm. v. Cass*, 392 Mass. 799, 467 N.E.2d 1324. *See also* *Child (Rights of unborn child)*; *Unborn child*; *Viability*; *Wrongful death statutes*.

Via servitus /váyiy sárvətəs/. Lat. A right of way over another's land.

Viagère rente /viyazhér rónt/. In French law, a rent-charge or annuity payable for the life of the annuitant.

Viander /váyəndər/. In old English law, a returning officer.

Via ordinaria; **via executiva** /váyə ɔrdənér(i)yə; váyə əgzəkýtáyvə/. In the law of Louisiana, the former phrase means in the ordinary way or by ordinary process, the latter means by executory process or in an executory proceeding. A proceeding in a civil action is "ordinary" when a citation takes place and all the delays and forms of law are observed; "executory" when seizure is obtained against the property of the debtor, without previous citation, in virtue of an act or title importing confession of judgment, or in other cases provided by law.

Via publica /váyə póbłəkə/. In the civil law, a public way or road, the land itself belonging to the public.

Via regia /váyə ríyj(i)yə/. In English law, the king's highway for all men. The highway or common road, called "the king's" highway, because authorized by him and under his protection.

Viator /vayéytər/. Lat. In Roman law, a summoner or apparitor; an officer who attended on the tribunes and aediles.

Via trita est tutissima /váyə tráytə èst t(y)uwtisəmə/. The trodden path is the safest.

Vi aut clam /váy ɔt klém/. Lat. In the civil law, by force or covertly.

Vi bonorum raptorum /váy bowńórəm rəptórəm/. Lat. In the civil law, of goods taken away by force. The name of an action given by the praetor as a remedy for the violent taking of another's property.

Vicar. One who performs the functions of another; a substitute. Also the incumbent of an appropriated or impropriated ecclesiastical benefice, as distinguished from the incumbent of a non-appropriated benefice, who is called a "rector."

Vicarage. In English ecclesiastical law, the living or benefice of a vicar, as a parsonage is of a parson. 1 Bl.Comm. 387, 388.

Vicar general. An ecclesiastical officer who assists the archbishop in the discharge of his office.

Vicarial tithes /vəkér(i)yəl týǝz/. Petty or small tithes payable to the vicar.

Vicario, etc. /vəkér(i)yow/. An ancient writ for a spiritual person imprisoned, upon forfeiture of a recognizance, etc.

Vicarious liability. The imposition of liability on one person for the actionable conduct of another, based solely on a relationship between the two persons. Indirect or imputed legal responsibility for acts of another; for example, the liability of an employer for the acts of an employee, or, a principal for torts and contracts of an agent. *See also* *Imputed negligence*; *Respondeat superior*. *Compare* *Strict liability*.

Vicarius apostolicus /vəkér(i)yəs əpəstóləkəs/. An officer through whom the Pope exercises authority in parts remote, and who is sometimes sent with episcopal functions into provinces where there is no bishop resident or there has been a long vacancy in the see, or into infidel or heretical countries.

Vicarius non habet vicarium /vəkér(i)yəs nɔn héybət vəkér(i)yəm/. A deputy has not [cannot have] a deputy. A delegated power cannot be again delegated.

Vice, n. A fault, defect, or imperfection. Immoral conduct, practice or habit; e.g. prostitution.

As applied to an animal, a bad habit or failing.

In the civil law, redhibitory vices are such faults or imperfections in the subject-matter of a sale as will give the purchaser the right to return the article and demand back the price.

Vice, adj. Lat. In the place or stead; substitution for. *Vice mea*, in my place.

Vice-admiral. An officer in the navy ranking below an admiral.

Vice-admiral of the coast. In England, a county officer formerly appointed by the admiral "to be answerable to the high admiral for all the coasts of the sea, when need and occasion shall be." He also had power to arrest ships, when found within a certain district, for the use of the king. His office was judicial as well as ministerial.

Vice-admiralty courts. In English law, courts formerly established in the king's possessions beyond the seas,

with jurisdiction over maritime causes, including those relating to prize.

Vice-chamberlain. In England, formerly a great officer under the lord chamberlain, who, in the absence of the lord chamberlain, had the control and command of the officers appertaining to that part of the royal household which was called the "chamber."

Vice-chancellor. See Chancellor.

Vice-comes. In England, a title formerly bestowed on the sheriff of a county, when he was regarded as the deputy of the count or earl.

Vice-comitissa. In old English law, a viscountess.

Vice-commercial agent. In the consular service of the United States, this was formerly the title of a consular officer who was substituted temporarily to fill the place of a commercial agent when the latter was absent or relieved from duty. See Commercial agent.

Vice-constable of England. An ancient officer in the time of Edward IV.

Vice-consul. In the consular service of the United States a consular officer who is substituted temporarily to fill the place of a consul who is absent or relieved from duty. Consular officer who is subordinate to a consul or consul general. In international law generally the term designates a commercial agent who acts in the place or stead of a consul or who has charge of a portion of his territory. In old English law, it meant the deputy or substitute of an earl (*comes*), who was anciently called "consul," answering to the more modern "*vice-comes*."

Vice-dominus episcopi. The vicar general or commissary of a bishop.

Vice-gerent. A deputy or lieutenant.

Vice-judex. In old Lombardic law, a deputy judge.

Vice-marshal. An officer who was appointed to assist the earl marshal.

Vice-President of the United States. The title of the second officer, in point of rank, in the executive branch of the government of the United States. In addition to his role as President of the Senate, the Vice President is empowered to succeed to the Presidency, pursuant to Article II and the 20th and 25th Amendments to the Constitution. The executive functions of the Vice President include participation in all Cabinet meetings, and, by statute, membership in the National Security Council, the Domestic Council, and the Board of Regents of the Smithsonian Institution. By designation of the President, the Vice President is Vice Chairman of the National Security Council and the Domestic Council, and Chairman of the Commission on CIA Activities Within the United States.

Vice-principal. See Principal.

Vice-versa. Conversely; in inverted order; in reverse manner.

Vice crimes. Generic term applied to crimes of immoral conduct such as prostitution, gambling, pornography.

Viceroy /váysrøy/. A person clothed with authority to act in place of the king; hence, the usual title of the governor of a dependency.

Vicinage /visənəj/. Neighborhood; near dwelling; vicinity. In modern usage, it means the county or particular area where a trial is had, a crime committed, etc. At common law, accused had the right to be tried by jury of the neighborhood or "vicinage," which was interpreted to mean the county where the crime was committed. People v. Goldswor, 39 N.Y.2d 656, 385 N.Y.S.2d 274, 350 N.E.2d 604, 606.

Vicinetum /visəniytəm/. The neighborhood; vicinage; the venue.

Vicinity. Quality or state of being near, or not remote; nearness; propinquity; proximity; a region about, near or adjacent; adjoining space or country. Casper v. City and County of San Francisco, 6 Cal.2d 376, 57 P.2d 920, 922. Neighborhood; etymologically, by common understanding, it admits of a wider latitude than proximity or contiguity, and may embrace a more extended space than that lying contiguous to the place in question; and, as applied to towns and other territorial divisions, may embrace those not adjacent.

Vicini viciniore præsumentur scire /vəsáynay vəsiniyórə priyz(y)əmántər sáyriy/. Persons living in the neighborhood are presumed to know the neighborhood.

Vicious propensity. A propensity or tendency of animal to do any act which might endanger the safety of persons and property of others in a given situation. Hartman v. Aschaffenburg, La.App., 12 So.2d 282, 286.

Vicis et venellis mundandis /váysəs èt vənəlas mən-dándəs/. An ancient writ against the mayor or bailiff of a town, etc., for the clean keeping of their streets and lanes.

Vicountiel, or vicontiel /vaykównshəl/"kón"/. Anything that belongs to the sheriffs, as vicontiel writs; i.e., such as are triable in the sheriff's court. As to vicontiel rents, see St. 3 & 4 Wm. IV, c. 99, §§ 12, 13, which places them under the management of the commissioners of the woods and forests.

Vicountiel jurisdiction /vaykównshəl jürəsdikshən/. That jurisdiction which belongs to the officers of a county; as sheriffs, coroners, etc.

Victim. The person who is the object of a crime or tort, as the victim of a robbery is the person robbed. Person who court determines has suffered pecuniary damages as result of defendant's criminal activities; that person may be individual, public or private corporation, government, partnership, or unincorporated association. State v. Stayer, Utah, 706 P.2d 611, 613. See also Restitution.

Victim impact statement. Statement read into the record during the sentencing phase of a criminal trial to inform the court about the impact of the crime on the victim or victim's family.

Victimless crimes. Term applied to a crime which generally involves only the criminal, and which has no

direct victim, as in the crime of illegal possession of drugs.

Victualler /vit(ə)lər/. In English law, a person authorized by law to keep a house of entertainment for the public; a publican. One who serves food or drink prepared for consumption on the premises.

Victus /viktəs/. Lat. In the civil law, sustenance; support; the means of living.

Victus, victori in expensis condemnandus est /viktəs, viktóray in əkspənsəs kɔndəmnəndəs ɛst/. The vanquished is to be condemned in costs to the conqueror, or he who loses the suit pays costs to his adversary. State ex rel. Macri v. City of Bremerton, 8 Wash.2d 93, 111 P.2d 612, 620.

Vidame /víydəm/. In French feudal law, originally, an officer who represented the bishop, as the viscount did the count. In process of time, these dignitaries erected their offices into fiefs, and became feudal nobles, such as the *vidame* of Chartres, Rheims, etc., continuing to take their titles from the seat of the bishop whom they represented, although the lands held by virtue of their fiefs might be situated elsewhere.

Vide /vídyi/. Lat. A word of reference. *Vide ante*, or *vide supra*, refers to a previous passage, *vide post*, or *vide infra*, to a subsequent passage, in a book.

Videbis ea sæpe committi quæ sæpe vindicantur /vídybəs iyə síypiy kəmitay kwiy síypiy vindəkəntər/. You will see those things frequently committed which are frequently punished.

Videlicet /vədéləsət/°diy°. Lat. The words "to-wit," or "that is to say," so frequently used in pleading, are technically called the "*videlicet*" or "*scilicet*;" and when any fact alleged in pleading is preceded by, or accompanied with these words, such fact is, in the language of the law, said to be "laid under a *videlicet*." The use of the *videlicet* is to point out, particularize, or render more specific that which has been previously stated in general language only; also to explain that which is doubtful or obscure. Its common office is to state time, place, or manner which are of the essence of the matter in issue.

Videtur qui surdus et mutus ne poet faire alienation /vídytər kwày sártəs ɛt myúwtəs nə pyúw fér ɛyl(i)yənáyshən/. It seems that a deaf and dumb man cannot alienate.

Vidimus /vidəməs/. An *inspeximus* (q.v.).

Vidua regis /vídyuwə riyjəs/. Lat. In old English law, a king's widow. The widow of a tenant *in capite*. So called, because she was not allowed to marry a second time without the king's permission; obtaining her dower also from the assignment of the king, and having the king for her patron and defender.

Viduitatis professio /vídyuwətéytəs prəfəsh(i)yow/. Lat. The making a solemn profession to live a sole and chaste woman.

Viduity /vídyúwətiy/. Widowhood.

Vie. Fr. Life; occurring in the phrases *cestui que vie*, *pur autre vie*, etc.

Vi et armis /váy ɛt árməs/. Lat. With force and arms. See Trespass.

View. The common law right of prospect; the outlook or prospect from the windows of one's house. A species of urban servitude which prohibits the obstruction of such prospect.

The act or proceeding by which tribunal goes to an object which cannot be produced in court because it is immovable or inconvenient to remove, and there observes it. Conner v. Parker, Tex.Civ.App., 181 S.W.2d 873, 874. An inspection by the jury of property in controversy, of an accident scene, of a place where a crime has been committed, etc. An inspection by the fact finding tribunal which is a species of real evidence.

The appropriate procedures to be followed in connection with views are widely regulated by state statute. At common law, and generally in civil cases today, the presence of the trial judge at a view is not required, the more common practice being for the jury to be conducted to the scene by "showers," expressly commissioned for the purpose. Attendance at the view by the parties and their counsel is generally permitted though subject to the discretion of the trial judge. In criminal cases, the rights of the defendant to have the judge present at the view, and to be present himself, are frequently provided for by statute.

See also Inspection; Plain view doctrine; Viewers.

View and delivery. In old English law, when a right of common was exercisable not over the whole waste, but only in convenient places indicated from time to time by the lord of the manor or his bailiff, it was said to be exercisable after "view and delivery."

View, demand of. At common law, in real actions, the defendant was entitled to demand a *view*, that is, a sight of the thing, in order to ascertain its identity and other circumstances. As, if a real action were brought against a tenant, and such tenant did not exactly know what land it was that the demandant asked, then he might pray the view, which was that he might see the land which the demandant claimed. See also View.

Viewers. Persons appointed by a court to make an investigation of certain matters, or to examine a particular locality (as, the proposed site of a new road), and to report to the court the result of their inspection, with their opinion on the same.

View of an inquest. A view or inspection taken by a jury, summoned upon an inquisition or inquest, of the place or property to which the inquisition or inquiry refers.

View of frank-pledge. In old English law, an examination to see if every freeman above twelve years of age within the district had taken the oath of allegiance, and found nine freeman pledges for his peaceable demeanor.

Vif-gage /vifgèyj/. L. Fr. In old English law, a *vivum vadium* or living pledge, as distinguished from a *mort-*

gage or dead pledge. Properly, an estate given as security for a debt, the debt to be satisfied out of the rents, issues, and profits.

Vigil. In ecclesiastical law, the eve or next day before any solemn feast.

Vigilance. Watchfulness; precaution; a proper degree of activity and promptness in pursuing one's rights or guarding them from infraction, or in making or discovering opportunities for the enforcement of one's lawful claims and demands. It is the opposite of *laches*. *Wynne v. Conrad*, 220 N.C. 355, 17 S.E.2d 514, 518.

Vigilant. Watchful, awake, and on the alert; attentive to discover and avoid danger, or to provide for safety; circumspect; cautious; wary. *City Ice & Fuel Co. v. Center*, 54 Ohio App. 116, 6 N.E.2d 580, 583, 7 O.O. 434.

Vigilantibus et non dormientibus jura subveniunt /vijələntəbəs èt nòn dormiyəntəbəs jūrə səbvīyn(i)yənt/. The laws aid those who are vigilant, not those who sleep upon their rights.

Vigor /vigər/. Lat. Strength; virtue; force; efficiency. *Proprio vigore* /prówpriyow vəgóriy/, by its own force.

Viis et modis /váyəs èt mówdəs/. Lat. In the ecclesiastical courts, service of a decree or citation *viis et modis*, i.e., by all "ways and means" likely to affect the party with knowledge of its contents, is equivalent to substituted service in the temporal courts, and is opposed to personal service.

Vill. In old English law, this word was used to signify the parts into which a hundred or wapentake was divided. It also signifies a town or city.

Villa est ex pluribus mansionibus vicinata, et collata ex pluribus vicinis, et sub appellatione villarum continentur burgi et civitates /vilə èst èks pl(y)úrəbəs mǎns(h)iyównəbəs visənétə, èt kələytə èks pl(y)úrəbəs vəsáyənəs, èt sǎb əpələyshiyówniy valérəm kòntənántər bǎrjaj èt sivətétyiz/. Vill is a neighborhood of many mansions, a collection of many neighbors, and under the term of "vills" boroughs and cities are contained.

Village. Traditionally, word "village" has connoted an area possessed of some attributes of a community, and is not a technical word, or one having a peculiar meaning, but is a common word in general usage and is merely an assemblage or community of people, a nucleus or cluster for residential and business purposes, a collective body of inhabitants, gathered together in one group. *Union Sav. Bank of Patchogue v. Saxon*, 118 U.S.App.D.C. 296, 335 F.2d 718, 721. Term refers to any small assemblage of houses for dwellings or business, or both, whether they are situated on regularly laid out streets and alleys, or not. *State on Information of Eagleton v. Champ, Mo.*, 393 S.W.2d 516, 524.

In some states, this is the legal description of a class of municipal corporations of smaller population than "cities" and having a simpler form of government, and corresponding to "towns" and "boroughs," as these terms are employed elsewhere.

Villain. An opprobrious epithet, implying great moral delinquency, and equivalent to knave, rascal, or scoundrel. The word is libelous.

Villanis regis subtractis reducendis /vələynəs ríyjəs səbtráktəs ríyd(y)uwséndəs/. In old English law, a writ that lay for the bringing back of the king's bondmen, that had been carried away by others out of his manors whereto they belonged.

Villanum servitium /vələynəm sərvísh(iy)əm/. In old English law, villein service.

Villa regia /vilə ríyj(iy)ə/. Lat. In Saxon law, a royal residence.

Villein /vilən/. In feudal law, a person attached to a manor, who was substantially in the condition of a slave, who performed the base and servile work upon the manor for the lord, and was, in most respects, a subject of property belonging to him.

Villein in gross /vilən in gróws/. In feudal law, a villein who was annexed to the person of the lord, and transferable by deed from one owner to another. 2 Bl.Comm. 93.

Villein regardant /vilən rəgárdənt/. In feudal law, a villein annexed to the manor of land; a serf.

Villein services /vilən sǎrvəsəz/. In feudal law, base services, such as villeins performed. They were not, however, exclusively confined to villeins, since they might be performed by freemen, without impairing their free condition.

Villein socage /vilən sókəj/. In feudal and old English law, a species of tenure in which the services to be rendered were certain and determinate, but were of a base or servile nature; i.e., not suitable to a man of free and honorable rank. This was also called "privileged villeinage," to distinguish it from "pure villeinage," in which the services were not certain, but the tenant was obliged to do whatever he was commanded. 2 Bl.Comm. 61.

Villénage /vilənəj/. In feudal law, a servile kind of tenure belonging to lands or tenements, whereby the tenant was bound to do all such services as the lord commanded, or were fit for a villein to do. See *Villein*.

Pure villénage. A base tenure, where a man holds upon terms of doing whatsoever is commanded of him, nor knows in the evening what is to be done in the morning, and is always bound to an uncertain service.

Villénous judgment /vilənəs jéjmənt/. A judgment which deprived one of his *libera lex*, whereby he was discredited and disabled as a juror or witness; forfeited his goods and chattels and lands for life; wasted the lands, razed the houses, rooted up the trees, and committed his body to prison. It has become obsolete. 4 Bl.Comm. 136.

Vim vi repellere licet, modo fiat moderamine inculpatæ tutelæ, non ad sumendam vindictam, sed ad propulsandam injuriam /vím váy rəpələriy láysət, mowdow fáytət mòdərəyməniy inkəlpétyiy (t)yuwtyíly,

nón æd s(y)uwméndæm vindíktæm, sèd æd pròwpálsændæm injúriam/. It is lawful to repel force by force, provided it be done with the moderation of blameless defense, not for the purpose of taking revenge, but to ward off injury.

Vinagium /vinéyj(iy)æm/. A payment of a certain quantity of wine instead of rent for a vineyard.

Vinculación /vinkuwlasyówn/. In Spanish law, an entail.

Vínculo /vinkuwlów/. In Spanish law, the bond, chain, or tie of marriage.

Vínculo matrimonii /vínk(y)əlow mætrəmówniyay/. See A vínculo matrimonii; Divorce.

Vinculum juris /vínk(y)ələm júrəs/. In the Roman law, an obligation is defined as a *vinculum juris*, i.e., "a bond of law," whereby one party becomes or is bound to another to do something according to law.

Vindex /víndeks/. Lat. In the civil law, a defender.

Vindicare /víndekérij/. Lat. In the civil law, to claim, or challenge; to demand one's own; to assert a right in or to a thing; to assert or claim a property in a thing; to claim a thing as one's own.

Vindicate. To clear of suspicion, blame, or doubt.

Vindicatio /víndekéysh(iy)ow/. Lat. In the civil law, the claiming a thing as one's own; the asserting of a right or title in or to a thing.

Vindictory parts of laws /víndekətorij párts əv lóz/. The sanction of the laws, whereby it is signified what evil or penalty shall be incurred by such as commit any public wrongs, and transgress or neglect their duty.

Vindicta /víndíktə/. In Roman law, a rod or wand; and, from the use of that instrument in their course, various legal acts came to be distinguished by the term; e.g., one of the three ancient modes of manumission was by the *vindicta*; also the rod or wand intervened in the progress of the old action of *vindicatio*, whence the name of that action.

Vindictive damages /víndíktəv dəməjəz/. See Damages.

Vintner /víntnər/. One who sells wine. A covenant prohibiting the trade of a vintner includes a person selling wines not to be drunk on the premises.

Viol. Fr. In French law, rape; barring.

Violation. Injury; infringement; breach of right, duty or law; ravishment; seduction. The act of breaking, infringing, or transgressing the law. Rabon v. South Carolina State Highway Dept., 258 S.C. 154, 187 S.E.2d 652, 654.

A classification used by the Model Penal Code for public welfare offenses. A violation is not a crime. M.P.C. § 1.04(5).

Violence. Unjust or unwarranted exercise of force, usually with the accompaniment of vehemence, outrage or fury. People v. McIlvain, 55 Cal.App.2d 322, 130 P.2d 131, 134. Physical force unlawfully exercised; abuse of

force; that force which is employed against common right, against the laws, and against public liberty. Anderson-Berney Bldg. Co. v. Lowry, Tex.Civ.App., 143 S.W.2d 401, 403. The exertion of any physical force so as to injure, damage or abuse. See e.g. Assault.

Violence in labor disputes is not limited to physical contact or injury, but may include picketing conducted with misleading signs, false statements, publicity, and veiled threats by words and acts. Esco Operating Corporation v. Kaplan, 144 Misc. 646, 258 N.Y.S. 303.

Violent. Moving, acting, or characterized, by physical force, especially by extreme and sudden or by unjust or improper force. Furious, vehement; as a violent storm or wind. A violent attack marked by, or due to, strong mental excitement. Vehement, passionate; as, violent speech. Violent reproaches produced or effected by force, not spontaneous or natural; as, a violent death. Displaying or proceeding from extreme or intense force; caused by unexpected unnatural causes.

Violenta præsumptio aliquando est plena probatio /vayələns(iy)ə prəzəm(p)sh(iy)ow ələkwóndow èst plýnə prówbéysh(iy)ow/. Violent presumption is sometimes full proof.

Violent death. Death caused by violent external means, as distinguished from natural death as caused by disease or the wasting of the vital forces. Death is "violent" within accident policy if it results from external agency and is not in ordinary course of nature. See e.g. Murder.

Violently. By the use of force; forcibly; with violence. The term is used in indictments for certain offenses.

Violent offenses. Crimes characterized by extreme physical force such as murder, forcible rape, and assault and battery by means of a dangerous weapon.

Viperina est expositio quæ corrodit viscera textus /vəypəriynə èst èkspəzish(iy)ow kwíy kərówdət visərə tékstəs/. It is a poisonous exposition which destroys the vitals of the text.

Vir /vír/. Lat. A man, especially as marking the sex. In the Latin phrases and maxims of the old English law, this word generally means "husband," the expression *vir et uxor* corresponding to the law French *baron et feme*.

Vires /váyriyz/. Lat. (The plural of "vis.") Powers; forces; capabilities; natural powers; powers granted or limited. See Ultra (*Ultra vires*).

Vires acquirit eundo /váyriyz əkwáyrət iyándow/. It gains strength by continuance.

Vir et uxor censentur in lege una persona /vír èt əksor sènséntər in líyjiy yúwnə pərsównə/. Husband and wife are considered one person in law.

Vir et uxor sunt quasi unica persona, quia caro et sanguis unus; res licet sit propria uxoris, vir tamen ejus custos, cum sit caput mulieris /vír èd əksor sènt kwéyzay yúwnəkə pərsównə, kwáyə kérow èt səngwəs yúwnəs; ríyz láysət sít prówpriyə əksóráw, vír téymən iyəs kástəs, kəm sít kəpət myuwl(i)jirəs/. Man and wife are, as it were, one person, because only one flesh

- and blood; although the property may be the wife's, the husband is keeper of it, since he is the head of the wife.
- Virga** /vǣrgə/. In old English law, a rod or staff; a rod or ensign of office.
- Virgata** /vǣrgéytə/. A quarter of an acre of land. It might also be used to express a quarter of a hide of land.
- Virgata regia** /vǣrgéydə ríj(iy)ə/. In old English law, the verge; the bounds of the king's household, within which the court of the steward had jurisdiction.
- Virgate** /vǣrgət/. A yard-land.
- Virga terræ (or virgata terræ)** /vǣrgə téhriy/vǣrgéytə téhriy/. In old English law, a yard-land; a measure of land of variable quantity, containing in some places twenty, in others twenty-four, in others thirty, and in others forty, acres.
- Virge, tenant by** /ténənt bəy vǣrj/. A species of copyholder, who holds by the virge or rod.
- Virgo intacta** /vǣrgow intáktə/. Lat. A pure virgin.
- Viridario eligendo** /virədér(i)yow əlǣjéndow/. A writ for choice of a verderer in the forest.
- Virilia** /vǣrl(i)yə/. The privy members of a man, to cut off which was felony by the common law, though the party consented to it.
- Vir militans deo non implicetur secularibus negotiis** /vǣr milátənz díyow nòn impləsiytər sékylérəbəs nəgówshiyəs/. A man fighting for God must not be involved in secular business.
- Virtual representation, doctrine of.** Under this doctrine, where parties interested are numerous and the suit is for an object common to all of them, some of the body may maintain an action on behalf of themselves and of the others. *Padway v. Pacific Mut. Life Ins. Co. of California*, D.C.Wis., 42 F.Supp. 569, 576. Under current rules practice, such type action would proceed as a class action. See *Class or representative action*.
- Virtue of office.** An act by virtue of office is one in which the act is within the authority of the officer but in doing it he exercises that authority improperly or abuses the confidence which the law imposes in him. *Maryland Cas. Co. v. McCormack, Ky.*, 488 S.W.2d 347, 349. See *Color of law*.
- Virtute cujus** /vǣrt(y)úwtiy k(y)úwǣs/. Lat. By virtue whereof. This was the clause in a pleading justifying an entry upon land, by which the party alleged that it was in virtue of an order from one entitled that he entered.
- Virtute officii** /vǣrt(y)úwtiy əfíshiyay/. Lat. By virtue of his office. By the authority vested in him as the incumbent of the particular office. An officer acts "virtute officii" when he acts by the authority vested in him as the incumbent of the particular office. *Aldridge v. Wooten*, 68 Ga.App. 887, 24 S.E.2d 700, 701. Where acts done are within the authority of the officer, but in doing them he exercises that authority improperly, or abuses the confidence which the law reposes in him, whilst acts done "colore officii" are where they are of such a nature that his office gives him no authority to do them. *State v. Roy*, 41 N.M. 308, 68 P.2d 162, 165; *Yuma County v. Wisener*, 45 Ariz. 475, 46 P.2d 115, 118.
- Vis** /vis/. Lat. Any kind of force, violence, or disturbance relating to a man's person or his property. The plural is *vires* (*q.v.*).
- Visa** /víyzə/. An official endorsement made out on a passport, denoting that it has been examined and that the bearer is permitted to proceed. A recognition by the country in which the holder of a passport desires to travel of that passport's validity. *U.S. v. Vargas, D.C. N.Y.*, 380 F.Supp. 1162, 1168. A visa is generally required for the admission of aliens into the United States. Cf. 8 U.S.C.A. §§ 1181, 1184. See also *Alien*; *Passport*.
- Vis ablativa** /vis əblátáyvə/. In the civil law, ablative force; force which is exerted in taking away a thing from another.
- Vis armata** /vis arméytə/. In the civil and old English law, armed force; force exerted by means of arms or weapons.
- Vis à vis** /viyzavíy/. Face to face. One of two persons or things opposite or corresponding to each other. In relation to each other.
- Vis clandestina** /vis klændəstáynə/. In old English law, clandestine force; such as is used by night.
- Vis compulsiva** /vis kòmpəlsáyvə/. In the civil and old English law, compulsive force; that which is exerted to compel another to do an act against his will; force exerted by menaces or terror.
- Viscount** /váykəwnt/. A decree of English nobility, next below that of earl. An old title of the sheriff.
- Vis divina** /vis dəváyvə/. In the civil law, divine or superhuman force; the act of God.
- Visé** /viyzey/. See *Visa*.
- Vis expulsiva** /vis ekspəlsáyvə/. In old English law, expulsive force; force used to expel another, or put him out of his possession. Bracton contrasts it with "*vis simplex*," and divides it into expulsive force with arms, and expulsive force without arms.
- Vis exturbativa** /vis əkstərbətáyvə/. In the civil law, exturbative force; force used to thrust out another. Force used between two contending claimants of possession, the one endeavoring to thrust out the other.
- Vis fluminis** /vis fl(y)úwmənis/. In the civil law, the force of a river; the force exerted by a stream or current; water-power.
- Visible.** Perceptible, discernible, clear, distinct, evident, open, conspicuous.
- Visible means of support.** Term used in vagrancy statutes to indicate that one was without any ostensible ability to support himself, though he is able bodied.
- Vis impressa** /vis imprésə/. The original act of force out of which an injury arises, as distinguished from "*vis proxima*," the proximate force, or immediate cause of the injury.

Vis inermis /vís inérməs/. In old English law, unarmed force; the opposite of "*vis armata*."

Vis injuriosa /vís injùriýowsə/. In old English law, wrongful force; otherwise called "*illicita*" (unlawful).

Vis inquietativa /vís inkwàytətáyvə/. In the civil law, disquieting force. Bracton defines it to be where one does not permit another to use his possession quietly and in peace.

Visit. In international law, the right of visit or visitation is the right of a cruiser or war-ship to stop a vessel sailing under another flag on the high seas, and send an officer to such vessel to ascertain whether her nationality is what it purports to be. It is exercisable only when suspicious circumstances attend the vessel to be visited; as when she is suspected of a piratical character.

Visitation. Inspection; superintendence; direction; regulation. Bank of America Nat. Trust & Savings Ass'n v. Douglas, 70 App.D.C. 221, 105 F.2d 100, 105.

In family law, visitation refers to noncustodial parent's right of access to his or her child; while noncustodial parent is responsible for care of child during visits, visitation differs from custody because noncustodial parent and child do not live together as family unit. *Westrate v. Westrate*, App., 124 Wis.2d 244, 369 N.W.2d 165, 168. See also Visitation rights.

In England, the office of inquiring into and correcting irregularities of corporations. See also Visitor.

Visitation books. In old English law, books compiled by the heralds, when progresses were solemnly and regularly made into every part of the kingdom, to inquire into the state of families, and to register such marriages and descents as were verified to them upon oath; they were allowed to be good evidence of pedigree.

Visitation rights. In a marriage dissolution or custody action, permission granted by court to a noncustodial parent to visit child or children. May also refer to visitation rights extended to grandparents in a number of states. See also Visitation.

Visitor. One who goes or comes to see a particular person or place. For "business visitor", see Business.

In England, a person appointed to visit, inspect, inquire into, and correct irregularities of corporations. Similar functions are performed by Boards of Visitors to Prisons.

Visitor of manners. The regarder's office in the forest.

Vis laica /vís léyəkə/. In old English law, lay force; an armed force used to hold possession of a church.

Vis legibus est inimica /vís líyjbəs èst inəmáykə/. Violence is inimical to the laws.

Vis licita /vís lísətə/. In old English law, lawful force.

Vis major /vís méyjør/. A greater or superior force; an irresistible force. A loss that results immediately from a natural cause without the intervention of man, and could not have been prevented by the exercise of prudence, diligence, and care. *National Carbon Co. v. Bankers Mortg. Co. of Topeka*, C.C.A.Kan., 77 F.2d 614,

617. A natural and inevitable necessity, and one arising wholly above the control of human agencies, and which occurs independently of human action or neglect. In the civil law, this term is sometimes used as synonymous with "*vis divina*," or the act of God. See Act of God.

Visne /váyniy/. L. Fr. The neighborhood; vicinage; venue. The district from which juries were drawn at common law.

Vis perturbativa /vís pərtərbətáyvə/. In old English law, force used between parties contending for a possession.

Vis proxima /vís próksəmə/. Immediate force. See Vis impressa.

Vis simplex /vís símplèks/. In old English law, simple or mere force.

V.I.S.T.A. Volunteers in Service to America.

Visus /váyzas/. Lat. In old English practice, view; inspection, either of a place or person.

Vital statistics. Public records kept by a state, city or other governmental subdivision, under a statutory provision, of births, marriages, deaths, diseases, and the like. For admissibility of, see Fed.Evid.R. 803. See also Census.

Vitiate. To impair; to make void or voidable; to cause to fail of force or effect. To destroy or annul, either entirely or in part, the legal efficacy and binding force of an act or instrument; as when it is said that fraud *vitiates a contract*.

Vitiligate. To litigate cavilously, vexatiously, or from merely quarrelsome motives.

Vitium clerici /vish(iy)əm kléh්රəsəy/. In old English law, the mistake of a clerk; a clerical error.

Vitium clerici nocere non debet /vish(iy)əm kléh්රəsəy nəsiəriy nòn débət/. A clerical error ought not to hurt.

Vitium est quod fugi debet, nisi, rationem non invenias, mox legem sine ratione esse clames /vish(iy)əm èst kwòd fyúwjəy débət, náysəy, rəshiyównəm nòn invíyn(i)yəs, mòks líyjbəm sáyniy rəshiyówniy ésiy kléymiyz/. It is a fault which ought to be avoided, that if you cannot discover the reason you should presently exclaim that the law is without reason.

Vitium scriptoris /vish(iy)əm skriptóras/. In old English law, the fault or mistake of a writer or copyist; a clerical error.

Vitreous /vitriyəs/. Consisting of or resembling glass in its important characteristics.

Vitricus /vitrəkəs/. Lat. In the civil law, a stepfather; a mother's second husband.

Viva aqua /váyvə ákwə/. Lat. In the civil law, living water; running water; that which issues from a spring or fountain.

Viva pecunia /váyvə pək(y)úwn(i)yə/. Lat. Cattle, which obtained this name from being received during

the Saxon period as money upon most occasions, at certain regulated prices.

Vivarium /vəv(ɪ)jəm/. Lat. In the civil law, an enclosed place, where live wild animals are kept.

Vivary /vɪvəri/. In English law, a place for keeping wild animals alive, including fishes; a fish pond, park, or warren.

Viva voce /váyvə vóvsi/. Lat. With the living voice; by word of mouth. As applied to the examination of witnesses, this phrase is equivalent to "orally." It is used in contradistinction to evidence on affidavits or depositions. As descriptive of a species of voting, it signifies voting by speech or outcry, as distinguished from voting by a written or printed ballot.

Vivum vadium /váyvəm véyd(i)yəm/. See *Vadium*.

Vix ulla lex fieri potest quæ omnibus commoda sit, sed si majori partí prospiciat, utilis est /vɪks ʌlə léks fáyərəy pówtəst kwáy ómnəbəs kómədə sit, sɛd sáy majərəy pártay prəspɪʃ(i)yət, yúwtələs ɛst/. Scarcely any law can be made which is adapted to all, but, if it provide for the greater part, it is useful.

Viz /vɪz/. A contraction for *videlicet*, to-wit, namely, that is to say.

Vocabula artis /vɔwkəbyələ ártəs/. Lat. Words of art; technical terms.

Vocabula artium explicanda sunt secundum definitiones prudentum /vɔwkəbyələ ársh(i)yəm ɛkspləkəndə sɛnt səkəndəm dəfənɪʃiýówniýz pruwdéntəm/. Terms of arts are to be explained according to the definitions of the learned or skilled [in such arts].

Vocare ad curiam /vɔwkəriy æd kyúriyəm/. In feudal law, to summon to court.

Vocatio in jus /vɔwkéysh(i)yow in jəs/. Lat. A summoning to court. In the earlier practice of the Roman law (under the *legis actiones*), the creditor orally called upon his debtor to go with him before the prætor for the purpose of determining their controversy, saying, "*In jus eamus; in jus te voco.*" This was called "*vocatio in jus.*"

Vocation. One's regular calling or business; one's occupation or profession. The activity on which one spends major portion of his time and out of which he makes his living. *Employers' Liability Assur. Corporation v. Accident & Casualty Ins. Co. of Winterthur, Switzerland*, C.C.A. Ohio, 134 F.2d 566, 568. See also *Occupation; Profession*.

Vociferatio /vówsfərəyʃh(i)yow/. Lat. In old English law, outcry; hue and cry.

Vociferous /vówsífərəs/. Making a loud outcry; clamorous; noisy.

Voco /vówkow/. Lat. In the civil and old English law, I call; I summon; I vouch. *In jus voco te*, I summon you to court; I summon you before the prætor. The formula by which a Roman action was anciently commenced.

Voice exemplars. Type of test in which one's voice is compared to the voice heard on some particular occasion. Used in trial of cases as type of scientific evidence. An order compelling a defendant in a criminal case to furnish a sample of his voice does not violate the privilege against self-incrimination. *U. S. v. Dionisio*, 410 U.S. 1, 93 S.Ct. 764, 35 L.Ed.2d 67. While voiceprint identification was formerly not admissible, the trend in recent years has been towards admissibility under restricted conditions. *United States v. Baller, C.A.W.Va.*, 519 F.2d 463. See *Fed.Evid.R. 901*. See also *Spectrograph; Voiceprint*.

Voice identification. In evidence, one may testify that he heard a person's voice if he is familiar with that voice. See *Fed.Evid.R. 901(5)*. See also *Spectrograph; Voiceprint*.

Voiceprint. An instrument known as a spectrograph produces "prints" of one's voice for use in comparing such readings with the actual voice of the person involved to determine whether such person uttered the material words. Used in trial of cases which require identification of voices. *Com. v. Lykus*, 367 Mass. 191, 327 N.E.2d 671. See *Spectrograph; Voice exemplars*.

Void. Null; ineffectual; nugatory; having no legal force or binding effect; unable, in law, to support the purpose for which it was intended. *Hardison v. Gledhill*, 72 Ga.App. 432, 33 S.E.2d 921, 924. An instrument or transaction which is wholly ineffective, inoperative, and incapable of ratification and which thus has no force or effect so that nothing can cure it. *In re Oliver, Bkrcty. Minn.*, 38 B.R. 245, 248.

There is this difference between the two words "void" and "voidable": *void* in the strict sense means that an instrument or transaction is nugatory and ineffectual so that nothing can cure it; *voidable* exists when an imperfection or defect can be cured by the act or confirmation of him who could take advantage of it. The term "void," however, as applicable to conveyances or other agreements, has not at all times been used with technical precision, nor restricted to its peculiar and limited sense, as contradistinguished from "voidable"; it being frequently introduced, even by legal writers and jurists, when the purpose is nothing further than to indicate that a contract was invalid, and not binding in law. But the distinction between the terms "void" and "voidable," in their application to contracts, is often one of great practical importance; and, whenever entire technical accuracy is required, the term "void" can only be properly applied to those contracts that are of no effect whatsoever, such as are a mere nullity, and incapable of confirmation or ratification.

The word "void," in its strictest sense, means that which has no force and effect, is without legal efficacy, is incapable of being enforced by law, or has no legal or binding force, but frequently the word is used and construed as having the more liberal meaning of "voidable."

The word "void" is used in statutes in the sense of utterly void so as to be incapable of ratification, and also in the sense of voidable and resort must be had to the rules of construction in many cases to determine in

which sense the Legislature intended to use it. An act or contract neither wrong in itself nor against public policy, which has been declared void by statute for the protection or benefit of a certain party, or class of parties, is voidable only.

Compare Voidable.

Void ab initio. A contract is null from the beginning if it seriously offends law or public policy in contrast to a contract which is merely voidable at the election of one of the parties to the contract. *See also* Void contract; Void marriage.

Voidable. That which may be avoided, or declared void; not absolutely void, or void in itself. It imports a valid act which may be avoided rather than an invalid act which may be ratified. *United States v. Price*, D.C.Iowa, 514 F.Supp. 477, 480. *See also* Voidable contract. *Compare* Void.

Voidable contract. A contract that is valid, but which may be legally voided at the option of one of the parties. One which is void as to wrongdoer but not void as to wronged party, unless he elects to so treat it. *Depner v. Joseph Zukin Blouses*, 13 Cal.App.2d 124, 56 P.2d 574, 575. One which can be avoided (cancelled) by one party because right of rescission exists as a result of some defect or illegality (e.g., fraud or incompetence). *See also* Void contract.

A voidable contract is one where one or more parties have the power, by a manifestation of election to do so, to avoid the legal relations created by the contract, or by ratification of the contract to extinguish the power of avoidance. *Restatement, Second, Contracts* § 7.

Voidable judgment. One apparently valid, but in truth wanting in some material respect. *City of Lufkin v. McVicker*, Tex.Civ.App., 510 S.W.2d 141, 144. One rendered by a court having jurisdiction but which is irregularly and erroneously rendered. *Easterline v. Bean*, 121 Tex. 327, 49 S.W.2d 427, 429. *See also* Void judgment.

Voidable marriage. One which is valid (not void) when entered into and which remains valid until either party secures lawful court order dissolving the marital relationship. *Darling v. Darling*, 44 Ohio App.2d 5, 335 N.E.2d 708, 710, 73 O.O.2d 5. Major difference between "void marriage" and "voidable marriage" is that latter is treated as binding until its nullity is ascertained and declared by competent court, whereas former does not require such judgment because parties could not enter into valid marital relationship. *Broadus v. Broadus*, Ala.Civ.App., 361 So.2d 582, 584. *See also* Void marriage.

Voidable preference. Under Bankruptcy Code, such exists where person while insolvent transfers property, the effect of which will be to enable one creditor to obtain greater percentage of his debt than other creditors of same class. A preference given to one creditor over another by a bankrupt, usually manifested by a payment to that creditor just prior to the bankruptcy declaration, that may be set aside by the trustee in bankruptcy. *See* Bankruptcy Code § 547. *See also* Preference.

Void contract. A contract that does not exist at law; a contract having no legal force or binding effect. Expression denotes that the parties to the transaction have gone through the form of making a contract, but that none has been made in law because of lack of some essential element of a contract, and such contract creates no legal rights and either party thereto may ignore it at his pleasure, in so far as it is executory. *Griffin v. Smith*, C.C.A.Ind., 101 F.2d 348, 350. *See also* Voidable contract.

Void for vagueness doctrine. A law which is so obscure in its promulgation that a reasonable person could not determine from a reading what the law purports to command or prohibit is void as violative of due process. The doctrine means that criminal responsibility should not attach where one could not reasonably understand that his contemplated conduct is proscribed. *U.S. v. National Dairy Products Corp., Mo.*, 83 S.Ct. 594, 598, 372 U.S. 29, 91 L.Ed.2d 561. Also, the First Amendment requires special clarity so that protected expression will not be chilled or suppressed.

Void judgment. One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally. *Reynolds v. Volunteer State Life Ins. Co.*, Tex.Civ.App., 80 S.W.2d 1087, 1092. One which, from its inception is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind parties or support a right, of no legal force and effect whatever, and incapable of confirmation, ratification, or enforcement in any manner or to any degree. Judgment is a "void judgment" if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process. *Klugh v. U.S.*, D.C.S.C., 620 F.Supp. 892, 901. *See also* Voidable judgment.

Void marriage. One not good for any legal purpose, the invalidity of which may be maintained in any proceeding between any parties, while a "voidable marriage" is one where there is an imperfection which can be inquired into only during the lives of both of the parties in a proceeding to obtain a judgment declaring it void. Such marriage is invalid from its inception, and parties thereto may simply separate without benefit of court order of divorce or annulment. *Darling v. Darling*, 44 Ohio App.2d 5, 335 N.E.2d 708, 710, 73 O.O.2d 5. A "voidable marriage" is valid and not ipso facto void, until sentence of nullity is obtained; a "void marriage" is void ab initio. *Minder v. Minder*, 83 N.J.Super. 159, 199 A.2d 69, 71. *See* Annulment.

Void on its face. An instrument is void on its face when an inspection will reveal its defects and invalidity.

Void process. One which fails in some material respect to comply with the requisite form of legal process. *United States v. Van Dusen*, C.C.A.Minn., 78 F.2d 121, 124.

Void transaction. One that has no force and effect and is incapable of legal enforcement. *See* Void; Void contract.

Voir dire /vwár dir/. L. Fr. To speak the truth. This phrase denotes the preliminary examination which the court and attorneys make of prospective jurors to determine their qualification and suitability to serve as jurors. Peremptory challenges or challenges for cause many result from such examination. *See* Challenge.

Voiture /vwotyúr/. Fr. Carriage; transportation by carriage.

Volens /vówlénz/. Lat. Willing. He is said to be willing who either expressly consents or tacitly makes no opposition.

Volenti non fit injuria /vowléntay nón fit injúriya/. The maxim "volenti non fit injuria" means that if one, knowing and comprehending the danger, voluntarily exposes himself to it, though not negligent in so doing, he is deemed to have assumed the risk and is precluded from a recovery for an injury resulting therefrom. *Munson v. Bishop Clarkson Memorial Hospital*, 186 Neb. 778, 186 N.W.2d 492, 494. This is an affirmative defense that should be pleaded under Fed.R.Civil P. 8. *Tyler v. Dowell, Inc.*, C.A.N.M., 274 F.2d 890. *See also* Assumption of risk.

Volstead Act. A now repealed Federal law prohibiting the manufacture, sale, or transportation of liquor. The law was passed under the Eighteenth Amendment to the U.S. Constitution which was repealed by Twenty-First Amendment.

Voluit, sed non dixit /vól(y)uwæt, sèd nòn díksæt/. He willed, but he did not say. He may have intended so, but he did not say so. A maxim frequently used in the construction of wills; an answer to arguments based upon the supposed intention of a testator.

Volumen /volyúwmən/. Lat. In the civil law, a volume; so called from its form, being *rolled up*.

Volumus /vóláməs/. Lat. We will; it is our will. The first word of a clause in the royal writs of protection and letters patent.

Voluntarily. Done by design or intention, intentional, proposed, intended, or not accidental. Intentionally and without coercion. *Young v. Young*, 148 Kan. 876, 84 P.2d 916, 917.

Voluntariness. The quality of being voluntary or free as opposed to being forced or given under duress, as a confession of one arrested for a crime. *See also* Voluntary.

Voluntarius dæmon /vólentériyəs díymən/. A voluntary madman. A term applied by Lord Coke to a drunkard, who has voluntarily contracted madness by intoxication. 4 Bl.Comm. 25.

Voluntary. Unconstrained by interference; unimpelled by another's influence; spontaneous; acting of oneself. *Coker v. State*, 199 Ga. 20, 33 S.E.2d 171, 174. Done by design or intention. Proceeding from the free and unrestrained will of the person. Produced in or by an act of choice. Resulting from free choice, without compulsion or solicitation. The word, especially in statutes, often implies knowledge of essential facts. Without valuable

consideration; gratuitous, as a *voluntary* conveyance. Also, having a merely nominal consideration; as, a *voluntary* deed.

As to *voluntary* Answer; Assignment; Confession; Conveyance; Deposit; Dismissal; Escape; Indebtedness; Intoxication; Manslaughter; Nonsuit; Oath; Payment; Redemption; Sale; Search; Settlement; Trust, and Waste, see those titles. For *voluntary* bankruptcy, *see* Bankruptcy proceedings.

Voluntary abandonment. As statutory ground for divorce, exists if there is a final departure, without consent of other party, without sufficient reason and without intent to return. As used in adoption statute, the term "voluntarily abandoned" means a willful act or course of conduct such as would imply a conscious disregard or indifference to such child in respect to the parental obligation owed to the child. *Elliott v. Maddox*, Tex.Civ.App., 510 S.W.2d 105, 107. *See also* Abandonment; Desertion.

Voluntary bankruptcy. A bankruptcy proceeding that is initiated by the debtor. *See* Bankruptcy proceedings.

Voluntary courtesy. A voluntary act of kindness. An act of kindness performed by one man towards another, of the free will and inclination of the doer, without any previous request or promise of reward made by him who is the object of the courtesy; from which the law will not imply a promise of remuneration.

Voluntary discontinuance. Voluntary action on part of plaintiff, whereby his case is dismissed without decision on merits. *Ferber v. Brueckl*, 322 Mo. 892, 17 S.W.2d 524, 527. Fed.R.Civil P. 41(a). *See* Dismissal.

Voluntary dismissal. *See* Dismissal.

Voluntary exposure to unnecessary danger. An intentional act which reasonable and ordinary prudence would pronounce dangerous. Intentional exposure to unnecessary danger, implying a conscious knowledge of the danger. The voluntary doing of an act which is not necessary to be done, but which requires exposure to known danger to which one would not be exposed if unnecessary act is not done. The term implies a conscious, intentional exposure, something of which one is conscious but willing to take the risk. *See* Assumption of risk.

Voluntary ignorance. This exists where a party might, by taking reasonable pains, have acquired the necessary knowledge, but has neglected to do so.

Voluntary jurisdiction. In old English law, a jurisdiction exercised by certain ecclesiastical courts, in matters where there is no opposition. 3 Bl.Comm. 66. The opposite of *contentious* jurisdiction (*q.v.*).

Voluntary statement. A statement made that is free from duress, coercion or inducement. *Metigoruk v. Municipality of Anchorage*, Alaska App., 655 P.2d 1317, 1318.

Voluntas /vólántəs/. Lat. Properly, volition, purpose, or intention, or a design or the feeling or impulse which prompts the commission of an act. However, in old English law the term was often used to denote a will,

that is, the last will and testament of a decedent, more properly called *testamentum*.

Voluntas donatoris in charta doni sui manifeste expressa observetur /vəlántəs dównatórəs in kártə dównay s(y)úway mənáféstiy əksprésiy ɔbsərviýtər/. The will of the donor manifestly expressed in his deed of gift is to be observed.

Voluntas est justa sententia de eo quod quis post mortem suam fieri velit /vəlántəs èst jástə senténsh(iy)ə diy iyow kwòd kwís pòwst mòrtəm s(y)úwəm fáyərəy vélət/. A will is an exact opinion or determination concerning that which each one wishes to be done after his death.

Voluntas et propositum distinguunt maleficia /vəlántəs èt prəpòzətəm distíngwənt mələfísh(iy)ə/. The will and the proposed end distinguish crimes.

Voluntas facit quod in testamento scriptum valeat /vəlántəs féysət kwòd in tɛstəméntow skríptəm vələiyət/. It is intention which gives effect to the wording of a will.

Voluntas in delictis, non exitus spectatur /vəlántəs in dəlíktəs, nòn égzətəs spektéytər/. In crimes, the will, and not the consequence, is looked to.

Voluntas reputatur pro facto /vəlántəs rəpyətéytər pròw fáktow/. The intention is to be taken for the deed.

Voluntas testatoris est ambulatoria usque ad extremum vitæ exitum /vəlántəs tɛstátórəs èst əmbyələtóriyə əskwiy əd əkstriyməm váytiy égzətəm/. The will of a testator is ambulatory until the latest moment of life.

Voluntas testatoris habet interpretationem latam et benignam /vəlántəs tɛstátórəs héybət intərprəteyshiyównəm léytəm èt bənígnəm/. The intention of a testator has a broad and benignant interpretation.

Voluntas ultima testatoris est perimplenda secundum veram intentionem suam /vəlántəs ɔltəmə tɛstátórəs èst pərímpléndə səkándəm vírəm inténshiyównəm s(y)úwəm/. The last will of the testator is to be fulfilled according to his true intention.

Volunteer. A person who gives his services without any express or implied promise of remuneration. One who intrudes himself into a matter which does not concern him, or one who pays the debt of another without request, when he is not legally or morally bound to do so, and when he has no interest to protect in making such payment. A person who pays the debt of another without a request, when not legally or morally bound to do so and not in the protection of his own interest. *Estate of Bends, Mo.App., 589 S.W.2d 330, 332.*

Conveyancing. One who holds a title under a voluntary conveyance, *i.e.*, one made without consideration, good or valuable, to support it.

Law of master and servant. The term "Volunteer" includes one who, without the assent of the master and without justification arising from a legitimate personal

interest, unnecessarily assists a servant in the performance of the master's business.

Military law. One who freely and voluntarily offers himself for service in the army or navy; as distinguished from one who is compelled to serve by draft or conscription, and also from one entered by enlistment in the standing army.

Vote. Suffrage; the expression of one's will, preference, or choice, formally manifested by a member of a legislative or deliberative body, or of a constituency or a body of qualified electors, in regard to the decision to be made by the body as a whole upon any proposed measure or proceeding or in passing laws, rules or regulations, or the selection of an officer or representative. The aggregate of the expressions of will or choice, as manifested by individuals, is called the "vote of the body." *Sawyer Stores v. Mitchell, 103 Mont. 148, 62 P.2d 342, 348.*

See also Absentee voting; Apportionment; Ballot; Canvass; Casting vote; Cumulative voting; Fifteenth Amendment; Franchise; Gerrymander; Majority vote; Nineteenth Amendment; Noncumulative voting; Twenty-Fourth Amendment; Twenty-Sixth Amendment; Twenty-Third Amendment; Voting Rights Act.

Voter. The word has two meanings—a person who performs act of voting, and a person who has the qualifications entitling him to vote. Its meaning depends on the connections in which it is used, and is not always equivalent to electors. In a limited sense a voter is a person having the legal right to vote, sometimes called a legal voter. *See* Legal voter.

Voting by ballot. The term is used to distinguish open voting from secret voting. The privilege of secrecy is of the essence of "voting by ballot." *See* Ballot.

Voting group. A term defined in the Revised Model Business Corporation Act (§ 1.40(26)) to describe the right of shares of different classes to vote separately at shareholders meetings on fundamental corporate changes that adversely affect the rights or privileges of that class. The scope of the right to vote by voting groups is defined by statute. The right is of particular value to classes of shares with limited or no voting rights under the articles of incorporation. Most older state statutes use the terms "class voting" or "voting by class" to refer essentially to the same concept. *See also* Voting trust.

Voting Rights Act. Federal law which guarantees the right of citizens to vote without discrimination based on race, color or previous condition of servitude. The Attorney General is authorized to file proper proceedings for preventive relief to protect this right. 42 U.S.C.A. § 1971 et seq. *See* *City of Rome v. United States, 446 U.S. 156, 100 S.Ct. 1548, 64 L.Ed.2d 119.* *See also* Poll-tax.

Voting stock. In corporations, that type of stock which gives the holder the right to vote for directors and other matters in contrast to non-voting stock which simply entitles the holder to dividends, if any. Common stock is normally voting stock. *See also* Stock.

Voting stock rights. The stockholder's right to vote his stock in the affairs of his company. Most common shares have one vote each. Preferred stock usually has the right to vote when preferred dividends are in default for a specified period. The right to vote may be delegated by the stockholder to another person. *See also* Cumulative voting; Noncumulative voting; Voting group; Voting stock.

Voting tax. *See* Poll-tax.

Voting trust. The transfer of title by stockholders of shares of a corporation to a trustee who is authorized to vote the shares on their behalf. One created by an agreement between a group of the stockholders of a corporation and the trustee, or by a group of identical agreements between individual stockholders and a common trustee, whereby it is provided that for a term of years, or for a period contingent upon a certain event, or until the agreement is terminated, control over the stock owned by such stockholders, either for certain purposes or for all, shall be lodged in the trustee, with or without a reservation to the owner or persons designated by them of the power to direct how such control shall be used. A device whereby two or more persons, owning stock with voting powers, divorce voting rights thereof from ownership, retaining to all intents and purposes the latter in themselves and transferring the former to trustees in whom voting rights of all depositors in the trust are pooled. *Jackson v. Jackson*, 178 A.2d 893, 420 A.2d 893, 895.

Agreement accumulating several owners' stock in hands of one or more persons in trust for voting purposes in order to control corporate business and affairs. It differs from proxy or reciprocal proxy in that it does not make either party the other's agent.

See also Voting group; Voting trust certificates.

Voting trust certificates. Certificates issued by voting trustees to the beneficial holders of shares held by the voting trust. Such certificates may be as readily transferable as the underlying shares, carrying with them all the incidents of ownership of the underlying shares except the power to vote.

Votum /vówtəm/. Lat. A vow or promise. *Dies votorum*, the wedding day.

Vouch /vávch/. To call upon; to call in to warranty; to call upon the grantor or warrantor to defend the title to an estate; to call upon witness to give warranty of title. To substantiate with evidence; to verify.

To give personal assurance or serve as a guarantee. To call upon, rely on, or quote as an authority. Thus, formerly, to vouch a case or report was to quote it as an authority.

See also Impleader; Third-party practice; Vouching-in.

Vouchee /vávchíy/. In common recoveries, the person who is called to warrant or defend the title is called the "vouchee." The person who is vouched to warranty. In this fictitious proceeding the crier of the court usually performs the office of a common vouchee. 2 Bl.Comm. 358.

Voucher /vávchər/. A receipt, acquittance, or release, which may serve as evidence of payment or discharge of a debt, or to certify the correctness of accounts. An account-book containing the acquittances or receipts showing the accountant's discharge of his obligations. When used in connection with disbursement of money, is a written or printed instrument in the nature of an account, receipt, or acquittance, that shows on its face the fact, authority, and purpose of disbursement.

A document that serves to recognize a liability and authorize the disbursement of cash. Sometimes used to refer to the written evidence documenting an accounting entry, as in the term journal voucher.

In old English law, the person on whom the tenant calls to defend the title to the land, because he warranted the title to him at the time of the original purchase.

Voucher to warranty. The calling one who has warranted lands, by the party warranted, to come and defend the suit for him.

Vouching-in. Common law procedural device whereby person against whom action is brought may give notice of suit to third party who is liable over to him with respect to matter sued upon, and third party thereafter will be bound by decision in appropriate circumstances. *Lester Bldg. Associates, Inc. v. Davidson, Del.Ch.*, 514 A.2d 1100, 1102. Though largely supplanted by third-party practice, vouching-in remains marginally viable under the federal rules. *Humble Oil & Refining Co. v. Philadelphia Ship Maintenance Co., C.A.Pa.*, 444 F.2d 727, 735. *See* Impleader; Intervention; Third-party practice.

In commercial law, inviting a person who is liable over to a defendant in a lawsuit to intervene in the suit and defend so that, if the invitation is denied and the defendant later sues the person invited, the latter is bound by any determination of fact common to the two litigations. *See, e.g., U.C.C. §§ 2-607, 3-803.*

Vox emissa volat; litera scripta manet /vóks əmíə vólət; lítərə skríptə mánət/. The spoken word flies; the written letter remains.

Voyage. In maritime law, the passing of a vessel by sea from one place, port, or country to another. The term is held to include the enterprise entered upon, and not merely the route.

Foreign voyage. A voyage to some port or place within the territory of a foreign nation. The *terminus* of a voyage determines its character. If it be within the limits of a foreign jurisdiction, it is a foreign voyage, and not otherwise.

Voyage charter. The document in admiralty which sets forth the arrangements and contractual engagements entered into between the charterer and the owner of the ship. Under "voyage charter," ship is engaged to carry full cargo on specific voyage, and ship is manned, controlled and navigated by owner. *President of India By and Through Director of India Supply Mission v. West Coast S. S. Co., D.C.Or.*, 213 F.Supp. 352, 359.

Voyage policy. *See* Policy of insurance.

Voyeurism. The condition of one who derives sexual satisfaction from observing the sexual organs or acts of others, generally from a secret vantage point.

Vs. An abbreviation for *versus* (against), constantly used in legal proceedings, and especially in entitling cases.

Vulgar /vólgar/. Lack of cultivation or refinement.

Vulgaris opinio est duplex, viz., orta inter graves et discretos, quæ multum veritatis habet, et opinio orta inter leves et vulgares homines absque specie veritatis /vəlgérəs əpín(i)yow èst d(y)úwpleks, vədíyləsət órta intər gréyviyz èt daskríytows, kwíy móltəm vèhrátéytəs héybat, èt əpín(i)yow órta intər líyviyz èt vəlgériyz hóməniyz ábskwíy spíyshíyíy vèhrátéytəs/. Common opinion is of two kinds, viz., that which arises among

grave and discreet men, which has much truth in it, and that which arises among light and common men, without any appearance of truth.

Vulgaris purgatio /vəlgérəs pərgéysh(iy)ow/. Lat. In old English law, common purgation; a name given to the trial by *ordeal*, to distinguish it from the canonical purgation, which was by the oath of the party. 4 Bl.Comm. 342.

Vulgo concepti /vəlgow kənséptay/. Lat. In the civil law, spurious children; bastards.

Vulgo quæsiti /vəlgow kwəzáytay/. Lat. In the civil law, spurious children; literally, gotten from the people; the offspring of promiscuous cohabitation, who are considered as having no father.

W

W. As an abbreviation, this letter frequently stands for "William" (king of England), "Westminster," "west," or "western."

Wacreour. L. Fr. A vagabond, or vagrant.

Wadia /wéyd(i)yə/. A pledge. *See* Vadium; Fides facta.

Waftors /wáftərz/. Conductors of vessels at sea.

Waga /wey(g)ə/. In old English law, a weight; a measure of cheese, salt, wool, etc., containing two hundred and fifty-six pounds avoirdupois.

Wage. In old English practice, to give security for the performance of a thing. *See also* Wages.

Wage and hour laws. General term describing federal and state laws governing the maximum hours which may be worked and the minimum wage to be paid. In particular, the federal law known as Fair Labor Standards Act of 1938 which regulates wages, hours and other conditions of labor. 29 U.S.C.A. § 201 *et seq.* *See also* Eight hour laws; Fair Labor Standards Act; Walsh-Healey Act.

Wage and price controls. A system of government-mandated maximum prices that can be charged for different goods and services, and maximum wages that can be paid to different workers in different jobs.

Wage assignments. The transfer or assignment in advance of one's wages generally in connection with a debt or judgment. Such assignments are governed by statutes in most states. *See also* Assignment (*Assignment for benefit of creditors*).

Wage earner's plan. A type of partial bankruptcy in which a person keeps his or her property and pays off a court-established proportion of debt over a period of time and under court supervision. *See* Bankruptcy Code Ch. 13, "Adjustment of Debts of An Individual With Regular Income". *See* Bankruptcy proceedings.

Wage garnishment. *See* Garnishment.

Wager. A contract by which two or more parties agree that a certain sum of money or other thing shall be paid or delivered to one of them or that they shall gain or lose on the happening of an uncertain event or upon the ascertainment of a fact in dispute, where the parties have no interest in the event except that arising from the possibility of such gain or loss. The word "wagering" is practically synonymous with the words betting and gambling, and the terms are so used in common parlance and in statutory and constitutional enactments. *McDonald v. Bryant*, 238 Ark. 338, 381 S.W.2d

736, 738. *See also* Bet; Bookmaking; Gambling; Pari-mutuel betting.

Wagering contract. One in which the parties stipulate that they shall gain or lose, upon the happening of an uncertain event, in which they have no interest except that arising from the possibility of such gain or loss. *See also* Wager.

Wager of battel. The trial by wager of battel was a species of trial introduced into England, among other Norman customs, by William the Conqueror, in which the person accused fought with his accuser, under the apprehension that Heaven would give the victory to him who was in the right. 3 Bl.Comm. 337. It was abolished by St. 59 Geo. III, c. 46.

Wager of law. In old English practice, the giving of *gage* or sureties by a defendant in an action of debt that at a certain day assigned he would *make his law*; that is, would take an oath in open court that he did not owe the debt, and at the same time bring with him eleven neighbors (called "compurgators"), who should avow upon their oaths that they believed in their consciences that he said the truth. *See* Compurgator.

Wager policy. *See* Policy of insurance.

Wages. A compensation given to a hired person for his or her services. Compensation of employees based on time worked or output of production.

Every form of remuneration payable for a given period to an individual for personal services, including salaries, commissions, vacation pay, dismissal wages, bonuses and reasonable value of board, rent, housing, lodging, payments in kind, tips, and any other similar advantage received from the individual's employer or directly with respect to work for him. *Ernst v. Industrial Commission*, 246 Wis. 205, 16 N.W.2d 867. Term should be broadly defined and includes not only periodic monetary earnings but all compensation for services rendered without regard to manner in which such compensation is computed. *Ware v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 24 Cal.App.3d 35, 100 Cal.Rptr. 791, 797.

Real wages. Money wages divided by a price index. Real wages are different from money or nominal wages because they represent the true purchasing power of the dollars paid to workers. *See* Consumer Price Index.

See also Compensation; Current wages; Front wages; Minimum wage; Salary; Tip.

Wagner Act. A Federal law, passed in 1935, that established most basic union rights. It prohibited several

employer actions (such as attempting to force employees to stay out of a union) and labeled these actions "unfair labor practices." It also set up the National Labor Relations Board to help enforce the new labor laws. 29 U.S.C.A. § 151 et seq.

Wagonage /wāgənəj/. Money paid for carriage in a wagon.

Wagonway. That part of a street ordinarily used for the passage of vehicles within the curb lines. Delaware, L. & W. R. Co. v. Chiara, C.C.A.N.J., 95 F.2d 663, 666.

Waif /wéyf/. Waifs are goods found, but claimed by nobody; that of which every one waives the claim. Also, goods stolen and waived, or thrown away by the thief in his flight, for fear of being apprehended. Waifs are to be distinguished from *bona fugitiva*, which are the goods of the felon himself, which he abandons in his flight from justice.

Wainable /wéynəbəl/. In old records, that which may be plowed or manured; tillable.

Wainage /wéynəj/. In old English law, the team and instruments of husbandry belonging to a countryman, and especially to a villein who was required to perform agricultural services.

Wainagium /weynéj(iy)əm/. What is necessary to the farmer for the cultivation of his land.

Wait and see doctrine. This doctrine is a rule which permits consideration of events occurring after inception of the instruments which are relevant to the vesting of a future interest, so that if the contingency on which the interest is limited actually occurs within the period of the perpetuities rule, the interest is valid. Three Rivers Rock Co. v. Reed Crushed Stone Co., Inc., Ky., 530 S.W.2d 202, 206. In determining whether a contingent interest violates the Rule Against Perpetuities, many states have enacted laws which permit the court to look at the condition when the contingency occurs and not, as the Rule prescribes, at the creation of the interest. In some states, the doctrine is called the second look doctrine.

Waiting clerks. In old English law, officers whose duty it formerly was to wait in attendance upon the court of chancery. The office was abolished in 1842 by St. 5 & 6 Vict., c. 103.

Waiting period. Time period that must expire before some legal right or remedy can be undertaken or enforced. The period during which an insurance policy is not in effect or for which nothing will be paid on the policy. For example, if there is a waiting period of 30 days under a particular disability policy, the insured will have to be disabled for 30 days before a payment is made for loss of earnings.

In labor law, a period following a notice of intention to strike during which a strike may not lawfully take place. See 29 U.S.C.A. § 158(d). See also Cooling off period.

In securities law, the period following registration of a security with Securities and Exchange Commission during which the security may not be sold to the public.

Waive, *v.* To abandon, throw away, renounce, repudiate, or surrender a claim, a privilege, a right, or the opportunity to take advantage of some defect, irregularity, or wrong. To give up right or claim voluntarily.

A person is said to waive a benefit when he renounces or disclaims it, and he is said to waive a tort or injury when he abandons the remedy which the law gives him for it.

In order for one to "waive" a right, he must do it knowingly and be possessed of the facts. Barnhill v. Rubin, D.C.Tex., 46 F.Supp. 963, 966.

Waive, *n.* In old English law, a woman outlawed. The term is, as it were, the feminine of "outlaw," the latter being always applied to a man; "waive," to a woman.

Waiver. The intentional or voluntary relinquishment of a known right, or such conduct as warrants an inference of the relinquishment of such right, or when one dispenses with the performance of something he is entitled to exact or when one in possession of any right, whether conferred by law or by contract, with full knowledge of the material facts, does or forbears to do something the doing of which or the failure of forbearance to do which is inconsistent with the right, or his intention to rely upon it. The renunciation, repudiation, abandonment, or surrender of some claim, right, privilege, or of the opportunity to take advantage of some defect, irregularity, or wrong. An express or implied relinquishment of a legal right. A doctrine resting upon an equitable principle, which courts of law will recognize. Atlas Life Ins. Co. v. Schrimsher, 179 Okl. 643, 66 P.2d 944, 948.

Waiver is essentially unilateral, resulting as legal consequence from some act or conduct of party against whom it operates, and no act of party in whose favor it is made is necessary to complete it. Coleman Production Credit Ass'n v. Mahan, Tex.Civ.App., 168 S.W.2d 903, 904. And may be shown by acts and conduct and sometimes by nonaction. Concrete Engineering Co. v. Grande Bldg. Co., 230 Mo.App. 443, 86 S.W.2d 595, 608.

The term is often used in the context of waiving one's right to counsel (for example, *Miranda* warning) or waiving certain steps in the criminal justice process (for example, the preliminary hearing). Essential to waiver is the voluntary consent of the individual. See *e.g.* Fed.R.Crim.P. 44(a).

Terms "estoppel" and "waiver" are not synonymous; "waiver" means the voluntary, intentional relinquishment of a known right, and "estoppel" rests upon principle that, where anyone has done an act, or made a statement, which would be a fraud on his part to controvert or impair, because other party has acted upon it in belief that what was done or said was true, conscience and honest dealing require that he not be permitted to repudiate his act or gainsay his statement. Peloso v. Hartford Fire Ins. Co., 102 N.J.Super. 357, 246 A.2d 52, 58.

See also Abandonment; Estoppel; Forfeiture.

Express waiver. The voluntary, intentional relinquishment of a known right.

Implied waiver. A waiver is implied where one party has pursued such a course of conduct with reference to the other party as to evidence an intention to waive his rights or the advantage to which he may be entitled, or where the conduct pursued is inconsistent with any other honest intention than an intention of such waiver, provided that the other party concerned has been induced by such conduct to act upon the belief that there has been a waiver, and has incurred trouble or expense thereby. To make out a case of implied "waiver" of a legal right, there must be a clear, unequivocal and decisive act of the party showing such purpose, or acts amounting to an estoppel on his part. *Rosenthal v. New York Life Ins. Co.*, C.C.A.Mo., 99 F.2d 578, 579. *See also* Estoppel.

Insurance law. Substance of doctrine of "waiver" in insurance law is that if insurer, with knowledge of facts which would bar existing primary liability, recognizes such primary liability by treating policy as in force, it will not thereafter be allowed to plead such facts to avoid its primary liability.

Lien waiver. *See* that title.

Waiver by election of remedies, doctrine of. Doctrine applies if there exist two or more coexisting remedies between which there is right of election, inconsistency as to such available remedies, and actual bringing of action or doing some other decisive act, with knowledge of facts, whereby party electing indicates his choice between such inconsistent remedies. *Hertz v. Mills*, D.C.Md., 10 F.Supp. 979, 981.

Waiver of claims and defenses. A term in an instrument or other contract whereby the maker, drawer or other obligor explicitly agrees not to assert against an assignee of the contract any claim or defense the obligor has against the assignor.

Waiver of exemption. A clause inserted in a note, bond, lease, etc., expressly waiving the benefit of the laws exempting limited amounts of personal property from levy and sale on judicial process, so far as concerns the enforcement of the particular debt or obligation.

Waiver of immunity. A means authorized by statutes by which a witness, in advance of giving testimony or producing evidence, may renounce the fundamental right guaranteed to him by constitutions, that no person shall be compelled in any criminal case to be a witness against himself. *In re Grae*, 282 N.Y. 428, 26 N.E.2d 963, 966. *See* Immunity.

Waiver of premium clause. Provision in insurance policy providing for waiver of premium payments upon disability of insured. Commonly such waiver only takes effect after a certain time period of disability; e.g. six months.

Waiver of protest. An agreement by the indorser of a note or bill to be bound in his character of indorser without the formality of a protest in case of non-payment, or, in the case of paper which cannot or is not

required to be protested, dispensing with the necessity of a demand and notice.

Waiver of tort. The election, by an injured party, for purposes of redress, to treat the facts as establishing an implied contract, which he may enforce, instead of an injury by fraud or wrong, for the committing of which he may demand damages, compensatory or exemplary.

Walapauz. In old Lombardic law, the disguising the head or face, with the intent of committing a theft.

Walensis /wəlén(t)səs/. In old English law, a Welshman.

Waleschery /wélsh(ə)riy/. The being a Welshman.

Waliscus /wəlískəs/. In Saxon law, a servant, or any ministerial officer.

Walkers. Foresters who have the care of a certain space of ground assigned to them.

Walk out. An organized withdrawal of employees from their place of employment because of a labor dispute. *See also* Strike.

Wall. An erection of stone, brick, or other material, raised to some height, and intended for purposes of privacy, security or inclosure. In law, this term occurs in such compounds as "ancient wall," "party-wall," "division-wall," etc. *See also* Spite fence.

Common wall. A party wall; one which has been built at the common expense of the two owners whose properties are contiguous, or a wall built by one party in which the other has acquired a common right.

Wallia /wól(i)yə/. In old English law, a wall; a sea-wall; a mound, bank, or wall erected in marshy districts as a protection against the sea.

Walsh-Healey Act. Federal Act (1936) which provides that government contractors should pay not less than the prevailing minimum wage, observe the eight-hour day and the forty-hour week, employ no convict labor and no female under 18 years of age or male under 16 years of age, and allow no hazardous or unsanitary working conditions in their plants. 41 U.S.C.A. §§ 35-45.

Wampum /wómpəm/. Unlike France, Britain undertook no coinage for the use of her American colonies. The earliest medium of exchange for the New England settlements was wampum ordered by The General Court of Massachusetts in 1637. The court ordered that "wampampege should passe at 6 a penny for any sum under 12d." Wampum generally consisted of shells, coon pelts and bullets and was offered in lieu of coins, which were almost non-existent. Although wampum served the purpose for average daily transactions, great confusion was experienced where larger sums were involved. With England ignoring the colonists' need for a standard medium of exchange, the General Court in 1652 ordered the first metallic currency for the English Americans.

Wander. To ramble here and there without any certain course. In its broad sense, "wander" means to ramble without a definite purpose or objective, roam, rove, or

stray, and to go aimlessly, indirectly or casually. *People v. Weger*, 251 C.A.2d 584, 59 Cal.Rptr. 661, 667. *See* Transient.

Wanlass /wónlās/. An ancient customary tenure of lands; *i.e.*, to drive deer to a stand that the lord may have a shot.

Wantage. In marine insurance, ullage; deficiency in the contents of a cask or vessel caused by leaking.

Want of consideration. In the general law of contracts, this term means a total lack of any valid consideration for a contract, while "failure of consideration" is the neglect, refusal or failure of one of the parties to perform or furnish the consideration agreed on. *Holm v. Woodworth*, Fla.App., 271 So.2d 167, 169. *See also* Failure of consideration.

Want of jurisdiction. Lack of jurisdiction over person or subject matter. A lack of authority to exercise in a particular manner a power which board or tribunal has; the doing of something in excess of authority possessed. *Evans v. Superior Court in and for City and County of San Francisco*, 14 Cal.2d 563, 96 P.2d 107, 116. *See also* Lack of jurisdiction.

Want of repair. As to highways, anything in the state or condition of the highway which renders it unsafe or inconvenient for ordinary travel. *Adams v. Town of Bolton*, Mass., 297 Mass. 459, 9 N.E.2d 562, 565.

Wanton. Reckless, heedless, malicious; characterized by extreme recklessness or foolhardiness; recklessly disregarding of the rights or safety of others or of consequences. *In re Wegner*, C.C.A.Ill., 88 F.2d 899, 902. Means undisciplined, unruly, marked by arrogant recklessness of justice, feelings of others, or the like; willful and malicious. *Lubbock Bail Bond v. Joshua*, Tex.Civ. App., 416 S.W.2d 523, 525. In its ordinarily accepted sense connotes perverseness exhibited by deliberate and uncalled for conduct, recklessness, disregardful of rights and an unjustifiable course of action. *Botto v. Fischer*, 174 Ohio St. 322, 189 N.E.2d 127, 130, 22 O.O.2d 380. *See also* Reckless; Wanton act; Wantonness.

Wanton act. One done in malicious or reckless disregard of the rights of others, evincing a reckless indifference to consequences to the life, or limb, or health, or reputation or property rights of another, and is more than negligence, more than gross negligence, and is such conduct as indicates a reckless disregard of the just rights or safety of others or of the consequences of action, equivalent in its results to wilful misconduct. *Lustig v. U.M.C. Industries*, Mo.App., 637 S.W.2d 55, 58.

Wanton acts and omissions. Those of such character or done in such manner or under such circumstances as to indicate that a person of ordinary intelligence actuated by normal and natural concern for the welfare and safety of his fellowmen who might be affected by them could not be guilty of them unless wholly indifferent to their probable injurious effect or consequences. *Pupke v. Pupke*, 102 Colo. 337, 79 P.2d 290, 292. *See also* Wanton act.

Wanton and reckless misconduct. Occurs when a person, with no intent to cause harm, intentionally performs an act so unreasonable and dangerous that he knows, or should know, that it is highly probable that harm will result. *Donnelly v. Southern Pac. Co.*, 18 Cal.2d 863, 118 P.2d 465, 469, 470. As used in punitive damages statute, consists of conduct that creates a substantial risk of harm to another and is purposely performed with an awareness of the risk and disregard of the consequences. *Palmer v. A.H. Robins Co., Inc.*, Colo., 684 P.2d 187, 214. *See also* Wanton misconduct.

Wanton conduct. *See* Wanton misconduct.

Wanton injury. Injury produced by conscious and intentional wrongful act, or omission of known duty with reckless indifference to consequences. It must be predicated upon actual knowledge of another's peril and a failure to take available preventative action knowing that such failure will probably result in injury. *Rainey v. State*, 31 Ala.App. 271, 17 So.2d 683, 686.

Wanton misconduct. Act or failure to act, when there is a duty to act, in reckless disregard of rights of another, coupled with a consciousness that injury is a probable consequence of act or omission. *Swain v. American Mut. Liability Ins. Co.*, C.C.A.La., 134 F.2d 886, 887. Term refers to intentional act of unreasonable character performed in disregard of risk known to him or so obvious that he must be taken to have been aware of it and so great as to make it highly probable that harm would follow and it is usually accompanied by conscious indifference to the consequences. *Goss v. Baltimore & O. R. Co.*, C.A.Pa., 355 F.2d 649, 651. *See also* Wanton and reckless misconduct.

Wanton negligence. Heedless and reckless disregard for another's rights with consciousness that act or omission to act may result in injury to another. *Craig v. Stagner*, 159 Tenn. 511, 19 S.W.2d 234, 236. *See also* Negligence; Recklessness.

Wantonness. Conscious doing of some act or the omission of some duty with knowledge of existing conditions and consciousness that, from the act or omission, injury will likely result to another. *Mack v. Garrison*, 51 Ala.App. 453, 286 So.2d 857, 860. Conscious failure by one charged with a duty to exercise due care and diligence to prevent an injury after the discovery of the peril, or under circumstances where he is charged with a knowledge of such peril, and being conscious of the inevitable or probable results of such failure. *Stout v. Gallemore*, 138 Kan. 385, 26 P.2d 573. A reckless or intentional disregard of the property, rights, or safety of others, implying, actively, a willingness to injure and disregard of the consequences to others, and, passively, more than mere negligence, that is, a conscious and intentional disregard of duty. *See also* Recklessness; Wanton.

Wapentake /wápentèyk/. In English law, a local division of the county or shire; the name is in use north of the Trent to denote a hundred. The derivation of the name is said to be from "weapon" and "take," and

indicates that the division was originally of a military character. Also a hundred court.

War. Hostile contention by means of armed forces, carried on between nations, states, or rulers, or between citizens in the same nation or state. *Gitlow v. Kiely*, D.C.N.Y., 44 F.2d 227, 233. A contest by force between two or more nations, carried on for any purpose, or armed conflict of sovereign powers or declared and open hostilities, or the state of nations among whom there is an interruption of pacific relations, and a general contention by force, authorized by the sovereign. *West v. Palmetto State Life Ins. Co.*, 202 S.C. 422, 25 S.E.2d 475, 477, 478. War does not exist merely because of an armed attack by the military forces of another nation until it is a condition recognized or accepted by political authority of government which is attacked, either through an actual declaration of war or other acts demonstrating such position. *Savage v. Sun Life Assur. Co. of Canada*, D.C.La., 57 F.Supp. 620, 621. For there to be a "war," a sovereign or quasi-sovereign must engage in hostilities. *Pan American World Airways, Inc. v. Aetna Cas. & Sur. Co.*, C.A.N.Y., 505 F.2d 989, 1005.

Term as used in statute proscribing any claim against United States arising out of combatant activity of Military or Naval Forces or Coast Guard during time of war includes an undeclared war as well as a formally declared war. *Morrison v. U. S.*, D.C.Ga., 316 F.Supp. 78, 79.

Articles of war. See that title.

Civil war. An internecine war. A war carried on between opposing citizens of the same country or nation.

Declaration of war. See *War*.

Imperfect war. See *Perfect war*, below.

Laws of war. This term denotes a branch of public international law, and comprises the body of rules and principles observed by civilized nations for the regulation of matters inherent in, or incidental to, the conduct of a public war; such, for example, as the relations of neutrals and belligerents, blockades, captures, prizes, truces and armistices, capitulations, prisoners, and declarations of war and peace; e.g. Geneva Convention.

Mixed war. A mixed war is one which is made on one side by public authority, and on the other by mere private persons.

Perfect war. Where whole nation is at war with another whole nation, but when the hostilities are limited as respects places, persons, and things, the war is termed "imperfect war." *Bas v. Tingy*, 4 U.S. (Dall.) 37, 40, 1 L.Ed. 731.

Private war. One between private persons, lawfully exerted by way of defense, but otherwise unknown in civil society.

Public war. Every contention by force, between two nations, in external matters, under the authority of their respective governments. *Prize Cases*, 2 Black 666, 17 L.Ed. 459.

Solemn war. A war made in form by public declaration; a war solemnly declared by one state against another. *Bas v. Tingy*, 4 U.S. (Dall.) 37, 40, 1 L.Ed. 731.

War clauses. Art. I, § 8 (Clauses 11-16) U.S.Const., provides, inter alia, that Congress shall have power to declare war, and raise and support military forces. See *War power*.

War crimes. Crimes committed by countries in violation of the international laws governing wars. At Nuremberg after World War II, crimes committed by the Nazis were so tried.

Ward. Guarding, caring, protecting.

A division of a city or town for elections, police, and other governmental purposes. A corridor, room, or other division of a prison, hospital, or similar institution.

A person, especially a child or incompetent, placed by the court under the care and supervision of a guardian or conservator. See *Guardian*; *Guardianship*.

See *Guardian*; *Guardianship*.

Wardage. In old English law, money paid and contributed to watch and ward.

Ward-fee. Sax. In old English law, ward-fee; the value of a ward, or the money paid to the lord for his redemption from wardship.

Ward-horn. In old English law, the duty of keeping watch and ward, with a horn to blow upon any occasion of surprise.

Ward-in-chancery. An infant who is under the superintendence of the chancellor.

Ward-mote. In old English law, a court kept in every ward in London, commonly called the "ward-mote court," or "inquest."

Ward-penny. In old English law, money paid to the sheriff or castellains, for the duty of watching and warding a castle.

Wardship. In military tenures, the right of the lord to have custody, as guardian, of the body and lands of the infant heir, without any account of profits, until he was twenty-one or she sixteen. In socage the guardian was accountable for profits; and he was not the lord, but the nearest relative to whom the inheritance could not descend, and the wardship ceased at fourteen. In copyholds, the lord was the guardian, but was perhaps accountable for profits. See 2 Bl.Comm. 67.

Wardship in chivalry. An incident to the tenure of knight-service.

Wardship in copyholds. The lord is guardian of his infant tenant by special custom.

Wards of admiralty. Seamen are sometimes thus designated, because, in view of their general improvidence and rashness, and though they are not technically incapable of contracting, their contracts are treated like those of fiduciaries and beneficiaries, and if there is any inequality in terms or any disproportion in the bargain or any sacrifice of rights of seamen which are not

compensated by extraordinary benefits, the judicial interpretation of the transaction is that the bargain is unjust and that pro tanto, the bargain ought to be set aside as inequitable. See *Garrett v. Moore-McCormack Co.*, Pa., 317 U.S. 239, 63 S.Ct. 246, 251, 87 L.Ed. 239.

Wards of court. Infants and persons of unsound mind placed by the court under the care of a guardian. *Davis' Committee v. Loney*, 290 Ky. 644, 162 S.W.2d 189, 190. Their rights must be guarded jealously. *Montgomery v. Erie R. Co.*, C.C.A.N.J., 97 F.2d 289, 292. See *Guardianship*.

Ward-staff. In old records, a constable's or watchman's staff.

Ward-wit. In old English law, immunity or exemption from the duty or service of ward, or from contributing to such service. Exemption from amercement for not finding a man to do ward.

Warda /wórdə/. L. Lat. In old English law, ward; guard; protection; keeping; custody. A ward; an infant under wardship.

Warden. A guardian; a keeper. Person in primary charge of prison. This is the name given to various officers.

Warden of the cinque ports /wórdən əv ðə sɪŋk pórts/. In English law, the title of the governor or presiding officer of the Cinque Ports (*q.v.*). Since 1978 the office has been held by the Queen Mother.

Wards and liveries. In English law, the title of a court of record, established in the reign of Henry VIII. Such was abolished in 1660. See *Court of Wards and Liveries*.

Warectare /wòhrəktériy/. L. Lat. In old English law, to fallow ground; or plow up land (designed for wheat) in the spring, in order to let it lie fallow for the better improvement.

Warehouse. Structure used for the reception and storage of goods and merchandise. *Carter v. Bauman*, C.C. A.Cal., 19 F.2d 855, 856. The term may include any structure used to hold goods, stores or wares temporarily or for a length of time. In *re Miller Land & Livestock Co.*, D.C.Mont., 56 F.Supp. 34, 35.

Warehouse book. A book used by merchants to contain an account of the quantities of goods received, shipped, and remaining in stock.

Warehouseman. One engaged in business of receiving and storing goods of others for compensation or profit; person who receives goods and merchandise to be stored in his warehouse for hire. U.C.C. § 7-102. State ex rel. and for Use and Benefit of Cawrse v. American Surety Co. of New York, 148 Or. 1, 35 P.2d 487, 491. The business is public or private as it may be conducted for storage of goods of general public or for those of certain persons. The general commercial laws governing rights and liabilities of warehousemen are provided in U.C.C. § 7-201 *et seq.*

Warehousemen's lien. Right of warehouseman to retain possession of goods until storage charges have been paid. See U.C.C. §§ 7-209, 7-210.

Warehouse receipt. A document in the form of "a receipt issued by a person engaged in the business of storing goods for hire." U.C.C. § 1-201(45). It is evidence of title to goods thereby represented. § 1-210(15). For form and content of warehouse receipt, see U.C.C. § 7-202. As regards altered warehouse receipts, see § 7-208. See also *Field warehouse receipt*.

Warehouse system. A system of public stores or warehouses, established or authorized by law, called "bonded warehouses," in which an importer may deposit goods imported, in the custody of the revenue officers, paying storage, but not being required to pay the customs duties until the goods are finally removed for consumption in the home market, and with the privilege of withdrawing the goods from store for the purpose of re-exportation without paying any duties.

Bonded warehouse. Special type of private warehouse used to store products on which a federal tax must be paid before they can be sold.

Warehousing. Practice of mortgage banker of holding mortgages until the market for their resale improves. Term also refers to situation when a corporation gives advance notice of its intention to launch a tender offer to institutional investors who are then able to purchase stock in the target company before the tender offer is made public and the price of shares rises. *Chiarella v. United States*, 445 U.S. 222, 234, 100 S.Ct. 1108, 1117, 63 L.Ed.2d 348.

Warning. A pointing out of danger. Also a protest against incurring it. The purpose of a "warning" is to apprise a party of the existence of danger of which he is not aware to enable him to protect himself against it, and where the party is aware of the danger, the warning will serve no useful purpose and is unnecessary, and there is no duty to warn against risks which are open and obvious. *Wiseman v. Northern Pac. Ry. Co.*, 214 Minn. 101, 7 N.W.2d 672, 675.

Federal laws require warning labels to be affixed to potentially dangerous products, clothes, drugs, tools, and the like (see *e.g.* 21 U.S.C.A. § 825).

See also *Caveat*; *Caveat emptor*.

Warnistura /wòrnəst(y)úrə/. In old English records, garniture; furniture; provision.

Warnoth. In old English law, an ancient custom, whereby, if any tenant holding of the Castle of Dover failed in paying his rent at the day, he should forfeit double, and, for the second failure, treble, etc.

War power. Power of federal government to wage war successfully. *Brown v. Wright*, C.C.A.W.Va., 137 F.2d 484, 489; *United States v. Maviglia*, D.C.N.J., 52 F.Supp. 946, 947. It embraces every aspect of national defense, including protection of war materials as well as members of armed forces from injury and danger; but direct interference with liberty and property and abridgement of constitutional guaranties of freedom can be justified

under the "war power" only where the danger to the government is real, impending and imminent. *Schueler v. Drum*, D.C.Pa., 51 F.Supp. 383, 387.

• While Congress has power to declare war (Art. I, § 8, U.S.Const.), the President, as Commander in Chief, has ultimate power over conduct of war including tactics and strategy (Art. II, § 1).

See also War (War clauses).

War powers resolution. Passed by Congress over a Presidential veto in 1973; restricts the executive's authority to involve the U.S. in foreign controversies without Congressional approval. Specific provisions ensure that the President has authority to send the military into combat without requesting authorization from Congress if the United States or one of her territories is attacked. 50 U.S.C.A. §§ 1541-48.

Warrant, v. In contracts, to engage or promise that a certain fact or state of facts, in relation to the subject-matter, is, or shall be, as it is represented to be.

In conveyancing, to assure the title to property sold, by an express covenant to that effect in the deed of conveyance. To stipulate by an express covenant that the title of a grantee shall be good, and his possession undisturbed.

See also Warranty.

Warrant, n. An order by which the drawer authorizes one person to pay a particular sum of money.

An authority issued to a collector of taxes, empowering him to collect the taxes extended on the assessment roll, and to make distress and sale of goods or land in default of payment.

A command of a council, board, or official whose duty it is to pass upon the validity and determine the amount of a claim against the municipality, to the treasurer to pay money out of any funds in the municipal treasury, which are or may become available for the purpose specified, to a designated person whose claim therefor has been duly adjusted and allowed. *Roe v. Roosevelt Water Conservation Dist.*, 41 Ariz. 197, 16 P.2d 967, 970; *State ex rel. Toomey v. State Board of Examiners*, 74 Mont. 1, 238 P. 316, 328.

See also Land warrant; Possessory warrant; Probable cause; Search warrant; Share-warrant to bearer.

Arrest warrant. A written order of the court which is made on behalf of the state, or United States, and is based upon a complaint issued pursuant to statute and/or court rule and which commands law enforcement officer to arrest a person and bring him before magistrate. *Pillsbury v. State*, 31 Wis.2d 87, 142 N.W.2d 187, 190. *See Fed.R.Crim.P.* 4 and 9.

Form. The warrant shall be signed by the magistrate and shall contain the name of the defendant or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. It shall describe the offense charged in the complaint. It shall command that the defendant be arrested and brought before the nearest available magistrate. *Fed.R.Crim.P.* 4(c).

Issuance. If it appears from the complaint, or from an affidavit or affidavits filed with the complaint, that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue to any officer authorized by law to execute it. Upon the request of the attorney for the government a summons instead of a warrant shall issue. More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to the summons, a warrant shall issue. *Fed.R.Crim.P.* 4(a).

See also Arrest; Probable cause; Search warrant; Warrantless arrest.

Bench warrant. *See Bench.*

Death warrant. A warrant issued generally by the chief executive authority of a state, directed to the sheriff or other proper local officer or the warden of a jail, commanding him at a certain time to proceed to carry into execution a sentence of death imposed by the court upon a convicted criminal.

Distress warrant. *See Distress.*

General warrant. A search or arrest warrant that is not particular as to the person to be arrested or the property to be seized.

A process which formerly issued from the state secretary's office in England to take up (without naming any persons) the author, printer, and publisher of such obscene and seditious libels as were specified in it. It was declared illegal and void for uncertainty by a vote of the House of Commons on the 22nd April, 1766.

Interest warrant. Order drawn by a corporation on its bank directing the bank to pay a bondholder who is entitled to interest.

Landlord's warrant. *See Landlord.*

Land warrant. *See that title.*

Outstanding warrant. An order for arrest of a person which has not yet been executed.

Search warrant. *See that title.*

Stock warrants. Certificates entitling the owner to buy a specified amount of stock at a specified time(s) for a specified price. Such differ from stock options only in that options are generally granted to employees and warrants are sold to the public. Warrants are typically long period options, are freely transferable, and if the underlying shares are listed on a securities exchange, are also publicly traded. *See also Stock (Stock rights).*

Warrant creditor. *See Creditor.*

Warrant of arrest. *See Arrest Warrant, above.*

Warrant of attorney. An instrument in writing, addressed to one or more attorneys therein named, authorizing them, generally, to appear in any court, or in some specified court, on behalf of the person giving it, and to confess judgment in favor of some particular person therein named, in an action of debt. It usually contains a stipulation not to bring any action, or any writ of error, or file a bill in equity, so as to delay him;

such writing usually being given as security for obligation on which judgment was authorized, and in such procedure service of process is not essential. See *Judgment (Confession of judgment)*.

Warrant of commitment. A written authority committing a person to custody.

Warrant officers. In the United States army, navy, coast and geodetic survey, coast guard, marine corps and air force, these are a class of inferior officers who hold their rank by virtue of a written warrant instead of a commission.

Warrant of merchantability. See also *Warranty*.

Warrant to sue and defend. In old English practice, a special warrant from the crown, authorizing a party to appoint an attorney to sue or defend for him. 3 Bl. Comm. 25. A special authority given by a party to his attorney, to commence a suit, or to appear and defend a suit, in his behalf. These warrants are now disused, though formal entries of them upon the record were long retained in practice.

Warrant upon indictment or information. See *Fed.R. Crim.P. 9*. See also *Indictment; Information*.

Warrantee. A person to whom a warranty is made.

Warrantia chartæ /wohránsh(iy)ə kártiy/. In old English practice, warranty of charter. A writ which lay for one who, being enfeoffed of lands or tenements, with a clause of warranty, was afterwards impleaded in an assize or other action in which he could not vouch to warranty. In such case, it might be brought against the warrantor, to compel him to assist the tenant with a good plea or defense, or else to render damages and the value of the land, if recovered against the tenant. 3 Bl. Comm. 300.

Warrantia custodia /wohránsh(iy)ə kəstówdiyiy/. An old English writ, which lay for him who was challenged to be a ward to another, in respect to land said to be holden by knight-service; which land, when it was bought by the ancestors of the ward, was warranted free from such thralldom. The writ lay against the warrantor and his heirs.

Warrantia diei /wohránsh(iy)ə dayiyay/. A writ which lay for a man who, having had a day assigned him personally to appear in court in any action in which he was sued, was in the meantime, by commandment, employed in the king's service, so that he could not come at the day assigned. It was directed to the justices that they might not record him in default for that day.

Warrantizare /wóhrəntézériy/. In old English law conveyancing, to warrant; to bind one's self, by covenant in a deed of conveyance, to defend the grantee in his title and possession.

Warrantizare est defendere et acquietare tenentem, qui warrantum vocavit, in seisina sua; et tenens de re warranti excambium habebit ad valentiam /wóhrəntézériy est dəféndérieri et əkwáyətérieri váləntəm, kwáy wóhrəntəm vovkéyvat, in síyzənə s(y)úwə; et ténənz diy ríy wóhrəntay ekskəmb(i)yəm həbíybət əd

vələnsh(iy)əm/. To warrant is to defend and insure in peace the tenant, who calls for warranty, in his seisin; and the tenant in warranty will have an exchange in proportion to its value.

Warrantless arrest. Arrest of a person without a warrant. It is generally permissible if the arresting officer has reasonable grounds to believe that the person has committed a felony or if the person has committed a misdemeanor amounting to a breach of the peace in the officer's presence. *Wong Sun v. U.S.*, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441. If probable cause exists, no warrant is required to apprehend a suspected felon in a public place. *U.S. v. Watson*, 423 U.S. 411, 96 S.Ct. 820, 46 L.Ed.2d 598. See also *Arrest*.

Warrantor. One who makes a warranty. Any supplier or other person who gives or offers to give a written warranty or who is or may be obligated under an implied warranty. 15 U.S.C.A. § 2301.

Warrantor potest excipere quod querens non tenet terram de qua petit warrantiam, et quod donum fuit insufficiens /wóhrəntor pówtəst əksípəriy kwòd kwírənz nòn ténət téhrəm diy kwéy pétət wóhrənsh(iy)əm, èt kwòd dównəm fyúwət insəffish(iy)enz/. A warrantor may object that the complainant does not hold the land of which he seeks the warranty, and that the gift was insufficient.

Warranty. A promise that a proposition of fact is true. *The Fred Smartley, Jr., C.A.Va.*, 108 F.2d 603, 606. An assurance by one party to agreement of existence of fact upon which other party may rely. It is intended precisely to relieve promisee of any duty to ascertain facts for himself, and amounts to promise to indemnify promisee for any loss if the fact warranted proves untrue. *Paccon, Inc. v. U.S.*, 399 F.2d 162, 166, 185 Ct.Cl. 24. A promise that certain facts are truly as they are represented to be and that they will remain so, subject to any specified limitations. In certain circumstances a warranty will be presumed, known as an "implied" warranty.

Commercial Transactions

An assurance or guaranty, either express in the form of a statement by a seller of goods, or implied by law, having reference to and ensuring the character, quality, or fitness of purpose of the goods. A warranty is a statement or representation made by seller of goods, contemporaneously with and as a part of contract of sale, though collateral to express object of sale, having reference to character, quality, fitness, or title of goods, and by which seller promises or undertakes to insure that certain facts are or shall be as he then represents them. *Vasco Trucking, Inc. v. Parkhill Truck Co.*, 6 Ill.App.3d 572, 286 N.E.2d 383, 386. A promise or agreement by seller that article sold has certain qualities or that seller has good title thereto. A statement of fact respecting the quality or character of goods sold, made by the seller to induce the sale, and relied on by the buyer.

See also Magnuson-Moss Warranty Act; Privity; Promissory warranty; Special warranty.

Express warranty. A promise, ancillary to an underlying sales agreement, which is included in the written or oral terms of the sales agreement under which the promisor assures the quality, description, or performance of the goods. (1) Express warranties by the seller are created as follows: (a) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise. (b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description. (c) Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model. (2) It is not necessary to the creation of an express warranty that the seller use formal words such as "warrant" or "guarantee" or that he have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the seller's opinion or commendation of the goods does not create a warranty. U.C.C. § 2-313.

A written statement arising out of a sale to the consumer of a consumer good pursuant to which the manufacturer, distributor, or retailer undertakes to preserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance; or in the event of any sample or model, that the whole of the goods conforms to such sample or model. It is not necessary to the creation of an express warranty that formal words such as "warrant" or "guarantee" be used, but if such words are used then an express warranty is created. An affirmation merely of the value of the goods or a statement purporting to be merely an opinion or commendation of the goods does not create a warranty. Statements or representations such as expressions of general policy concerning customer satisfaction which are not subject to any limitation do not create an express warranty. Calif.Civil Code, § 1791.2.

See also *Written warranty, below.*

Extended service warranty. Type of additional warranty sold with purchase of appliances, motor vehicles, and other consumer goods to cover repair costs not otherwise covered by manufacturer's standard warranty. Also known as an extended service contract, such either extends the coverage period or extends the range of potential defects covered beyond the protection furnished in the contract of sale. *Continental Insurance v. Page Engineering, Wyo., 783 P.2d 641.*

Full warranty. A warranty as to full performance covering generally both labor and materials. Under a full warranty, the warrantor must remedy the consumer product within a reasonable time and without charge after notice of a defect or malfunction. 15 U.S.C.A. § 2304. Compare *Limited warranty, below.*

Implied warranty of merchantability or fitness for particular purpose. A promise arising by operation of law, that something which is sold shall be merchantable and fit for the purpose for which the seller has reason to know that it is required. (a) Unless excluded or modified, a warranty that the goods shall be merchantable is implied in a contract for their sale, if the seller is a merchant with respect to goods of that kind. The serving for value of food or drink to be consumed either on the premises or elsewhere is a sale for this purpose. U.C.C. § 2-314(1). (b) Where the seller, at the time of contracting, has reason to know any particular purpose for which the goods are required, and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is, unless excluded or modified, an implied warranty that the goods shall be fit for such purpose. U.C.C. § 2-315.

"Implied warranty of fitness" means that when the retailer, distributor, or manufacturer has reason to know any particular purpose for which the consumer goods are required, and further, that the buyer is relying on the skill and judgment of the seller to select and furnish suitable goods, then there is an implied warranty that the goods shall be fit for such purpose and that when there is a sale of an assistive device sold at retail in the state, then there is an implied warranty by the retailer that the device is specifically fit for the particular needs of the buyer. Calif.Civil Code, § 1791.1.

"Implied warranty of merchantability" or "implied warranty that goods are merchantable" means that the consumer goods meet each of the following: (1) Pass without objection in the trade under the contract description; (2) Are fit for the ordinary purposes for which such goods are used; (3) Are adequately contained, packaged, and labeled; (4) Conform to the promises or affirmations of fact made on the container or label. Calif. Civil Code, § 1791.1.

See also *Fitness for particular purpose; Merchantability; Merchantable.*

Limited warranty. A written warranty which fails to meet one or more of the minimum standards for a "full" warranty. 15 U.S.C.A. § 2303. Warranty limited to labor or to materials for a specified time, commonly given by automobile dealers in connection with sale of used cars. Compare *Full warranty, above.*

Presentment warranties. Implied-in-law promises concerning the title and credibility of an instrument which are made by certain persons to a payor or acceptor upon presentment of the instrument for payment or acceptance. See U.C.C. §§ 3-417(1), 3-418, 4-207(1).

Third party beneficiaries of warranties. See *Privity.*

Transfer warranties. With respect to instruments, implied-in-law promises concerning title to, and credibility of, an instrument which a transferor of the instrument for consideration gives her transferee and, if the transfer is by indorsement, to remote transferees. U.C.C. §§ 3-417(2) & 4-207(2). A transferee of a document of title also makes transfer warranties, upon transferring a

document for value, to her immediate transferee. See U.C.C. § 7-507.

Warranty of title. In a sale of goods an implied promise exists that the seller owns the item offered for sale. (1) Subject to subsection (2) there is in a contract for sale a warranty by the seller that (a) the title conveyed shall be good, and its transfer rightful; and (b) the goods shall be delivered free from any security interest or other lien or encumbrance of which the buyer at the time of contracting has no knowledge. (2) A warranty under subsection (1) will be excluded or modified only by specified language or by circumstances which give the buyer reason to know that the person selling does not claim title in himself or that he is purporting to sell only such right or title as he or a third person may have. (3) Unless otherwise agreed a seller who is a merchant regularly dealing in goods of the kind warrants that the goods shall be delivered free of the rightful claim of any third person by way of infringement or the like but a buyer who furnishes specifications to the seller must hold the seller harmless against any such claim which arises out of compliance with the specifications. U.C.C. § 2-312.

Written warranty. Any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified period of time, or any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet with the specifications set forth in the undertaking, which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product. 15 U.S.C.A. § 2301. See also *Express warranty, above*.

Insurance

A warranty in the law of insurance consists of a statement by insured upon the literal truth of which the validity of the contract depends. Statement, made in insurance contract by insured, which is susceptible of no construction other than that parties mutually intended that policy should not be binding, unless such statement be literally true. *Brotherhood of Railroad Trainmen v. Wood*, Tex.Civ.App., 79 S.W.2d 665, 668.

A statement, description or undertaking on the part of insured, appearing in the policy or in another instrument properly incorporated in the policy and relating contractually to the risk insured against. *Reid v. Hardware Mut. Ins. Co. of Carolinas*, S. C., 252 S.C. 339, 166 S.E.2d 317, 321.

Affirmative warranty. In the law of insurance, warranties may be either affirmative or promissory. Affirmative warranties may be either express or implied, but they usually consist of positive representations in the

policy of the existence of some fact or state of things at the time, or previous to the time, of the making of the policy; they are, in general, conditions precedent, and if untrue, whether material to the risk or not, the policy does not attach, as it is not the contract of the insurer.

Express warranty. An agreement expressed in a policy, whereby the assured stipulates that certain facts relating to the risk are or shall be true, or certain acts relating to the same subject have been or shall be done.

Promissory warranty. In the law of insurance, a warranty which requires the performance or omission of certain things or the existence of certain facts after the beginning of the contract of insurance and during its continuance, and the breach of which will avoid the policy. See also *Promissory warranty*.

Generally

Construction warranty. An undertaking or promise made by seller or building contractor of new home that such home is fit for the purpose intended; *i.e.* free from structural, electrical, plumbing, etc. defects. Many states have statutes which provide the purchaser with such warranty protection. See *Home Owners Warranty; also, Warranty of habitability, below*.

Continuing warranty. One which applies to the whole period during which the contract is in force; *e.g.*, an undertaking in a charter-party that a vessel shall continue to be of the same class that she was at the time the charter-party was made.

Covenant of warranty. See *Covenant*.

Cumulation and conflict of warranties. Warranties whether express or implied shall be construed as consistent with each other and as cumulative, but if such construction is unreasonable the intention of the parties shall determine which warranty is dominant. In ascertaining that intention the following rules apply: (a) Exact or technical specifications displace an inconsistent sample or model or general language of description. (b) A sample from an existing bulk displaces inconsistent general language of description. (c) Express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose. U.C.C. § 2-317.

General warranty. The name of a covenant of warranty inserted in deeds, by which the grantor binds himself, his heirs, etc., to "warrant and forever defend" to the grantee, his heirs, etc., the title thereby conveyed, against the lawful claims of all persons whatsoever. Where the warranty is only against the claims of persons claiming "by, through, or under" the grantor or his heirs, it is called a "special warranty."

Implied warranty. Exists when the law derives it by implication or inference from the nature of the transaction or the relative situation or circumstances of the parties. *Great Atlantic & Pacific Tea Co. v. Walker*, Tex.Civ.App., 104 S.W.2d 627, 632. See also this topic under "Commercial Transactions", *above*.

Lineal warranty. In old conveyancing, the kind of warranty which existed when the heir derived title to the land warranted either from or through the ancestor who made the warranty.

Personal warranty. One available in personal actions, and arising from the obligation which one has contracted to pay the whole or part of a debt due by another to a third person. *Flanders v. Seelye*, 105 U.S. 718, 26 L.Ed. 1217.

Special warranty. A clause of warranty inserted in a deed of lands, by which the grantor covenants, for himself and his heirs, to "warrant and forever defend" the title to the same, to the grantee and his heirs, etc., against all persons claiming "by, through, or under" the grantor or his heirs. If the warranty is against the claims of all persons whatsoever, it is called a "general" warranty. *See also* Covenant.

Warranty deed. *See* that title.

Warranty of fitness. Warranty by seller that goods sold are suitable for special purpose of buyer. *See also* Implied warranty of fitness under "Commercial Transactions", *above*.

Warranty of habitability. Implied warranty of landlord that the leased premises are properly maintained and are fit for habitation at time of letting and will remain so during term of tenancy. *Boston Housing Authority v. Hemingway*, 363 Mass. 184, 293 N.E.2d 831.

Under "implied warranty of habitability," applicable to new housing, builder-vendor warranties that he has complied with the building code of the area in which the structure is located and that the residence was built in a workmanlike manner and is suitable for habitation. *Duncan v. Schuster-Graham Homes, Inc.*, Colo.App., 563 P.2d 976, 977. *See also* Habitability.

Warranty deed. Deed in which grantor warrants good, clear title. A deed which explicitly contains covenants concerning the quality of title it conveys. In some states, statutes impute warranties or covenants from the use of specific words, such as "grant." The usual covenants of title are warranties of seisin, quiet enjoyment, right to convey, freedom from encumbrances and defense of title as to all claims. *Compare* Quitclaim deed.

Warranty, voucher to. In old English practice, the calling a warrantor into court by the party warranted (when tenant in a real action brought for recovery of such lands), to defend the suit for him.

Warren. A term in English law for a place in which birds, fishes, or wild beasts are kept.

A franchise or privilege, either by prescription or grant from the king, to keep beasts and fowls of warren, which are hares, coney, partridges, pheasants, etc. Also any place to which such privilege extends.

Free warren. A franchise for the preserving and custody of beasts and fowls of warren. 2 Bl.Comm. 39, 417. This franchise gave the grantee sole right of killing, so far as his warren extended, on condition of excluding

other persons. 2 Bl.Comm. 39. Such was abolished in 1971.

War risk insurance. *See* Insurance.

Warsaw Convention. Treaty concluded in Warsaw, Poland in 1929 consisting of rules, including limitation of liability, for international air travel. The United States is a party to such treaty.

Warscot / wórsköt/. In Saxon law, a customary or usual tribute or contribution towards armor, or the arming of the forces.

Warth. In old English law, a customary payment, supposed to be the same with *ward-penny*.

Wash. A shallow part of a river or arm of the sea. The sandy, rocky, gravelly, boulder-bestrewn part of a river bottom deposited on level land near mouth of a canyon representing rocks and gravel washed down by a mountain stream.

Wash bank. A bank composed of such substance that it is liable to be washed away by the action of the water thereon, so as to become unsafe to travelers on highway.

Washington, Treaty of. A treaty signed on May 8, 1871, between Great Britain and the United States of America, with reference to certain differences arising out of the war between the northern and southern states of the Union, the Canadian fisheries, and other matters.

Washout signal. In railroad parlance, emergency signal meaning to stop immediately. *Stinson v. Aluminum Co. of America*, C.C.A.Tenn., 141 F.2d 682, 684.

Wash sale. The offsetting sale and purchase of the same or similar asset within a short time period. For income tax purposes, losses on a sale of stock may not be recognized if equivalent stock is purchased within thirty days before or thirty days after the date of sale. I.R.C. § 1091.

Transactions resulting in no change in beneficial ownership. *Ernst v. Hochfelder*, 425 U.S. 185, 205, 96 S.Ct. 1375, 1386, 47 L.Ed.2d 668. A fictitious kind of sale, disallowed on stock and other exchanges, in which a broker who has received orders from one person to buy and from another person to sell a particular amount or quantity of some particular stock or commodity simply transfers the stock or commodity from one principal to the other and pockets the difference, instead of executing both orders separately to the best advantage in each case, as is required by the rules of the different exchanges. Such practices of wash sales and matched orders by brokers to give impression of active trading in such securities are prohibited by SEC. 15 U.S.C.A. § 78i(a)(1). *See also* Sale.

Wash transaction. *See* Wash sale.

Waste. Action or inaction by a possessor of land causing unreasonable injury to the holders of other estates in the same land. An abuse or destructive use of property by one in rightful possession. Spoil or destruction, done or permitted, to lands, houses, gardens, trees, or other corporeal hereditaments, by the tenant thereof, to the prejudice of the heir, or of him in reversion or remain-

der. 2 Bl.Comm. 281. *Camden Trust Co. v. Handle*, 132 N.J.Eq. 97, 26 A.2d 865, 869. A destruction or material alteration or deterioration of the freehold, or of the improvements forming a material part thereof, by any person rightfully in possession, but who has not the fee title or the full estate. An unreasonable or improper use, abuse, mismanagement, or omission of duty touching real estate by one rightfully in possession, which results in its substantial injury. Unreasonable conduct by owner of possessory estate that results in physical damage to real estate and substantial diminution in value of estates in which others have an interest. *Pleasure Time, Inc. v. Kuss*, 78 Wis.2d 373, 254 N.W.2d 463, 467.

The term implies neglect or misconduct resulting in material damage to or loss of property, but does not include ordinary depreciation of property due to age and normal use over a comparatively short period of time. *First Federal Sav. & Loan Ass'n of Coffeyville v. Moulds*, 202 Kan. 557, 451 P.2d 215, 220. It is the violation of an obligation to treat the premises in such manner that no harm be done to them, and that the estate may revert to those having an underlying interest, undeteriorated by any willful or negligent acts. *Camden Trust Co. v. Handle*, 130 N.J.Eq. 125, 21 A.2d 354, 358.

The primary distinction between "waste" and "trespass" is that in waste the injury is done by one rightfully in possession. *Camden Trust Co. v. Handle*, 132 N.J.Eq. 97, 26 A.2d 865, 867, 869.

The early English doctrine was to the effect that anything which changed the character or nature of the land, notwithstanding the fact that it was an improvement thereto, constituted "waste."

Old English criminal law. A prerogative or liberty, on the part of the crown, of committing *waste* on the lands of felons, by pulling down their houses, extirpating their gardens, plowing their meadows, and cutting down their woods. 4 Bl.Comm. 385.

In General

Ameliorating waste. Change in the physical characteristics of property by an unauthorized act of the tenant but an act which adds value and improves the property. A tenant is usually not liable for such waste.

Commissive waste. Active or positive waste; waste done by acts of spoliation or destruction, rather than by mere neglect; the same as voluntary waste (*see below*).

Double waste. *See Double.*

Equitable waste. Injury to a reversion or remainder in real estate, which is not recognized by the courts of law as waste, but which equity will interpose to prevent or remedy. Otherwise defined as an unconscientious abuse of the privilege of non-impeachability for waste at common law, whereby a tenant for life, without impeachment of waste, will be restrained from committing willful, destructive, malicious, or extravagant waste, such as pulling down houses, cutting timber of too young a growth, or trees planted for ornament, or for shelter of premises.

Impeachment of waste. Liability for waste committed, or a demand or suit for compensation for waste committed upon lands or tenements by a tenant thereof who has no right to commit waste. On the other hand, a tenure "without impeachment of waste" signifies that the tenant cannot be called to account for waste committed.

Nul waste. "No waste." The name of a plea in an action of waste, denying the commission of waste, and forming the general issue.

Permissive waste. That kind of waste which is a matter of omission only, as by tenant letting premises fall into disrepair by not making reasonable maintenance repairs expected of tenant.

Voluntary waste. Active or positive waste; waste done or committed, in contradistinction to that which results from mere negligence, which is called "permissive" waste. Voluntary waste is the willful destruction or carrying away of something attached to the freehold, and "permissive waste" is the failure to take reasonable care of the premises. Voluntary or commissive waste consists of injury to the demised premises or some part thereof, when occasioned by some deliberate or voluntary act, as, for instance, the pulling down of a house or removal of floors, windows, doors, furnaces, shelves, or other things affixed to and forming part of the freehold. Contrasted with "permissive" waste (*above*).

Writ of waste. *See that title.*

Waste-book. A book used by merchants, to receive rough entries or memoranda of all transactions in the order of their occurrence, previous to their being posted in the journal. Otherwise called a "blotter."

Wastel /wóstəl/. A standard of quality of bread, made of the finest white flour. *Cocket* bread was slightly inferior in quality. The statute of 1266 mentions seven kinds of bread.

Waste water. Water that is actually wasted or not needed by the claimant thereto; water which, after it has served the purpose of the lawful claimant thereto, has been permitted to run to waste or to escape; and water which from unavoidable causes escapes from the ditches, canals, or other works of the lawful claimants. *Rock Creek Ditch & Flume Co. v. Miller*, 93 Mont. 248, 17 P.2d 1074, 1077. But water is not "waste water" so long as it remains on the land of the original proprietor.

Wasting asset. A natural resource having a limited useful life and, hence, subject to amortization called depletion. An asset that will be exhausted through its use. Examples are timberland, oil and gas wells, and ore deposits. *See also* Depletion; Wasting property.

Wasting property. Includes such property as leasehold interests; royalties; patent rights; interests in things the substance of which is consumed, such as mines, oil and gas wells, quarries and timberlands; interests in things which are consumed in the using or are worn out by use, such as machinery and farm implements. In re

Pennock's Will, 285 N.Y. 475, 35 N.E.2d 177, 178. See also Wasting asset.

Wasting trust. A trust in which the trustee may apply a part of the principal to make good a deficiency of income. Trust, the res of which consists in whole or in part of property which is gradually being consumed (*i.e.* consisting of wasting assets).

Wastors /wéystərz/. In old statutes, a kind of thieves.

Watch, v. To keep guard; to stand as sentinel; to be on guard at night, for the preservation of security, peace and good order.

Watch, n. A division of a ship's crew. At sea, the ship's company is divided into two watches, larboard and starboard, with a mate to command each. O'Hara v. Luckenbach S. S. Co., 269 U.S. 364, 46 S.Ct. 157, 160, 70 L.Ed. 313. Also the division of the day into time periods of service of the officers and crew, and, by immemorial Anglo-Saxon maritime custom, the time period of a watch never exceeded four hours. The Denali, C.C.A. Wash., 105 F.2d 413, 416. See also Lookout.

Watch and ward. "Watch" denotes keeping guard during the night; "ward," by day.

Watchman. One whose general duties consist of guarding, patrolling, and overseeing a building, group of buildings, or other property.

Water. As designating a commodity or a subject of ownership, this term has the same meaning in law as in common speech; but in another sense, and especially in the plural, it may designate a body of water, such as a river, a lake, or an ocean, or an aggregate of such bodies of water, as in the phrases "foreign waters," "waters of the United States," and the like.

See also Flood water; High water line or mark; Implied reservation of water doctrine; Inland waters; Intermittent stream; Low-water mark; Waste water.

Backwater. See that title.

Coast waters. See that title.

Developed water. Water which is brought to the surface and made available for use by the party claiming the water.

Flood waters. Waters which escape from a water course in great volume and flow over adjoining lands in no regular channel. The fact that such errant waters make for themselves a temporary channel or follow some natural channel, gully, or depression does not affect their character as "flood waters" or give to the course which they follow the character of a natural "water course." Everett v. Davis, Cal.App., 107 P.2d 650, 654, 655. See also Flood.

Foreign waters. Those belonging to another nation or country or subject to another jurisdiction, as distinguished from "domestic" waters.

Inland waters. See that title.

Navigable waters. See that title.

Percolating waters. Those which pass through the ground beneath the surface of the earth without any definite channel, and do not form a part of the body or flow, surface or subterranean, of any water-course. They may be either rain waters which are slowly infiltrating through the soil or waters seeping through the banks or the bed of a stream, and which have so far left the bed and the other waters as to have lost their character as a part of the flow of that stream. Those which ooze, seep, or filter, through the soil beneath the surface without a defined channel, or in a course that is unknown and not discoverable from surface indications without excavation for that purpose. C & W Coal Corp. v. Salyer, 200 Va. 18, 104 S.E.2d 50, 53.

Private waters. Non-navigable streams, or bodies of water not open to the resort and use of the general public, but entirely owned and controlled by one or more individuals.

Public waters. Such as are adapted for the purposes of navigation, or those to which the general public have a right of access, as distinguished from artificial lakes, ponds, and other bodies of water privately owned, or similar natural bodies of water owned exclusively by one or more persons.

Subterranean waters. Waters which lie wholly beneath the surface of the ground, and which either ooze and seep through the subsurface strata without pursuing any defined course or channel (percolating waters), or flow in a permanent and regular but invisible course, or lie under the earth in a more or less immovable body, as a subterranean lake.

Surface waters. Those waters coming unto the ground and naturally spreading over the ground before they have formed into natural watercourses. Kirkpatrick v. Butler, 14 Ariz.App. 379, 483 P.2d 790, 794. As distinguished from the waters of a natural stream, lake, or pond, surface waters are such as diffuse themselves over the surface of the ground, following no defined course or channel, and not gathering into or forming any more definite body of water than a mere bog or marsh. They generally originate in rains and melting snows, but the flood waters of a river may also be considered as surface waters if they become separated from the main current, or leave it never to return, and spread out over lower ground. Water derived from rains and melting snows that is diffused over surface of the ground, and it continues to be such and may be impounded by the owner of the land until it reaches some well-defined channel in which it is accustomed to, and does, flow with other waters, or until it reaches some permanent lake or pond, whereupon it ceases to be "surface water" and becomes a "water course" or a "lake" or "pond," as the case may be. Bohaty v. Briard, 219 Neb. 42, 361 N.W.2d 502, 506.

Surplus water. Water running off from ground which has been irrigated; water not consumed by the process of irrigation; water which the land irrigated will not take up.

Territorial waters. See that title.

Tide waters. See Tide.

Water-bayley. An officer mentioned in the colony laws of New Plymouth, (A.D. 1671,) whose duty was to collect dues to the colony for fish taken in their waters. Probably another form of *water-bailiff*.

Water course. See that title.

Water front. Land or land with buildings fronting on a body of water.

Water-gage. A sea-wall or bank to restrain the current and overflowing of the water; also an instrument to measure water.

Water-gang. A Saxon word for a trench or course to carry a stream of water, such as are commonly made to drain water out of marshes.

Water-gavel. In old records, a gavel or rent paid for fishing in or other benefit received from some river or water.

Water-logged. A vessel is "water-logged" when she becomes heavy and unmanageable on account of the leakage of water into the hold.

Water-mark. See that title.

Water power. The water power to which a riparian owner is entitled consists of the fall in the stream when in its natural state, as it passes through his land, or along the boundary of it; or, in other words, it consists of the difference of level between the surface where the stream first touches his land, and the surface where it leaves it. The use of water for power according to common understanding means its application to a water wheel to the end that its energy under the specified head and fall may be utilized and converted into available force. *Holyoke Water Power Co. v. American Writing Paper Co.*, D.C.Mass., 17 F.Supp. 895, 898.

Water rights. A legal right, in the nature of a corporeal hereditament, to use the water of a natural stream or water furnished through a ditch or canal, for general or specific purposes, such as irrigation, mining, power, or domestic use, either to its full capacity or to a measured extent or during a defined portion of the time. *City of Los Angeles v. City of Glendale*, Cal.App., 132 P.2d 574, 584. A usufruct in a stream consisting in the right to have the water flow so that some portion of it may be reduced to possession and be made private property of individual; the right to divert water from natural stream by artificial means and apply the same to beneficial use. *Ronzio v. Denver & R. G. W. R. Co.*, C.C.A. Utah, 116 F.2d 604, 605. It includes right to change the place of diversion, storage, or use of water if rights of other water users will not be injured. *Lindsey v. McClure*, C.C.A.N.M., 136 F.2d 65, 70. It was also said to be real property which may be sold and transferred separately from land on which it has been used. *Federal Land Bank of Spokane v. Union Cent. Life Ins. Co.*, 54 Idaho 161, 29 P.2d 1009, 1011. See also Artificially developed water; Common enemy doctrine; Drainage rights; Excess or surplus water; Implied reservation of water

doctrine; Littoral rights; Mill privilege; Overlying right; Reasonable use theory; Riparian rights.

Waterscape. An aqueduct or passage for water.

Waters of the United States. All waters within the United States which are navigable for the purposes of commerce, or whose navigation successfully aids commerce, are included in this term. See also Territorial waters.

Water course. A running stream of water; a natural stream fed from permanent or natural sources, including rivers, creeks, runs, and rivulets. There must be a stream, usually flowing in a particular direction, though it need not flow continuously. It may sometimes be dry. It must flow in a definite channel, having a bed or banks, and usually discharges itself into some other stream or body of water. It must be something more than a mere surface drainage over the entire face of the tract of land, occasioned by unusual freshets or other extraordinary causes. *Duckworth v. Williams*, 238 S.W.2d 234, 386 S.W.2d 234, 235.

A water course, in the legal meaning of the word, does not consist merely of the stream as it flows within the banks which form its channel in ordinary stages of water, but the stream still retains its character as a water course when, in times of ordinary high water, the stream extending beyond its own banks, is accustomed to flow down over the adjacent lowlands in a broader but still definable stream. *Atchison, T. & S. F. Ry. Co. v. Hadley*, 168 Okl. 588, 35 P.2d 463, 466.

Water flowing underground in a known and well defined channel is not "percolating water", but constitutes a "water course", and is governed by law applicable to "surface streams", rather than by law applicable to percolating waters. *Bull v. Siegrist*, 169 Or. 180, 126 P.2d 832, 834.

See also Ancient water course.

Natural water course. A natural stream flowing in a defined bed or channel; one formed by the natural flow of the water, as determined by the general superficies or conformation of the surrounding country, as distinguished from an "artificial" water course, formed by the work of man, such as a ditch or canal.

Water district. Official geographical areas which are supplied water under regulation of a body of commissioners or other officials.

Watered stock. Stock issued by corporation for less than full and adequate consideration. Stock which is issued by a corporation as fully paid-up stock, when in fact the whole amount of the par value thereof has not been paid in. Stock issued as bonus or otherwise without consideration or issued for a sum of money less than par value, or issued for labor, services, or property which at a fair valuation is less than the par value.

Water-mark. A mark indicating the highest point to which water rises, or the lowest point to which it sinks.

Transparent design or symbol which can be seen when paper is held up to the light and is used to identify the

manufacturer of the paper or the genuineness of the document such as a check or stamp.

High-water mark. This term is properly applicable to tidal waters, and designates the line on the shore reached by the water at the high or flood tide. With reference to the waters of artificial ponds or lakes, created by dams in unnavigable streams, it denotes the highest point on the shores to which the dams can raise the water in ordinary circumstances. The high-water mark of a river, not subject to tide, is the line which the river impresses on the soil by covering it for sufficient periods to deprive it of vegetation, and to destroy its value for agriculture.

Low-water mark. That line on the shore of the sea which marks the edge of the waters at the lowest point of the ordinary ebb tide. The "low-water mark," of a river is the point to which the water recedes at its lowest stage.

Water ordeal. See Ordeal.

Waterway. See Water course.

Waveson /wéyvsən/. In old records, such goods as, after a wreck, swim or float on the waves. See Flotsam.

Wax scot. A duty anciently paid twice a year towards the charge of wax candles in churches.

Way. A passage, path, road, or street. In a technical sense, a *right of passage over land*. See also Easement.

Private way. A right which a person has of passing over the land of another. In another sense (chiefly in New England) a private way is one laid out by the local public authorities for the accommodation of individuals and wholly or chiefly at their expense, but not restricted to their exclusive use, being subject, like highways, to the public easement of passage.

Right of way. See that title.

Way of necessity. Exists where land granted is completely environed by land of the grantor, or partially by his land and the land of strangers. *Cole v. Wanamaker*, 296 A.2d 329, 332. The law implies from these facts that a private right of way over the grantor's land was granted to the grantee as appurtenant to the estate. It is not merely one of convenience, and never exists where person may reach highway over his own land. And it cannot legally exist where neither the party claiming the way nor owner of land over which it is claimed, nor anyone under whom either of them claim, was ever seized of both tracts of land at same time. It is not based on continuous adverse user, but arises by implication of law from necessities of case, and ceases when necessity therefor ceases. The extent of a "way of necessity" is a way such as is required for complete and beneficial use of land to which the way is impliedly attached. *New York Cent. R. Co. v. Yarian*, 219 Ind. 477, 39 N.E.2d 604, 606.

Way-bill. Written document made out by carrier listing point of origin and destination, consignor and consignee, and describing goods included in shipment and transportation costs. Such constitutes the written description of

the shipment in the event of any claim by or against common carrier. See also Bill of lading.

Way-going crop. A crop of grain sown by a tenant for a term certain, during his tenancy, but which will not ripen until after the expiration of his lease. In the absence of an express agreement to the contrary tenant is entitled thereto.

Wayleave. A right of way over or through land for the carriage of minerals from a mine or quarry. It is an easement, being a species of the class called "rights of way," and is generally created by express grant or reservation.

Waynagium /weynéyj(iy)əm/. Implements of husbandry.

Ways and means. In a legislative body, the "committee on ways and means" is a committee appointed to inquire into and consider the methods and sources for raising revenue, and to propose means for providing the funds needed by the government. In Congress it is a standing committee of the House of Representatives responsible for supervising legislation dealing with financial matters.

W.D. An abbreviation for "Western District;" e.g. U.S. District Court for Western District of Kentucky.

Weald /wiylɔ/. Sax. A wood; the woody part of a country.

Wealreaf /wiyrlɪyf/. In old English law, the robbing of a dead man in his grave.

Wealth. Large quantity of possessions, assets, securities, and the like. State of having abundant financial resources and properties. All material objects, capable of satisfying human wants, desires, or tastes, having a value in exchange, and upon which human labor has been expended; i.e., which have, by such labor, been either reclaimed from nature, extracted or gathered from the earth or sea, manufactured from raw materials, improved, adopted, or cultivated. The aggregate of all the things, whether material or immaterial, which contribute to comfort and enjoyment, which cannot be obtained without more or less labor, and which are objects of frequent sale.

Weapon. An instrument of offensive or defensive combat, or anything used, or designed to be used, in destroying, defeating, threatening, or injuring a person. The term is chiefly used, in law, in the statutes prohibiting the carrying or using of "concealed" or "deadly" weapons. See also Dangerous weapon; Deadly weapon; Offensive weapon.

Wear, or weir /wér/wir/. A great dam or fence made across a river, or against water, formed of stakes interlaced by twigs of osier, and accommodated for the taking of fish, or to convey a stream to a mill.

Wear and tear. "Natural wear and tear" means deterioration or depreciation in value by ordinary and reasonable use of the subject-matter. See Depreciation.

Wearing apparel. As generally used in statutes, refers not merely to a person's outer clothing, but covers all articles usually worn, and includes underclothing. *Arnold v. U. S.*, 147 U.S. 494, 13 S.Ct. 406, 37 L.Ed. 253. All articles of dress generally worn by persons in the calling and condition of life and in the locality of the person in question. In *re Steimes' Estate*, 150 Misc. 279, 270 N.Y.S. 339.

Webb-Pomerene Act. Federal Act (1918) which provides a qualified exemption for an export association from the prohibitions of the antitrust laws. The Act is administered by the Federal Trade Commission.

Wed. Sax. A covenant or agreement. A pledge.

Wedbedrip. Sax. In old English law, a customary service which tenants paid to their lords, in cutting down their corn, or doing other harvest duties; as if a *covenant* to reap for the lord at the time of his *bidding* or commanding.

Wedlock. State of marriage.

Week. A period of seven consecutive days of time; and, in some uses, the period beginning with Sunday and ending with Saturday. See *Leach v. Burr*, 188 U.S. 510, 23 S.Ct. 393, 47 L.Ed. 567. Words "two weeks" mean fourteen days. *Fisher v. Booher*, 269 Ky. 501, 107 S.W.2d 307, 309.

Week-work. In early English times, the obligation of a tenant to work two or three days in every week for his lord, during the greater part of the year, and four or five during the summer months.

Wehading. In old European law, the judicial combat, or duel; the trial by battel.

Weighage /wéyɛj/. In English law, a duty or toll paid for weighing merchandise. It is called "*tronage*" for weighing wool at the king's beam, or "*pesage*" for weighing other avoidupois goods.

Weight. A measure of heaviness or ponderosity; and in a metaphorical sense influence, effectiveness, or power to influence judgment or conduct. The quantity of heaviness, the quality of being heavy, the degree or extent of downward pressure under the influence of gravity, or the quantity of matter as estimated by the balance or scale.

Gross weight. Of packaged goods, the total weight, including contents and packaging.

Net weight. Of packaged goods, includes only weight of contained goods. See also *Net weight*.

Weight of evidence. The balance or preponderance of evidence; the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other. It indicates clearly to the jury that the party having the burden of proof will be entitled to their verdict, if, on weighing the evidence in their minds, they shall find the greater amount of credible evidence sustains the issue which is to be established before them. Weight is not a question of mathematics,

but depends on its effect in inducing belief. See also *Burden of proof*; *Preponderance of evidence*.

Welfare. Well-doing or well-being in any respect; the enjoyment of health and common blessings of life; exemption from any evil or calamity; prosperity; happiness. See also *General welfare*; *Public welfare*.

Welfare clause. Constitutional provision (Art. I, § 8) permitting the federal government to enact laws for the overall general welfare of the people. It is the basis for the exercise of implied powers necessary to carry out the express provisions of the Constitution.

Well, adj. In marine insurance, a term used as descriptive of the safety and soundness of a vessel, in a warranty of her condition at a particular time and place; as, "warranted *well* at _____ on _____."

In old reports, good, sufficient, unobjectionable in law; the opposite of "ill."

Well, n. A hole or shaft sunk into the earth in order to obtain a fluid, such as water, oil, brine, or natural gas, from a subterranean supply. Loosely, any shaft or pit dug or bored in earth, or any space so constructed as to suggest or be likened to, a well for water; a pit or hole in the ground or a hollow cylinder built in such hole; or a shaft or excavation in mining. *Seismograph Service Corporation v. Mason*, 193 Okl. 623, 145 P.2d 967, 970.

Well knowing. A phrase used in pleading as the technical expression in laying a *scienter* (*q.v.*).

Welshing /wélshɪj/. Receiving a sum of money or valuable thing, undertaking to return the same or the value thereof together with other money, if an event (for example, the result of a horse-race) shall be determined in a certain manner, and at the time of receiving the deposit intending to cheat and defraud the depositor. The crime is larceny at common law.

Welsh mortgage. See *Mortgage*.

Wend. In old records, a large extent of ground, comprising several *juga*; a perambulation; a circuit.

Wer. See *Amendment*.

Wera, or were /wír(ə)/. The estimation or price of a man, especially of one slain. In the criminal law of the Anglo-Saxons, every man's life had its value, called a "were," or "*capitis æstimatio*."

Weregelt thef /wírgelt-θiyf/. Sax. In old English law, a robber who might be ransomed.

Weregild, or wergild /wírgild/wárgild/. This was the price of homicide, or other atrocious personal offense, paid partly to the king for the loss of a subject, partly to the lord for the loss of a vassal, and partly to the next of kin of the injured person. In the Anglo-Saxon laws, the amount of compensation varied with the degree or rank of the party slain. See *Angild*; *Angylde*.

Werelada. A purging from a crime by the oaths of several persons, according to the degree and quality of the accused.

Werp-geld. Belg. In European law, contribution for jettison; average.

WESTLAW. A computer-assisted legal research service provided by West Publishing Company. WESTLAW provides on-line access to a database of legal information including federal and state caselaw, statutes, and administrative, regulatory, and secondary materials.

Westminster. A city immediately adjoining London, and forming a part of the metropolis; formerly the seat of the superior courts of the kingdom.

Westminster Confession. A document containing a statement of religious doctrine, concocted at a conference of British and continental Protestant divines at Westminster, in the year 1643, which subsequently became the basis of the Scotch Presbyterian Church.

Westminster the First, Statute of. The statute 3 Edw. I, A.D. 1275. This statute, which deserves the name of a code rather than an act, is divided into fifty-one chapters. Without extending the exemption of churchmen from civil jurisdiction, it protects the property of the church from the violence and spoliation of the king and the nobles, provides for freedom of popular elections, because sheriffs, coroners, and conservators of the peace were still chosen by the freeholders in the county court, and attempts had been made to influence the election of knights of the shire, from the time when they were instituted. It contains a declaration to enforce the enactment of *Magna Charta* against excessive fines, which might operate as perpetual imprisonment; enumerates and corrects the abuses of tenures, particularly as to marriage of wards; regulates the levying of tolls, which were imposed arbitrarily by the barons and by cities and boroughs; corrects and restrains the powers of the king's escheator and other officers; amends the criminal law, putting the crime of rape on the footing to which it has been lately restored, as a most grievous, but not capital, offense; and embraces the subject of procedure in civil and criminal matters, introducing many regulations to render it cheap, simple, and expeditious. Certain parts of this act are repealed by St. 26 & 27 Vict., c. 125.

West Saxon Lage. The laws of the West Saxons, which obtained in the counties to the south and west of England, from Kent to Devonshire. Blackstone supposes these to have been much the same with the laws of Alfred, being the municipal law of the far most considerable part of his dominions, and particularly including Berkshire, the seat of his peculiar residence. 1 Bl. Comm. 65. See Mercen-lage.

W-4 form. The "Employee's Withholding Allowance Certificate," indicating the number of exemptions that the employee is claiming, used by the employer in determining the amount to be withheld for federal income taxes.

Whack. To divide into shares, apportion, parcel out, make a division settlement, square accounts, or to pay.

Whale. A royal fish, the head being the king's property, and the tail the queen's.

Wharf. A structure on the margin or shore of navigable waters, alongside of which vessels can be brought for the sake of being conveniently loaded or unloaded, or a space of ground, artificially prepared, for the reception of merchandise from a ship or vessel, so as to promote the discharge of such vessel.

Private wharf. One whose owner or lessee has the exclusive enjoyment or use thereof. The M. L. C. No. 10, C.C.A.N.Y., 10 F.2d 699, 702.

Public wharf. One to which vessels and the public can resort, either at will or on assignment of a berth by a harbor authority. *Kafline v. Brooklyn Eastern Dist. Terminal Co.*, 180 App.Div. 858, 168 N.Y.S. 120, 121.

Wharfage /(*h*)wórfaj/. The money paid for landing goods upon, or loading them from, a wharf. *Manhattan Lighterage Corporation v. Moore McCormack Line, D.C. N.Y.*, 45 F.Supp. 271, 273. Charge for use of wharf by way of rent or compensation. *Marine Lighterage Corporation v. Luckenbach S. S. Co.*, 139 Misc. 612, 248 N.Y.S. 71, 72.

Wharfinger /(*h*)wórfənjər/. The owner or occupier of a wharf; one who for hire receives merchandise on his wharf, either for the purpose of forwarding or for delivery to the consignee on such wharf.

Wharfing out, right of. A right to the exclusive use of submerged lands as by the affixing thereto or the establishment thereon of a permanent structure to some point within the navigable body of water, deep and wide enough to dock ocean-going vessels, and it presupposes exclusive use and to that extent may interfere with fishing or navigation. *City of Oakland v. Hogan*, 41 Cal.App.2d 333, 106 P.2d 987, 994.

Wharton Rule. In criminal law of conspiracy, the rule that an agreement by two persons to commit a particular crime cannot be prosecuted as a conspiracy when the crime is of such a nature as to require necessarily the participation of the two persons, e.g. adultery. It is named after the criminal law author, Francis Wharton. *Iannelli v. U. S.*, 420 U.S. 770, 95 S.Ct. 1284, 1288, 43 L.Ed.2d 616. Also called "concert of action" rules.

Wheel. An engine of torture used in medieval Europe, on which a criminal was bound while his limbs or bones were broken one by one till he died.

Wheelage. Duty or toll paid for vehicles passing over certain ground.

Whelps /(*h*)wélps/. The young of certain animals of a base nature or *feræ naturæ*.

When. At what time; at the time that; at which time; at that time. *Gehring v. Collister*, 52 Ohio App. 314, 3 N.E.2d 700, 701, 5 O.O. 195. At, during, or after the time that; at or just after the moment that. In re *Morrow's Will*, 41 N.M. 723, 73 P.2d 1360, 1364. In the event that, on condition that, in virtue of the circumstances that. Frequently employed as equivalent to the word "if" in legislative enactments and in common speech.

When and where. Technical words in pleading, formerly necessary in making *full defense* to certain actions.

Whenever. At whatever time; at what time soever. In any or every instance in which.

When issued. Abbreviated term in securities law for "when, as and if issued" in connection with a stock not yet authorized for issuance. The term refers to a conditional transaction in which one indicates a desire to buy when the security is available for sale after its authorization.

Where. At or in what place; from what place or source. As used in the statutory language, "where the prosecution is held," the word does not refer to the geographical location of the place of hearing, but rather to the tribunal or official before whom the case is tried. If; in the case of; in the event that.

Whereas. When in fact. A "whereas" clause of a contract is but an introductory or prefatory statement meaning "considering that" or "that being the case", and is not an essential part of the operating portions of the contract. *Jones v. City of Paducah*, 283 Ky. 628, 142 S.W.2d 365, 367.

Whereby. By or through which; by the help of which; in accordance with which.

Whereupon. Upon which; after which.

While. Pending or during the time that. Often used adversatively and to imply contrast, and in some constructions introduces a parenthetical clause. *Jackson v. Texas Co.*, C.C.A.Okl., 75 F.2d 549, 553. "While," within provision of accidental death life policy excluding coverage for a loss as result of injury sustained by insured while committing or attempting to commit assault or felony, is word of time and not of causation. *Romero v. Volunteer State Life Ins.*, 10 C.A.3d 571, 88 Cal.Rptr. 820, 824.

Whim. Passing fancy; an impulse or caprice. Used in jury instruction in cautioning the jurors to avoid returning a verdict based on anything but the evidence and its strength, not on the personal whim or caprice of the jurors.

Whiplash injury. A snapping of the neck when a person gets his head thrown forward or back or from side to side. *Breitenberg v. Parker*, 237 Ark. 261, 372 S.W.2d 828, 832. Commonly resulting from rear-end motor vehicle collisions, such is caused by a sudden and unexpected forced movement of the neck of an individual while he is in a relaxed position and against which he cannot protect himself. *Hanover Fire Ins. Co. v. Sides*, C.A.La., 320 F.2d 437, 441. It may result in several types of pathological injuries, such as sprain, fracture, dislocation and so forth. *Liquette v. Bouillion*, La.App., 184 So.2d 766, 768.

Whipping. A mode of punishment, by the infliction of stripes (long welts on the skin), formerly used occasionally in England and in a few of the American states. See Act of February 28, 1839, § 5, and June 25, 1948, c. 645, 62 Stat. 837. See also Corporal punishment.

Whistle blower. An employee who refuses to engage in and/or reports illegal or wrongful activities of his employer or fellow employees. *Russ v. Pension Consultants Co.*, 182 Ill.App.3d 769, 131 Ill.Dec. 318, 538 N.E.2d 693. Employer retaliation against whistle blowers is often statutorily prohibited. See also False Claims Act; Whistle-blower Acts; Wrongful discharge.

Whistle-blower Acts. Federal and state statutes designed to protect employees from retaliation for a disclosure of an employer's misconduct. The Civil Service Reform Act, 5 U.S.C.A. § 2302(b), protects federal employees who disclose mismanagement or illegal conduct. Several other federal laws protect employees who disclose regulatory violations; e.g. OSHA violations, 29 U.S.C.A. § 660(c). Many states also protect private and/or public sector whistle-blowers. Cf. California Labor Code § 1102.5. See also False Claims Act; Qui tam action; Wrongful discharge.

White acre. A fictitious name given to a piece of land for purposes of illustrating real property transactions.

Whitecaps. The name of an unlawful organization against which Tennessee in 1897 enacted a statute (Acts 1897, c. 52) entitled, "An act to prevent and punish the formation or continuance of conspiracies and combinations for certain unlawful purposes," etc., commonly known as the "Law against Whitecaps." Persons guilty of any offense under the act were rendered incompetent for jury service.

White collar crimes. Term signifying various types of unlawful, nonviolent conduct committed by corporations and individuals including theft or fraud and other violations of trust committed in the course of the offender's occupation (e.g., embezzlement, commercial bribery, racketeering, anti-trust violations, price-fixing, stock manipulation, insider trading, and the like). RICO laws are used to prosecute many types of white collar crimes. See RICO laws.

White knight. In corporate law, a potential acquirer usually sought out by the target of an unfriendly takeover to rescue it from the unwanted bidder's takeover. A word of art used to describe potential merger partners with whom a target company negotiates toward the realization of a merger on terms which the target company management finds acceptable. The white knight pursues ownership by means of a "sweetheart deal" with the incumbent management, while an unwanted bidder deals directly with the shareholders. *American General Ins. Co. v. Equitable General Corp.*, D.C.Va., 493 F.Supp. 721, 732. See also Golden parachute; Lockup; Poison pill; Porcupine provisions; Raider; Saturday night special.

White mule. Corn whisky; contraband whisky.

White persons. As used in Rev.St.U.S. § 2169 (Naturalization Act March 26, 1790, c. 3, 1 Stat. 103, as amended by Act Feb. 18, 1875, c. 80, § 1, 18 Stat. 318 [8 U.S.C.A. § 703]), members of the white or Caucasian race, as distinct from the black, red, yellow, and brown races.

Takao Ozawa v. U. S., 260 U.S. 178, 43 S.Ct. 65, 68, 67 L.Ed. 199.

In the legislation of the slave period, persons without admixture of colored blood, whatever the actual complexion might be.

White rents. In old English law, rents paid in silver, and called "white rents," or "*redditus albi*," to distinguish them from rents payable in corn, labor, provisions, etc., called "black-rent" or "black-mail." *See* *Alba firma*.

White slave. A term formerly used in the United States statutes to indicate a female with reference to whom an offense is committed under the so-called Mann White Slave Traffic Act of June 25, 1910, prohibiting the transportation in interstate and foreign commerce for immoral purposes of women and girls. A 1986 amendment to the federal Criminal Code substituted "Transportation for Illegal Sexual Activity and Related Crimes" for "White Slave Traffic" as the description for this crime. 18 U.S.C.A. § 2421 et seq. *See* *Mann Act*.

White spurs. A kind of esquires.

Whitsun farthings /*(h)witsən fārðɪŋz/*. Pentecostals (*q.v.*).

Whittanwarii /*(h)wītənwəriyay/*. In old English law, a class of offenders who whitened stolen ox-hides and horse-hides so that they could not be known and identified.

Whole. Hale, hearty, strong, sound; also, entire, complete.

Whole blood. *See* *Blood relations*.

Whole chest. In the tea trade, a chest containing 100 to 140 pounds or more.

Whole life insurance. *See* *Insurance (Life insurance)*.

Whole record test. Test used by court to review sufficiency of an administrative board's findings of fact. It does not allow a reviewing court to replace board's judgment between two reasonably conflicting views, although court could have justifiably reached different result had matter been before it *de novo*. *Correll v. Boulware*, 74 N.C.App. 631, 329 S.E.2d 695, 699. *See also* *Substantial evidence rule*.

Wholesale. Selling to retailers or jobbers rather than to consumers. *Stolze Lumber Co. v. Stratton*, 386 Ill. 334, 54 N.E.2d 554, 558. A sale in large quantity to one who intends to resell.

Wholesale dealer. One whose business is the selling of goods in gross to retail dealers, and not by the small quantity or parcel to consumers thereof. *Veazey Drug Co. v. Bruza*, 169 Okl. 418, 37 P.2d 294. *See* *Jobber; Wholesaler*.

Wholesale price. That which retailer pays in expectation of obtaining higher price by way of profit from resale to ultimate consumer. *Guess v. Montague*, D.C. S.C., 51 F.Supp. 61, 65.

Wholesale price index. A statistical measure compiled monthly which compares the price changes of a large

group of commodities (weighted by their relative importance) to prices in a base year. *See also* *Consumer Price Index; Producer Price Index*.

Wholesaler. One who buys in comparatively large quantities, and then resells, usually in smaller quantities, but never to the ultimate consumer. He sells either to a "jobber," a sort of middleman, or to a "retailer," who in turn sells to the consumer. *Fischbach Brewing Co. v. City of St. Louis*, 231 Mo.App. 793, 95 S.W.2d 335, 340. *See also* *Jobber*.

Wholesome. Sound, tending to promote health. *Leonardi v. A. Habermann Provision Co.*, 143 Ohio St. 623, 56 N.E.2d 232, 237, 28 O.O. 511.

Wholly. Not partially. In a whole or complete manner; entirely; completely; perfectly. Exclusively; to the exclusion of other things. Equally. Totally; fully. *Chicago & Calumet Dist. Transit Co. v. Mueller*, 213 Ind. 530, 12 N.E.2d 247, 249.

Wholly and permanently disabled. Term within disability clause of life policy does not mean "partial" or "temporary," and is not to be construed literally so as to require condition of complete helplessness or utter hopelessness to be entitled to benefits. *See also* *Disability; Total disability; Wholly disabled*.

Wholly dependent. A person is to be regarded as "wholly dependent" upon a worker, within meaning of compensation acts, when his or her support is derived wholly from the worker's wages. *Baker v. Western Power & Light Co.*, 147 Kan. 571, 78 P.2d 36, 40. Person may be "wholly dependent" on worker though he or she may have some slight savings of his or her own, or some other minimum property, or be able to make something by his or her own service. *United States Coal & Coke Co. v. Sutton*, 268 Ky. 405, 105 S.W.2d 173, 177.

Wholly destroyed. A building is "wholly destroyed" within the meaning of statutes permitting recovery of the full amount of a fire insurance policy, when, although some part remains standing, it can no longer be designated as a building. The words mean totally destroyed as a building, although there is not an absolute extinction of all its parts.

Wholly disabled. These words within accident policy do not mean a state of complete physical and mental incapacity or utter helplessness but mean rather inability to do all the substantial and material acts necessary to carry on a certain business or occupation or any business or occupation in a customary and usual manner and which acts the insured would be able to perform in such manner but for the disability. Total disability. *See also* *Disability; Total disability*.

Whore. A woman who practices illicit sexual intercourse, either for hire or to gratify a depraved passion. A woman given to promiscuous intercourse. A woman who practices unlawful commerce with men, particularly one who does so for hire; a harlot; a concubine; a prostitute.

Whoremaster. Ordinarily, one who practices lewdness; also, one who keeps or procures whores for others; a pimp; a procurer.

Wic. A place on the sea-shore or the bank of a river.

Wica. A country house or farm.

Wick. Sax. A village, town, or district. Hence, in composition, the territory over which a given jurisdiction extends. Thus, "bailiwick" is the territorial jurisdiction of a bailiff or sheriff or constable. "Sheriff-wick" was also used in the old books.

Widen. To increase in width; to extend.

Widow. A woman whose husband is dead, and who has not remarried.

Widower. A man who has lost his wife by death and has not married again.

Widowhood. The state or condition of being a widow, or, sometimes, a widower. An estate is sometimes settled upon a woman "during widowhood," which is expressed in Latin, "*durante viduitate*."

Widow's allowance. The amount of money or property which a widow may claim from her husband's estate, free of all claims. State statutes govern the amount and conditions of the allowance. It is for her support and maintenance.

Widow's election. In most states, a widow may either take her share under her husband's will or waive his will and claim her statutory share which commonly is an amount equal to what she would receive if he had died intestate. *See* Election by spouse.

Wifa /wáyfə/. L. Lat. In old English law, a mark or sign; a mark set up on land, to denote an exclusive occupation, or to prohibit entry.

Wife. A woman united to a man by marriage; a woman who has a husband living and undivorced. The correlative term is "husband." *See also* Common-law wife.

Wife's part. *See* Legitime.

Wigreve /wígriyv/. In old English law, the overseer of a wood.

Wild animals (or animals *feræ naturæ*). Animals of an untamable disposition; animals in a state of nature. *See* Ferae naturae.

Wildcat strike. A strike called without authorization from the union or in violation of a no-strike clause in the collective bargaining agreement. *See also* Strike.

Wild land. Land in a state of nature, as distinguished from improved or cultivated land.

Wild's case, rule in. A devise to B. and his children or issue, B. having no issue at the time of the devise, gives him an estate tail; but, if he have issue at the time, B. and his children take joint estates for life.

Will, v. An auxiliary verb commonly having the mandatory sense of "shall" or "must." It is a word of certainty, while the word "may" is one of speculation and uncertainty.

Will, n. Wish; desire; pleasure; inclination; choice; the faculty of conscious, and especially of deliberate, action. When a person expresses his "will" that a particular disposition be made of his property, his words are words of command, and the word "will" as so used is mandatory, comprehensive, and dispositive in nature.

An instrument by which a person makes a disposition of his real and personal property, to take effect after his death, and which by its own nature is ambulatory and revocable during his lifetime. In *re* Brown's Estate, Tex.Civ.App., 507 S.W.2d 801, 803.

The legal expression or declaration of a person's mind or wishes as to the disposition of his property, to be performed or take effect after his death. A revocable instrument by which a person makes disposition of his property to take effect after his death. Howard's Ex'r v. Dempster, 246 Ky. 153, 54 S.W.2d 660, 661. A written instrument executed with the formalities required by statutes, whereby a person makes a disposition of his property (real and personal) to take effect after his death.

For competency to make will, *see* Competent.

See also Codicil; Conditional will; Duplicate will; Last will; Lost will; Mariner's will; Mutual wills; No contest clause; Nuncupative will; Publication; Reciprocal will; Revocation of will; Sailor's will; Simultaneous death clause; Witness (*Witness to will*).

Ambulatory will. A changeable will (*ambulatoria voluntas*), the phrase merely denoting the power which a testator possesses of altering his will during his lifetime.

Antenuptial will. *See* that title.

Conditional will. A conditional disposition is one which depends upon the occurrence of some uncertain event, by which it is either to take effect or to be defeated. If the happening of an event named in a will is the reason for making the will, it is "unconditional"; but, if the testator intends to dispose of his property in case the event happens, the will is "conditional."

Conjoint will. *See* Joint will, below.

Contingent will. A will which is to take effect only upon the happening of a specified contingency. In *re* Craft's Estate, Tex.Civ.App., 358 S.W.2d 732, 734.

Counter wills. Another name for "double," "mutual," or "reciprocal" wills.

Double will. Called also a "counter," "mutual," or "reciprocal" will. *See* Double will.

Estate at will. This estate entitles the grantee or lessee to the possession of land during the pleasure of both the grantor and himself, yet it creates no sure or durable right, and is bounded by no definite limits as to duration. It must be at the reciprocal will of both parties (for, if it be at the will of the lessor only, it is a lease for life), and the dissent of either determines it.

Holographic will. One that is entirely written, dated, and signed by the hand of the testator himself. Sometimes spelled "olographic." *See* Holograph.

Joint and mutual (or reciprocal) will. One executed jointly by two persons with reciprocal provisions, which shows on its face that the devisees are made one in consideration of the other. *Wetzel v. Watson*, W.Va., 328 S.E.2d 526, 529. Joint will is one in which the same instrument is executed by two persons as their respective wills; mutual wills are the separate wills of two persons, more or less reciprocal in their provisions. Word "joint" goes to form, and word "mutual" goes to substance of what is called "joint and mutual will." *Larison v. Record*, 3 Dist., 141 Ill.App.3d 477, 95 Ill.Dec. 363, 365, 489 N.E.2d 925, 927. See also *Mutual will, below*.

Joint will. One where the same instrument is made the will of two or more persons and is jointly signed by them. Such wills are usually executed to make testamentary disposition of joint property. A joint or conjoint will is a testamentary instrument executed by two or more persons, in pursuance of a common intention, for the purpose of disposing of their several interests in property owned by them in common, or of their separate property treated as a common fund, to a third person or persons.

Living will. A document which governs the withholding or withdrawal of life-sustaining treatment from an individual in the event of an incurable or irreversible condition that will cause death within a relatively short time, and when such person is no longer able to make decisions regarding his or her medical treatment. Living wills are permitted by statute in most states. *Cruzan v. Missouri*, 110 S.Ct. — (1990). See *Uniform Rights of the Terminally Ill Act (Uniform Laws Annotated)*. See also *Right to die laws*.

Mutual and reciprocal will. See *Joint and mutual (or reciprocal) will, above*; also *Mutual will, below*.

Mutual will. One in which two or more persons make mutual or reciprocal provisions in favor of each other. "Mutual wills" are the separate wills of two persons which are reciprocal in their provisions, and such a will may be both joint and mutual. Sometimes called a "reciprocal," "double," or "counter" will. See also *Joint and mutual (or reciprocal) will, above*.

Mystic will. See *Testament*.

Non-intervention will. In some jurisdictions, one authorizing the executor to act without bond and to manage, control, and settle the estate without the intervention of any court whatsoever.

Nuncupative will. See that title.

Reciprocal will. One in which two or more persons make mutual or reciprocal provisions in favor of each other. Also known as a "mutual," "double," or "counter" will. See *Joint and mutual (or reciprocal) will; Mutual will, above*.

Renunciation of will. See *Renunciation*.

Self-proved wills. A will which eliminates some of the formalities of proof by execution in compliance with statute. It is made self-proved by affidavit of attesting witnesses in the form prescribed by statute. Most stat-

utes provide that, unless contested, such a will may be admitted to probate without testimony of subscribing witnesses. See *e.g.* *Uniform Probate Code*, § 2-504.

Statute of will. See *Wills Act, infra*.

Unofficial will. In the civil law, *testamentum inofficium*. One made in disregard of natural obligations as to inheritance. 2 Bl.Comm. 502. It has no place in the common law.

Criminal Law

The power of the mind which directs the action of a man. See *Willful*.

Will contest. A direct attack upon a decree admitting a will to probate. *Estate of Morris*, Tex.Civ.App., 577 S.W.2d 748, 752. Any kind of litigated controversy concerning the eligibility of an instrument to probate as distinguished from validity of the contents of the will. In *re Hesse's Estate*, 62 Ariz. 273, 157 P.2d 347, 349. Will contests are commonly governed by state statutes; *e.g.* *Uniform Probate Code* § 3-407, burden of proof.

Willful. Proceeding from a conscious motion of the will; voluntary; knowingly; deliberate. Intending the result which actually comes to pass; designed; intentional; purposeful; not accidental or involuntary.

Premeditated; malicious; done with evil intent, or with a bad motive or purpose, or with indifference to the natural consequences; unlawful; without legal justification.

An act or omission is "willfully" done, if done voluntarily and intentionally and with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say, with bad purpose either to disobey or to disregard the law. It is a word of many meanings, with its construction often influenced by its context. *Screws v. United States*, 325 U.S. 91, 101, 65 S.Ct. 1031, 1035, 89 L.Ed. 1495.

A willful act may be described as one done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently. A willful act differs essentially from a negligent act. The one is positive and the other negative.

Under *Bankruptcy Code* provision excepting from discharge debts "for willful and malicious injury by the debtor", 11 U.S.C.A. § 523(a)(6), term "willful" means deliberate or intentional, *i.e.*, deliberate or intentional act which necessarily leads to injury. In *re Salai*, *Bkrcty.Fla.*, 50 B.R. 11, 12.

Act is "willful" within meaning of section of *Internal Revenue Code* imposing penalty for willful failure to pay federal income and social security taxes withheld from employees if it is voluntary, conscious and intentional; no bad motive or intent to defraud the United States need be shown, and a "reasonable cause" or "justifiable excuse" element has no part in definition. *Harrington v. U.S.*, C.A.R.I., 504 F.2d 1306, 1315.

Under the Model Penal Code, a requirement that an offense be committed "willfully" is satisfied if a person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements appears. M.P.C. § 2.02(8). *See also* Criminal (*Criminal intent*); Mens rea; Motive; Premeditation.

In civil actions, the word [willfully] often denotes an act which is intentional, or knowing, or voluntary, as distinguished from accidental. But when used in a criminal context it generally means an act done with a bad purpose; without justifiable excuse; stubbornly, obstinately, perversely. The word is also employed to characterize a thing done without ground for believing it is lawful or conduct marked by a careless disregard whether or not one has the right so to act. *United States v. Murdock*, 290 U.S. 389, 394, 395, 54 S.Ct. 223, 225, 78 L.Ed. 381.

Willful and malicious injury. For such to exist there must be an intent to commit a wrong either through actual malice or from which malice will be implied. Such an injury does not necessarily involve hatred or ill will, as a state of mind, but arises from intentional wrong committed without just cause or excuse. In *re Wernecke*, D.C.N.Y., 1 F.Supp. 127, 168. It may involve merely a willful disregard of what one knows to be his duty, an act which is against good morals and wrongful in and of itself, and which necessarily causes injury and is done intentionally. *See also* Willful and wanton misconduct.

Willful and wanton act. *See* Willful and wanton misconduct.

Willful and wanton injury. *See* Willful and wanton misconduct.

Willful and wanton misconduct. Conduct which is committed with an intentional or reckless disregard for the safety of others or with an intentional disregard of a duty necessary to the safety of another's property. *Giers v. Anten*, 68 Ill.App.3d 535, 24 Ill.Dec. 878, 386 N.E.2d 82, 85. Failure to exercise ordinary care to prevent injury to a person who is actually known to be or reasonably expected to be within the range of a dangerous act being done. *Georgia Power Co. v. Deese*, 78 Ga.App. 704, 51 S.E.2d 724, 728. Conduct which is either intentional or committed under circumstances exhibiting a reckless disregard for the safety of others, such as a failure, after knowledge of an impending danger, to exercise ordinary care to prevent it or a failure to discover the dangers through recklessness or carelessness when it could have been discovered by the exercise of ordinary care. *Lewandowski v. Bakey*, 32 Ill.App.3d 26, 335 N.E.2d 572, 574. An aggravated form of negligence, differing in quality rather than degree from ordinary lack of care. *Morgan v. Southern Pac. Transp. Co.*, 37 Cal.App.3d 1006, 112 Cal.Rptr. 695, 698.

Willful and wanton negligence. Failure to exercise ordinary care to prevent injury to a person who is actually known to be, or reasonably is expected to be, within range of a known danger. *Barall Food Stores v.*

Bennett, 194 Okl. 508, 153 P.2d 106, 109, 110. *See also* Negligence; Willful and wanton misconduct.

Willful blindness. In criminal law, a term used to refer to a situation where the defendant tries to avoid knowing something that will incriminate. It is usually held in this situation that the defendant "knows" anyway because he is aware of a high probability of its existence. *See* Model Penal Code § 2.02(7). *See also* Recklessly.

Willful, deliberate and premeditated. A criterion used in many jurisdictions to separate first from second degree murder. The Model Penal Code rejects this concept. *See* Premeditation.

Willful indifference to the safety of others. *See* Willful and wanton misconduct.

Willfully and knowingly. An act is done willfully and knowingly when the actor intends to do it and knows the nature of the act. Deliberately. *See* Willful.

Willful misconduct of employee. Under workers' compensation acts, precluding compensation, means more than mere negligence, and contemplates the intentional doing of something with knowledge that it is likely to result in serious injuries, or with reckless disregard of its probable consequences. "Willful misconduct" disqualifying claimant for unemployment compensation involves: (1) wanton and willful disregard of employer's interest, (2) deliberate violation of rules, (3) disregard of standards of behavior which an employer can rightfully expect from his employee, or (4) negligence which manifests culpability, wrongful intent, evil design, or intentional and substantial disregard for employer's interests or the employee's duties and obligations. *Wilson v. Com. Unemployment Compensation Bd. of Review*, 15 Pa.Cmwlt. 314, 325 A.2d 500, 501.

Willful murder. The unlawful and intentional killing of another without excuse or mitigating circumstances. *See also* Murder; Premeditation.

Willful neglect. The intentional disregard of a plain or manifest duty, in the performance of which the public or the person injured has an interest.

Willful neglect suggests intentional, conscious, or known negligence—a knowing or intentional mistake. *Puget Sound Painters v. State*, 45 Wash.2d 819, 278 P.2d 302, 303. Within adoption statutes, is neglect that is intentional, deliberate, and without just cause or excuse. In *re Adoption of P. J. K.*, Mo.App., 359 S.W.2d 360, 363.

Willful negligence. *See* Negligence; *also* Wanton negligence.

Willfulness. *See* Willful.

Willful tort. Term implies intent or purpose to injure. It involves elements of intent or purpose and malice or ill will, but malice or ill will may be shown by indifference to safety of others, with knowledge of their danger, or failure to use ordinary care to avoid injury after acquiring such knowledge. *Hillard v. Western & Southern Life Ins. Co.*, 68 Ohio App. 426, 34 N.E.2d 75, 77, 23 O.O. 133. *See also* Tort (*Intentional tort*).

Williams Act. *See* Tender offer.

Willingly. Voluntarily; unreluctantly; without reluctance, and of one's own free choice. *See* Willful.

As used in an instruction that one cannot invoke the doctrine of self-defense if he enters a fight willingly, it means voluntarily, aggressively, and without legal excuse.

Wills Act. In England, the statute 32 Hen. VIII, c. 1, passed in 1540, by which persons seized in fee-simple of lands holden in socage tenure were enabled to devise the same at their will and pleasure, except to bodies corporate; and those who held estates by the tenure of chivalry were enabled to devise two-third parts thereof.

Also, the statute 7 Wm. IV & 1 Vict., c. 26, passed in 1837, and also called "Lord Langdale's Act." This act permits of the disposition by will of every kind of interest in real and personal estate, and provides that all wills, whether of real or of personal estate, shall be attested by two witnesses, and that such attestation shall be sufficient. Other important alterations are effected by this statute in the law of wills.

Will substitutes. Documents which purportedly accomplish what a will is designed to accomplish, *e.g.* trusts, life insurance, joint ownership of property.

Winchester measure. The standard measure of England, originally kept at Winchester. 1 Bl.Comm. 274.

Winchester, Statute of. A statute passed in the thirteenth year of the reign of Edward I, by which the old Saxon law of police was enforced, with many additional provisions. It required every man to provide himself with armor to aid in keeping the peace; and if it did not create the offices of high and petty constables, it recognized and regulated them, and charged them with duties answering somewhat to those of our militia officers. The statute took its name from the ancient capital of the kingdom. It was repealed by the Statute of 7 & 8 Geo. IV, c. 27.

Windfall profits tax. A tax imposed on a business or industry as a result of a sudden increase in the profits of the business. An example includes the tax imposed on oil companies in 1980, due to the windfall profits from the Arab oil embargo.

Winding up. Process of settling the accounts and liquidating the assets of a partnership or corporation, for the purpose of making distribution of net assets to shareholders or partners and dissolving the concern. *See* Liquidation.

Window. An opening made in the wall of a building to admit light and air, and to furnish a view or prospect. The use of this word in law is chiefly in connection with the doctrine of ancient lights and other rights of adjacent owners.

Window tax. In England, a tax on windows, formerly levied on houses which contained more than six windows, and were worth more than £ 5 per annum; established by St. 7 Wm. III, c. 18. St. 14 & 15 Vict., c. 36, substituted for this tax a tax on inhabited houses.

Wind up. *See* Winding up.

Wiretapping. A form of electronic or mechanical eavesdropping where, upon court order, law enforcement officials surreptitiously listen to phone calls or other conversations or communications of persons. Federal (18 U.S.C.A. § 2510 et seq.) and similar state statutes govern the circumstances and procedures under which wiretaps will be permitted. *See also* Eavesdropping; Pen register.

Wish. Eager desire; longing; expression of desire; a thing desired; an object of desire. As used in wills, it is sometimes merely directory or precatory; and sometimes mandatory; being equivalent to "will," to "give" or "devise."

Wista. In Saxon law, half a hide of land, or sixty acres.

Wit. To know; to learn; to be informed. Used only in the infinitive, *to wit*, which term is equivalent to "that is to say," "namely," or "*videlicet*."

Witam /wítam/. The purgation from an offense by the oath of the requisite number of witnesses.

Witan /wítan/. In Saxon law, wise men; persons of information, especially in the laws; the king's advisers; members of the king's council; the optimates, or principal men of the kingdom.

Witchcraft. Under English Sts. 33 Hen. VIII, c. 8, and 1 Jac. I, c. 12, the offense of witchcraft, or supposed intercourse with evil spirits, was punishable with death. These acts were not repealed until 1736. 4 Bl.Comm. 60, 61. In Salem, Massachusetts in 1692, 20 persons were put to death by hanging for such offense. The last victims in England were executed in 1716, and the last in Scotland in 1722.

Wite /wáy't/. Sax. A punishment, pain, penalty, mulct, or criminal fine.

An atonement among the early Germans by a wrongdoer to the king or the community. It is said to be the germ of the idea that wrong is not simply the affair of the injured individual, and is therefore a condition precedent to the growth of a criminal law.

Witekden. A taxation of the West Saxons, imposed by the public council of the kingdom.

Witena dom /wítanə dómw/. In Saxon law, the judgment of the county court, or other court of competent jurisdiction, on the title to property, real or personal.

Witenagemote /wítanægəməwt/. (Spelled, also, *witena-gemot*, *wittenagemot*, *witanagemote*, etc.) "The assembly of wise men." This was the great national council or parliament of the Saxons in England, comprising the noblemen, high ecclesiastics, and other great thanes of the kingdom, advising and aiding the king in the general administration of government.

It was the grand council of the kingdom, and was held, generally, in the open air, by public notice or particular summons, in or near some city or populous town. These notices or summonses were issued upon determination by the king's select council, or the body met without notice, when the throne was vacant, to elect a new king. Subsequently to the Norman Conquest it was called

commune concilium regni, curia regis and finally *parliament*; but its character had become considerably changed. It was a court of last resort, more especially for determining disputes between the king and his thanes, and, ultimately, from all inferior tribunals. Great offenders, particularly those who were members of or might be summoned to the king's court, were here tried. The casual loss of title-deeds was supplied, and a very extensive equity jurisdiction exercised. 1 Bl. Comm. 147. It passed out of existence with the Norman Conquest, and the subsequent Parliament was a separate growth, and not a continuation of the Witenagemot.

Witens /wītənz/. The chiefs of the Saxon lords or thanes, their nobles, and wise men.

With. A word denoting a relation of proximity, contiguity, or association. *White v. White*, 183 Va. 239, 31 S.E.2d 558, 561. Sometimes equivalent to the words, "in addition to," but not synonymous with "including," as in a complaint demanding a specified sum, "with interest." *Halpern v. Langrock Bros. Co.*, 169 App.Div. 464, 155 N.Y.S. 167, 168.

With all faults. This phrase, used in a contract of sale, implies that the purchaser assumes the risk of all defects and imperfections, provided they do not destroy the identity of the thing sold. *See also* As is.

With consent. Phrase within a constitution providing that Governor shall appoint officers with consent of senate, requires confirmation by senate and appointment under such provision is ineffective until confirmed. *State, ex rel. Nagle v. Stafford*, 97 Mont. 275, 34 P.2d 372, 379. *See also* Consent.

Withdraw. To take away what has been enjoyed; to take from. To remove, as deposits from bank, or oneself from competition, candidacy, etc.

Withdrawal. Removal of money or securities from a bank or other place of deposit.

Withdrawal from criminal activity. A person is not legally accountable for the criminal conduct of another if before the commission of the offense, he terminates his efforts to promote such commission and gives a warning to law enforcement officials or makes a proper effort to prevent the criminal activity. Ill. Ann. St. ¶ 5-2(c)(3). Under Model Penal Code, § 5.01(4), withdrawal is an affirmative defense which requires a showing of a complete and voluntary renunciation of defendant's criminal purpose. *See also* Renunciation of criminal purpose.

Withdrawal from a conspiracy requires either making a clean breast to authorities or communicating the abandonment of the conspiracy in manner reasonably calculated to reach co-conspirators. *U.S. v. Mardian*, C.A.D.C., 546 F.2d 973, 978.

Withdrawal of charges. A failure to prosecute by the person preferring charges—distinguished from a dismissal, which is a determination of their invalidity by the tribunal hearing them. *See* Nolle prosequi.

Withdrawing a juror. The withdrawing of one of the twelve jurors from the box, with the result that, the jury being then found to be incomplete, no further proceedings could be had in the cause. The withdrawing of a juror was always by the agreement of the parties, and was frequently done at the recommendation of the judge, where it was doubtful whether the action would lie; and in such case the consequence was that each party payed his own costs. It was, however, no bar to a future action for the same cause. In American practice, it was formerly usually a mere method of continuing a case, for some good reason.

Withdrawing record. The withdrawing by a plaintiff of the *nisi prius* or trial record filed in a cause, just before the trial is entered upon, for the purpose of preventing the cause from being tried. This may be done before the jury are sworn, and afterwards, by consent of the defendant's counsel. For current practice, *see* Dismissal.

Withernam /wiðərnəm/. A taking by way of reprisal; a taking or a reprisal of other goods, in lieu of those that were formerly taken and eloigned or withholden. A reciprocal distress, in lieu of a previous one which has been eloigned. 3 Bl. Comm. 148.

The name of a writ which issues on the return of *elongata* to an alias or pluries writ of replevin, by which the sheriff is commanded to take the defendant's own goods which may be found in his bailiwick, and keep them safely, not to deliver them to the plaintiff until such time as the defendant chooses to submit himself and allow the distress, and the whole of it to be replevied; and he is thereby further commanded that he do return to the court in what manner he shall have executed the writ.

Withersake /wiðərsək/. An apostate, or perfidious renegade.

Withhold. To retain in one's possession that which belongs to or is claimed or sought by another. To omit to disclose upon request; as, to withhold information. To refrain from paying that which is due.

Withholding. Deductions from salaries or wages, usually for income taxes and social security contributions, to be remitted by the employer, in the employee's name, to the taxing authority.

Withholding of evidence. It is an obstruction of justice to stifle, suppress or destroy evidence knowing that it may be wanted in a judicial proceeding or is being sought by investigating officers, or to remove records from the jurisdiction of the court, knowing they will be called for by the grand jury in its investigation. *United States v. Perlstein*, 126 F.2d 799; *Commonwealth v. Russo*, 177 Pa. Super. 470, 111 A.2d 359. *See e.g.* 18 U.S.C.A. §§ 1506, 1512. *See also* Suppression of evidence.

Withholding tax. *See* Withholding.

Within. Into. In inner or interior part of, or not longer in time than. Through. Inside the limits of; during the time of.

When used relative to time, has been defined variously as meaning any time before; at or before; at the end

of; before the expiration of; not beyond; not exceeding; not later than. *Glenn v. Garrett*, Tex.Civ.App., 84 S.W.2d 515, 516.

Without. Outside; beyond; in excess of.

Without day. A term used to signify that an adjournment or continuance is indefinite or final, or that no subsequent time is fixed for another meeting, or for further proceedings. *See Sine die.*

Without delay. Instantly; at once. Also, within the time allowed by law.

Without her consent. This phrase, as used in the law of rape, is equivalent to "against the will."

Without impeachment of waste. The effect of the insertion of this clause in a lease for life is to give the tenant the right to cut timber on the estate, without making himself thereby liable to an action for waste. When a tenant for life holds the land without impeachment of waste, he is, of course, punishable for waste, whether wilful or otherwise. But still this right must not be wantonly abused so as to destroy the estate; and he will be enjoined from committing malicious waste.

Without notice. As used of purchasers, etc., such language is equivalent to "in good faith." To be a holder in due course, one must take a bill or note "without notice" that it is overdue or has been dishonored or of any defense against or claim to it on the part of any person. *See U.C.C. §§ 3-302(1)(c), 3-304(3).* *See also* Good faith; Notice.

Without prejudice. Where an offer or admission is made "without prejudice," or a motion is denied or a suit dismissed "without prejudice," it is meant as a declaration that no rights or privileges of the party concerned are to be considered as thereby waived or lost except in so far as may be expressly conceded or decided. The words "without prejudice" import into any transaction that the parties have agreed that as between themselves the receipt of money by one and its payment by the other shall not of themselves have any legal effect on the rights of the parties, but they shall be open to settlement by legal controversy as if the money had not been paid. *In re Bell*, 344 Pa. 223, 25 A.2d 344, 350.

A dismissal "without prejudice" allows a new suit to be brought on the same cause of action. The words "without prejudice", as used in judgment, ordinarily import the contemplation of further proceedings, and, when they appear in an order or decree, it shows that the judicial act is not intended to be *res judicata* of the merits of the controversy. *Fiumara v. American Surety Co. of New York*, 346 Pa. 584, 31 A.2d 283, 287.

Compare With prejudice.

Without recourse. Words that may be used by a drawer in signing a draft or check so as to eliminate completely the drawer's secondary liability. This phrase, used in making a qualified indorsement of a negotiable instrument, signifies that the indorser means to save himself from liability to subsequent holders, and is a notification that, if payment is refused by the parties primarily

liable, recourse cannot be had to him. *See U.C.C. § 3-414(1).*

An indorser "without recourse" specially declines to assume any responsibility for payment. He assumes no contractual liability by virtue of the indorsement itself, and becomes a mere assignor of the title to the paper, but such an indorsement does not indicate that the indorsee takes with notice of defects, or that he does not take on credit of the other parties to the note.

See also Nonrecourse; Nonrecourse loan; With recourse.

Without reserve. A term applied to a sale by auction, indicating that no price is reserved.

Without stint. Without limit; without any specified number.

Without this, that. In common law pleading, formal words used by way of *traverse*, particularly by way of *special traverse*, importing an express denial of some matter of fact alleged in a previous pleading, including the declaration, plea, replication, etc. The Latin term is *absque hoc*.

With prejudice. Phrase "with prejudice," as used in context in which an action is dismissed with prejudice, means an adjudication on merits and final disposition, barring right to bring or maintain an action on same claim or cause. *Foundry Systems & Supply, Inc. v. Industry Development Corp.*, 124 Ga.App. 589, 185 S.E.2d 94, 95. Addition of the words "with prejudice" to order granting motion to dismiss complaint indicates finality for purposes of appeal. *Segal v. Garrigues*, Fla.App., 320 So.2d 475, 476. *Compare* Without prejudice.

With recourse. Term which may be used in indorsing negotiable instrument and by which the indorser indicates that he remains liable for payment of the instrument. *See also* Recourse; *Compare* Without recourse.

With strong hand. In common law pleading, a technical phrase indispensable in describing a forcible entry in an indictment. No other word or circumlocution would answer the same purpose.

Witness, v. To subscribe one's name to a deed, will, or other document, for the purpose of attesting its authenticity, and proving its execution, if required, by bearing witness thereto. *See also* Affirmation; Attest; Jurat; Verification.

Witness, n. In general, one who, being present, personally sees or perceives a thing; a beholder, spectator, or eyewitness. One who is called to testify before a court. *People v. Ruiz*, 100 Misc.2d 562, 419 N.Y.S.2d 864, 866. One who testifies to what he has seen, heard, or otherwise observed. *Wigginton v. Order of United Commercial Travelers of America, C.C.A.Ind.*, 126 F.2d 659, 666.

A person whose declaration under oath (or affirmation) is received as evidence for any purpose, whether such declaration be made on oral examination or by deposition or affidavit. *Code Civ.Proc.Cal. § 1878.*

A person attesting genuineness of signature to document by adding his signature. In *re* Gorrell's Estate, 19 N.J.Misc. 168, 19 A.2d 334, 335.

One who is called upon to be present at a transaction, or the making of a will. He may thereafter, if necessary, testify to the transaction.

See also Accomplice witness; Competency; Competent witness; Expert witness; Hostile or adverse witness; Lay witness; Prosecuting witness; Subscribing witness; Swift witness; Target witness; Witness Protection Act; Witness tampering.

Adverse witness. See Adverse witness; Hostile or adverse witness.

Alibi witness. See Fed.R.Crim.P. 12.1. See also Alibi.

Attesting witness. See Attestation.

Character witness. In criminal cases, the accused is entitled to use character evidence in presenting the defense. The accused is entitled to show character traits inconsistent with the crime charged. Fed.R.Evid. 404(a)(1). The Federal Rules of Evidence and a majority of jurisdictions permit proof of character either by reputation or by receiving the opinion of persons who are sufficiently familiar with the accused to be able to testify concerning the trait in question. Fed.R.Evid. 405(a). *U.S. v. Morgan*, C.A.N.Y. (2nd Cir.) 554 F.2d 31, cert. denied, 434 U.S. 965, 98 S.Ct. 504, 54 L.Ed.2d 450.

Both the reputation witness who testifies as to the accused person's community reputation and the opinion witness who testifies that in his opinion the accused possesses certain character traits are generically referred to as "character witnesses." See also Fed.R.Evid. 607-609.

Competent witness. See Competency; Competent witness.

Credible witness. See Competency; Competent witness; Credible.

Grand jury witness. A person called to give evidence regarding matters under inquiry by the grand jury. *State v. Hogervorst*, 90 N.M. 580, 566 P.2d 828, 831.

Immunity of witnesses. See Immunity.

Material witness. In criminal trial, a witness whose testimony is crucial to either the defense or prosecution. In most states, he may be required to furnish bond for his appearance and, for want of surety, he may be confined until he testifies. See also Material witness.

Witness to will. One who has attested the will by subscribing his name thereto. The trend in state statutes is to require two witnesses to attest to the signing of the will. See *e.g.* Uniform Probate Code § 2-502. See also Attestation clause.

Witness against oneself. See Immunity; Self-incrimination.

Witnessing part. In a deed or other formal instrument, is that part which comes after the recitals, or, where there are no recitals, after the parties. It usually commences with a reference to the agreement or intention to be effectuated, then states or refers to the consideration, and concludes with the operative words and parcels, if any. Where a deed effectuates two distinct objects, there are two witnessing parts.

Witness Protection Act. Federal law which establishes the manner in which the Attorney General may provide for relocation and other protection of a witness or a potential witness for the federal government or for a state government in an official proceeding concerning an organized criminal activity or other serious offense. See 18 U.S.C.A. § 3521 et seq.

Witness tampering. The federal Victim and Witness Protection Act prohibits the intimidation and harassment of witnesses before they testify, as well as prohibiting retaliation, or threats of retaliation, against witnesses after they testify. 18 U.S.C.A. § 1512-1515.

Wittingly. With knowledge and by design, excluding only cases which are the result of accident or forgetfulness, and including cases where one does an unlawful act through an erroneous belief of his right.

Witword /wɪtwɜrd/. A legally allowed claim, more especially the right to vindicate ownership or possession by one's affirmation under oath.

Wolf's head. In old English law, this term was used as descriptive of the condition of an outlaw. Such persons were said to carry a wolf's head (*caput lupinum*); for if caught alive they were to be brought to the king, and if they defended themselves they might be slain and their heads carried to the king, for they were no more to be accounted of than wolves. "Woolferthfod."

Wong. Sax. In old records, a field.

Wood-corn. In old records, a certain quantity of oats or other grain, paid by customary tenants to the lord, for liberty to pick up dead or broken wood.

Wood-geld. In old English law, money paid for the liberty of taking wood in a forest. Immunity from such payment.

Wood leave. A license or right to cut down, remove, and use standing timber on a given estate or tract of land. Also called Timber rights.

Wood-note. In forest law, the old name of the court of attachments; otherwise called the "Forty-Days Court." 3 Bl.Comm. 71.

Wood plea court. In old English law, a court held twice in the year in the forest of Clun, in Shropshire, for determining all matters of wood and agistments.

Woods. A forest; land covered with a large and thick collection of natural forest trees. The old books say that a grant of "all his woods" (*omnes boscos suos*) will pass the land, as well as the trees growing upon it.

Woodwards. In English law, officers of the forest, whose duty consists in looking after the wood and vert and venison, and preventing offenses relating to the same.

Words. Symbols indicating ideas and subject to contraction and expansion to meet the idea sought to be expressed. Such have been referred to as labels whose content and meaning are continually shifting with the times. *Massachusetts Protective Ass'n v. Bayersdorfer*, C.C.A.Ohio, 105 F.2d 595, 597.

As used in law, this term generally signifies the technical terms and phrases appropriate to particular instruments, or aptly fitted to the expression of a particular intention in legal instruments. See the subtitles following.

Words actionable in themselves. In libel and slander, refer to words which are libelous or slanderous per se. See Actionable per se; Libelous per se.

Words of art. The vocabulary or terminology of a particular art, science, or profession, and especially those expressions which are idiomatic or peculiar to it. For example, in law "Taking the Fifth" means that a person is asserting his or her Fifth Amendment protection against self-incrimination.

Words of limitation. See Limitation.

Words of negotiability. The language used in making an instrument payable to order or to bearer. See U.C.C. §§ 3-110 & 3-111. As applied to documents, language therein providing that the goods are to be delivered to bearer or to the order of a named person. See U.C.C. § 7-104(1)(a).

Words of procreation. To create an estate tail by deed, it is necessary that words of procreation should be used in order to confine the estate to the descendants of the first grantee, as in the usual form of limitation,—“to A. and the heirs of his body.”

Words of purchase. See Purchase.

Work. To exert one's self for a purpose; to put forth effort for the attainment of an object; to be engaged in the performance of a task, duty, or the like. The term covers all forms of physical or mental exertions, or both combined, for the attainment of some object other than recreation or amusement. *Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123*, Ala., 321 U.S. 590, 64 S.Ct. 698, 703, 705, 88 L.Ed. 949.

“Work” or “employ” for purposes of determining employee's right to compensation means physical and mental exertion controlled or required by employer and pursued necessarily and primarily for benefit of employer and business. *Phillips v. Lake County*, 222 Mont. 42, 721 P.2d 326, 334. See also Labor.

Work and labor. The name of one of the common counts in actions of *assumpsit*, being for work and labor done and materials furnished by the plaintiff for the defendant.

Workaway. Extra man employed on vessel as an accommodation to himself. *The Tashmoo*, D.C.N.Y., 48 F.2d 366, 368.

Worker. One who labors; an employee; one employed to do work for another. See also Employee; Servant.

Workers' Compensation Acts. State and federal statutes which provide for fixed awards to employees or their dependents in case of employment related accidents and diseases, dispensing with need by employee to bring legal action and prove negligence on part of the employer. Some of the statutes go beyond the simple determination of the right to compensation, and provide

insurance systems, either under state supervision or otherwise. The various state acts vary as to extent of workers and employment covered, amount and duration of benefits, etc.

The effect of most workers' compensation acts is to make the employer strictly liable to an employee for injuries sustained by the employee which arise out of and in the course of employment, without regard to the negligence of the employer or that of the employee. Where the statute applies, it has been uniformly held that this remedy is exclusive and bars any common-law remedy which the employee may have had, the compensation scheduled under the act being the sole measure of damage.

Federal employees are covered by the Federal Employees Compensation Act; seamen by the Jones Act; longshore and harbor workers by the Longshore and Harbor Workers' Compensation Act. The FECA and LHWCA are administered by the federal Office of Workers' Compensation Programs. Additional benefits to disabled workers are provided under Title II of the Social Security Act.

See also Employers' liability acts.

Workers' compensation boards or courts. Such exist in most states with jurisdiction to review cases arising under workers' compensation acts and related rules and regulations.

Workers' compensation insurance. Insurance coverage purchased by employers to cover risks under workers' compensation laws. Such is usually mandated by state acts, unless the employer is self-insured. See also Insurance.

Work furlough. A prison treatment program that allows inmates to be released during the day to work in the community.

Workhouse. Place of confinement for persons convicted of lesser offenses. Such imprisonment is usually for a relatively short duration.

Working capital. A firm's investment in current assets, such as cash, accounts receivable, inventory, etc. The net working capital is the difference between the current assets and current liabilities. Such represents the amount of cash, materials, and supplies ordinarily required by a business in its day-to-day business operation to meet current expenses and such contingencies as may typically develop. *South Hinds Water Co. v. Mississippi Public Service Com'n*, Miss., 422 So.2d 275, 283.

Working interest. The rights to the mineral interest granted by an oil and gas lease, so-called because the lessee acquires the right to work on the lease property to search, develop and produce oil and gas and the obligation to pay all costs). See also Royalty.

Working papers. Valid employment certificate. By statute in certain states, such document must be filed by one employing a minor; e.g. N.Y. Labor Law, § 132(2). See also Work permit.

In accounting, the records kept by an independent auditor of the procedures followed, tests performed, in-

formation obtained, and conclusions reached pertinent to his or her examination.

Discovery. See Work product rule.

Work-in-process. Products being manufactured or assembled, but not yet completed.

Work made for hire. As defined by the Copyright Act (17 U.S.C.A. § 101), is: (1) a work prepared by an employee within the scope of his or her employment; or (2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

Work of necessity. As excepted from operation of Sunday closing statutes embraces all work reasonably essential to the economic, social or moral welfare of the people, viewed in light of the habits and customs of the age in which they live and of the community in which they reside. *Francisco v. Commonwealth*, 180 Va. 371, 23 S.E.2d 234, 238, 239. See also Sunday closing laws.

Workout. In bankruptcy, an out-of-court negotiation with creditors whereby a debtor enters into an agreement with a creditor or creditors for a payment or plan to discharge the debtor's debt(s).

Term is also used to refer to restructuring or refinancing by banks of nonperforming or overdue loans of creditors.

Work permit. Documentary authorization to work given to an alien by the Immigration and Naturalization Service (INS). It is unlawful for an employer to hire an alien who lacks INS work authorization. Immigration Reform and Control Act of 1986 (IRCA), 8 U.S.C.A. § 1324a(a)(1). See also Working papers.

Work product rule. Under this rule any notes, working papers, memoranda or similar materials, prepared by an attorney in anticipation of litigation, are protected from discovery. Fed.R.Civ.Proc. 26(b)(3). See *Hickman v. Taylor*, 329 U.S. 495, 67 S.Ct. 385, 91 L.Ed. 451. Most states have codified the work product rule in some form either by statute or court rule. This rule has been interpreted to include private memoranda, written statements of witnesses and mental impressions of personal recollections prepared or formed by attorney in anticipation of litigation or for trial. *Com. of Puerto Rico v. S S Zoe Colocotroni*, D.C.Puerto Rico, 61 F.R.D. 653, 658.

Work release program. Correctional programs which allow an inmate to leave the institution for the purpose of continuing regular employment during the daytime, but reporting back to lockup nights and weekends.

Works. A mill, factory, or other establishment for performing manufacturing type labor of any sort; also, a building, structure, or erection of any kind upon land, as in the civil-law phrase "new works."

New works. A term of the civil law comprehending every sort of edifice or other structure which is newly commenced on a given estate or lot. Its importance lies chiefly in the fact that a remedy is given ("denunciation of new works") to an adjacent proprietor whose property would be injured or subjected to a more onerous servitude if such a work were allowed to proceed to completion.

Public works. Works, whether of construction or adaptation, undertaken and carried out by the national, state, or municipal authorities, and designed to subserve some purpose of public necessity, use, or convenience; such as public buildings, roads, aqueducts, parks, etc. All fixed works constructed for public use. The term usually relates to the construction of public improvements and not to their maintenance or operation.

Work week. Within Fair Labor Standards Act, a week during which work is performed. 29 U.S.C.A. § 207.

World. This term sometimes denotes all persons whatsoever who may have, claim, or acquire an interest in the subject-matter; as in saying that a judgment *in rem* binds "all the world."

World Bank. The International Bank for Reconstruction and Development, commonly referred to as the World Bank, is an international financial institution whose purposes include assisting the development of its member nations' territories, promoting and supplementing private foreign investment, and promoting long range balanced growth in international trade. See 22 U.S.C.A. § 286; *Mendaro v. World Bank*, C.A.D.C., 717 F.2d 610.

World Court. See International Court of Justice.

Worldly. Of or pertaining to the world or the present state of existence; temporal; earthly; devoted to, interested in, or connected with this present life, and its cares, advantages, or pleasures, to the exclusion of those of a future life. Concerned with enjoyment of this present existence; secular; not religious; spiritual, or holy.

Worrying cattle or sheep. Within statutes providing that any one finding a dog, not on the premises of its owner, who is worrying cattle or sheep, may kill the dog, means to run after; to chase; to bark at. *Failing v. People*, 105 Colo. 399, 98 P.2d 865, 867. The common law permitted the killing of a trespassing dog if it was found in the act of (1) killing domestic animals, or (2) pursuing or worrying domestic animals in an enclosure. See Cal.Civ. Code § 3341; *Katsaris v. Cook*, 180 Cal. App.3d 256, 271, 225 Cal.Rptr. 531.

Worship. Any form of religious service showing reverence for Divine Being, or exhortation to obedience to or following of the mandates of such Being. Religious exercises participated in by a number of persons assembled for that purpose, the disturbance of which is a statutory offense in many states.

English law. A title of honor or dignity used in addresses to certain magistrates and other persons of rank or office.

Public worship. This term may mean the worship of God, conducted and observed under public authority; or it may mean worship in an open or public place, without privacy or concealment; or it may mean the performance of religious exercises, under a provision for an equal right in the whole public to participate in its benefits; or it may be used in contradistinction to worship in the family or the closet. In this country, what is called "public worship" is commonly conducted by voluntary societies, constituted according to their own notions of ecclesiastical authority and ritual propriety, opening their places of worship, and admitting to their religious services such persons, and upon such terms, and subject to such regulations, as they may choose to designate and establish. A church absolutely belonging to the public, and in which all persons without restriction have equal rights, such as the public enjoy in highways or public landings, is certainly a very rare institution.

Wort or worth. A curtilage or country farm.

Worth. The quality or value of a thing which gives it value. Although "worth" in some connections may mean more than pecuniary value, in law it means that sum of valuable qualities which renders a thing valuable and useful expressed in the current medium of the country. Furnishing an equivalent for. *See also* Net worth; Value.

Worthier title doctrine /wɜːrðiəɹ təɪtəl/. At common law where testator undertook to devise to an heir exactly same interest in land as such heir would take by descent, descent was regarded as the "worthier title" and heir took by descent rather than by devise. *Jones v. Petrie*, 156 Kan. 241, 132 P.2d 396, 398. Doctrine of worthier title provides that conveyance by grantor with limitation over to grantor's heirs creates reversion in grantor, not remainder interest in heirs, and to take by descent rather than by purchase, is said to create a worthier title. *Hatch v. Riggs Nat. Bank, D.C.D.C.*, 284 F.Supp. 396, 397. To the extent that it exists today in the United States, the Doctrine of Worthier Title is a rule of construction. That is, applying it is said to turn on the intention of the transferor.

Worthiest of blood. In the English law of descent, a term applied to males, expressive of the preference given to them over females. *See* 2 Bl.Comm. 234-240.

Worthless. Destitute of worth, of no value or use. *Spring City Foundry Co. v. Commissioner of Internal Revenue*, 292 U.S. 182, 54 S.Ct. 644, 78 L.Ed. 1200.

Worthless check. A check drawn on a bank account which is no longer open or on an account with funds insufficient to cover the check.

Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft as aforesaid, that the maker or drawer has no deposit in or credits with

such bank or depository or has not sufficient funds in, or credits with, such bank or depository for the payment of such check, order or draft in full upon its presentation. Such act is a misdemeanor in most states. *See e.g. Model Penal Code, § 224.5. See also* Bad check; check kiting.

Worthless securities. A loss (usually capital) is allowed for a security that becomes worthless during the year. The loss is deemed to have occurred on the last day of the year. Special rules apply to securities of affiliated companies and small business stock. *See* I.R.C. § 165.

Worthy. Having worth; possessing merit; valuable; deserving of honor, or the like; of high station; of high social position; deserved, merited. *Woodstown Nat. Bank and Trust Co. v. Snelbaker*, 136 N.J.Eq. 62, 40 A.2d 222, 227.

Would. A word sometimes expressing what might be expected or preferred or desired. Often interchangeable with the word "should," but not with "could."

Wound, n. An injury to the body of a person or animal, especially one caused by violence, by which the continuity of the covering, as skin, mucous membrane, or conjunctiva, is broken. Any breaking up or dispersion, or disintegration of the natural continuity of a tissue of the body. *Gasperino v. Prudential Ins. Co. of America*, Mo.App., 107 S.W.2d 819, 827. Also injuries of every kind which affect the body, whether they are cuts, lacerations, fractures, or bruises. Any lesion of the body.

Wound, v. To inflict a laceration, cut, fracture or bruise.

Wounded feelings. Such as result from indignities to self-respect, sensibilities, or pride of a person, as distinguished from usual mental pain and suffering consequent to physical injury. *See also* Mental cruelty.

Wounding. An aggravated species of assault and battery, consisting in one person giving another some dangerous hurt. 3 Bl.Comm. 121.

Wraparound mortgage. A second mortgage which wraps around or exists in addition to a first or other mortgages. Form of secondary financing typically used on older properties having first mortgages with low interest rates in which a lender assumes the developer's first mortgage obligation and also loans additional money, taking back from developer a junior mortgage in total amount at an intermediate interest rate. *ICM Realty v. Cabot, Cabot & Forbes Land Trust, D.C.N.Y.*, 378 F.Supp. 918, 923.

Wrath. Not merely anger, but violent anger.

Wreccum maris significat illa bona quæ naufragio ad terram pelluntur /rɛkəm mæɹəs signɪfɪkət ɪlə bɔwnə kwɪy nofrɛj(i)ow əd tɛhrəm peləntər/. A wreck of the sea signifies those goods which are driven to shore from a shipwreck.

Wreck. To destroy, disable, or seriously damage. To reduce to a wreck or ruinous state by any kind of violence; to overthrow, shatter, or destroy; to cause to crash or suffer ruin, synonymous with ruin, smash, and

demolish. Its antonyms are save, salvage, and preserve. Destruction, disorganization, or serious injury of anything, especially by violence. *Houston Printing Co. v. Hunter*, Tex.Civ.App., 105 S.W.2d 312, 317.

Goods cast ashore by the sea, and not claimed by the owner within a year, or other specified period; which, in such case, become the property of the state. The term applies to property cast upon land by the sea; to jetsam, flotsam, and ligan.

Common law. Goods cast ashore from a wrecked vessel, where no person has escaped from the wreck alive; and which are forfeited to the crown, or to persons having the franchise of wreck. But if claimed by the true owner within a year and a day the goods, or their proceeds, must be restored to him, by virtue of stat.

Maritime law. A ship becomes a wreck when, in consequence of injuries received, she is rendered absolutely un navigable, or unable to pursue her voyage, without repairs exceeding the half of her value. *Wood v. Lincoln & Kennebeck Ins. Co.*, 6 Mass. 479, 482. A "wrecked vessel," however, in common phraseology, includes a sunken vessel. 33 U.S.C.A. § 409 prescribes the duties of owners of wrecked vessels.

Wreckfree. In old English law, exempt from the forfeiture of shipwrecked goods and vessels to the king.

Wrench. Violent twist; a sprain and injury by twisting as in a joint. *Traders & General Ins. Co. v. Lincecum*, Tex.Civ.App., 126 S.W.2d 692, 695. See also Whiplash injury.

Wrinkle. A stria; furrow; channel; hollow; depression; rut; cup; pocket; dimple.

Writ. A written judicial order to perform a specified act, or giving authority to have it done, as in a writ of mandamus or certiorari, or as in an "original writ" for instituting an action at common law. A written court order or a judicial process, directing that a sheriff or other judicial officer do what is commanded by the writ; or giving authority and commission to have it done. See also Order; Prerogative writs; Process.

In old English law, an instrument in the form of a letter; a letter or letters of attorney. This is a very ancient sense of the word.

In the old books, "writ" is used as equivalent to "action;" hence writs are sometimes divided into real, personal, and mixed.

For the names and description of various particular writs, see the titles below.

Alias writ. A second writ issued in the same cause, where a former writ of the same kind has been issued without effect.

All Writs Act. Federal Act which permits federal appellate courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C.A. § 1651.

Close writ. In English law, a name given to certain letters of the sovereign, sealed with his great seal and directed to particular persons and for particular pur-

poses, which, not being proper for public inspection, were closed up and sealed on the outside; also, a writ directed to the sheriff instead of to the lord. 2 Bl. Comm. 346.

Concurrent writs. In England, duplicate originals, or several writs running at the same time for the same purpose, for service on or arrest of a person, when it is not known where he is to be found; or for service on several persons, as when there are several defendants to an action.

Judicial writs. In English practice, the *capias* and all other writs subsequent to the original writ not issuing out of chancery, but from the court to which the original was returnable. Being grounded on what had passed in that court in consequence of the sheriff's return, they were called *judicial* writs, in contradistinction to the writs issued out of chancery, which were called *original* writs. 3 Bl.Comm. 282. Such writs as issue under the private seal of the courts, and not under the great seal of England, and are tested or witnessed, not in the king's name, but in the name of the chief judge of the court out of which they issue. The word "judicial" is used in contradistinction to "original;" original writs being such as issue out of chancery under the great seal, and are witnessed in the king's name. 3 Bl.Comm. 282.

Junior writ. One which is issued, or comes to the officer's hands, at a later time than a similar writ, at the suit of another party, or on a different claim, against the same defendant.

Original writ. In English practice, an original writ was the process formerly in use for the commencement of personal actions. It was a mandatory letter from the king, issuing out of chancery, sealed with the great seal, and directed to the sheriff of the county wherein the injury was committed, or was supposed to have been committed, requiring him to command the wrong-doer or accused party either to do justice to the plaintiff or else to appear in court and answer the accusation against him. This writ is now disused, the writ of summons being the process prescribed by the uniformity of process act for commencing personal actions; and under the judicature act, 1873, all suits, even in the court of chancery, are to be commenced by such writs of summons.

Patent writ. In old practice, an open writ; one not closed or sealed up.

Peremptory writ. An original writ, called from the words of the writ a "*si te fecerit securum*," and which directed the sheriff to cause the defendant to appear in court without any option given him, provided the plaintiff gave the sheriff security effectually to prosecute his claim. The writ was very occasionally in use, and only where nothing was specifically demanded, but only a satisfaction in general; as in the case of writs of trespass on the case, wherein no debt or other specific thing was sued for, but only damages to be assessed by a jury.

Prerogative writs. Those issued by the exercise of the extraordinary power of the crown (the court, in modern

practice) on proper cause shown; namely, the writs of *procedendo*, *mandamus*, *prohibition*, *quo warranto*, *habeas corpus*, and *certiorari*.

Writ system. The common-law procedural system, under which plaintiffs commenced most actions by obtaining the appropriate kind of original writ. This pigeonholed approach shaped both procedural and substantive law. *See* Forms of action.

Writ de ejectione firmæ /rit diy əjèkshiyówniy fármiy/. *See* Ejectione firmæ.

Writ de hæretico comburendo /rit diy hæréta'kòw kòmbərəndow/. *See* De hæretico comburendo.

Writ de homine replegiando /rit diy hòmnəniy rəpliyjiyəndow/. *See* De homine replegiando.

Writ de odio et atia /rit diy ówdiyow èd éysh(iy)ə/. *See* De odio et atia.

Writ de rationabili parte bonorum /rit diy ràsh(iy)ənéybalay pártiy bow'nórəm/. *See* De rationabili parte bonorum.

Write-down. In accounting, to transfer a portion of the balance of an asset to an expense account due to a decrease in the value of an asset. *See also* Write-off.

Write-off. To remove from the books of account an asset which has become worthless. Most often referred to in connection with accounts or notes receivable which are deemed worthless or uncollectible. *See* Bad debt.

Writer of the tallies /ráytər əv ðə táliyz/. In England, an officer of the exchequer whose duty it was to write upon the tallies the letters of tellers' bills.

Write-up. To increase the valuation of an asset in a financial statement to reflect current value. With a few exceptions, this is not generally permitted in accounting.

Writing. The expression of ideas by letters visible to the eye. The giving an outward and objective form to a contract, will, etc., by means of letters or marks placed upon paper, parchment, or other material substance.

Any intentional reduction to tangible form of an agreement, commitment, right to payment, property rights, or other abstraction. *See* U.C.C. § 1-201(46) (definition of "written" or "writing").

In the most general sense of the word, "writing" denotes a document, whether manuscript or printed, as opposed to mere spoken words. Writing is essential to the validity of certain contracts and other transactions.

"Writings" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation. *Fed.Evid.R.* 1001(1).

"Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pic-

tures, sounds, or symbols, or combinations thereof. *Calif.Evid.Code*, § 250.

See also Ancient writings; Instrument.

Writing obligatory. The technical name by which a *bond* is described in pleading.

Writ of ad quod damnum /rid əv ád kwòd dámnəm/. *See* Ad quod damnum.

Writ of assistance. Writs of Assistance exist to enforce judgment of court directing specific act. *Matter of Lease Cancellation of Smith*, 68 Hawaii 466, 719 P.2d 397, 401. An equitable remedy normally used to transfer real property, the title of which has been previously adjudicated, as a means of enforcing the court's own decree. *TeWalt v. TeWalt*, Ind.App., 421 N.E.2d 415, 418. It is essentially a mandatory injunction, the effect of which is to bring about a change in the possession of realty; it dispossesses the occupant and gives possession to one adjudged entitled thereto by the court. *Dusbabek v. Local Building & Loan Ass'n*, 178 Okl. 592, 63 P.2d 756, 759.

Despite merger of law and equity in rules practice, provision is made for writ of assistance in *Fed.R.Civ.P.* 70.

Ancient writs issuing from the Court of Exchequer ordering sheriffs to assist in the collection of debts owed the Crown. Prior to the American Revolution, the writs of assistance gave agents of the Crown in the American colonies the right to search for smuggled goods without any limitations.

Writ of association. In English practice a writ whereby certain persons (usually the clerk of assize and his subordinate officers) are directed to associate themselves with the justices and serjeants; and they are required to admit the said persons into their society in order to take the assizes. 3 *Bl.Comm.* 59.

Writ of attachment. An order to seize a debtor's property so as to secure the claim of a creditor. A writ employed to enforce obedience to an order or judgment of the court. It may take the form of taking or seizing property to bring it under control of the court. In its generic sense, any mesne civil process in the nature of a writ on which property may be attached, including trustee process. *See also* Attachment.

Writ of capias. *See* Capias.

Writ of certiorari. An order by the appellate court which is used by that court when it has discretion on whether or not to hear an appeal from a lower court. If the writ is denied, the court refuses to hear the appeal and, in effect, the judgment below stands unchanged. If the writ is granted, then it has the effect of ordering the lower court to certify the record and send it up to the higher court which has used its discretion to hear the appeal. *See also* Certiorari.

In the U.S. Supreme Court, a review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therefor. 28 *U.S.C.A.* §§ 1254, 1257; *Sup.Ct.Rules* 10 et seq.

Writ of conspiracy. A writ which anciently lay against persons who had conspired to injure the plaintiff, under the same circumstances which would now give him an action on the case. It did not lie at common law, in any case, except when the conspiracy was to indict the party either of treason or felony; all the other cases of conspiracy in the books were but actions on the case.

Writ of coram nobis. See Coram nobis.

Writ of covenant. A writ which lies where a party claims damages for breach of covenant; *i.e.*, of a promise under seal.

Writ of debt. A writ which lies where the party claims the recovery of a debt; *i.e.*, a liquidated or certain sum of money alleged to be due to him.

Writ of deceit. The name of a writ which lies where one man has done anything in the name of another, by which the latter is damnified and deceived.

Writ of delivery. A writ of execution employed to enforce a judgment for the delivery of chattels. It commands the sheriff to cause the chattels mentioned in the writ to be returned to the person who has obtained the judgment; and, if the chattels cannot be found, to distrain the person against whom the judgment was given until he returns them.

Writ of detinue /rid əv dɛtən(y)uw/. A writ which lies where a party claims the specific recovery of goods and chattels, or deeds and writings, detained from him. This is seldom used; trover is the more frequent remedy, in cases where it may be brought.

Writ of dower. This is either a writ of dower *unde nihil habet*, which lies for a widow, commanding the tenant to assign her dower, no part of which has yet been set off to her; or a writ of *right of dower*, whereby she seeks to recover the remainder of the dower to which she is entitled, part having been already received from the tenant. This latter writ is seldom used.

Writ of ejectment. The writ in an action of ejectment, for the recovery of lands. See Ejectment.

Writ of entry. A real action to recover the possession of land where the tenant (or owner) has been disseised or otherwise wrongfully dispossessed. If the disseisor has aliened the land, or if it has descended to his heir, the writ of entry is said to be in the *per*, because it alleges that the defendant (the alienee or heir) obtained possession *through* the original disseisor. If two alienations (or descents) have taken place, the writ is in the *per* and *cui*, because it alleges that the defendant (the second alienee) obtained possession *through* the first alienee, *to whom* the original disseisor had aliened it. If more than two alienations (or descents) have taken place, the writ is in the *post*, because it simply alleges that the defendant acquired possession *after* the original disseisin. 3 Bl.Comm. 180. The writ of entry was abolished, with other real actions, in England, by St. 3 & 4 Wm. IV, c. 27, § 36, but is still in use in a few of the states. Under rules practice, such writ has been abolished in favor of a civil action which grants similar relief, *e.g.* Mass.R. Civ.P. 81(b). See also Entry, writ of.

Writ of error. A writ issued from a court of appellate jurisdiction, directed to the judge or judges of a court of record, requiring them to remit to the appellate court the record of an action before them, in which a final judgment has been entered, in order that examination may be made of certain errors alleged to have been committed, and that the judgment may be reversed, corrected, or affirmed, as the case may require. It is brought for supposed error in law apparent on record and takes case to higher tribunal, which affirms or reverses. It is commencement of new suit to set aside judgment, and is not continuation of suit to which it relates. *Winchester v. Winn*, 225 Mo.App. 288, 29 S.W.2d 188, 190. And unless abolished by statute, is writ of right applicable to all cases in which jurisdiction is exercised according to course of common law, but is inapplicable to cases not known to or in derogation of common law, unless otherwise provided by statute. See also Writ of error coram nobis; Writ of error coram vobis.

Writ of error coram nobis /rit əv ɛhrər kórəm nówbəs/. See Coram nobis.

Writ of error coram vobis /rit əv ɛhrər kórəm vówbəs/. This writ, at the English common law, is distinguished from "writ of error coram nobis," in that the former issued from the Court of King's Bench to a judgment of the Court of Common Pleas, whereas the latter issued from the Court of King's Bench to a judgment of that court. See also Coram vobis.

Writ of execution. A writ to put in force the judgment or decree of a court. Formal, written command of a court directing a sheriff or other official to enforce a judgment through process of execution. See Execution; Pluries; Writs of execution.

Writ of exigi facias /rit əv ɛgzəjay féysh(iy)əs/. See Exigent.

Writ of formedon /rit əv fórmədən/. A writ which lies for the recovery of an estate by a person claiming as issue in tail, or by the remainder-man or reversioner after the termination of the entail. See Formedon.

Writ of habeas corpus. See Habeas corpus.

Writ of inquiry. In common-law practice, a writ which issued after the plaintiff in an action had obtained a judgment by default, on an unliquidated claim, directing the sheriff, with the aid of a jury, to inquire into the amount of the plaintiff's demand and assess his damages.

Writ of mainprize, or mainprise /rit əv méynpráyz/. In English law, a writ directed to the sheriff (either generally, when any man is imprisoned for aailable offense and bail has been refused, or specially, when the offense or cause of commitment is not properlyailable below), commanding him to take sureties for the prisoner's appearance, commonly called "mainperners," and to set him at large. 3 Bl.Comm. 128. See also Mainprise.

Writ of mandamus. See Mandamus.

Writ of mesne /rit əv míyn/. In old English law, a writ which was so called by reason of the words used in the

writ, namely, "*Unde idem A. qui medius est inter C. et profatum B.*"; that is, A., who is mesne between C., the lord paramount, and B., the tenant paravail. *See also Process (Mesne process).*

Writ of possession. Writ of execution employed to enforce a judgment to recover the possession of land. It commands the sheriff to enter the land and give possession of it to the person entitled under the judgment. For a distinction between this writ and the Writ of assistance, see that title. *See also Ejectment.*

Writ of præcipe /rit əv prɛsəpiy/. This writ is also called a "writ of covenant," and is sued out by the party to whom lands are to be conveyed by fine, the foundation of which is a supposed agreement or covenant that the one shall convey the land to the other. 2 Bl.Comm. 349.

Writ of prevention. This name is given to certain writs which may be issued in anticipation of suits which may arise. *See Quia timet.*

Writ of process. *See Action; Process.*

Writ of proclamation. In English law, by the statute 31 Eliz., c. 3, § 1, when an *exigent* was sued out, a writ of proclamation issued at the same time, commanding the sheriff of the county where the defendant lived to make three proclamations thereof, in places the most notorious, and most likely to come to his knowledge, a month before the outlawry was to take place. 3 Bl.Comm. 284.

When it was not directed to the same sheriff as the *exigent* was, it was called a foreign writ of proclamation.

Writ of prohibition. *See Prohibition.*

Writ of protection. In England, the king may, by his writ of protection, privilege any person in his service from arrest in civil proceedings during a year and a day; but this prerogative is seldom, if ever, exercised.

Writ of quare impedit. *See Quare impedit.*

Writ of quo warranto. *See Quo warranto.*

Writ of reCAPTION. If, pending an action of replevin for a distress, the defendant distrains again for the same rent or service, the owner of the goods is not driven to another action of replevin, but is allowed a writ of reCAPTION, by which he recovers the goods and damages for the defendant's contempt of the process of the law in making a second distress while the matter is *sub judice*.

Writ of replevin. *See Replevin.*

Writ of restitution. A writ which is issued on the reversal of a judgment commanding the sheriff to restore to the defendant below the thing levied upon, if it has not been sold, and, if it has been sold, the proceeds. A writ which lies, after the reversal of a judgment, to restore a party to all that he has lost by occasion of the judgment. *See also Restitution.*

Writ of review. A general designation of any form of process issuing from an appellate court and intended to bring up for review the record or decision of the court below. *See Writ of certiorari.*

Writ of right. A writ which is grantable as a matter of right, as opposed to a "prerogative writ," which is issued only as a matter of grace or discretion. A writ which lay for one who had the right of property, against another who had the right of possession and the actual occupation. The writ properly lay only to recover corporeal hereditaments for an estate in fee-simple; but there were other writs, said to be "in the nature of a writ of right," available for the recovery of incorporeal hereditaments or of lands for a less estate than a fee-simple. 3 Bl.Comm. 391.

In England, the writ of right was abolished in 1833.

Writ of summons. The writ by which, under the English judicature acts, all actions are commenced. *See Summons.*

Writ of supersedeas /rit əv s(y)ʊwpərsiydiyas/. *See Supersedeas.*

Writ of supervisory control. A writ which is issued only to correct erroneous rulings made by the lower court within its jurisdiction, where there is no appeal, or the remedy by appeal cannot afford adequate relief, and gross injustice is threatened as the result of such rulings. It is in nature of summary appeal to control course of litigation in trial court when necessary to prevent miscarriage of justice, and may be employed to prevent extended and needless litigation. *State ex rel. Regis v. District Court of Second Judicial Dist. in and for Silver Bow County, 102 Mont. 74, 55 P.2d 1295.*

Function of "writ of supervisory control" is to enable Supreme Court to control course of litigation in inferior courts where such courts are proceeding within their jurisdiction, but by mistake of law, or willful disregard of it, are doing gross injustice, and there is no appeal or remedy by appeal is inadequate. *State ex rel. State Bank of Townsend v. District Court of First Judicial Dist. in and for Lewis and Clark County, 94 Mont. 551, 25 P.2d 396.*

Writ of tolt. In old English law, the name of a writ to remove proceedings on a writ of right patent from the court-baron into the county court.

Writ of trial. In English law, a writ directing an action brought in a superior court to be tried in an inferior court or before the undersheriff, under St. 3 & 4 Wm. IV, c. 42. It was superseded by the county courts act of 1867, c. 142, § 6, by which a defendant, in certain cases, became enabled to obtain an order that the action be tried in a county court.

Writ of waste. The name of a writ to be issued against a tenant who has committed waste of the premises. There were anciently several forms of this writ, adapted to the particular circumstances.

Writ pro retorno habendo /rit pròw rətórnòw həbéndow/. A writ commanding the return of the goods to the defendant, upon a judgment in his favor in replevin, upon the plaintiff's default.

Written contract. *See Contract.*

Written instrument. Something reduced to writing as a means of evidence, and as the means of giving formal expression to some act or contract. *See* Instrument.

Written law. Statutory law; *i.e.* law deriving its force from express legislative enactment. Also, a constitution or treaty. *See* Common law; Constitution; Statute; Treaty.

One of the two leading divisions of the Roman law, comprising the *leges, plebiscita, senatus-consulta, principum placita, magistratum edicta, and responsa prudentum.*

Wrong. A violation of the legal rights of another; an invasion of right to the damage of the parties who suffer it, especially a tort. State ex rel. and to Use of Donelon v. Deuser, 345 Mo. 628, 134 S.W.2d 132, 133. It usually signifies injury to person, property or relative noncontractual rights of another than wrongdoer, with or without force, but, in more extended sense, includes violation of contract. Daurizio v. Merchants' Despatch Transp. Co., 152 Misc. 716, 274 N.Y.S. 174. *See* Tort.

The idea of *rights* naturally suggests the correlative one of *wrongs*; for every right is capable of being violated. A right to receive payment for goods sold (for example) implies a wrong on the part of him who owes, but withholds the price; a right to live in personal security, a wrong on the part of him who commits personal violence. And therefore, while, in a general point of view, the law is intended for the establishment and maintenance of *rights*, we find it, on closer examination, to be dealing both with rights and wrongs. It first fixes the character and definition of rights, and then, with a view to their effectual security, proceeds to define wrongs, and to devise the means by which the latter shall be prevented or redressed.

Private wrong. The violation of public or private rights, when considered in reference to the injury sustained by the individual, and consequently as subjects for civil redress or compensation. Huntington v. Attrill, 146 U.S. 657, 13 S.Ct. 224, 36 L.Ed. 1123. *See* Tort.

Public wrongs. Violations of public rights and duties which affect the whole community, considered as a community; crimes and misdemeanors. 3 Bl.Comm. 2; 4 Bl.Comm. 1.

Real wrong. In old English law, an injury to the freehold.

Wrongdoer. One who commits an injury; a *tort-feasor*. The term ordinarily imports an invasion of right to the damage of the party who suffers such invasion.

Wrongful. Injurious, heedless, unjust, reckless, unfair; it implies the infringement of some right, and may result from disobedience to lawful authority. Buhler v. Marrujo, 86 N.M. 399, 524 P.2d 1015, 1019. *See also* Tort.

Wrongful abuse of process. *See* Abuse (*Process*); Malicious abuse of legal process.

Wrongful act. Any act which in the ordinary course will infringe upon the rights of another to his damage,

unless it is done in the exercise of an equal or superior right. Term is occasionally equated to term "negligent," but generally has been considered more comprehensive term, including criminal, wilful, wanton, reckless and all other acts which in ordinary course will infringe upon rights of another to his damage. County of DuPage v. Kussel, 12 Ill.App.3d 272, 298 N.E.2d 323, 326.

Wrongful birth. A medical malpractice claim brought by the parents of an impaired child, alleging that negligent treatment or advice deprived them of the opportunity to avoid conception or terminate the pregnancy. Bruggeman By and Through Bruggeman v. Schimke, 239 Kan. 245, 718 P.2d 635, 638. *See also* Wrongful conception; Wrongful life.

Wrongful conception. Also know as wrongful pregnancy, it is a claim by parents for damages arising from the negligent performance of a sterilization procedure or abortion, and the subsequent birth of a child. Miller v. Johnson, 231 Va. 177, 343 S.E.2d 301, 304. *See also* Wrongful birth; Wrongful life.

Wrongful conduct. Conduct which contravenes some duty which law attaches to relation between parties affected. Duncan v. Lumbermen's Mut. Casualty Co., 91 N.H. 349, 23 A.2d 325, 326.

Wrongful death action. Type of lawsuit brought on behalf of a deceased person's beneficiaries that alleges that death was attributable to the willful or negligent act of another. Such action is original and distinct claim for damages sustained by statutory beneficiaries and is not derivative of or continuation of claim existing in decedent. Barragan v. Superior Court of Pima County, 12 Ariz.App. 402, 470 P.2d 722, 724. *See* Kilberg doctrine; Wrongful death statutes.

Wrongful death statutes. Such statutes, which exist in all states, provide a cause of action in favor of the decedent's personal representative for the benefit of certain beneficiaries (*e.g.* spouse, parent, children) against person who negligently caused death of spouse, child, parent, etc. Statutory provision which operates upon the common-law rule that the death of a human being may not be complained of as an injury in a civil court. The cause of action for wrongful death permitted under such statutes is for the wrong to the beneficiaries. Most such statutes are compensatory though some states retain statutes which measure damages in terms of culpability and some statutes reflect a combination of both. *See also* Death on High Seas Act; Lord Campbell Act; Survival statutes; Unborn child; Wrongful death action.

Wrongful discharge. An at-will employee's cause of action against his former employer, alleging that his discharge was in violation of state or federal anti-discrimination statutes (*cf.* 42 U.S.C.A. §§ 2000e to 2000e-17), public policy (Morris v. Hartford Courant Co., 200 Conn. 676, 513 A.2d 66, 68), an implied employment contract (Woolley v. Hoffman-LaRoche, Inc., 99 N.J. 284, 491 A.2d 1257), or an implied covenant of good faith and fair dealing (Cleary v. American Airlines, Inc., 111

Cal.App.3d 443, 168 Cal.Rptr. 722, 729). *See also* Employment at will; Whistle-blower Acts.

Wrongful dishonor. *See* Dishonor.

Wrongful levy. Such as will entitle the owner of property levied on to damages for wrongful execution, exists where there has been done to a third person's personalty those acts that would constitute a valid and complete levy if the debtor's property had been seized. *Farris v. Castor*, 186 Okl. 668, 99 P.2d 900, 902, 903.

Wrongful life. Refers to type of medical malpractice claim brought on behalf of a child born with birth defects, alleging that the child would not have been born but for negligent advice to, or treatment of, the parents. *Azzolino v. Dingfelder*, 315 N.C. 103, 337 S.E.2d 528, 532. *See also* Wrongful birth; Wrongful conception.

Wrongfully. In a wrong manner; unjustly; in a manner contrary to the moral law, or to justice. *See also* Wrongful.

Wrongfully intending. In the language of pleading, this phrase is appropriate to be used in alleging the malicious motive of the defendant in committing the injury which forms the cause of action.

W-2 form. A statement of earnings and taxes withheld (including federal, state, and local income taxes and FICA tax) during the year, prepared for and provided to each employee and also filed with the Internal Revenue Service by employer.

Wurth /wúrθ/. In Saxon law, worthy; competent; capable. *Atheswurthe*, worthy of oath; admissible or competent to be sworn.

Wye /wáy/. As applied to a street railway, a "wye" means a track with two branches, one joining the main track from one direction and the other joining the main track from another direction.

Wyte /wáyt/. In old English law, acquittance or immunity from amercement.

X

X. In the written terminology of various arts and trades, where two or more dimensions of the same piece or article are to be stated, this letter is a well-known symbol equivalent to the word "by." Thus, the formula "3 x 5 in." will be understood, or may be explained by parol evidence, to mean "three by five inches," that is, measuring three inches in one direction and five in another.

A mark used in place of a signature by one who is unable to otherwise affix his or her signature. *See* Mark.

Symbol used in financial newspapers to indicate that a stock is trading *ex dividend* (*i.e.* without dividend).

Xenodochium /zenədokáyəm/°dókiyəm/. In the civil and old English law, an inn allowed by public license, for the entertainment of strangers, and other guests. Also, a hospital; a place where sick and infirm persons are taken care of.

Xenodochy /zénədòkiy/. Reception of stranger; hospitality.

Xylon /záylon/. A punishment among the Greeks answering to stocks.

Y

Ya et nay. In old records, mere assertion and denial, without oath. *See also* Yea and nay.

Yard. A measure of length, containing three feet, or thirty-six inches.

A piece of land inclosed for the use and accommodation of the inhabitants of a house. Grounds of building or group of buildings.

An enclosure, with or without buildings, devoted to some work or business.

Yardland, or virgata terræ /vərgéytə téhriy/. A quantity of land, said by some to be twenty acres, but by Coke to be of uncertain extent.

Yea and nay. Yes and no. According to a charter of Athelstan, the people of Ripon were to be believed in all actions or suits upon their yea and nay, without the necessity of taking any oath. *See also* Yeas and nays.

Year. The period in which the revolution of the earth round the sun, and the accompanying changes in the order of nature, are completed. Generally, when a statute speaks of a year, twelve calendar, and not lunar, months are intended. The year is either astronomical, ecclesiastical, or regnal, beginning on the 1st of January, or 25th of March, or the day of the sovereign's accession.

The civil year differs from the astronomical, the latter being composed of three hundred and sixty-five days, five hours, forty-eight minutes, forty-six seconds and a fraction, while the former consists sometimes of three hundred and sixty-five days, and at others, in leap-years, of three hundred and sixty-six days.

When the period of a "year" is named, a calendar year is generally intended, but the subject-matter or context of statute or contract in which the term is found or to which it relates may alter its meaning.

See also Current year; Fiscal year; Taxable year.

Calendar year. *See* Calendar.

Natural year. In old English law, that period of time in which the sun was supposed to revolve in its orbit, consisting of 365 days and one-fourth of a day, or six hours.

Year and day. This period was fixed for many purposes in law. Thus, in the case of an estray, if the owner did not claim it within that time, it became the property of the lord. So the owners of wreck must claim it within a year and a day. Death must follow upon wounding within a year and a day if the wounding is to be indicted as murder. Also, a year and a day were given for

prosecuting or avoiding certain legal acts; *e.g.*, for bringing actions after entry, for making claim for avoiding a fine, etc. *See also* Year and a day rule.

Year Books. Books of reports of cases in a regular series from the reign of the English King Edward I, inclusive, to the time of Henry VIII, which were taken by the prothonotaries or chief scribes of the courts, at the expense of the crown, and published annually; whence their name, "Year Books."

Year, day, and waste. In English law, an ancient prerogative of the king, whereby he was entitled to the profits, for a year and a day, of the lands of persons attainted of petty treason or felony, together with the right of wasting the tenements, afterwards restoring the property to the lord of the fee. Abrogated by St. 54 Geo. III, c. 145. *See* An, jour, et waste.

Year of Our Lord. In England the time of an offense may be alleged as that of the sovereign's reign, or as that of the year of our Lord. The former is the usual mode. Hence there "year" alone might not indicate the time intended, but as we have no other era, therefore, any particular year must mean that year in our era. The abbreviation A.D. may be omitted; and the word year is not fatal.

Year to year, tenancy from. This estate arises either expressly, as when land is let from year to year; or by a general parol demise, without any determinate interest, but reserving the payment of an annual rent; or impliedly, as when property is occupied generally under a rent payable yearly, half-yearly, or quarterly; or when a tenant holds over, after the expiration of his term, without having entered into any new contract, and pays rent (before which he is tenant on sufferance). *See also*, Tenant (*Tenant from year to year.*)

Years, estate for. *See* Estate for years.

Year and a day rule. At common law, death could not be attributed to defendant's wrongful conduct unless it occurred within a year and a day of the conduct. The rationale for this rule was the lack of medical precision in determining cause after such a long period of time, coupled with the very real probability of an intervening cause being responsible for the death. In view of the medical advances of the twentieth century, it can be argued that the year and a day rule is obsolete and should be discarded. Although some jurisdictions have done this either by legislation or judicial decision, most jurisdictions have not. *See* Elliott v. Mills, Okl.Cr.App., 335 P.2d 1104.

Year Books. Books made up of reports of English cases from Edward II, 1292, to Henry VIII, early in the sixteenth century. They constitute an important source of information on the early English common law.

Yearly. See Annual; Annually.

Year of mourning. The Roman "annus luctus" (*q.v.*).

The reason for the widow's year of mourning has been stated as follows: "But if a man dies, and his widow soon after marries again, and a child is born within such a time as by the course of nature it might have been the child of either husband, in this case he is said to be more than ordinarily legitimate; for he may, when he arrives at years of discretion, choose which of the fathers he pleases. To prevent this, the civil law ordained that no widow should marry for one year, and the same constitution was probably transmitted to our ancestors from the Romans, during their stay in Britain, for we find it established under the Saxon and Danish governments." 1 Bl.Comm. 456.

Year to year tenancy. See Tenancy.

Yeas and nays. The affirmative and negative votes on a bill or measure before a legislative assembly. "Calling the yeas and nays" is calling for the individual and oral vote of each member, usually upon a call of the roll.

Yellow dog contract. An employment practice by which employer requires employee to sign an agreement promising as condition of employment that he will not join a union, and will be discharged if he does join. Such contracts are prohibited by the National Labor Relations Act, the Norris LaGuardia Act, the Railway Labor Act, and as well by the laws of most states. 29 U.S.C.A. § 103.

Yellow journalism. Type of journalism which distorts and exploits the news by sensationalism in order to sell copies of the newspapers or magazines.

Yeme /yíym/. In old records, winter; a corruption of the Latin "hiems".

Yeoman /yówmən/. In English law, a commoner; a freeholder under the rank of gentleman. A man who has free land of forty shillings by the year; who was anciently thereby qualified to serve on juries, vote for knights of the shire, and do any other act, where the law requires one that is *probus et legalis homo*. 1 Bl.Comm. 406, 407.

This term is occasionally used in American law, but without any definite meaning, except in the United States navy, where it designates an appointive petty officer who performs clerical duties usually associated with office workers.

Yeomanry /yówmənri/. The collected body of yeomen.

Yeomen of the guard. Properly called "yeomen of the guard of the royal household;" a body of men of the best rank under the gentry, and of a larger stature than ordinary, every one being required to be six feet high.

Yeven, or yeoven /yívn/. Given; dated.

Yick Wo doctrine. Doctrine which takes its name from the case of *Yick Wo v. Hopkins*, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220, to the effect that a law or ordinance which gives a person or body of persons absolute discretion to give or withhold permission to carry on a lawful business is in violation of the 14th Amendment, U.S. Const.

Yiddish. A Middle High German dialect, or number of dialects, spoken by Jews, containing a large number of Germanized Hebrew words, and using Hebrew characters for its literature.

Yield. To give up, relinquish, or surrender.

Current return from an investment or expenditure as a percentage of price of investment or expenditure. The stock dividends or bond interest paid expressed as a percentage of the current price. As to bonds or stock, is coupon or dividend rate divided by purchase price. See also Net yield; Rate (*Rate return*).

In old English law, to perform a service due by a tenant to his lord. Hence the usual form of reservation of a rent in a lease began with the words "yielding and paying."

Current yield. On bonds, the annual interest paid divided by the current market price of the bond. As interest rates fall, the market price of the bond rises; as they rise, bond prices fall. The actual rate of return on a bond. For example, a 10% bond with a face value of \$500 purchased for \$450 earns \$50 of interest in the first year. The current yield on the bond is 11.11% while the coupon rate on the bond remains at 10%.

Nominal yield. The annual income received from a fixed-income security divided by the par or face value of the security. It is stated as a percentage figure.

Yield spread. Yield differences between various issues of securities.

Yield to maturity. On bonds, a complex calculation that reflects the overall rate of return an investor would receive from a bond if the bond is held to maturity and the interest payments reinvested at the same rate. It takes into account purchase price, coupon yield, time to maturity and the time between interest payments.

Yielding and paying. In conveyancing, the initial words of that clause in leases in which the rent to be paid by the lessee is mentioned and reserved.

Yield upon investment. See Yield.

Yokelet /yówklət/. A little farm, requiring but a yoke of oxen to till it.

Yom Kippur. Day of Atonement; is the most sacred and solemn holiday in the Jewish calendar, a day on which Jews throughout the world, after a period of fasting, congregate together at their respective synagogues to worship and pray and ask divine forgiveness for sins committed during the year. *Hoffman v. Graber*, Mo.App., 153 S.W.2d 817, 818.

York-Antwerp rules /yórk ántwərp rūwłz/. Certain rules relating to uniform bills of lading and also govern-

ing settlement of maritime losses among the several interests such as ship owners, cargo owners, etc. These rules are commonly incorporated in contracts of affreightment. They are the result of conferences of representatives of mercantile interests from several countries, in the interest of uniformity of law. They have no statutory authority.

York, Custom of. A custom of the province of York in England, by which the effects of an intestate, after payment of his debts, were in general divided according to the ancient universal doctrine of the *pars rationabilis*; that is, one-third each to the widow, children, and administrator. 2 Bl.Comm. 518.

York, Statute of. An important English statute passed at the city of York, in the twelfth year of Edward II, containing provisions on the subject of attorneys, witnesses, the taking of inquests by *nisi prius*, etc.

Younger doctrine. The principle, developed by the Supreme Court in *Younger v. Harris*, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d 669 and other cases, that federal courts should not interfere with an ongoing state criminal proceeding, either by injunction or declaratory relief,

unless the prosecution has been brought in bad faith or as harassment. The *Younger* doctrine has also been applied in civil actions where the state is a party and important state substantive goals are implicated.

Youth. This word includes children and young persons of both sexes.

Youthful offenders. Status classification of youths and young adults, generally older than juveniles (18-25 age range), who are given special sentencing consideration. The purpose of federal and state statutes granting youthful offender status is to improve the chances of correction and successful return to the community of young offenders sentenced to imprisonment by providing them with vocational, education, counseling, or public service opportunities and by preventing their association with older and more experienced criminals during the terms of their confinement; see e.g. Fla. St. § 958.011; 18 U.S.C.A. § 5001 *et seq.*; 5031 *et seq.* The determination of whether or not to grant youthful offender status rests within the discretion of the sentencing court. *People v. Polansky*, 125 A.D.2d 342, 509 N.Y.S.2d 71, 72. See also *Delinquent child*.

Z

Zamindar. *See* Zemindar.

Zanja /sánha/. Span. A water ditch or artificial canal, and particularly one used for purposes of irrigation.

Zanjero /sanhérow/. Span. A water commissioner or superintendent, or supervisor of an irrigation system.

Zealous witness. An untechnical term denoting a witness, on the trial of a cause, who manifests a partiality for the side calling him, and an eager readiness to tell anything which he thinks may be of advantage to that side. *See also* Swift witness.

Zeir /yír/. O. Sc. Year. "Zeir and day."

Zemindar /zəmiyndār/zəməñ°/zéməñ°/. In Hindu law, landkeeper. An officer who under the Mohammedan government was charged with the financial superintendence of the lands of a district, the protection of the cultivators, and the realization of the government's share of its produce, either in money or kind.

Zero bracket amount. A deduction available to individual taxpayers whether or not the individual itemizes his or her deductions. The zero bracket amount was replaced with the standard deduction, effective for tax years beginning after 1986. Each of these are factored into the tax tables.

Zetetick. Proceeding by inquiry.

Zone of employment. Within which injuries to employees are compensable under workers' compensation acts, is the place of employment and the area thereabout, including the means of ingress thereto and egress therefrom under the control of the employer. *Merz v. Industrial Commission of Ohio*, 134 Ohio St. 36, 15 N.E.2d 632, 633, 11 O.O. 414. It implies reasonable proximity to place of employment. *Evans v. Workmen's Compensation Commissioner*, 124 W.Va. 336, 20 S.E.2d 172, 173.

Zone theory. In law of trespass and nuisance, flights above one's property may be actionable depending upon whether they are in the airspace of the lower zone or in the zone beyond the owner's "effective possession". *Smith v. New England Aircraft Co.*, 270 Mass. 511, 170 N.E. 385.

Right of privacy is primarily restraint upon unwarranted governmental interference or intrusion into areas deemed to be within protected "zones of privacy." *Industrial Foundation of the South v. Texas Indus. Acc. Bd.*, Tex., 540 S.W.2d 668, 679.

Zoning. The division of a city or town by legislative regulation into districts and the prescription and appli-

cation in each district of regulations having to do with structural and architectural designs of buildings and of regulations prescribing use to which buildings within designated districts may be put. Division of land into zones, and within those zones, regulation of both the nature of land usage and the physical dimensions of uses including height setbacks and minimum area. *Cheyenne Airport Bd. v. Rogers*, Wyo., 707 P.2d 717, 726.

See also Buffer-zone; Cluster zoning; Comprehensive zoning plan; Conforming use; Land use planning; Master plan; Official map; Planned unit development; Special exception; Special use permit; Spot zoning; Variance.

Aesthetic zoning. Zoning regulations designed to preserve the aesthetic features or values of an area.

Cluster zoning. *See* Cluster zoning; Planned unit development.

Conditional zoning. The imposition of specific restrictions upon the landowner as a condition of full realization of the benefit of rezoning. A zoning change which permits use of particular property subject to conditions not generally applicable to land similarly zoned. *Scrutton v. Sacramento County*, 275 C.A.2d 412, 79 Cal.Rptr. 872, 876. *See* Special exception; Use.

Contract zoning. Rezoning of a property to a less restrictive zoning classification subject to an agreement by the landowner to observe certain specified limitations on the uses and physical development of the property that other properties in the zone are not required to observe. This device is used particularly in dealing with property located in a more restrictive zone but on the borderline of the less restrictive zone, for which classification the rezoning is sought.

Density zoning. Type of cluster zoning which regulates open spaces, density of population and use of land. *Chrinko v. South Brunswick Township Planning Board*, 77 N.J.Super. 594, 187 A.2d 221. Density zoning requires state enabling legislation. Under this device, the city council determines what percentage of a particular district must be devoted to open space and what percentage may be used for dwelling units. The task of locating in the particular district the housing and open spaces devolves upon the planning commission working in conjunction with the developer. The latter will submit a series of plans and seek approval to go forward at each stage. *See also* Planned unit development.

Euclidean zoning. Type of zoning based on district-and-use. It envisions the specification of determined geographic areas separated according to zoning districts

with the uses permitted in each district set forth in the ordinances. Thus, a property owner could from the zoning map determine in what type of district the property was located and by reference to the district's restrictions what uses are permitted. *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 47 S.Ct. 114, 71 L.Ed. 303.

Exclusionary zoning. Type of zoning which has been challenged on the grounds that it serves to erect exclusionary walls on the municipality's boundary according to local selfishness for socially improper goals which are beyond the legitimate purpose of zoning. The trend in the courts is to strike down such zoning.

Floating zone. In an attempt to avoid the inflexibility of mapped districts, some communities have created exceptional use districts to allow small tracts for such uses as shopping centers, garden type apartments or light industry. At time of ordinance approval the district is unlocated. *See also* Floating Zone.

Holding zone. A form of low density zoning employed for a temporary purpose until the community decides how to rezone the area.

Spot zoning. Changing the zoning of a particular piece of land without regard to the zoning plan for the area. *See also* Spot zoning.

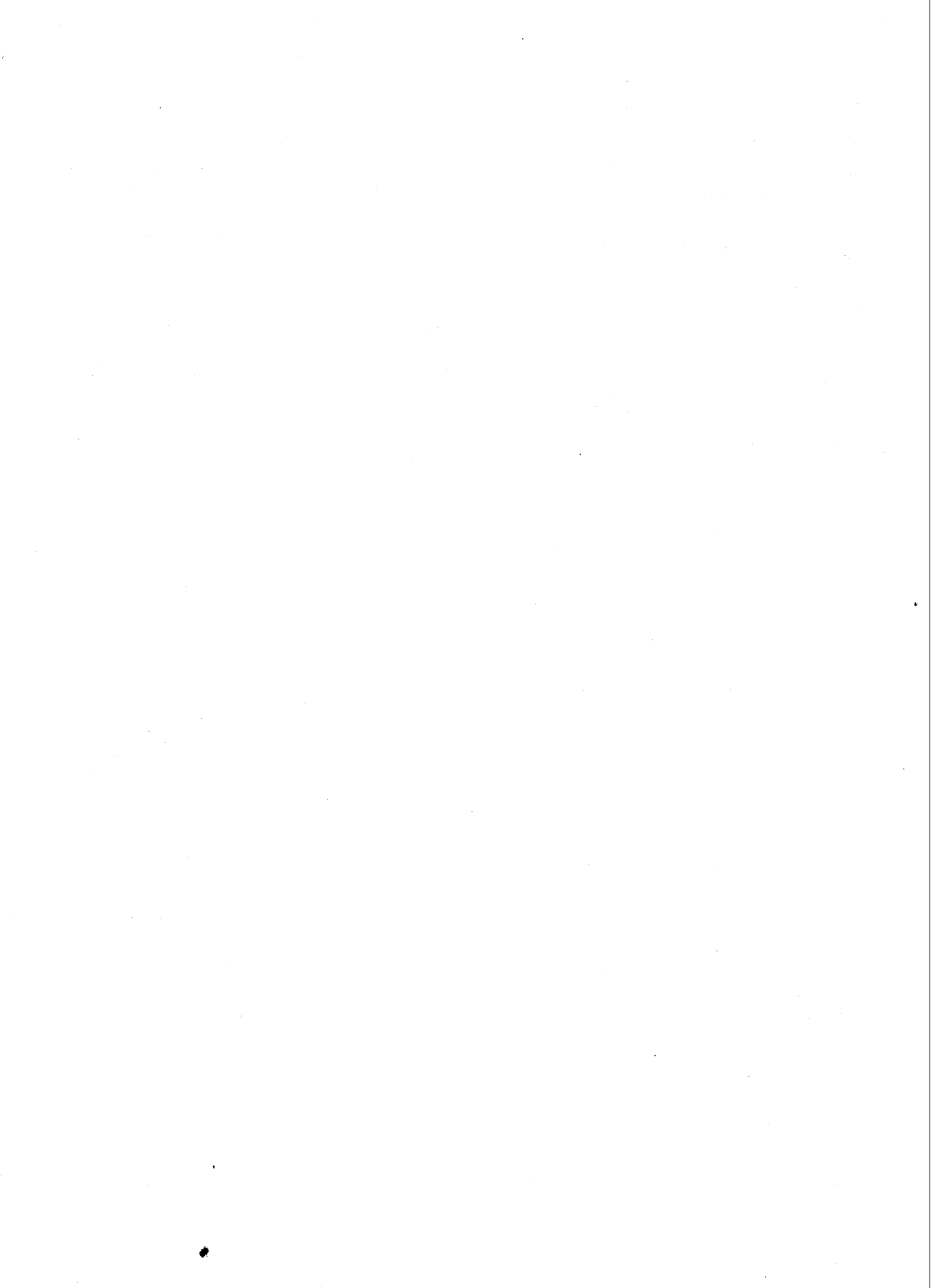
Zoning map. The map created by a zoning ordinance which displays the various zoning districts.

Zoning variance. *See* Variance.

Zygocephalum /zàygowséfələm/. In the civil law, a measure or quantity of land. As much land as a yoke of oxen could plow in a day.

Zygostates /zàygowstéytiyz/. In the civil law, a weigher; an officer who held or looked to the balance in weighing money between buyer and seller; an officer appointed to determine controversies about the weight of money.

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APPENDICES

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TABLE OF ABBREVIATIONS

(See also main Dictionary text for additional abbreviations)

A

| | | | |
|-------------------|--|-----------------------|---|
| A..... | Atlantic Reporter. | A.L.R.3d..... | American Law Reports, Third Series. |
| A.2d..... | Atlantic Reporter, Second Series. | Am.Bankr.L.J..... | American Bankruptcy Law Journal. |
| AALS..... | Association of American Law Schools. | Am.Bankr.Rep..... | American Bankruptcy Reports. |
| A.B.A..... | American Bar Association. | Am.Bankr.Rep.N.S..... | American Bankruptcy Reports, New Series. |
| A.B.A.J..... | American Bar Association Journal. | Am.Bus.L.J..... | American Business Law Journal. |
| Abr..... | Abridgment. | Am.Crim.L.Rev..... | American Criminal Law Review. |
| ACCA Docket..... | Journal of American Corporate Counsel Association. | Am.Indian L.Rev..... | American Indian Law Review. |
| ADEA..... | Age Discrimination in Employment Act. | A.M.C..... | American Maritime Cases. |
| Adj.Sess..... | Adjourned Session. | Am.Dec..... | American Decisions. |
| Ad.L..... | Administrative Law. | Am.Dig..... | American Digest. |
| Ad.L.B..... | Administrative Law Bulletin. | Amend..... | Amendment. |
| Ad.L.News..... | Administrative Law News. | Am.J.Int.L..... | American Journal of International Law. |
| Adm..... | Administration; Administrative. | Am.J.L. & Med..... | American Journal of Law & Medicine. |
| Admin.L.Rev..... | Administrative Law Review. | Am.Law Inst..... | American Law Institute, Restatement of the Law. |
| AFDC..... | Aid to Families with Dependent Children. | Am.Law J..... | American Law Journal. |
| Aff'd..... | Affirmed. | Am.Law Rev..... | American Law Review. |
| Aff'g..... | Affirming. | Am.R..... | American Reports. |
| AFTR..... | American Federal Tax Reports. | Am.St.R..... | American State Reports. |
| A.F.L.Rev..... | Air Force Law Review. | Am.U.L.Rev..... | American University Law Review. |
| aka..... | also known as. | Ann..... | Annual; Annotated. |
| Akron L.Rev..... | Akron Law Review. | Ann.Cas..... | American and English Annotated Cases. |
| Akron Tax J..... | Akron Tax Journal. | Ann.Code..... | Annotated Code. |
| Ala..... | Alabama Reports. | Anno..... | Annotated. |
| Ala.App..... | Alabama Appellate Court. | Ann.St..... | Annotated Statutes. |
| Ala.Civ.App..... | Alabama Civil Appeals. | Ann.Surv.Am.L..... | Annual Survey of American Law. |
| Ala.Code..... | Code of Alabama. | Ann.Surv.Mass.L..... | Annual Survey of Massachusetts Law. |
| Ala.Cr.App..... | Alabama Criminal Appeals. | Antioch L.J..... | Antioch Law Journal. |
| Ala.L.J..... | Alabama Law Journal. | Antitrust L.J..... | Antitrust Law Journal. |
| Ala.L.Rev..... | Alabama Law Review. | APA..... | Administrative Procedure Act. |
| Ala.Law..... | Alabama Lawyer. | App..... | Appendix; Court of Appeals. |
| Alaska..... | Alaska Reports. | App.Dept..... | Appellate Department. |
| Alaska L.Rev..... | Alaska Law Review. | App.Div..... | Appellate Division. |
| Alaska Stat..... | Alaska Statutes. | Arb.J..... | Arbitration Journal. |
| Alb.L.Rev..... | Albany Law Review. | Ariz..... | Arizona Reports. |
| ALI..... | American Law Institute. | Ariz.App..... | Arizona Appeals Reports. |
| A.L.J..... | Administrative Law Judge. | Ariz.Atty..... | Arizona Attorney. |
| A.L.R..... | American Law Reports. | Ariz.B.J..... | Arizona Bar Journal. |
| A.L.R.2d..... | American Law Reports, Second Series. | Ariz.L.Rev..... | Arizona Law Review. |

Ariz.St.L.J. Arizona State Law Journal.
 Ark. Arkansas Reports.
 Ark.L.Rev. Arkansas Law Review.
 Ark.Stats. Arkansas Statutes.
 A.R.S. Arizona Revised Statutes.
 AS Alaska Statutes.
 A.T.L.A.J. American Trial Lawyers Association Journal.
 Att'y Gen. Attorney General.
 Att'y Gen.Rep. United States Attorney General's Reports.

B

Banking L.J. Banking Law Journal.
 Bankr. Bankruptcy; Bankruptcy Reporter.
 Bankr.Code Bankruptcy Code.
 Bankr. Dev. J. Bankruptcy Developments Journal.
 Bankr.Form Bankruptcy Form.
 Bankr.Rule Bankruptcy Rule.
 BATF Bureau of Alcohol, Tobacco, and Firearms.
 Baylor L.Rev. Baylor Law Review.
 B.C.Env'tl.Aff.L.Rev. Boston College Environmental Affairs Law Review.
 B.C.Ind. & Com.L.Rev. Boston College Industrial and Commercial Law Review.
 B.C.Int'l & Comp.L.Rev. Boston College International and Comparative Law Review.
 B.C.L.Rev. Boston College Law Review.
 Bench and Bar Bench and Bar (MN).
 Berkeley Women's L.J. Berkeley Women's Law Journal (Calif.).
 BIA Bureau of Indian Affairs.
 Bkrcty. U.S. Bankruptcy Court.
 Black Black, U.S. Supreme Court Reports.
 Black L.J. Black Law Journal.
 Black.Com. Blackstone's Commentaries on the Laws of England.
 Bl.Comm. Blackstone's Commentaries on the Laws of England.
 BLM Bureau of Land Management.
 BLS Bureau of Labor Statistics.
 BNA Bureau of National Affairs.
 Boston B.J. Boston Bar Journal.
 Boston U.L.Rev. Boston University Law Review.
 B.R. Bankruptcy Reporter.
 Bridgeport L.Rev. Bridgeport Law Review.
 Brooklyn B. Brooklyn Bar.
 Brooklyn Barr. Brooklyn Barrister.
 Brooklyn J.Int'l L. Brooklyn Journal of International Law.
 Brooklyn L.Rev. Brooklyn Law Review.
 B.T.A. Board of Tax Appeals Reports.
 Bucks Bucks County Law Reporter, Pa.

Buffalo L.Rev. Buffalo Law Review.
 B.U.Int'l L.J. Boston University International Law Journal.
 B.U.J.Tax L. Boston University Journal of Tax Law.
 B.U.L.Rev. Boston University Law Review.
 Bull. Bulletin.
 Burns' Ann.St. Burns' Annotated Statutes, Ind.
 Burns' Rev.St. Burns' Annotated Statutes, Ind.
 Bus.Law. Business Lawyer.
 Bus.L.Rev. Business Law Review.
 Bx.County Adv. Bronx (N.Y.) Bar Assoc. Advocate.
 B.Y.U.L.Rev. Brigham Young University Law Review.

C

C. California Reports (Supreme Court).
 C.2d California Reports, Second Series.
 C.3d California Reports, Third Series.
 C.A. Court of Appeals, U.S.; California Appellate Reports.
 C.A.2d California Appellate Reports, Second Series.
 C.A.3d California Appellate Reports, Third Series.
 C.A.Supp. California Appellate Reports, Supplement.
 C.A.2d Supp. California Appellate Reports, Second Series Supplement.
 C.A.3d Supp. California Appellate Reports, Third Series Supplement.
 CAB Civil Aeronautics Board.
 Cal. California Reports (Supreme Court).
 Cal.2d California Reports, Second Series.
 Cal.3d California Reports, Third Series.
 Cal.App. California Appellate Reports.
 Cal.App.2d California Appellate Reports, Second Series.
 Cal.App.3d California Appellate Reports, Third Series.
 Cal.App.Supp. California Appellate Reports Supplement.
 Cal.App.2d Supp. California Appellate Reports Supplement, Second Series.
 Cal.App.3d Supp. California Appellate Reports Supplement, Third Series.
 Cal.Code California Code.
 Cal.Dec. California Decisions.
 Cal.Law. California Lawyer.
 Cal.L.Rev. California Law Review.

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|-----------------------------|---|-----------------------------|--|
| Cal.Rptr..... | California Reporter. | Cir.Ct..... | Circuit Court (state). |
| Cal.St.B.J..... | California State Bar Journal. | Cir.Ct.App..... | Circuit Court of Appeal[s] (state). |
| Cal.Unrep..... | California Unreported Cases. | Cir.Ct.Rule..... | Circuit Court Rule. |
| Cal.W.Int'l L.J..... | California Western International Law Journal. | Civ.App..... | Court of Civil Appeals; Civil Appeals Reports. |
| Cal.W.L.Rev..... | California Western Law Review. | Civ.Code..... | Civil Code. |
| Calif.L.Rev..... | California Law Review. | Civ.Code Practice..... | Civil Code of Practice. |
| Cap.U.L.Rev..... | Capital University Law Review. | Civ.Prac.Act..... | Civil Practice Act. |
| Cardozo Arts & Ent.L.J..... | Cardozo Arts & Entertainment Law Journal. | Civ.St..... | Civil Statutes. |
| Cardozo L.Rev..... | Cardozo Law Review. | C.J..... | Corpus Juris; Chief Judge. |
| Case & Com..... | Case and Comment. | C.J.S..... | Corpus Juris Secundum. |
| Case W.Res.J. Int'l L..... | Case Western Reserve Journal of International Law. | Cl..... | Clause. |
| Case W.Res.L.Rev..... | Case Western Reserve Law Review. | Cl.Ct..... | Claims Court, U.S. |
| Cath.Law..... | Catholic Lawyer. | C.Leg.Rec..... | California Legal Record. |
| Cath.U.L.Rev..... | Catholic University Law Review. | Clev.B.J..... | Cleveland Bar Journal. |
| C.B..... | Cumulative Bulletin (of Internal Revenue Service). | Clev.Law Rec..... | Cleveland Law Recorder, Ohio. |
| CBA Record..... | Chicago Bar Association Record. | Clev.Law Rep..... | Cleveland Law Reporter, Ohio. |
| CBO..... | Congressional Budget Office. | Clev.St.L.Rev..... | Cleveland State Law Review. |
| C.C..... | Circuit Court, U.S. | Clev.-Mar.L.Rev..... | Cleveland-Marshall Law Review. |
| C.C.A..... | Circuit Court of Appeals, U.S. | C.L.J..... | California Law Journal. |
| CCC..... | Commodity Credit Corporation. | C.L.R..... | California Law Review. |
| CCH..... | Commerce Clearing House. | C.M.A..... | Court of Military Appeals. |
| C.C.P..... | Code of Civil Procedure; Code of Criminal Procedure. | C.M.R..... | Court-Martial Reports; Court of Military Review. |
| C.C.P.A..... | Court of Customs and Patent Appeals. | Code Civ.Proc..... | Code of Civil Procedure. |
| CCR..... | Commission on Civil Rights. | Code Cr.Proc..... | Code of Criminal Procedure. |
| C.D..... | Current Digest, American Digest System; Certificate of Deposit. | Code Gen.Laws..... | Code of General Laws. |
| CDC..... | Centers for Disease Control. | Code Prac..... | Code of Practice. |
| Cent.Dig..... | Century Digest. | Code Proc..... | Code of Procedure. |
| Cert. denied..... | Certiorari denied. | Code Pub.Gen.Laws..... | Code of Public General Laws. |
| CFR..... | Code of Federal Regulations. | Code Supp..... | Supplement to a Code. |
| CFTC..... | Commodity Futures Trading Commission. | Cod.St..... | Codified Statutes. |
| C.G.S.A..... | Connecticut General Statutes Annotated. | Colo..... | Colorado Reports. |
| Ch..... | Chancery (Court or Division of Court). | Colo.App..... | Colorado Court of Appeals Reports. |
| Chicago Bar Rec..... | Chicago Bar Record. | Colo.Law..... | Colorado Lawyer. |
| Chi.-Kent L.Rev..... | Chicago-Kent Law Review. | Colo.Law Rep..... | Colorado Law Reporter. |
| Chicago L.B..... | Chicago Law Bulletin. | Colum.Bus.L.Rev..... | Columbia Business Law Review. |
| Chicago L.J..... | Chicago Law Journal. | Colum.Hum.Rts.L.Rev..... | Columbia Human Rights Law Review. |
| Chicago L.Rec..... | Chicago Law Record. | Colum.J.Envntl.L..... | Columbia Journal of Environmental Law. |
| Chicago L.T..... | Chicago Law Times. | Colum.J.L. & Arts..... | Columbia Journal of Law and the Arts. |
| Chi.Leg.N..... | Chicago Legal News. | Colum.J.L. & Soc.Probs..... | Columbia Journal of Law and Social Problems. |
| CIA..... | Central Intelligence Agency. | Colum.J.Transnat'l L..... | Columbia Journal of Transnational Law. |
| CIC..... | Consumer Information Center. | Colum.L.Rev..... | Columbia Law Review. |
| Cin.L.Rev..... | Cincinnati Law Review. | Com.L.B..... | Commercial Law Bulletin. |
| Cir..... | Circuit Court of Appeals (federal). | Com.L.J..... | Commercial Law Journal. |
| | | Comm..... | Commentaries; Commissioner; Communication. |
| | | Comm.Ct..... | Commerce Court. |
| | | Comm'r..... | Commissioner. |
| | | Commw.Ct..... | Commonwealth Court. |
| | | Comp.Gen..... | Comptroller General (U.S.). |

Comp.Gen.Laws.....Compiled General Laws.
 Comp.Lab.L.J.....Comparative Labor Law Journal.
 Comp.Laws.....Compiled Laws.
 Comp.St.....Compiled Statutes.
 Comptr.Treas.Dec.....Comptroller Treasury Decisions.
 Computer L.J.....Computer Law Journal.
 Computer Law.....Computer Lawyer.
 Cong.....Congress; Congressional.
 Cong.Dig.....Congressional Digest.
 Cong.Rec.....Congressional Record.
 Conn.....Connecticut Reports.
 Conn.App.....Connecticut Appellate Reports.
 Conn.B.J.....Connecticut Bar Journal.
 Conn.Cir.....Connecticut Circuit Court Reports.
 Conn.J.Int'l L.....Connecticut Journal of International Law.
 Conn.L.Rev.....Connecticut Law Review.
 Conn.Prob.L.J.....Connecticut Probate Law Journal.
 Conn.Supp.....Connecticut Supplement.
 Conn.Surr.....Connecticut Surrogate.
 Const.....Constitution.
 Con.St.....Consolidated Statutes.
 Const.Amend.....Amendment to Constitution.
 Const.U.S.Amend.....Amendment to the Constitution of the United States.
 Cooley L.Rev.....Cooley Law Review.
 Copy.Bull.....Copyright Bulletin.
 Copy.Dec.....Copyright Decisions.
 Copyright L.Symp.
 (ASCAP).....Copyright Law Symposium.
 Cornell L.F.....Cornell Law Forum.
 Cornell Int'l L.J.....Cornell International Law Journal.
 Cornell L.J.....Cornell Law Journal.
 Cornell L.Q.....Cornell Law Quarterly.
 Cornell L.Rev.....Cornell Law Review.
 Corp.....Corporation.
 Corp.L.Rev.....Corporation Law Review.
 C.P.....Common Pleas.
 CPA.....Certified Public Accountant.
 CPSC.....Consumer Product Safety Commission.
 Cr.Act.....Criminal Act.
 Cranch.....Cranch, U.S. Supreme Court Reports.
 Cranch, C.C.....Cranch's Circuit Court, U.S.
 Cranch, Pat.Dec.....Cranch's Patent Decisions, U.S.
 Cr.Code.....Criminal Code.
 Creighton L.Rev.....Creighton Law Review.
 Crim.App.....Court of Criminal Appeals.
 Crim.Justice Q.....Criminal Justice Quarterly.
 Crim.L.Bull.....Criminal Law Bulletin.
 Crim.L.J.....Criminal Law Journal.
 Crim.L.Rev.....Criminal Law Review.
 Crim.L.Rptr.....Criminal Law Reporter.

Crim.L.Q.....Criminal Law Quarterly.
 Crim.Rpts.....Criminal Reports.
 Cr.Prac.Act.....Criminal Practice Act.
 Cr.Proc.Act.....Criminal Procedure Act.
 C.R.S.....Colorado Revised Statutes.
 Cr.St.....Criminal Statutes.
 CSC.....Civil Service Commission.
 Ct.....Court.
 Ct.App.....Court of Appeal[s] (state).
 Ct.Cl.....Court of Claims, U.S.
 Ct.Cust.App.....Court of Customs Appeals.
 Ct.Err. & App.....Court of Errors and Appeals.
 Ct.Int'l Trade.....Court of International Trade.
 Ct.Rev.....Court Review (American Judges Assoc.).
 C.U.....California Unreported Cases.
 Cumb.L.J.....Cumberland Law Journal, Pa.
 Cumb.L.Rev.....Cumberland Law Review.
 Cumb.-Sam.L.Rev.....Cumberland-Samford Law Review.
 Current Ct.Dec.....Current Court Decisions.
 Current Legal Probs.....Current Legal Problems.
 Cust.A.....United States Customs Appeals.
 Cust.B. & Dec.....Customs Bulletin and Decisions.
 Cust.Ct.....Customs Court.
 C.W.L.R.....California Western Law Review.

D

D.....District Court (federal).
 Dak.....Dakota Reports (Territorial).
 Dak.L.Rev.....Dakota Law Review.
 Dall.....Dallas, U.S. Supreme Court Reports.
 d.b.a.....doing business as.
 D.C.....District of Columbia; District Court, U.S.
 D. & C.....District and County, Pa.
 D. & C.2d.....District and County, Second Series, Pa.
 D.C.App.....District of Columbia Appeals.
 D.C.B.J.....District of Columbia Bar Journal.
 D.C.C.E.....District of Columbia Code Encyclopedia.
 D.C.Code Ann.....District of Columbia Code Annotated.
 D.C.Cr.....District of Columbia Circuit Court of Appeals, U.S.
 D.C.Mun.App.....Municipal Court of Appeals, D.C.
 DEA.....Drug Enforcement Administration.
 Def.Couns.J.....Defense Counsel Journal.
 Del.....Delaware Reports.
 Del.Ch.....Delaware Chancery Reports.
 Del.Code Ann.....Delaware Code Annotated.
 Del.County.....Delaware County Reports.

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| Del.J.Corp.L. | Delaware Journal of Corporate Law. |
| Del.Law. | Delaware Lawyer. |
| Del.Term R. | Delaware Term Reports. |
| Den.J.Int'l L. & Pol'y. | Denver Journal of International Law and Policy. |
| Den.L.J. | Denver Law Journal. |
| Den.U.L.Rev. | Denver University Law Review. |
| Denver L.N. | Denver Legal News. |
| De Paul Bus.L.J. | De Paul Business Law Journal. |
| De Paul L.Rev. | De Paul Law Review. |
| Det.C.L.Rev. | Detroit College Law Review. |
| Det.L.J. | Detroit Law Journal. |
| Detroit Law. | Detroit Lawyer. |
| Detroit Leg.N. | Detroit Legal News. |
| Detroit L.Rev. | Detroit Law Review. |
| Dick.J.Int'l L. | Dickinson Journal of International Law. |
| Dick.L.Rev. | Dickinson Law Review. |
| Dig. | Digest. |
| Dist.Ct. | District Court (state). |
| Dist.Ct.App. | District Court of Appeal[s]. |
| DOD | Department of Defense. |
| DOE | Department of Energy. |
| Dom.Rel.Ct. | Domestic Relations Court. |
| DOT | Department of Transportation. |
| Drake L.Rev. | Drake Law Review. |
| Duke L.J. | Duke Law Journal. |
| Duq.L.Rev. | Duquesne Law Review. |

E

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| Ecology L.Q. | Ecology Law Quarterly. |
| Ed. | Edition. |
| E.D. | Eastern District. |
| EEO | Equal Employment Opportunity. |
| EEOC | Equal Employment Opportunity Commission. |
| Eff. | Effective. |
| Emer.Ct.App. | Emergency Court of Appeals, U.S. |
| Emory J.Int'l Dis.Res. | Emory Journal of International Dispute Resolution. |
| Emory L.J. | Emory Law Journal. |
| Emp.Rel.L.J. | Employee Relations Law Journal. |
| Energy L.J. | Energy Law Journal. |
| Ent. & Sp.L.J. | Entertainment & Sports Law Journal. |
| Env.L.Rptr. | Environmental Law Reporter. |
| Envtl. & Plan.L.J. | Environmental and Planning Law Journal. |
| Envtl.L. | Environmental Law. |
| EO | Executive Order. |
| EPA | Environmental Protection Agency. |
| Eq. | Equity Court or Division. |
| Erie | Erie County Legal Journal, Pa. |

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| ERISA | Employee Retirement Income Security Act. |
| ESOP | Employee Stock Ownership Plan. |
| Ev.; Evid. | Evidence. |
| Exec.Order | Executive Order. |
| Ex.Sess. | Extra Session. |

F

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| F. | Federal Reporter. |
| F.2d | Federal Reporter, Second Series. |
| FAA | Federal Aviation Administration. |
| Fam.L.Q. | Family Law Quarterly. |
| FBI | Federal Bureau of Investigation. |
| FCA | Farm Credit Administration. |
| FCC | Federal Communications Commission. |
| FCIA | Foreign Credit Insurance Association. |
| FCIC | Federal Crop Insurance Corporation. |
| FDA | Food and Drug Administration. |
| FDAA | Federal Disaster Assistance Administration. |
| FDIC | Federal Deposit Insurance Corporation. |
| FEC | Federal Election Commission. |
| Fed. | Federal; Federal Reserve Board. |
| Fed.B.J. | Federal Bar Journal. |
| Fed.B.News | Federal Bar News. |
| Fed.Cas. | Federal Cases, U.S. |
| Fed.Comm.L.J. | Federal Communications Law Journal. |
| Fed.Evid.R. | Federal Rules of Evidence. |
| Fed.L.Rev. | Federal Law Review. |
| Fed.R.App.P. | Federal Rules of Appellate Procedure. |
| Fed.R.Civ.P. | Federal Rules of Civil Procedure. |
| Fed.R.Crim.P. | Federal Rules of Criminal Procedure. |
| Fed.R.Evid. | Federal Rules of Evidence. |
| Fed.Reg. | Federal Register. |
| FHA | Federal Housing Administration. |
| FHLB | Federal Home Loan Bank. |
| FHLBB | Federal Home Loan Bank Board. |
| FHLMC | Federal Home Loan Mortgage Corporation (Freddie Mac). |
| FHWA | Federal Highway Administration. |
| FIA | Federal Insurance Administration. |

FICA.....Federal Insurance Contribution Act.
 Fla.....Florida Reports.
 Fla.B.J.....Florida Bar Journal.
 Fla.Int'l L.J.....Florida International Law Journal.
 Fla.L.Rev.....Florida Law Review.
 Fla.St.U.L.Rev.....Florida State University Law Review.
 Fla.Supp.....Florida Supplement.
 Fla.Supp.2d.....Florida Supplement, Second Series.
 FLRA.....Federal Labor Relations Authority.
 FMC.....Federal Maritime Commission.
 FMCS.....Federal Mediation and Conciliation Service.
 FmHA.....Farmers Home Administration.
 FNMA.....Federal National Mortgage Association (Fannie Mae).
 FOIA.....Freedom of Information Act.
 Food Drug Cosm.L.J.....Food Drug Cosmetic Law Journal.
 Fordham Int'l L.J.....Fordham International Law Journal.
 Fordham L.Rev.....Fordham Law Review.
 Fordham Urb.L.J.....Fordham Urban Law Journal.
 FPC.....Federal Power Commission.
 F.R.....Federal Register.
 FRB.....Federal Reserve Board.
 F.R.D.....Federal Rules Decisions.
 FRS.....Federal Reserve System.
 F.S.A.....Florida Statutes Annotated.
 FSIS.....Food Safety and Inspection Service.
 FSLIC.....Federal Savings and Loan Insurance Corporation.
 F.Supp.....Federal Supplement.
 FTC.....Federal Trade Commission.
 FWS.....Fish and Wildlife Service.

G

Ga.....Georgia Reports.
 GAAP.....Generally accepted accounting principles.
 Ga.App.....Georgia Appeals Reports.
 Ga.B.J.....Georgia Bar Journal.
 Ga.Code Ann.....Code of Georgia Annotated.
 Ga.Dec.....Georgia Decisions.
 Ga.J.Int'l & Comp.L.....Georgia Journal of International and Comparative Law.
 Ga.L.J.....Georgia Law Journal.
 Ga.L.Rev.....Georgia Law Review.
 Ga.L.Rep.....Georgia Law Reporter.
 GAO.....General Accounting Office.
 Ga.St.B.J.....Georgia State Bar Journal.
 Ga.St.U.L.Rev.....Georgia State University Law Review.

GATT.....General Agreement on Tariffs and Trade.
 Gavel.....Gavel-Milwaukee Bar Assoc.
 Gen.Assem.....General Assembly.
 Gen.Dig.U.S.....General Digest of the United States.
 Gen.Laws.....General Laws.
 Gen.St.....General Statutes.
 Geo.Immigr.L.J.....Georgetown Immigration Law Journal.
 Geo.L.J.....Georgetown Law Journal.
 Geo.Mason U.L.Rev.....George Mason University Law Review.
 Geo.Wash.J.Int'l & Econ.....George Washington Journal of International Law and Economics.
 Geo.Wash.L.Rev.....George Washington Law Review.
 Glendale L.Rev.....Glendale Law Review.
 GMU L.Rev.....George Mason University Law Review.
 GNMA.....Government National Mortgage Association (Ginnie Mae).
 GNP.....Gross National Product.
 Golden Gate U.L.Rev.....Golden Gate University Law Review.
 Gov't.....Government.
 Gonz.L.Rev.....Gonzaga Law Review.
 GPO.....Government Printing Office.
 GSA.....General Services Administration.

H

Hamline J.Pub.L. & Pol'y Hamline Journal of Public Law and Policy.
 Hamline L.Rev.....Hamline Law Review.
 Harv.C.R.-C.L.L.Rev.....Harvard Civil Rights-Civil Liberties Law Review.
 Harv.Envntl.L.Rev.....Harvard Environmental Law Review.
 Harv.Intl.L.J.....Harvard International Law Journal.
 Harv.J.L. & Pub.Pol'y.....Harvard Journal of Law and Public Policy.
 Harv.J.L. & Tech.....Harvard Journal of Law & Technology.
 Harv.J. on Legis.....Harvard Journal on Legislation.
 Harv.L.Rev.....Harvard Law Review.
 Harv.Women's L.J.....Harvard Women's Law Journal.
 Hastings Const.L.Q.....Hastings Constitutional Law Quarterly.
 Hastings Int'l & Comp.L. Rev.....Hastings International and Comparative Law Review.
 Hastings L.J.....Hastings Law Journal.
 Haw.....Hawaii Reports.
 Haw.App.....Hawaii Appellate Reports.

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| Haw.B.J. | Hawaii Bar Journal. | Ill.Rev.St. | Illinois Revised Statutes. |
| Haw.Rev.Stat. | Hawaii Revised Statutes. | IMF | International Monetary Fund. |
| H.B. | House Bill. | I. & N.Dec. | Immigration and Nationality Decisions. |
| H.Bl. | Henry Blackstone's English Common Pleas Reports. | Inc. | Incorporated. |
| HCFA | Health Care Financing Administration. | Ind. | Indiana Reports. |
| HHS | Department of Health and Human Services. | Ind. & Lab.Rel.Rev. | Industrial and Labor Relations Review. |
| High Tech.L.J. | High Technology Law Journal. | Ind.App. | Indiana Court of Appeals Reports. |
| Hofstra L.Rev. | Hofstra Law Review. | Ind.Code Ann. | Annotated Indiana Code. |
| Hofstra Lab.L.J. | Hofstra Labor Law Journal. | Ind.Leg.Forum | Indiana Legal Forum. |
| Hous.J.Int'l L. | Houston Journal of International Law. | Ind.L.J. | Indiana Law Journal. |
| Hous.L.Rev. | Houston Law Review. | Ind.L.Reg. | Indiana Legal Register. |
| Hous.Law. | Houston Lawyer. | Ind.L.Rep. | Indiana Law Reporter. |
| How. | Howard, U.S. Supreme Court Reports. | Ind.L.Rev. | Indiana Law Review. |
| How.L.J. | Howard Law Journal. | Ind.Super. | Indiana Superior Court Reports (Wilson). |
| HRS | Hawaii Revised Statutes. | Ind.T. | Indian Territory. |
| HSA | Health Services Administration. | Ind.T.Ann.St. | Indian Territory Annotated Statutes. |
| HUD | Department of Housing and Urban Development. | Indus.L.J. | Industrial Law Journal. |
| Hum.Rts.Ann. | Human Rights Annual. | Indus.L.Rev. | Industrial Law Review. |
| Hurd's Rev.St. | Hurd's Revised Statutes, Ill. | Indus. & Lab.Rel.Rev. | Industrial and Labor Relations Review. |
| I | | | |
| I.C. | Idaho Code; Indiana Code; Iowa Code. | INS | Immigration and Naturalization Service. |
| ICA | Iowa Code Annotated. | Ins.L.J. | Insurance Law Journal. |
| ICC | Interstate Commerce Commission. | Inst. | Institute. |
| I.C.C. | Interstate Commerce Commission Reports. | Int.Com.Comm. | Interstate Commerce Commission. |
| I.C.C.Prac.J. | I.C.C. Practitioners' Journal. | Int.Com.Rep. | Interstate Commerce Reports. |
| IDA | International Development Association. | Inter Alia | Inter Alia (State Bar of Nevada). |
| Idaho | Idaho Reports. | INTERPOL | International Criminal Police Organization. |
| Idaho L.J. | Idaho Law Journal. | Interst.Com.R. | Interstate Commerce Reports. |
| Idaho L.Rev. | Idaho Law Review. | Int.L.N. | International Law Notes. |
| IHS | Indian Health Service. | Int.Rev.Bull. | Internal Revenue Bulletin. |
| Ill. | Illinois Reports. | Int.Rev.Code | Internal Revenue Code. |
| Ill.2d | Illinois Reports, Second Series. | Int'l & Comp.L.Q. | International & Comparative Law Quarterly. |
| Ill.Ann.Stat. | Smith-Hurd Illinois Annotated Statutes. | Int'l J.L. & Psychiatry | International Journal of Law and Psychiatry. |
| Ill.App. | Illinois Appellate Court Reports. | Int'l Law | International Lawyer. |
| Ill.App.2d | Illinois Appellate Court Reports, Second Series. | Int'l Rev.L. & Econ. | International Review of Law and Economics. |
| Ill.App.3d | Illinois Appellate Court Reports, Third Series. | Int'l Tax & Bus.Law. | International Tax & Business Lawyer. |
| Ill.B.J. | Illinois Bar Journal. | Iowa | Iowa Reports. |
| Ill.C.C. | Illinois Circuit Court. | Iowa B.News Bull. | Bulletin of the Iowa State Bar Association. |
| Ill.Ct.Cl. | Illinois Court of Claims Reports. | Iowa L.B. | Iowa Law Bulletin. |
| Ill.Dec. | Illinois Decisions. | Iowa L.Rev. | Iowa Law Review. |
| Ill.L.B. | Illinois Law Bulletin. | IRA | Individual Retirement Account. |
| Ill.L.Q. | Illinois Law Quarterly. | I.R.B. | Internal Revenue Bulletin. |
| Ill.L.Rev. | Illinois Law Review. | I.R.C. | Internal Revenue Code. |
| | | I.R.S. | Internal Revenue Service; Illinois Revised Statutes. |

ITA.....International Trade Administration.

J

JAG.....Judge Advocate General.
 JAG Bull.....JAG Bulletin (USAF).
 JAG J.....JAG Journal.
 JAG L.Rev.....United States Air Force JAG Law Review.
 J.Agric.Tax'n & L.....Journal of Agricultural Taxation & Law.
 J.Air L. & Com.....Journal of Air Law and Commerce.
 J.Am.Acad.Matrimonial Law.....Journal of the American Academy of Matrimonial Lawyers.
 J.Bus.L.....Journal of Business Law.
 J.C.U.L.....Journal of College and University Law.
 J.Cont.L.....Journal of Contract Law.
 J.Contemp.Health L.Pol'y.....Journal of Contemporary Health Law and Policy.
 J.Contemp.L.....Journal of Contemporary Law.
 J.Contemp.Legal Issues.....Journal of Contemporary Legal Issues.
 J.Copyright Soc'y.....Journal of the Copyright Society of the U.S.A.
 J.Corp.L.....Journal of Corporation Law (Iowa).
 J.Corp.Tax'n.....Journal of Corporate Taxation.
 J.Crim.L. & Criminology.....Journal of Criminal Law & Criminology.
 J.Energy & Nat.Resources L.....Journal of Energy & Natural Resources Law.
 J.Energy L. & Pol'y.....Journal of Energy Law & Policy.
 J.Envntl.L.Litigation.....Journal of Environmental Law and Litigation.
 J.Fam.L.....Journal of Family Law.
 J.Int'l Arb.....Journal of International Arbitration.
 J.Juv.L.....Journal of Juvenile Law.
 J.Kan.B.A.....Journal of the Kansas Bar Association.
 J.L. & Com.....Journal of Law and Commerce.
 J.L. & Econ.....Journal of Law & Economics.
 J.L. & Educ.....Journal of Law & Education.
 J.L. & Health.....Journal of Law & Health.
 J.L. & Info.Sci.....Journal of Law and Information Science.
 J.L. & Pol.....Journal of Law & Politics.
 J.L. & Social Pol'y.....Journal of Law and Social Policy.
 J.Land Use & Envntl.L.....Journal of Land Use & Environmental Law.
 J.Legal Educ.....Journal of Legal Education.
 J.Legal Hist.....Journal of Legal History.

J.Legal Med.....Journal of Legal Medicine.
 J.Legal Prof.....Journal of the Legal Profession.
 J.Legal Stud.....Journal of Legal Studies.
 J.Legis.....Journal of Legislation.
 J.Mar.L. & Com.....Journal of Maritime Law and Commerce.
 J.Marshall L.Rev.....John Marshall Law Review.
 J.Min.L. & Pol'y.....Journal of Mineral Law & Policy.
 J.Mo.B.....Journal of the Missouri Bar.
 J.P.....Justice of the Peace.
 J.Pat. & Trademark Office.....Off.Soc'y Journal of the Patent and Trademark Society.
 J.Prod.Liab.....Journal of Products Liability.
 J.Real Est.Tax'n.....Journal of Real Estate Taxation.
 J.Space L.....Journal of Space Law.
 J.Tax'n.....Journal of Taxation.
 Judicature.....Judicature.
 Jurimetrics J.....Jurimetrics Journal.
 Juv.Ct.....Juvenile Court.

K

Kan.....Kansas Reports.
 Kan.App.....Kansas Court of Appeals Reports.
 Kan.App.2d.....Kansas Court of Appeals Reports, Second Series.
 Kan.C.L.Rep.....Kansas City Law Reporter.
 Kan.Law.....Kansas Lawyer.
 Kan.L.J.....Kansas Law Journal.
 Kan.L.Rev.....Kansas Law Review.
 Kan.Stat.Ann.....Kansas Statutes Annotated.
 K.B.J.....Kansas Bar Journal.
 KRS.....Kentucky Revised Statutes.
 K.S.A.....Kansas Statutes Annotated.
 Ky.....Kentucky Reports.
 Ky.Bench & B.....Kentucky Bench and Bar.
 Ky.Dec.....Kentucky Decisions.
 Ky.Law Rep.....Kentucky Law Reporter.
 Ky.L.J.....Kentucky Law Journal.
 Ky.Op.....Kentucky Opinions.
 Ky.Rev.Stat.Ann.....Kentucky Revised Statutes Annotated.

L

L.....Laws (of state).
 La.....Louisiana Reports.
 La.Ann.....Louisiana Annual Reports.
 La.App.....Louisiana Courts of Appeal Reports.
 La.B.J.....Louisiana Bar Journal.
 L.A.Law.....Los Angeles Lawyer.
 La.L.J.....Louisiana Law Journal.
 La.L.Rev.....Louisiana Law Review.
 La.Rev.Stat.Ann.....Louisiana Revised Statutes Annotated.
 Lab.L.J.....Labor Law Journal.

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| Land & Water L.Rev. | Land & Water Law Review. |
| Law Ct. | Law Court. |
| Law Div. | Law Division. |
| Law & Contemp.Prob. | Law & Contemporary Problems. |
| Law & Hist.Rev. | Law and History Review. |
| Law Forum | Law Forum (U. of Baltimore). |
| Law Inst.J. | Law Institute Journal. |
| Law Lib.J. | Law Library Journal. |
| LEAA | Law Enforcement Assistance Administration. |
| L.Ed. | U.S. Supreme Court Reports, Lawyer's Edition. |
| L.Ed.2d | U.S. Supreme Court Reports, Lawyer's Edition, Second Series. |
| Leg. | Acts of the Legislature. |
| Legal Reference Services Q. | Legal Reference Services Quarterly. |
| Legis. | Legislation; Legislative. |
| Leh.L.J. | Lehigh Law Journal, Pa. |
| Lincoln Law Rev. | Lincoln Law Review. |
| L.J. | Law Journal |
| Los Angeles Bar J. | Los Angeles Bar Journal. |
| Loy.L.A.Ent.L.J. | Loyola Entertainment Law Journal. |
| Loy.L.A.Int'l & Comp.L.J. | Loyola of Los Angeles International and Comparative Law Journal. |
| Loy.L.A.L.Rev. | Loyola of Los Angeles Law Review. |
| Loy.L.Rev. | Loyola Law Review (New Orleans). |
| Loy.U.Chi.L.J. | Loyola University of Chicago Law Journal. |
| L.P.R.A. | Laws of Puerto Rico Annotated. |
| L.R. | Law Reports, U.S. |
| L.R.A. | Lawyers' Reports Annotated. |
| LSA | Louisiana Statutes Annotated. |
| LSA-C.C. | Louisiana Statutes Annotated—Civil Code. |
| LSA-C.C.P. | Louisiana Statutes Annotated—Code of Civil Procedure. |
| LSA-C.Cr.P. | Louisiana Statutes Annotated—Code of Criminal Procedure. |
| LSA-C.J.P. | Louisiana Statutes Annotated—Code of Juvenile Procedure. |
| LSA-R.S. | Louisiana Statutes Annotated—Revised Statutes. |
| Ltd. | Limited. |

M

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| MA | Maritime Administration. |
| Mag. | Magistrate. |
| Maine B.J. | Maine Bar Journal. |
| Maine L.Rev. | Maine Law Review. |

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| Marq.L.Rev. | Marquette Law Review. |
| Mass. | Massachusetts Reports. |
| Mass.App.Ct. | Massachusetts Appeals Court Reports. |
| Mass.L.Rev. | Massachusetts Law Review. |
| Mass.L.Q. | Massachusetts Law Quarterly. |
| McGill L.J. | McGill Law Journal. |
| M.C.A. | Mississippi Code Annotated; Montana Code Annotated. |
| M.C.L.A. | Michigan Compiled Laws Annotated. |
| Md. | Maryland Reports. |
| Md.App. | Maryland Appellate Reports. |
| Md.B.J. | Maryland Bar Journal. |
| Md.Ch. | Maryland Chancery. |
| Md.Code Ann. | Annotated Code of Maryland. |
| Md.J.Int'l L. & Trade | Maryland Journal of International Law and Trade. |
| Md.L.Rep. | Maryland Law Reporter, Baltimore. |
| Md.L.Rev. | Maryland Law Review. |
| Me. | Maine Reports. |
| Me.B.J. | Maine Bar Journal. |
| Me.L.Rev. | Maine Law Review. |
| Med.Leg.J. | Medico-Legal Journal. |
| Med.Trial Tech.Q. | Medical Trial Technique Quarterly. |
| Memphis L.J. | Memphis Law Journal, Tenn. |
| Memphis St.U.L.Rev. | Memphis State University Law Review. |
| Mercer L.Rev. | Mercer Law Review. |
| Me.Rev.Stat.Ann. | Maine Revised Statutes Annotated. |
| M.F.P.D. | Modern Federal Practice Digest. |
| MGIC | Mortgage Guaranty Insurance Corporation. |
| M.G.L.A. | Massachusetts General Laws Annotated. |
| Miami L.Q. | Miami Law Quarterly. |
| Mich. | Michigan Reports. |
| Mich.App. | Michigan Appeals Reports. |
| Mich.B.J. | Michigan Bar Journal. |
| Mich.Ct.Cl. | Michigan Court of Claims Reports. |
| Mich.Lawyer | Michigan Lawyer. |
| Mich.L.Rev. | Michigan Law Review. |
| Mich.S.B.J. | Michigan State Bar Journal. |
| Mil.L.Rev. | Military Law Review. |
| Minn. | Minnesota Reports. |
| Minn.L.Rev. | Minnesota Law Review. |
| Minn.T.Law. | Minnesota Trial Lawyer. |
| Miss. | Mississippi Reports. |
| Miss.C.L.Rev. | Mississippi College Law Review. |
| Miss.Code Ann. | Mississippi Code Annotated. |
| Miss.Dec. | Mississippi Decisions. |
| Miss.L.J. | Mississippi Law Journal. |
| Miss.Law. | Mississippi Lawyer. |
| Miss.St.Cas. | Mississippi State Cases. |
| Mitf.Eq.Pl. | Mitford's Equity Pleading. |

M.J. Military Justice Reporter.
 M.L.R. Military Law Review.
 MLS Multiple Listing Service.
 Mo. Missouri Reports.
 Mo.App. Missouri Appeal Reports.
 Mo.B.J. Missouri Bar Journal.
 Mo.J.Dis.Res. Missouri Journal of Dispute
 Resolution.
 Mo.L.Rev. Missouri Law Review.
 Mo.St. Ann. Missouri Statutes Annotated.
 Mont. Montana Reports.
 Mont.Code Ann. Montana Code Annotated.
 Mont.L.Rev. Montana Law Review.
 MPC Model Penal Code.
 M.R.S.A. Maine Revised Statutes Anno-
 tated.
 M.S.A. Minnesota Statutes Annotat-
 ed; Michigan Statutes An-
 notated.
 MSPB Merit Systems Protection
 Board.
 M.T. Miscellaneous Tax Ruling.
 Mun.Att'y Municipal Attorney.
 Mun.Code Municipal Code.
 Mun.Ct. Municipal Court.

N

NAS National Academy of Science.
 NASA National Aeronautics and
 Space Administration.
 NASD National Association of Securi-
 ties Dealers.
 Nat.Gas Law.J. Natural Gas Lawyer's Journal.
 NATO North Atlantic Treaty Orga-
 nization.
 Nat.Resources J. Natural Resources Journal.
 Nat'l Black L.J. National Black Law Journal.
 Nat'l Jewish L.Rev. National Jewish Law Review.
 Naval L.Rev. Naval Law Review.
 NBS National Bureau of Standards.
 N.C. North Carolina Reports.
 N.C.App. North Carolina Court of Ap-
 peals Reports.
 N.C.Bar North Carolina Bar.
 N.C.Cent.L.J. North Carolina Central Law
 Journal.
 N.C.Gen.Stat. General Statutes of North Car-
 olina.
 N.C.L.Rev. North Carolina Law Review.
 N.C.S.B. Quarterly. North Carolina State Bar
 Quarterly.
 N.C.Term R. North Carolina Term Reports.
 N.D. North Dakota Reports; North-
 ern District.
 N.D.Cent.Code North Dakota Century Code.
 N.D.L.Rev. North Dakota Law Review.
 N.E. North Eastern Reporter.
 N.E.2d North Eastern Reporter, Sec-
 ond Series.
 Neb. Nebraska Reports.

Neb.L.B. Nebraska Law Bulletin.
 Neb.L.Rev. Nebraska Law Review.
 Neb.Rev.Stat. Revised Statutes of Nebraska.
 Neb.St.B.J. Nebraska State Bar Journal.
 Nev. Nevada Reports.
 Nev.Rev.Stat. Nevada Revised Statutes.
 New Eng.L.Rev. New England Law Review.
 N.H. New Hampshire Reports.
 N.H.B.J. New Hampshire Bar Journal.
 N.H.Rev.Stat. Ann. New Hampshire Revised Stat-
 utes Annotated.
 NHTSA National Highway Transporta-
 tion Safety Administration.
 N.Ill.U.L.Rev. Northern Illinois University
 Law Review.
 N.J. New Jersey Reports.
 N.J.Eq. New Jersey Equity Reports.
 N.J.L. New Jersey Law Reports.
 N.J.Law. New Jersey Lawyer.
 N.J.L.J. New Jersey Law Journal.
 N.J.Misc. New Jersey Miscellaneous Re-
 ports.
 N.J.S.A. New Jersey Statutes Annotat-
 ed.
 N.J.St.B.J. New Jersey State Bar Journal.
 N.J.Super. New Jersey Superior Court Re-
 ports.
 nka now known as.
 N.Ky.L.Rev. Northern Kentucky Law Re-
 view.
 NLRB National Labor Relations
 Board.
 N.M. New Mexico Reports.
 N.M.App. New Mexico Appeals.
 N.M.Bar Bul. New Mexico Bar Bulletin.
 N.M.L.Rev. New Mexico Law Review.
 N.M.Stat. Ann. New Mexico Statutes Annotat-
 ed.
 Notre Dame J.L. Ethics &
 Pub. Pol'y. Notre Dame Journal of Law,
 Ethics, & Public Policy.
 Notre Dame L.Rev. Notre Dame Law Review.
 Nova L.Rev. Nova Law Review.
 NRC Nuclear Regulatory Commis-
 sion.
 N.R.S. Nevada Revised Statutes.
 NSA National Security Agency.
 NSC National Security Council.
 NSF National Science Foundation.
 NTSB National Transportation Safe-
 ty Board.
 N.W. North Western Reporter.
 N.W.2d North Western Reporter, Sec-
 ond Series.
 Nw.J.Int'l L. & Bus. Northwestern Journal of In-
 ternational Law & Business.
 Nw.U.L.Rev. Northwestern University Law
 Review.
 N.Y. New York Court of Appeals
 Reports.

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| N.Y.2d..... | New York Court of Appeals Reports, Second Series. | N.Y.Rec..... | New York Record. |
| N.Y.A.D..... | New York Supreme Court, Appellate Division, Reports. | N.Y.S..... | New York Supplement Reporter. |
| N.Y.A.D.2d..... | New York Supreme Court, Appellate Division, Reports, Second Series. | N.Y.S.2d..... | New York Supplement Reporter, Second Series. |
| N.Y.Ann.Cas..... | New York Annotated Cases. | N.Y.St.B.J..... | New York State Bar Journal. |
| N.Y.App.Div..... | New York Supreme Court, Appellate Division. | N.Y.St.Rep..... | New York State Reporter. |
| N.Y.Cas.Err..... | New York Cases in Error, Caine's Cases. | N.Y.Super.Ct..... | New York Superior Court. |
| N.Y.Ch.Sent..... | New York Chancery Sentinel. | N.Y.U.L.Rev..... | New York University Law Review. |
| N.Y.City Ct..... | New York City Court. | N.Y.U.Rev.L. & Soc. Change..... | New York University Review of Law and Social Change. |
| N.Y.City Ct.Suppl..... | New York City Court Supplement. | N.Y.Wkly.Dig..... | New York Weekly Digest. |
| N.Y.City H.Rec..... | New York City Hall Recorder. | | |
| N.Y.Civ.Proc..... | New York Civil Procedure. | O | |
| N.Y.Civ.Proc.R., N.S..... | New York Civil Procedure Reports, New Series. | OA..... | Office of Administration. |
| N.Y.Civ.Pr.Rep..... | New York Civil Procedure Reports. | OASDI..... | Old-Age, Survivors and Disability Insurance Benefits. |
| N.Y.Code Rep..... | New York Code Reporter. | OAS..... | Organization of American States. |
| N.Y.Code Reports, N.S..... | New York Code Reports, New Series. | O.C.D..... | Ohio Circuit Decisions. |
| N.Y.Cond..... | New York Condensed Reports. | OFCC..... | Office of Federal Contract Compliance. |
| N.Y.County B.Bull..... | New York County Bar Bulletin. | Off.Gaz..... | Official Gazette, U.S. Patent Office. |
| N.Y.Cr.R..... | New York Criminal Reports. | OFPP..... | Office of Federal Procurement Policy. |
| N.Y.Daily L.Gaz..... | New York Daily Law Gazette. | OFR..... | Office of Federal Register. |
| N.Y.Daily Reg..... | New York Daily Register. | Ohio..... | Ohio Reports. |
| N.Y.Elect.Cas..... | New York Election Cases. | Ohio App..... | Ohio Appellate Reports. |
| N.Y.Law J..... | New York Law Journal. | Ohio App.2d..... | Ohio Appellate Reports, Second Series. |
| N.Y.L.C.Ann..... | New York Leading Cases Annotated. | Ohio App.3d..... | Ohio Appellate Reports, Third Series. |
| N.Y.L.F..... | New York Law Forum. | Ohio Cir.Ct.R..... | Ohio Circuit Court Reports. |
| N.Y.Law B.Bull..... | New York Lawyer Bar Bulletin. | Ohio Cir.Ct.R., N.S..... | Ohio Circuit Court Reports, New Series. |
| N.Y.Law B.J..... | New York Lawyer Bar Journal. | Ohio Cir.Dec..... | Ohio Circuit Decisions. |
| N.Y.Leg.N..... | New York Legal News. | Ohio Dec..... | Ohio Decisions. |
| N.Y.Leg.Obs..... | New York Legal Observer. | Ohio Dec.Reprint..... | Ohio Decisions, Reprint. |
| N.Y.Leg.Reg..... | New York Legal Register. | Ohio F.Dec..... | Ohio Federal Decisions. |
| N.Y.L.Gaz..... | New York Law Gazette. | Ohio Law..... | Ohio Lawyer. |
| N.Y.L.J..... | New York Law Journal. | Ohio Law Bul..... | Ohio Law Bulletin. |
| N.Y.L.Rec..... | New York Law Record. | Ohio Law J..... | Ohio Law Journal. |
| N.Y.L.Rev..... | New York Law Review. | Ohio Law Rep..... | Ohio Law Reporter. |
| N.Y.L.Sch.L.Rev..... | New York Law School Law Review. | Ohio Leg.N..... | Ohio Legal News. |
| N.Y.Misc..... | New York Miscellaneous Reports. | Ohio N.U.L.Rev..... | Ohio Northern University Law Review. |
| N.Y.Misc.2d..... | New York Miscellaneous Reports, Second Series. | Ohio N.P..... | Ohio Nisi Prius. |
| N.Y.Month.L.Bul..... | New York Monthly Law Bulletin. | Ohio N.P., N.S..... | Ohio Nisi Prius, New Series. |
| N.Y.Month.L.R..... | New York Monthly Law Reports. | Ohio O..... | Ohio Opinions. |
| N.Y.Mun.Gaz..... | New York Municipal Gazette. | Ohio O.2d..... | Ohio Opinions, Second Series. |
| N.Y.Ops.Atty.Gen..... | Opinions of the Attorney-General of New York. | Ohio Prob..... | Ohio Probate. |
| N.Y.Pr.Rep..... | New York Practice Reports. | Ohio Rev.Code Ann..... | Ohio Revised Code Annotated. |
| | | Ohio S. & C.P.Dec..... | Ohio Superior and Common Pleas Decisions. |
| | | Ohio St..... | Ohio State Reports. |
| | | Ohio St.2d..... | Ohio State Reports, Second Series. |

Ohio St.3d Ohio State Reports, Third Series.
 Ohio St.L.J. Ohio State Law Journal.
 Ohio Supp..... Ohio Supplement.
 Oil & Gas Tax Q. Oil & Gas Tax Quarterly.
 Okla..... Oklahoma Reports.
 Okla.App..... Oklahoma Court of Appeals.
 Okla.B.J. Oklahoma Bar Journal.
 Okla.Cr..... Oklahoma Court of Criminal Appeals.
 Okla.Cty.U.L.Rev.....Oklahoma City University Law Review.
 Okla.Crim..... Oklahoma Criminal Reports.
 Okla.L.J..... Oklahoma Law Journal.
 Okla.L.Rev..... Oklahoma Law Review.
 Okla.St.Ann..... Oklahoma Statutes Annotated.
 OLMs Office of Labor-Management Standards.
 OMB Office of Management and Budget.
 O.O. Ohio Opinions.
 Op.Atty.Gen..... Opinions of the Attorney General.
 OPM Office of Personnel Management.
 Or..... Oregon Reports.
 Or.App..... Oregon Reports, Court of Appeals.
 Or.Bar Bull..... Oregon Bar Bulletin.
 ORC..... Ohio Revised Code.
 Ord..... Ordinance.
 Orleans App..... Orleans Appeals, La.
 Or.L.Rev..... Oregon Law Review.
 Or.Rev.Stat..... Oregon Revised Statutes.
 Or.Tax..... Oregon Tax Reports.
 O.S..... Oklahoma Statutes; Old Series.
 OSHA Occupational Safety and Health Administration.
 OSHRC Occupational Safety and Health Review Commission.
 OT..... Office of Transportation.
 OTC..... Over the counter.
 OTS Office of Thrift Supervision.

P

P..... Pacific Reporter.
 P.2d Pacific Reporter, Second Series.
 Pa..... Pennsylvania State Reports.
 Pa.B.A.Q..... Pennsylvania Bar Ass'n Quarterly.
 Pace Env'tl.L.Rev..... Pace Environmental Law Review.
 Pace L.Rev..... Pace Law Review.
 Pacific C.L.J..... Pacific Coast Law Journal, San Francisco.
 Pac.L.J..... Pacific Law Journal.
 Pa.Cmw'lth..... Pennsylvania Commonwealth Court Reports.

Pa.Co.Ct.R..... Pennsylvania County Court Reports.
 Pa.Com.Pl..... Pennsylvania Common Pleas Reporter.
 Pa.Cons.Stat.Ann..... Pennsylvania Consolidated Statutes Annotated.
 Pa.Corp..... Pennsylvania Corporation Reporter.
 Pa.C.S.A..... Pennsylvania Consolidated Statutes Annotated.
 Pa.Dist. & Co..... Pennsylvania District and County Reports.
 Pa.Dist. & Co.2d..... Pennsylvania District and County Reports, Second Series.
 Pa.Dist. & Co.3d..... Pennsylvania District and County Reports, Third Series.
 Pa.Dist.R..... Pennsylvania District Reports.
 Pa.Law J..... Pennsylvania Law Journal.
 Pa.Law Ser..... Pennsylvania Law Series.
 Pa.Leg.Gaz..... Legal Gazette Reports (Campbell) Pa.
 Pa.L.Rec..... Pennsylvania Law Record.
 Pa.Misc..... Pennsylvania Miscellaneous Reports.
 Pamph.Laws..... Pamphlet Laws, Acts.
 Pa.Stat.Ann..... Pennsylvania Statutes Annotated.
 Pa.Super..... Pennsylvania Superior Court Reports.
 Pat..... Patent.
 Pat.L.Ann..... Patent Law Annual.
 Pat.Off.Gaz..... Patent Office Gazette.
 Pat.Off.Rep..... Patent Office Reports.
 PBGC..... Pension Benefit Guaranty Corporation.
 P.C..... Penal Code.
 Pen.Code..... Penal Code.
 Pen.Laws..... Penal Laws.
 Pepperdine L.Rev..... Pepperdine Law Review.
 Pet..... Peters, U.S. Supreme Court Reports.
 PHA's Public Housing Agencies.
 Phila.Leg.Int..... Philadelphia Legal Intelligence, Pa.
 Philippine..... Philippine Reports.
 Philippine L.J..... Philippine Law Journal.
 PHS..... Public Health Service.
 Pitt.L.J..... Pittsburgh Legal Journal.
 Pittsb.Leg.J..... Pittsburgh Legal Journal, Pa.
 Pittsb.Leg.J., N.S..... Pittsburgh Legal Journal, New Series, Pa.
 Pittsb.R..... Pittsburgh Reports, Pa.
 P.L..... Public Law.
 P.L.J..... Pittsburgh Legal Journal, Pa.
 Portia L.J..... Portia Law Journal.
 Porto Rico Porto Rico Reports.
 Potomac L.Rev..... Potomac Law Review.
 Prac.Act..... Practice Act.
 Prac.Law..... Practical Lawyer.

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| Priv.Ltr.Rul. | Private Letter Ruling (IRS). |
| Prop.Treas.Reg. | Proposed Treasury Regulation. |
| P.R.R. | Puerto Rico Supreme Court Reports. |
| P.S. | Pennsylvania Statutes; Pennsylvania Unconsolidated Statutes Annotated. |
| PTO | Patent and Trademark Office. |
| Pub.Acts | Public Acts. |
| Pub.Cont.L.J. | Public Contract Law Journal. |
| Pub.Gen.Laws | Public General Laws. |
| Pub.L. | Public Law. |
| Pub.Land L.Rev. | Public Land Law Review. |
| Pub.Laws | Public Laws. |
| PUD | Planned Unit Development. |
| Puget Sound L.Rev. | Puget Sound Law Review. |
| P.U.R. | Public Utilities Reports. |
| PWBA | Pension and Welfare Benefits Administration. |

R

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| R.C. | Revised Code. |
| R.C.M. | Revised Code of Montana. |
| RCWA | Revised Code of Washington Annotated. |
| Real Est.L.J. | Real Estate Law Journal. |
| Rec. | Record. |
| Reg. | Register; Regulation. |
| REIT | Real Estate Investment Trust. |
| Rem'g. | Remanding. |
| Rep. | Report(s), er). |
| Res Gestae | Res Gestae (Indiana State Bar Assoc.). |
| RESPA | Real Estate Settlement Procedures Act. |
| Rev. | Revised; Review. |
| Rev.Civ.Code | Revised Civil Code. |
| Rev.Civ.St. | Revised Civil Statutes. |
| Rev.Code | Revised Code. |
| Rev.Code Civ.Proc. | Revised Code Civil Procedure. |
| Rev.Cr.Code | Revised Criminal Code. |
| Rev.Code Cr.Proc. | Revised Code of Criminal Procedure. |
| Rev.Laws | Revised Laws. |
| Rev.Mun.Code | Revised Municipal Code. |
| Rev.Ord. | Revised Ordinances. |
| Rev.Pen.Code | Revised Penal Code. |
| Rev.Pol.Code | Revised Political Code. |
| Rev.Proc. | Revenue Procedure. |
| Rev.Rul. | Revenue Ruling. |
| Rev.St. | Revised Statutes. |
| R.I. | Rhode Island Reports. |
| R.I.B.J. | Rhode Island Bar Journal. |
| R.I.Gen.Laws | General Laws of Rhode Island. |
| R.L. | Revised Laws. |
| Rocky Mtn.Min.L.Inst. | Rocky Mountain Mineral Law Institute. |
| RRB | Railroad Retirement Board. |
| R.S. | Revised Statutes. |
| R.S.N. | Revised Statutes of Nebraska. |
| RTC | Resolution Trust Corporation. |
| Rutgers-Cam.L.J. | Rutgers-Camden Law Journal. |
| Rutgers Computer & Tech. L.J. | Rutgers Computer and Technology Law Journal. |
| Rutgers L.J. | Rutgers Law Journal. |
| Rutgers L.Rev. | Rutgers Law Review. |

S

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| SALT | Strategic Arms Limitation Talks. |
| San Diego L.Rev. | San Diego Law Review. |
| San Fern.V.L.Rev. | San Fernando Valley Law Review. |
| San Fran.Atty. | San Francisco Attorney. |
| Santa Clara L.Rev. | Santa Clara Law Review. |
| S.B. | Senate Bill. |
| SBA | Small Business Administration. |
| S.Bar.J. | Journal of the State Bar of California. |
| SBIC | Small Business Investment Companies. |
| S.C. | South Carolina Reports. |
| S.C.Code Ann. | Code of Laws of South Carolina. |
| S.C.Eq. | South Carolina Equity. |
| S.C.Law. | South Carolina Lawyer. |
| S.C.L.Rev. | South Carolina Law Review. |
| S.Cal.L.Rev. | Southern California Law Review. |
| S.Ct. | U.S. Supreme Court Reporter. |
| S.D. | South Dakota Reports; Southern District. |
| S.D.Codified Laws Ann. | South Dakota Codified Laws Annotated. |
| S.D.L.Rev. | South Dakota Law Review. |
| S.E. | South Eastern Reporter. |
| S.E.2d | South Eastern Reporter, Second Series. |
| SEATO | Southeast Asia Treaty Organization. |
| Sec. | Section; Securities. |
| SEC | Securities and Exchange Commission. |
| Ser. | Series. |
| Sess. | Session. |
| Sess.Acts | Session Acts. |
| Sess.Laws | Session Laws. |
| Seton Hall L.Rev. | Seton Hall Law Review. |
| Seton Hall Legis.L. | Seton Hall Legislative Journal. |
| S.F.L.R. | San Francisco Law Review. |
| S.H.A. | Smith-Hurd Illinois Annotated Statutes. |
| S.Ill.U.L.J. | Southern Illinois University Law Journal. |
| S & L | Savings and Loan Association. |
| Smith-Hurd Ann.St. | Smith-Hurd Illinois Annotated Statutes. |

So. Southern Reporter.
 So.2d Southern Reporter, Second Series.
 So.Cal.L.Rev. Southern California Law Review.
 So.Car.L.J. South Carolina Law Journal, Columbia.
 So.Car.L.Rev. South Carolina Law Review.
 So.Dak.L.Rev. South Dakota Law Review.
 So.Ill.L.J. Southern Illinois University Law Journal.
 So.U.L.Rev. Southern University Law Review (La.).
 Software L.J. Software Law Journal.
 South Texas L.Rev. South Texas Law Review.
 Southwestern (Cal.) L.Rev. Southwestern University Law Review (Calif.).
 Southwestern (Tex.) L.J. Southwestern Law Journal.
 Sp.Acts Special Acts.
 Sp.Laws Special Laws.
 Sp.Sess. Special Session.
 S.R. Senate Resolution.
 SSA Social Security Administration.
 SSI Supplementary Security Income Program.
 SSS Selective Service System.
 S.Tex.L.Rev. South Texas Law Review.
 St. State; Statutes; State laws or acts.
 Stan.Env'tl.L.J. Stanford Environmental Law Journal.
 Stan.J.Int'l L. Stanford Journal of International Law.
 Stan.L.Rev. Stanford Law Review.
 Stat. Statute(s).
 Stat. at L. Statutes at Large, U.S.
 Stetson L.Rev. Stetson Law Review.
 St. John's J.Legal Commentary St. John's Journal of Legal Commentary.
 St. John's L.Rev. St. John's Law Review.
 St. Louis U.L.J. Saint Louis University Law Journal.
 St. Mary's L.J. St. Mary's Law Journal.
 St. Rep. State Reporter.
 Suffolk Transnat'l L.J. Suffolk Transnational Law Journal.
 Suffolk U.L.Rev. Suffolk University Law Review.
 S.U.L.Rev. Southern University Law Review (La.).
 Sup. Supplement.
 Sup.Ct. Supreme Court.
 Super.Ct. Superior Court.
 Sup.Jud.Ct. Supreme Judicial Court.
 Supp. Supplement.
 Supp.Code Supplement to Code.
 Supp.Gen.St. Supplement to the General Statutes.
 Supp.Rev. Supplement to the Revision.

Supp.Rev.Code Supplement to the Revised Code.
 Supp.Rev.St. Supplement to the Revised Statutes.
 Sur.Ct. Surrogate Court.
 S.W. South Western Reporter.
 S.W.2d South Western Reporter, Second Series.
 Sw.L.J. Southwestern Law Journal.
 Sw.U.L.Rev. Southwestern University Law Review.
 Syracuse J.Int'l L. & Com. Syracuse Journal of International Law and Commerce.
 Syracuse L.Rev. Syracuse Law Review.

T

T. Texas Reports.
 T. Marshall L.Rev. Thurgood Marshall Law Review.
 Tax Adviser Tax Adviser.
 Tax Law Tax Lawyer.
 Tax L.Rev. Tax Law Review.
 T.B.M. Advisory Tax Board Memorandum.
 T.C. United States Tax Court.
 T.C.A. Tennessee Code Annotated.
 T.C.M. Tax Court Memorandum Decisions.
 T.D. Treasury Department Decision.
 Temp.Int'l & Comp.L.J. Temple International and Comparative Law Journal.
 Temp.L.Rev. Temple Law Review.
 Temple L.Q. Temple Law Quarterly.
 Temp.Treas.Reg. Temporary Treasury Regulation.
 Tenn. Tennessee Reports.
 Tenn.App. Tennessee Appeals.
 Tenn.B.J. Tennessee Bar Journal.
 Tenn.Cas. Shannon's Tennessee Cases.
 Tenn.Ch. Tennessee Chancery.
 Tenn.Ch.A. Tennessee Chancery Appeals.
 Tenn.Civ.A. Tennessee Civil Appeals.
 Tenn.Code Ann. Tennessee Code Annotated.
 Tenn.Crim.App. Tennessee Criminal Appeals Reports.
 Tenn.Leg.Rep. Tennessee Legal Reporter, Nashville, Tenn.
 Tenn.L.Rev. Tennessee Law Review.
 Ter.Laws Territorial Laws.
 Tex. Texas Reports.
 Tex.App. Texas Appeals Reports.
 Tex.B.J. Texas Bar Journal.
 Tex.Civ.App. Texas Civil Appeals Reports.
 Tex.Code Ann. Texas Code Annotated.
 Tex.Com.App. Texas Commission of Appeals.
 Tex.Crim. Texas Criminal Reports.
 Tex.Ct.App.R. Texas Court of Appeals Reports.

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| Tex.Int'l L.J. | Texas International Law Journal. | U.Ill.L.Rev. | University of Illinois Law Review. |
| Tex.L.J. | Texas Law Journal. | U.Kan.L.Rev. | University of Kansas Law Review. |
| Tex.L.Rev. | Texas Law Review. | U.L.A. | Uniform Laws Annotated. |
| Tex.Rev.Civ.Stat.Ann. | Texas Revised Civil Statutes Annotated. | U.L.P.A. | Uniform Limited Partnership Act. |
| Tex.So.U.L.Rev. | Texas Southern University Law Review. | UMKC L.Rev. | University of Missouri-Kansas City Law Review. |
| Tex.Tech L.Rev. | Texas Tech Law Review. | U.Maine L.Rev. | University of Maine Law Review. |
| T.I.R. | Technical Information Releases. | U.Miami L.Rev. | University of Miami Law Review. |
| T.M.R. | Trade Mark Reports. | U.Mo.B., Law Ser. | University of Missouri Bulletin, Law Series. |
| T. Marshall L.J. | Thurgood Marshall Law Journal. | UN | United Nations. |
| Tort & Ins.L.J. | Tort & Insurance Law Journal. | Unof. | Unofficial, Report. |
| Trademark Rep. | Trademark Reporter. | UPA | Uniform Partnership Act. |
| Treas.Dec. | Treasury Decisions. | U.Pa.J.Int'l Bus.L. | University of Pennsylvania Journal of International Business Law. |
| Treas.Reg. | Treasury Regulation. | U.Pa.L.Rev. | Univ. of Pennsylvania Law Review. |
| Trial | Pub. of Assoc. of Trial Lawyers of America. | U.Pitt.L.Rev. | Univ. of Pittsburgh Law Review. |
| Tul.Civ.L.F. | Tulane Civil Law Forum. | UPC | Uniform Probate Code. |
| Tul.L.Rev. | Tulane Law Review. | U.Puget Sound L.Rev. | University of Puget Sound Law Review. |
| Tulsa L.J. | Tulsa Law Journal. | Urb.Law. | Urban Lawyer. |
| TVA | Tennessee Valley Authority. | Urban L.J. | University of Detroit, Urban Law Journal. |
| U | | | |
| U.Ark. Little Rock L.J. | University of Arkansas at Little Rock Law Journal. | U.Rich.L.Rev. | University of Richmond Law Review. |
| U.Balt.L.Rev. | University of Baltimore Law Review. | U.S. | United States Supreme Court Reports. |
| U. Bridgeport L.Rev. | University of Bridgeport Law Review. | U.S.Aviation Rep. | Aviation Reports, U.S. |
| U.C.A. | Utah Code Annotated. | U.S.C. | United States Code. |
| U.C.C. | Uniform Commercial Code. | U.S.C.A. | United States Code Annotated. |
| U.C.C.L.J. | Uniform Commercial Code Law Journal. | U.S.C.C. & A.N. | United States Code Congressional and Administrative News. |
| U.C. Davis L.Rev. | University of California Davis Law Review. | U.S. Const. | United States Constitution. |
| U.Chi.L.Rev. | University of Chicago Law Review. | USDA | United States Department of Agriculture. |
| U.Chi. Legal F. | University of Chicago Legal Forum. | USES | United States Employment Service. |
| U.Cin.L.Rev. | University of Cincinnati Law Review. | U.S.F.L.Rev. | University of San Francisco Law Review. |
| U.Colo.L.Rev. | University of Colorado Law Review. | USIA | United States Information Agency. |
| UCLA J.Envntl.L. & Pol'y. | UCLA Journal of Environmental Law & Policy. | USIS | United States Information Service. |
| UCLA L.R. | Univ. of Cal. Los Angeles Law Review. | USITC | United States International Trade Commission. |
| UCLA Pac.Basin L.J. | UCLA Pacific Basin Law Journal. | U.S.L.Ed. | Lawyers' Ed. Supreme Court Reports. |
| U. Dayton L.Rev. | University of Dayton Law Review. | U.S.L.W. | United States Law Week. |
| U.Det.L.Rev. | University of Detroit Law Review. | U.S.P.Q. | United States Patent Quarterly. |
| U.Fla.J.L. & Pub.Pol'y. | University of Florida Journal of Law and Public Policy. | USTC | United States Tax Cases. |
| U.Haw.L.Rev. | University of Hawaii Law Review. | | |

U.Tol.L.Rev. University of Toledo Law Review.
 U.West L.A.L.Rev. University of West Los Angeles Law Review.
 Utah Utah Reports.
 Utah 2d Utah Reports, Second Series.
 Utah B.J. Urban Bar Journal.
 Utah Code Ann. Utah Code Annotated.
 Utah L.Rev. Utah Law Review.

V

VA. Department of Veterans Affairs.
 Va. Virginia Reports.
 Va.App. Virginia Court of Appeals Reports.
 Va.Cas. Virginia Cases.
 Va.Code Ann. Code of Virginia Annotated.
 Va.Dec. Virginia Decisions.
 Va.Env'tl.L.J. Virginia Environmental Law Journal.
 Va.J.Int'l L. Virginia Journal of International Law.
 Va.J.Nat.Resources L. Virginia Journal of Natural Resources Law.
 Va.Tax Rev. Virginia Tax Review.
 Vac'g Vacating.
 Va.L.Rev. Virginia Law Review.
 Va.Law. Virginia Lawyer.
 Val.U.L.Rev. Valparaiso University Law Review.
 V.A.M.S. Vernon's Annotated Missouri Statutes.
 V.A.M.R. Vernon's Annotated Missouri Rule.
 Vand.L.R. Vanderbilt Law Review.
 V.A.T.S. Vernon's Annotated Texas Statutes.
 V.C.A. Veterans Court of Appeals.
 Vernon's Ann.C.C.P. Vernon's Annotated Texas Code of Criminal Procedure.
 Vernon's Ann.Civ.St. Vernon's Annotated Texas Civil Statutes.
 Vernon's Ann.P.C. Vernon's Annotated Texas Penal Code.
 Vernon's Ann.Rules Civ. Proc. Vernon's Annotated Texas Rules of Civil Procedure.
 V.I.C. Virgin Islands Code.
 Vill.L.Rev. Villanova Law Review.
 V.S. Vermont Statutes.
 V.S.A. Vermont Statutes Annotated.
 Vt. Vermont Reports.
 Vt.L.Rev. Vermont Law Review.
 Vt.Stat.Ann. Vermont Statutes Annotated.
 V.T.C.A. Vernon's Texas Codes Annotated.
 V.T.S.A. Vernon's Texas Statutes Annotated.

W

Wake Forest L.Rev. Wake Forest Law Review.
 Wall. Wallace, U.S. Supreme Court Reports.
 Wash. Washington Reports.
 Wash.2d Washington Reports, Second Series.
 Wash. & Lee L.Rev. Washington and Lee Law Review.
 Wash.App. Washington Appellate Reports.
 Washburn L.J. Washburn Law Journal.
 Wash.C.C. Washington Circuit Court, U.S.
 Wash.Law Rep. Washington Law Reporter, D.C.
 Wash.L.Rev. Washington Law Review.
 Wash.Rev.Code Revised Code of Washington.
 Wash.St.B.News Washington State Bar News.
 Wash.U.L.Q. Washington University Law Quarterly (Missouri).
 Wayne L.Rev. Wayne Law Review.
 W.D. Western District.
 Wheat. Wheaton, U.S. Supreme Court Reports.
 Whittier L.Rev. Whittier Law Review.
 Willamette L.Rev. Willamette Law Review.
 Wis. Wisconsin Reports.
 Wis.2d Wisconsin Reports, Second Series.
 Wis.B.Bull. Wisconsin Bar Bulletin.
 Wis.Int'l L.J. Wisconsin International Law Journal.
 Wis.Law. Wisconsin Lawyer.
 Wis.L.N. Wisconsin Legal News.
 Wis.L.Rev. Wisconsin Law Review.
 Wis.Stat.Ann. Wisconsin Statutes Annotated.
 Wis.Women's L.J. Wisconsin Women's Law Journal.
 Wm. & Mary L.Rev. William and Mary Law Review.
 Wm. Mitchell L.Rev. William Mitchell Law Review.
 W.New Eng.L.Rev. Western New England Law Review.
 Women Law.J. Women Lawyers Journal.
 Women's Rts.L.Rep. Women's Rights Law Reporter.
 W.S. Wyoming Statutes.
 W.St.U.L.Rev. Western State University Law Review.
 W.S.A. Wisconsin Statutes Annotated.
 W.Va. West Virginia Reports.
 W.Va.L.Rev. West Virginia Law Review.
 W.Va.Law. West Virginia Lawyer.
 WVC West Virginia Code.
 Wyo. Wyoming Reports.
 Wyo. Wyoming Statutes.

Y

Yale J.Int'l L. Yale Journal of International Law.
 Yale L.J. Yale Law Journal.

THE CONSTITUTION OF THE UNITED STATES

PREAMBLE

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. [1] The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

[2] No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[3] Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

[4] When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

[5] The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. [1] The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

[2] Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the Second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

[3] No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

[4] The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

[5] The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

[6] The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

[7] Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment, according to Law.

Section 4. [1] The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

[2] The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section 5. [1] Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

[2] Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

[3] Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

[4] Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. [1] The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

[2] No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7. [1] All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

[2] Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to the House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each

House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return in which Case it shall not be a Law.

[3] Every Order, Resolution, or Vote, to Which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8. [1] The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

[2] To borrow money on the credit of the United States;

[3] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

[4] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

[5] To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

[6] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

[7] To Establish Post Offices and Post Roads;

[8] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

[9] To constitute Tribunals inferior to the supreme Court;

[10] To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

[11] To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

[12] To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

[13] To provide and maintain a Navy;

[14] To make Rules for the Government and Regulation of the land and naval Forces;

[15] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

[16] To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

[17] To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

[18] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9. [1] The Migration or Importation of Such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

[2] The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

[3] No Bill of Attainder or ex post facto Law shall be passed.

[4] No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

[5] No Tax or Duty shall be laid on Articles exported from any State.

[6] No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State be obliged to enter, clear, or pay Duties in another.

[7] No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

[8] No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section 10. [1] No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

[2] No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

[3] No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

ARTICLE II

Section 1. [1] The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

[2] Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

[3] The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives,

open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greater Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

[4] The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

[5] No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

[6] In case of the removal of the President from Office, or of his Death, Resignation or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

[7] The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

[8] Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2. [1] The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the Executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

[2] He shall have Power, by and with the Advice and Consent of the Senate to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

[3] The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE III

Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

Section 2. [1] The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under the Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

[2] In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

[3] The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3. [1] Treason against the United States, shall consist only in levying War against them, or, in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

[2] The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE IV

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2. [1] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

[2] A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

[3] No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section 3. [1] New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

[2] The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this

Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ARTICLE VI

[1] All Debts contracted and Engagements entered into, before the Adoption of this Constitution shall be as valid against the United States under this Constitution, as under the Confederation.

[2] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

[3] The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE VII

The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

AMENDMENT I [1791]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II [1791]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT III [1791]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV [1791]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V [1791]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI [1791]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

AMENDMENT VII [1791]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII [1791]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX [1791]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X [1791]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT XI [1798]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

AMENDMENT XII [1804]

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

AMENDMENT XIII [1865]

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIV [1868]

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or

given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

AMENDMENT XV [1870]

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XVI [1913]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

AMENDMENT XVII [1913]

[1] The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

[2] When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

[3] This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

AMENDMENT XVIII [1919]

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XIX [1920]

[1] The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

[2] Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XX [1933]

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If the President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

AMENDMENT XXI [1933]

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XXII [1951]

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

AMENDMENT XXIII [1961]

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous state; they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a state; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXIV [1964]

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States, or any State by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXV [1967]

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration and the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the power and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

AMENDMENT XXVI [1971]

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

TIME CHART OF THE UNITED STATES SUPREME COURT [†]

The following table is designed to aid the user in identifying the composition of the Court at any given time in American history. Each listing is headed by the Chief Justice, whose name is italicized. Associate Justices are listed following the Chief Justice in order of seniority. In addition to dates of appointment, the table provides information on political party affiliation. Following each Justice is a symbol representing his party affiliation at the time of appointment:

| | |
|--|-----------------|
| F = Federalist | W = Whig |
| DR = Democratic Republican (Jeffersonian) | R = Republican |
| D = Democrat | I = Independent |

| | | | |
|--|--|--|---|
| <p>1789 Jay (F) J. Rutledge (F) Cushing (F) Wilson (F) Blair (F)</p> <p>1790-91 Jay (F) J. Rutledge (F) Cushing (F) Wilson (F) Blair (F) Iredell (F)</p> <p>1792 Jay (F) Cushing (F) Wilson (F) Blair (F) Iredell (F) T. Johnson (F)</p> <p>1793-94 Jay (F) Cushing (F) Wilson (F) Blair (F) Iredell (F) Paterson (F)</p> <p>1795 <i>J. Rutledge</i> (F)* Cushing (F) Wilson (F) Blair (F) Iredell (F) Paterson (F)</p> | <p>1796-97 <i>Ellsworth</i> (F) Cushing (F) Wilson (F) Iredell (F) Paterson (F) S. Chase (F)</p> <p>1798-99 <i>Ellsworth</i> (F) Cushing (F) Iredell (F) Paterson (F) S. Chase (F) Washington (F)</p> <p>1800 <i>Ellsworth</i> (F) Cushing (F) Paterson (F) S. Chase (F) Washington (F) Moore (F)</p> <p>1801-03 <i>J. Marshall</i> (F) Cushing (F) Paterson (F) S. Chase (F) Washington (F) Moore (F)</p> <p>1804-05 <i>J. Marshall</i> (F) Cushing (F) Paterson (F) S. Chase (F) Washington (F) W. Johnson (DR)</p> | <p>1806 <i>J. Marshall</i> (F) Cushing (F) S. Chase (F) Washington (F) W. Johnson (DR) Livingston (DR)</p> <p>1807-10 <i>J. Marshall</i> (F) Cushing (F) S. Chase (F) Washington (F) W. Johnson (DR) Livingston (DR) Todd (DR)</p> <p>1811-22 <i>J. Marshall</i> (F) Washington (F) W. Johnson (DR) Livingston (DR) Todd (DR) Duval (DR) Story (DR)</p> <p>1823-25 <i>J. Marshall</i> (F) Washington (F) W. Johnson (DR) Todd (DR) Duval (DR) Story (DR) Thompson (DR)</p> | <p>1826-28 <i>J. Marshall</i> (F) Washington (F) W. Johnson (DR) Duval (DR) Story (DR) Thompson (DR) Trimble (DR)</p> <p>1829 <i>J. Marshall</i> (F) Washington (F) W. Johnson (DR) Duval (DR) Story (DR) Thompson (DR) McLean (D)</p> <p>1830-34 <i>J. Marshall</i> (F) W. Johnson (DR) Duval (DR) Story (DR) Thompson (DR) McLean (D) Baldwin (D)</p> <p>1835 <i>J. Marshall</i> (F) Duval (DR) Story (DR) Thompson (DR) McLean (D) Baldwin (D) Wayne (D)</p> |
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† Source: Ducat and Chase, *Constitutional Interpretation*, 4th Edition, published in 1988 by West Publishing Co.

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| <p>1836 <i>Taney</i> (D) Story (DR) Thompson (DR) McLean (D) Baldwin (D) Wayne (D) Barbour (D)</p> <p>1837-40 <i>Taney</i> (D) Story (DR) Thompson (DR) McLean (D) Baldwin (D) Wayne (D) Barbour (D) Catron (D) McKinley (D)</p> <p>1841-43 <i>Taney</i> (D) Story (DR) Thompson (DR) McLean (D) Baldwin (D) Wayne (D) Catron (D) McKinley (D) Daniel (D)</p> <p>1844 <i>Taney</i> (D) Story (DR) McLean (D) Baldwin (D) Wayne (D) Catron (D) McKinley (D) Daniel (D)</p> <p>1845 <i>Taney</i> (D) McLean (D) Wayne (D) Catron (D) McKinley (D) Daniel (D) Nelson (D) Woodbury (D)</p> <p>1846-50 <i>Taney</i> (D) McLean (D) Wayne (D) Catron (D) McKinley (D) Daniel (D) Nelson (D) Woodbury (D) Grier (D)</p> | <p>1851-52 <i>Taney</i> (D) McLean (D) Wayne (D) Catron (D) McKinley (D) Daniel (D) Nelson (D) Grier (D) Curtis (W)</p> <p>1853-57 <i>Taney</i> (D) McLean (D) Wayne (D) Catron (D) Daniel (D) Nelson (D) Grier (D) Curtis (W) Campbell (D)</p> <p>1858-60 <i>Taney</i> (D) McLean (D) Wayne (D) Catron (D) Daniel (D) Nelson (D) Grier (D) Campbell (D) Clifford (D)</p> <p>1861 <i>Taney</i> (D) McLean (D) Wayne (D) Catron (D) Nelson (D) Grier (D) Campbell (D) Clifford (D)</p> <p>1862 <i>Taney</i> (D) Wayne (D) Catron (D) Nelson (D) Grier (D) Clifford (D) Swayne (R) Miller (R) Davis (R)</p> <p>1863 <i>Taney</i> (D) Wayne (D) Catron (D) Nelson (D) Grier (D) Clifford (D) Swayne (R) Miller (R) Davis (R) Field (D)</p> | <p>1864-65 <i>S. P. Chase</i> (R) Wayne (D) Catron (D)* * Nelson (D) Grier (D) Clifford (D) Swayne (R) Miller (R) Davis (R) Field (D)</p> <p>1866 <i>S. P. Chase</i> (R) Wayne (D)* * Nelson (D) Grier (D) Clifford (D) Swayne (R) Miller (R) Davis (R) Field (D)</p> <p>1867-69 <i>S. P. Chase</i> (R) Nelson (D) Grier (D) Clifford (D) Swayne (R) Miller (R) Davis (R) Field (D)</p> <p>1870-71 <i>S. P. Chase</i> (R) Nelson (D) Clifford (D) Swayne (R) Miller (R) Davis (R) Field (D) Strong (R) Bradley (R)</p> <p>1872-73 <i>S. P. Chase</i> (R) Clifford (D) Swayne (R) Miller (R) Davis (R) Field (D) Strong (R) Bradley (R) Hunt (R)</p> <p>1874-76 <i>Waite</i> (R) Clifford (D) Swayne (R) Miller (R) Davis (R) Field (D) Strong (R) Bradley (R) Hunt (R)</p> | <p>1877-79 <i>Waite</i> (R) Clifford (D) Swayne (R) Miller (R) Field (D) Strong (R) Bradley (R) Hunt (R) Harlan (Ky.) (R)</p> <p>1880 <i>Waite</i> (R) Clifford (D) Swayne (R) Miller (R) Field (D) Bradley (R) Hunt (R) Harlan (Ky.) (R) Woods (R)</p> <p>1881 <i>Waite</i> (R) Miller (R) Field (D) Bradley (R) Hunt (R) Harlan (Ky.) (R) Woods (R) Matthews (R) Gray (R)</p> <p>1882-87 <i>Waite</i> (R) Miller (R) Field (D) Bradley (R) Harlan (Ky.) (R) Woods (R) Matthews (R) Gray (R) Blatchford (R)</p> <p>1888 <i>Fuller</i> (D) Miller (R) Field (D) Bradley (R) Harlan (Ky.) (R) Matthews (R) Gray (R) Blatchford (R) L. Lamar (D)</p> <p>1889 <i>Fuller</i> (D) Miller (R) Field (D) Bradley (R) Harlan (Ky.) (R) Gray (R) Blatchford (R) L. Lamar (D) Brewer (R)</p> |
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| <p>1890-91 <i>Fuller</i> (D) Field (D) Bradley (R) Harlan (Ky.) (R) Gray (R) Blatchford (R) L. Lamar (D) Brewer (R) Brown (R)</p> | <p>1902 <i>Fuller</i> (D) Harlan (Ky.) (R) Brewer (R) Brown (R) Shiras (R) E. White (D) Peckham (D) McKenna (R) Holmes (R)</p> | <p>1914-15 <i>E. White</i> (D) McKenna (R) Holmes (R) Day (R) Hughes (R) Van Devanter (R) J. Lamar (D) Pitney (R) McReynolds (D)</p> | <p>1930-31 <i>Hughes</i> (R) Holmes (R) Van Devanter (R) McReynolds (D) Brandeis (R) Sutherland (R) Butler (D) Stone (R) Roberts (R)</p> |
| <p>1892 <i>Fuller</i> (D) Field (D) Harlan (Ky.) (R) Gray (R) Blatchford (R) L. Lamar (D) Brewer (R) Brown (R) Shiras (R)</p> | <p>1903-05 <i>Fuller</i> (D) Harlan (Ky.) (R) Brewer (R) Brown (R) E. White (D) Peckham (D) McKenna (R) Holmes (R) Day (R)</p> | <p>1916-20 <i>E. White</i> (D) McKenna (R) Holmes (R) Day (R) Van Devanter (R) Pitney (R) McReynolds (D) Brandeis (R) * * * Clarke (D)</p> | <p>1932-36 <i>Hughes</i> (R) Van Devanter (R) McReynolds (D) Brandeis (R) Sutherland (R) Butler (D) Stone (R) Roberts (R) Cardozo (D)</p> |
| <p>1893 <i>Fuller</i> (D) Field (D) Harlan (Ky.) (R) Gray (R) Blatchford (R) Brewer (R) Brown (R) Shiras (R) H. Jackson (D)</p> | <p>1906-08 <i>Fuller</i> (D) Harlan (Ky.) (R) Brewer (R) E. White (D) Peckham (D) McKenna (R) Holmes (R) Day (R) Moody (R)</p> | <p>1921 <i>Taft</i> (R) McKenna (R) Holmes (R) Day (R) Van Devanter (R) Pitney (R) McReynolds (D) Brandeis (R) Clarke (D)</p> | <p>1937 <i>Hughes</i> (R) McReynolds (D) Brandeis (R) Sutherland (R) Butler (D) Stone (R) Roberts (R) Cardozo (D) Black (D)</p> |
| <p>1894 <i>Fuller</i> (D) Field (D) Harlan (Ky.) (R) Gray (R) Brewer (R) Brown (R) Shiras (R) H. Jackson (D) E. White (D)</p> | <p>1909 <i>Fuller</i> (D) Harlan (Ky.) (R) Brewer (R) E. White (D) McKenna (R) Holmes (R) Day (R) Moody (R) Lurton (D)</p> | <p>1922 <i>Taft</i> (R) McKenna (R) Holmes (R) Van Devanter (R) Pitney (R) McReynolds (D) Brandeis (R) Sutherland (R) Butler (D)</p> | <p>1938 <i>Hughes</i> (R) McReynolds (D) Brandeis (R) Butler (D) Stone (R) Roberts (R) Cardozo (D) Black (D) Reed (D)</p> |
| <p>1895-97 <i>Fuller</i> (D) Field (D) Harlan (Ky.) (R) Gray (R) Brewer (R) Brown (R) Shiras (R) E. White (D) Peckham (D)</p> | <p>1910-11 <i>E. White</i> (D) Harlan (Ky.) (R) McKenna (R) Holmes (R) Day (R) Lurton (D) Hughes (R) Van Devanter (R) J. Lamar (D)</p> | <p>1923-24 <i>Taft</i> (R) McKenna (R) Holmes (R) Van Devanter (R) McReynolds (D) Brandeis (R) Sutherland (R) Butler (D) Sanford (R)</p> | <p>1939 <i>Hughes</i> (R) McReynolds (D) Butler (D) Stone (R) Roberts (R) Black (D) Reed (D) Frankfurter (I) Douglas (D)</p> |
| <p>1898-1901 <i>Fuller</i> (D) Harlan (Ky.) (R) Gray (R) Brewer (R) Brown (R) Shiras (R) E. White (D) Peckham (D) McKenna (R)</p> | <p>1912-13 <i>E. White</i> (D) McKenna (R) Holmes (R) Day (R) Lurton (D) Hughes (R) Van Devanter (R) J. Lamar (D) Pitney (R)</p> | <p>1925-29 <i>Taft</i> (R) Holmes (R) Van Devanter (R) McReynolds (D) Brandeis (R) Sutherland (R) Butler (D) Sanford (R) Stone (R)</p> | <p>1940 <i>Hughes</i> (R) McReynolds (D) Stone (R) Roberts (R) Black (D) Reed (D) Frankfurter (I) Douglas (D) Murphy (D)</p> |

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| <p>1941-42 <i>Stone</i> (R) <i>Roberts</i> (R) <i>Black</i> (D) <i>Reed</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D) <i>Murphy</i> (D) <i>Byrnes</i> (D) <i>R. Jackson</i> (D)</p> <p>1943-44 <i>Stone</i> (R) <i>Roberts</i> (R) <i>Black</i> (D) <i>Reed</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D) <i>Murphy</i> (D) <i>R. Jackson</i> (D) <i>W. Rutledge</i> (D)</p> <p>1945 <i>Stone</i> (R) <i>Black</i> (D) <i>Reed</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D) <i>Murphy</i> (D) <i>R. Jackson</i> (D) <i>W. Rutledge</i> (D) <i>Burton</i> (R)</p> <p>1946-48 <i>Vinson</i> (D) <i>Black</i> (D) <i>Reed</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D) <i>Murphy</i> (D) <i>R. Jackson</i> (D) <i>W. Rutledge</i> (D) <i>Burton</i> (R)</p> <p>1949-52 <i>Vinson</i> (D) <i>Black</i> (D) <i>Reed</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D) <i>R. Jackson</i> (D) <i>Burton</i> (R) <i>Clark</i> (D) <i>Minton</i> (D)</p> <p>1953-54 <i>Warren</i> (R) <i>Black</i> (D) <i>Reed</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D)</p> | <p><i>R. Jackson</i> (D) <i>Burton</i> (R) <i>Clark</i> (D) <i>Minton</i> (D)</p> <p>1955 <i>Warren</i> (R) <i>Black</i> (D) <i>Reed</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D) <i>Burton</i> (R) <i>Clark</i> (D) <i>Minton</i> (D) <i>Harlan</i> (N.Y.) (R)</p> <p>1956 <i>Warren</i> (R) <i>Black</i> (D) <i>Reed</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D) <i>Burton</i> (R) <i>Clark</i> (D) <i>Harlan</i> (N.Y.) (R) <i>Brennan</i> (D)</p> <p>1957 <i>Warren</i> (R) <i>Black</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D) <i>Burton</i> (R) <i>Clark</i> (D) <i>Harlan</i> (N.Y.) (R) <i>Brennan</i> (D) <i>Whittaker</i> (R)</p> <p>1958-61 <i>Warren</i> (R) <i>Black</i> (D) <i>Frankfurter</i> (I) <i>Douglas</i> (D) <i>Clark</i> (D) <i>Harlan</i> (N.Y.) (R) <i>Brennan</i> (D) <i>Whittaker</i> (R) <i>Stewart</i> (R)</p> <p>1962-65 <i>Warren</i> (R) <i>Black</i> (D) <i>Douglas</i> (D) <i>Clark</i> (D) <i>Harlan</i> (N.Y.) (R) <i>Brennan</i> (D) <i>Stewart</i> (R) <i>B. White</i> (D) <i>Goldberg</i> (D)</p> | <p>1965-67 <i>Warren</i> (R) <i>Black</i> (D) <i>Douglas</i> (D) <i>Clark</i> (D) <i>Harlan</i> (N.Y.) (R) <i>Brennan</i> (D) <i>Stewart</i> (R) <i>B. White</i> (D) <i>Fortas</i> (D)</p> <p>1967-69 <i>Warren</i> (R) <i>Black</i> (D) <i>Douglas</i> (D) <i>Harlan</i> (N.Y.) (R) <i>Brennan</i> (D) <i>Stewart</i> (R) <i>B. White</i> (D) <i>Fortas</i> (D) <i>T. Marshall</i> (D)</p> <p>1969 <i>Burger</i> (R) <i>Black</i> (D) <i>Douglas</i> (D) <i>Harlan</i> (N.Y.) (R) <i>Brennan</i> (D) <i>Stewart</i> (R) <i>B. White</i> (D) <i>Fortas</i> (D) <i>T. Marshall</i> (D)</p> <p>1969-70 <i>Burger</i> (R) <i>Black</i> (D) <i>Douglas</i> (D) <i>Harlan</i> (N.Y.) (R) <i>Brennan</i> (D) <i>Stewart</i> (R) <i>B. White</i> (D) <i>T. Marshall</i> (D)</p> <p>1970 <i>Burger</i> (R) <i>Black</i> (D) <i>Douglas</i> (D) <i>Harlan</i> (N.Y.) (R) <i>Brennan</i> (D) <i>Stewart</i> (R) <i>B. White</i> (D) <i>T. Marshall</i> (D) <i>Blackmun</i> (R)</p> <p>1971 <i>Burger</i> (R) <i>Douglas</i> (D) <i>Brennan</i> (D) <i>Stewart</i> (R)</p> | <p><i>B. White</i> (D) <i>T. Marshall</i> (D) <i>Blackmun</i> (R)</p> <p>1972-75 <i>Burger</i> (R) <i>Douglas</i> (D) <i>Brennan</i> (D) <i>Stewart</i> (R) <i>B. White</i> (D) <i>T. Marshall</i> (D) <i>Blackmun</i> (R) <i>Powell</i> (D) <i>Rehnquist</i> (R)</p> <p>1975-81 <i>Burger</i> (R) <i>Brennan</i> (D) <i>Stewart</i> (R) <i>B. White</i> (D) <i>T. Marshall</i> (D) <i>Blackmun</i> (R) <i>Powell</i> (D) <i>Rehnquist</i> (R) <i>Stevens</i> (R)</p> <p>1981-1986 <i>Burger</i> (R) <i>Brennan</i> (D) <i>B. White</i> (D) <i>T. Marshall</i> (D) <i>Blackmun</i> (R) <i>Powell</i> (D) <i>Rehnquist</i> (R) <i>J. Stevens</i> (R) <i>O'Connor</i> (R)</p> <p>1986-1988 <i>Rehnquist</i> (R) <i>Brennan</i> (D) <i>B. White</i> (D) <i>T. Marshall</i> (D) <i>Blackmun</i> (R) <i>Powell</i> (D) <i>J. Stevens</i> (R) <i>O'Connor</i> (R) <i>Scalia</i> (R)</p> <p>1988- <i>Rehnquist</i> (R) <i>Brennan</i> (D) <i>B. White</i> (D) <i>T. Marshall</i> (D) <i>Blackmun</i> (R) <i>J. Stevens</i> (R) <i>O'Connor</i> (R) <i>Scalia</i> (R) <i>Kennedy</i> (R)</p> |
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* Rutledge was a recess appointment whose confirmation was rejected by the Senate after the 1795 Term.

** Upon the death of *Catron* in 1865 and *Wayne* in 1867 their positions were abolished according to a congressional act of 1866. The Court's membership was reduced to eight until a new position was created by Congress in 1869. The new seat has generally been regarded as a re-creation of *Wayne's* seat.

*** According to Professor Henry Abraham, "Many—and with some justice—consider *Brandeis* a Democrat; however, he was in fact a registered Republican when nominated." *Freedom and the Court* 455 (3d ed., 1977).

ORGANIZATIONAL CHART OF UNITED STATES GOVERNMENT

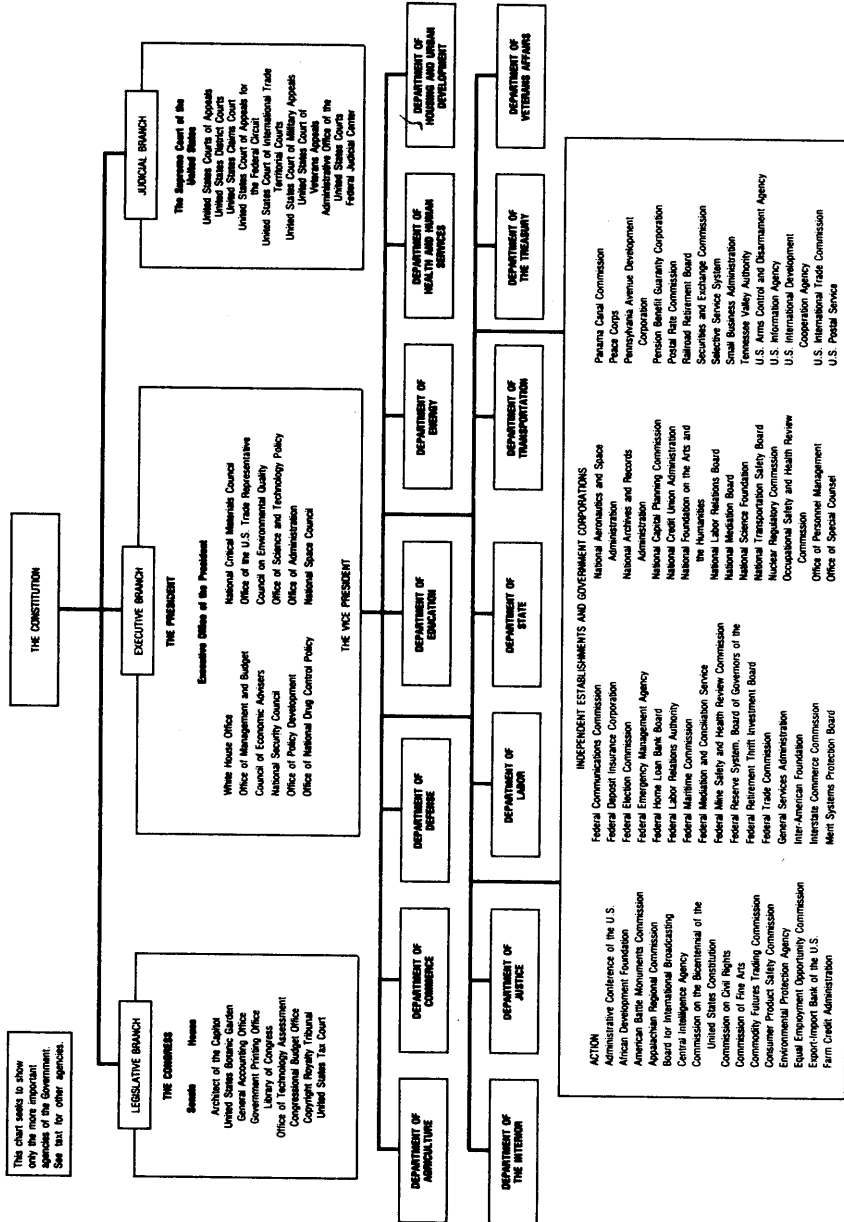


TABLE OF BRITISH REGNAL YEARS

| Sovereign | Accession | Length of reign |
|------------------|----------------|--------------------|
| William I | Oct. 14, 1066 | 21 |
| William II | Sept. 26, 1087 | 13 |
| Henry I | Aug. 5, 1100 | 36 |
| Stephen | Dec. 26, 1135 | 19 |
| Henry II | Dec. 19, 1154 | 35 |
| Richard I | Sept. 23, 1189 | 10 |
| John | May 27, 1199 | 18 |
| Henry III | Oct. 28, 1216 | 57 |
| Edward I | Nov. 20, 1272 | 35 |
| Edward II | July 8, 1307 | 20 |
| Edward III | Jan. 25, 1326 | 51 |
| Richard II | June 22, 1377 | 23 |
| Henry IV | Sept. 30, 1399 | 14 |
| Henry V | March 21, 1413 | 10 |
| Henry VI | Sept. 1, 1422 | 39 |
| Edward IV | March 4, 1461 | 23 |
| Edward V | April 9, 1483 | — |
| Richard III | June 26, 1483 | 3 |
| Henry VII | Aug. 22, 1485 | 24 |
| Henry VIII | April 22, 1509 | 38 |
| Edward VI | Jan. 28, 1547 | 7 |
| Mary | July 6, 1553 | 6 |
| Elizabeth | Nov. 17, 1558 | 45 |
| James I | March 24, 1603 | 23 |
| Charles I | March 27, 1625 | 24 |
| The Commonwealth | Jan. 30, 1649 | 11 |
| Charles II | May 29, 1660 | 37 |
| James II | Feb. 6, 1685 | 4 |
| William and Mary | Feb. 13, 1689 | 14 |
| Anne | March 8, 1702 | 13 |
| George I | Aug. 1, 1714 | 13 |
| George II | June 11, 1727 | 34 |
| George III | Oct. 25, 1760 | 60 |
| George IV | Jan. 29, 1820 | 11 |
| William IV | June 26, 1830 | 7 |
| Victoria | June 20, 1837 | 64 |
| Edward VII | Jan. 22, 1901 | 9 |
| George V | May 6, 1910 | 25 |
| Edward VIII | Jan. 20, 1936 | 1 |
| George VI | Dec. 11, 1936 | 15 |
| Elizabeth II | Feb. 6, 1952 | — |

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