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U. Abbreviation of University, also of Union.

Uberrima fides. utmost good faith, as required of one who contracts with another to whom he stands in a fiduciary relationship. 37 Am J2d Fraud § 15.

Insurance policies are traditionally contracts uberrimae fidei. *Stipich v Metropolitan Life Ins. Co.* 277 US 311, 72 L Ed 895, 48 S Ct 512.

Ubi aliquid conceditur, conceditur et id sine quo res ipsa esse non potest. Where anything is granted, that is also granted without which the thing itself cannot exist. See Broom's Legal Maxims 483.

Ubi aliquid impeditur propter unum, eo remoto, tollitur impedimentum. Where anything is impeded by reason of one thing, with the removal of that, the impediment is removed.

Ubi cessat remedium ordinarium ibi decurritur ad extraordinarium. Where an ordinary remedy is useless, then resort must be made to an extraordinary one.

Ubi culpa est, ibi poena subesse debet. Where the fault is, there the punishment ought to be visited.

Ubicunque est injuria, ibi damnum sequitur. Wherever there is a legal wrong, there damage follows.

ubicunque fuerimus in Anglia. Wherever we may, be in England.

Ubi damna dantur, victus victori in expensis condemnari debet. Where damages are awarded, the unsuccessful party ought to be adjudged to pay the costs of the successful party.

Ubi eadem ratio, ibi idem jus. Where the transaction is the same, the law is the same.

"The object of these liens being the same, their effect must be the same." See *Ames v Palmer*, 42 Me 197.

Ubi eadem ratio, ibi idem jus; et de similibus idem est iudicium. Where the reason is the same, the law is the same, and in similar cases the judgment is the same.

Ubi est forum, ibi ergo est jus. Where the forum or place of jurisdiction is, there the law is accordingly.

Ubi et dantis et accipientis turpitude versatur, non posse repeti dicimus; quotiens autem accipientis turpitude versatur, repeti posse. When there is turpitude in both the giver and the receiver, we say the thing cannot be recovered, but that whenever the turpitude is in the receiver only, it can be recovered. *Mason v Waite*, 17 Mass 560, 562.

Ubi factum nullum, ibi fortia nulla. Where there is no fact, there can be no force.

ubi jus ibi remedium. Wherever the law gives a right, it also gives a remedy. 1 Am J2d Actions § 47.

Ubi Jus incertum, ubi jus nullum. Where the law is uncertain, there is no law.

Ubi lex aliquem cogit ostendere causam, necesse est quod causa sit justa et legitima. Where the law compels anyone to show cause, it is necessary that the cause be just and lawful.

Ubi lex est specialis, et ratio ejus generalis generaliter accipienda est. Where the law is special, but the reason of it is general, it should be construed generally.

Ubi lex non distinguit, nec nos distinguere debemus. Where the law does not distinguish, we ought not to distinguish.

Ubi major pars est, ibi totum. Where the greater part is, there is the whole.

Ubi matrimonium, ibi dos. Where there is a marriage, there is dower.

Ubi non adest norma legis, omnia, quasi pro suspectis habenda sunt. Where there is no rule of law, everything should be regarded, as it were, With Suspicion.

Ubi non est annua renovatio, ibi decimae non debent solvi. Where there is no annual renovation, there tithes ought not to be paid.

Ubi non est condendi auctoritas, ibi non est parendi necessitas. Where there is no authority to command, there is no need of obeying.

Ubi non est directa lex, standum est arbitrio iudicis, vel procedendum ad similia. Where there is no direct law, the decision of the judge is to be supported, or reference made to similar cases.

Ubi non est lex, ibi non est transgressio quoad mundum. Where there is no law, there is no transgression as far as worldly matters are concerned.

Ubi non est manifesta injustitia, iudices habentur pro bonis viris, et iudicatum pro veritate. Where there is no manifest injustice, judges ought to be regarded as honest men, and their judgment as truth.

Ubi non est principalis, non potest esse accessorius. Where there is no principal, there can be no accessory.

[1309]

Ubi nulla est conjectura quae ducat alio, verba intelligenda sunt ex proprietate non grammatica sed populari ex usu. Where there is no inference which would lead to another conclusion, words are to be understood according to their proper sense, not in their grammatical signification, but according to their popular usage.

Ubi nullum matrimonium, ibi nulla dos. Where there is no marriage, there no dower is due. See 2 Bl Comm 130.
If a marriage be dissolved, dower ceases. *Wait v Wait* (NY) 4 Barb 92, 202.

Ubi pars est ibi est totum. Where the greater part is, there is the whole.

Ubi periculum, ibi et lucrum collocatur. Where the hazard is, there the profit should accrue.

Ubi pugnantia inter se in testamento juberentur, neutrum ratum est. (Civil law.) Where directions repugnant to one another are given in a will, neither of them is valid.

Ubi quid generaliter conceditur, inest haec exceptio, si non aliquid sit contra jus fasque. Where anything is granted generally, this exception is implied, that nothing shall be contrary to law and right.

Ubi quis delinquit ibi punietur. Where a person commits a crime, there he is to be punished.

ubi re vera. Where, in truth; when, in reality.

ubi supra. "Where above mentioned."

A term sometimes used following the title of a case to indicate that the volume and page of the case will be found where the same case has been cited shortly before.

Ubi verba conjuncta non sunt, sufficit alterutrum esse factum. (Civil law.) Where words are not in the conjunctive, it is sufficient that either of them be executed or complied with. I

u-drive it. See drive-it-yourself system.

ukase. An official order or decree.

An imperial order of the czar of Russia was so called.

ULA. Definition of Uniform Laws Annotated.

ullage. The amount by which a cask, particularly a cask of wine, falls short of being full.

ulna. An arm; the ancient ell, corresponding to the modern yard measure. See 1 Bl Comin 275.

ulnage. Same as **alnage**.

ulnager. Same as **alnager**.

ulterior estate. The estate created by a gift over, to take effect upon the determination of a particular estate; that is, an estate in remainder. *Johnston's Estate*, 185 Pa 179, 39 A 879. A future interest, that is, an estate limited after a preceding estate. 28 Am J2d Est § 208.

ulterior purpose. An undisclosed purpose; a purpose not revealed by what is expressed or implied.

The rule that a stockholder will not be permitted to inspect corporate books for an "ulterior purpose" seems to be merely another mode of stating that the inspection must be for purposes germane to the stockholder's status as such. Anno: 15 ALR2d 29.

ulterius concilium. Further consideration or argument.

ultima ratio. The last reason; the last resort.

ultimate burden of tax. The burden of payment of a tax, such as a sales tax, as passed along to one who did not pay it in the first instance.

ultimate fact. A fact upon the existence or nonexistence of which liability is to be determined. Anno: 146 ALR 134. The final and resulting fact reached by processes of legal reasoning from the detailed or probative facts, as distinguished from evidentiary facts and conclusions of law. 41 Am J1st PI § 7.

As the term pertains to workmen's compensation statutes, it is defined as a fact upon the existence or nonexistence of which liability depends according to the language used in the statute. Anno: 146 ALR 134.

ultimate finding. A finding of an ultimate fact or facts.

ultimate payment. Final payment. Payment of the obligation as it stands after any and all substitutions, renewals, or extensions. *National Exchange Bank v Gay*, 57 Conn 224, 17 A 555.

ultimatum. A final proposition. A final offer. A final statement of terms in diplomatic negotiations for the settlement of a dispute.

ultima voluntas. A last will.

Ultima voluntas testatoris est perimplenda secundum veram intentionem suam. The last will of a testator is to be fulfilled according to his true intent.

ultimum supplicium. (Civil law.) The extreme punishment; the death penalty.

Ultimum supplicium esse mortem solam interpretamur. (Civil law.) We regard death alone as being the extreme punishment.

ultimum tempus pariendi. The extreme time or period of gestation.

ultimus haeres. The last heir; the lord; the king.

ultra. Beyond; outside of; more than; in excess of.

ultra fines mandati. Beyond or outside the scope of authority.

ultrahazardous activity. An activity which necessarily involves a risk of serious harm to the person, land or chattels of others which cannot be eliminated by the exercise of the utmost care, and is not a matter of common usage. Anno: 54 ALR2d 776.

ultra mare. Beyond the sea; beyond seas.

ultra petita. Beyond that which was sought or prayed for.

[1310]

Ultra posse non potest esse et vice versa. That which is beyond possibility cannot be, and vice versa.

ultra reprises. Net; after deductions.

ultra vires. Beyond the powers. Characterizing a contract, act, or transaction of a corporation which is beyond the express or implied powers of the corporation under any circumstances or for any purpose. *Randall v Mickle*, 103 Fla 1229, 138 So 14, 86 ALR 804. Foreign to the nature and design of the corporation involved. 10 Am J2d Banks § 276; 19 Am J2d Corp § 963.

Characterizing a contract entered into by a public body which is without power or authority to bind itself by such an agreement. 43 Am J1st Pub Wks § 13. Characterizing an act beyond the powers conferred by a franchise so substantial and continued its to amount to a clear violation of the condition upon which the franchise was granted. 36 Am J2d Franch § 54.

The terms "illegality" and "ultra vires" represent totally different and distinct ideas. Whether it contract is illegal or not is determined by its quality; whether it is ultra vires or not is determined from the consideration of the powers expressly conferred upon the corporation by the instrument of its creation, together with those other powers employed in the purposes of its creation and in the powers expressly granted. 19 Am J2d Corp § 964.

ultra vires act. See **ultra vires.**

umbilical cord. The cord which connects the body of the mother with that of the unborn child, and through which the blood circulation of the mother passes into the body of the child.

umpirage. The award of the umpire alone, in an arbitration where it reference is made to two arbitrators, and in case of a disagreement, to an umpire alone, and the arbitrators have failed to agree and make an award. *Powell v Ford*, 72 Tenn (4 Lea) 278, 288.

umpire. A person selected by arbitrators, pursuant to the authority of the submission, to decide the matter in controversy when the arbitrators are unable to agree, and standing by virtue of his selection as the sole arbitrator of the issue originally submitted to the arbitrators. 5 Am J2d Arb & A § 84. One chosen to decide the issue or issues in an arbitration when the arbitrators are in deadlock, and having the power to settle the matter by his sole award. *Chandos v American Fire Ins. Co.* 84 Wis 184, 54 NW 390. A person selected by referees to participate in the decision of the inability of the referees to come to agreement on the decision. 45 Am J1st Ref § 27. An official in it game or sport, such as baseball, who applies the rules of the game and settles disputes.

unable. See **inability.**

unable to proceed under its own power. Unable to proceed under the same conditions and in the same manner as before, without help or repairs, giving due regard to safety of the operation. 29A Am J Rev ed Ins § 1245.

unaccrued royalty. An expression criticized as inept and self-contradictory.

It would seem that the expression is a contradiction in terms; and in fact the right to share in oil that may be produced accrues immediately upon delivery of the lease. Apparently what is meant by "unaccrued royalty" is a supposed interest in unpossessed oil in the ground, which is, of course, real estate. Upon principle, however, it cannot be said that one has any title to oil in the ground simply because, its beneficiary of an oil contract, he may become entitled to a share of oil reduced to possession. To say that a lessor has title to oil in the ground by reason of his royalty interest is to confound his title as landowner with his rights under the lease. *Anne*: 90 ALR 771.

una cum. Together with.

una cum omnibus aliis. Together with all other things.

unadjusted debt. A debt uncertain in amount, not settled or agreed upon as to amount. *Richardson v Woodbury*, 43 Me 206, 214.

unalienable. Same as **inalienable.**

unanimous. Complete in approval or concurrence.

The decision or vote of a judicial or legislative body is unanimous when it is concurred in by all the members who are present, if the members present constitute a quorum, even though one or more members are absent. Such a body, with a quorum present, proceeds ordinarily as if every member were sitting in his place, and exercises all the powers with which it is invested. *Harroun v Brush Electric Light Co.* 152 NY 212, 46 NE 291.

unanimous decision. A decision in which all the judges or justices hearing the case concur.

unanimous verdict. A verdict in which all the jurors concur. 31 Am J Rev ed Jury § 10.

una parte. See **de una parte; ex una parte.**

Una persona vix potest supplere vices duarum. One person can scarcely supply the places of two.

unattached. The state or condition of property upon which no attachment has been levied. Unfettered by the bonds of matrimony. Neither married nor engaged.

unattended. See **attendant**.

unattested instrument. An instrument which does not bear the signatures of attesting or subscribing witnesses.

unauthorized connection. A connection to the station or line of an individual subscriber to telephone service, made without the authorization of the subscriber and the telephone company.

Both the subscriber and the telephone company must consent if the connection is to be deemed anything else but unauthorized. Anno: 74 ALR2d 858.

Unauthorized Insurer's Act. One of the uniform laws. 29 Am J Rev ed Ins § 67.

unauthorized practice of law. Conducting the practice of law without the license required by law. 7 Am J2d Attys § 73.

una voce. With one voice; with one accord; unanimously.

unavoidable accident. An occurrence of an unusual, unexpected, or extraordinary character, usually occurring without any direct participation by man. *French v Pirnie*, 240 Mass 489, 134 NE 353, 20 ALR 1098. Something beyond human foresight and control. 32 Am J1st L & T § 796. Such an occurrence, as under all the circumstances, could not have been foreseen, anticipated, or avoided in the exercise of ordinary care. *McBride v Woods*,

[1311]

124 Colo 384, 238 P2d 183, 29 ALR2d 101. An inevitable accident which could not have been foreseen and prevented by the exercise of that degree of diligence which reasonable men would exercise under like conditions, and which resulted without any fault attributable to the persons sought to be held responsible. 31 Am J Rev ed Lab § 823. Such an occurrence or happening as, under all attendant circumstances and conditions, could not have been foreseen or anticipated in the exercise of ordinary care. 7 Am J2d Auto § 350.

See **inevitable accident**.

unavoidable casualty. An occurrence of an unusual, unexpected, or extraordinary character, usually occurring without any direct participation by man. *French v Pirnie*, 240 Mass 489, 134 NE 353, 20 ALR 1098. Something beyond human foresight and control. 32 Am J1st L & T § 796.

See **unavoidable accident**.

unavoidable cause. An accidental cause, a cause which cannot be avoided by the exercise of due diligence and foresight; a cause which reasonably prudent and cautious 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. *Chicago, Burlington & Quincy Railroad Co. v United States* (CA2 NY) 194 F 339, 344.

unavoidable delay. A delay occurring by unavoidable cause, by unavoidable accident, or unavoidable casualty.

Unavoidable delay in the performance of a contract, to amount to an excuse by custom or usage, must be confined to delays due to causes originating after the contract has been entered into. *Lima Locomotive & Machine Co. v National Steel Estings Co.* (CA6 Ohio) 155 F 77.

unavoidable occurrence. An **unavoidable accident** or **unavoidable casualty**.

For definition of term as it appears in it condition of a contract of sale providing for relief from the obligation under certain circumstances, see Anno: 51 ALR 1010.

unavoidably prevented. Prevented without fault attributable to any person. Anno: 31 ALR 631.

unblocked frog. A frog in a railroad switch which has not been blocked or filled in such manner as to prevent a person's foot or shoe from being caught and wedged in the frog. *Southern Pacific Co. v Seley*, 152 US 145, 150, 38 L Ed 391, 393, 14 S Ct 530; *Union Pacific Railway Co. v James*, 163 US 485, 41 L Ed 236, 16 S Ct 1109.

unborn child. A child in the womb of the mother. A child not yet delivered from the womb. One of a generation to come.

In some jurisdictions, statutes relating to the crime of abortion or related offenses, although speaking in terms of "a woman" or "any woman", contain further language referring to such woman's "child" or "unborn child", as by providing that the criminal acts must be done with the intent to destroy an unborn child. It would appear that under enactments of this kind, proof of pregnancy is essential to a conviction. Anno: 46 ALR2d 1406.

See **in being**.

unbroken package. See **original package.**

uncertainty. Lacking in certainty.

As applied to pleadings, the word does not include "ambiguity," although the leading English dictionaries give the word "uncertain" as one of the meanings of the word ambiguous." See *Kraner v Haney*, 82 Cal 209, 212, 22 P 1137.

unchaste. Lacking in virtue and chastity. 35 Am J1st Mar 134.

unchaste woman. A woman who is sexually impure; a loose woman; a woman of loose character. *Foster v Hanchett*, 68 Vt 319.

unchastity. See **unchaste; unchaste woman.**

unciae. See **usurae centesimae.**

uncle. A brother of one's father or mother. A relative in the third degree according to the civil-law method of computing degrees of relationship which prevails in most American jurisdictions. Anno: 55 ALR2d 645, § 1[b].

As to the meaning of the term in reference to war risk life and disability insurance, see Anno: 55 ALR 584.

unclean hands doctrine. See **clean hands doctrine.**

uncollectible. Not to be realized for want of assets subject to execution. Not to be paid voluntarily. Not to be collectible without suit or threat of suit.

A creditor's claim is said to be uncollectible when he has failed to receive the amount due after exhausting every effort to collect it, short of sending it to an attorney for collection. *Globe & Rutgers Fire Ins. Co. v Leshner, Whitman & Co.* 126 Misc 874, 215 NYS 225, 229.

unconditional. Without conditions; without restrictions; absolute. *Columbia Water Power Co. v Columbia Electric Street R. Co.* 172 US 475, 491, 43 L Ed 521, 527, 19 S Ct 247.

unconditional credit. A credit, given by the drawee bank upon its books for a check forwarded to it for collection, which is not subject to revocation. *First Nat. Bank v Universal C. I. T. Credit Corp.* 132 Ind App 353, 170 NE2d 238.

unconditional heirs. In Louisiana, heirs who inherit property without any reservation, or without making any inventory. unconditional ownership. Title where the quality of the estate is not limited or affected by any condition. 29A Am J Rev ed Ins § 791.

See **sole and unconditional ownership.**

unconscionable. Morally reprehensible.

unconscionable advantage. See **taking unconscionable advantage.**

unconscionable bargain. See **unconscionable agreement.**

unconscionable agreement. An agreement, usually made when one of the parties was in a position of disadvantage, which is oppressive, especially one which unreasonably restricts the liberty of a party to exercise his calling or earn his living, or imposes an extortionate rate of interest. 17 Am J2d Contr § 192.

unconscious plagiarism. Using the literary work of another in one's own work without realizing that it is actually the work of another, the ideas and concepts used having been implanted in the mind by a previous and forgotten study made of the work of the other person. Anno: 23 ALR2d 341.

unconstitutional law. See **unconstitutional statute.**

unconstitutional statute. A self-contradictory expression, since a statute in conflict with the consti-

[1312]

tion is not law but is wholly void and as inoperative in legal contemplation as if it had never been passed, notwithstanding it has the form and name of law. 16 Am J2d Const L § 177.

When a statute is adjudged to be unconstitutional, it is as if it had never been. Rights cannot be built up under it. Contracts which depend upon it for their construction are void. It constitutes a protection to no one who has acted under it, and

no one can be punished for having refused obedience to it before the decision was made. And what is true of an act void in toto is true also as to any part of an act which is found to be unconstitutional, and which consequently is to be regarded as having never at any time been passed and in legal effect. *Re Rahrer* (CC Kan) 43 F 556.

As used in the United States Code, the term "unconstitutional" has reference to the United States Constitution, not to a state constitution. Anno: 83 L Ed 1195.

uncontrollable. Out of control. Not subject to control. Irresistible.

uncontrollable event. An irresistible occurrence. An occurrence which can neither be restrained nor prevented. *Lehman, Stern & Co. v Morgan's Louisiana & Texas Railroad & S.S. Co.* 115 La 1, 38 So 873.

uncontrollable impulse. See **irresistible impulse.**

uncontrolled discretion. Discretion given a trustee which is not subject to judicial rectification.

The court should not tolerate an abuse of discretion on the part of a trustee, even though the trust instrument purports to give him uncontrolled discretion. Anno: 27 ALR2d 1337.

uncore. Again; now.

uncore prist. He is still ready.

The expression was used in the formal pleading of a tender, wherein the pleader alleged that he has always been ready (tout temps prist), and still is ready (uncore prist), to pay. See 3 Bl Comm 303.

uncuth. (Saxon.) Unknown; a stranger.

unde. Whence; from where; from what.

undefended. Without defense; no defense being interposed, as when a defendant is in default.

unde nihil habet. Whence he has nothing.

unde petit judicium. Whereof he demands judgment.

under a certain age. A status terminating when the person passes the anniversary of such age. Anno: 73 ALR2d 874, 875.

under a designated age. See **under a certain age.**

under and subject to the payment of. A stipulation in a conveyance of mortgaged property ineffective as air assumption of the mortgage debt.

Such a Stipulation does not with sufficient clearness import an intention by the grantor to create, and by the grantee to assume, a personal obligation to pay the mortgage debt. 37 Am J1st Mtg § 998.

underbid. To bid less than another bidder.

undercharge. A charge imposed by a carrier for the transportation of a passenger or property which is less than the rate, fare, or charge applicable to such transportation as set forth in the published tariff schedule. 13 Am J2d Car § 109.

under consideration by the grand jury. inclusive of all proceedings had in the grand jury room insofar as they include the reception of evidence and the ultimate action taken upon it. Anno: 4 ALR2d 398.

under control. See **control; control of vehicle.**

under conviction. Having a strong belief. Under sentence not yet executed.

While the sentence stands unexecuted, a person who has been found guilty of crime and sentenced is said to be "under conviction": he stands "under" it, it rests upon his head; but when he has suffered the penalty, he has paid the debt, the sentence has spent its force, and no longer hovers over him, See *Osborne v Kanawha County Court*, 68 W Va 189. 69 SE 470.

underground conduit. A tube laid below the surface of the ground in which electric, telegraph and telephone wires may be strung. 52 Am J1st Teleg & T § 50.

underground circuit. A telephone, telegraph, or electric wire strung in a conduit below the surface of the ground. 52 Am J1st Teleg & T § 50.

underground stream. A stream of water which flows in a fixed or definite channel, the existence and location of which is known or ascertainable from surface indications or other means without subsurface excavations. 56 Am J1st Water § 108.

underground water. Air underground stream, air underground pool, or water percolating below the surface.

See **percolating water; subterranean waters; underground stream.**

under his care. A familiar term in embezzlement statutes, of broader meaning than the term "possession."

A person may have money or property of another under his care," although it is in the actual possession of another. 26 Am J2d Embez § 15.

under his hand. Denoting a signature in one's own handwriting; not inclusive of a rubber-stamp signature. Anno: 37 ALR 87. A formal phrase indicating a signature, as by a justice of the peace upon a warrant issued by him. Salazar v Taylor, 18 Colo 538.

underlease. A lease by a lessee of a part of his unexpired term. Bedford v Terhune, 30 NY 451 A lease by a lessee of a part of the premises demised to him. 32 Am J1st L & T § 403.

underletting. See **underlease.**

under own power. Moving by force of a power contained therein; not in tow.

under protest. See **protest.**

under sail. Underway with sails set. The expression is not synonymous with the expression "carrying sail," which means simply equipped with sails. Thus, a steamer may be under way and carrying sail and yet not be under sail. Belden v Chase, 150 US 674, 695, 37 L Ed 1218, 1225, 14 S Ct 264.

under seal. With seal affixed.

See **seal.**

undersheriff. An officer on the staff of a sheriff; a deputy sheriff. 47 Am J1st Sher § 154. A general deputy sheriff, --a deputy sheriff who, by virtue of his appointment, has authority to execute all the ordinary duties of the office of sheriff. Allen v Smith, 12 NJL 159, 162. In old England, air officer

[1313]

immediately subordinate to the sheriff, or high-sheriff, as he was often called.

The undersheriff usually performed all the duties of the office of sheriff; the personal presence of the sheriff himself was seldom necessary. Statute limited the term of the office of the undersheriff to one year. See 1 Bl Comm 345.

In some jurisdictions, a distinction is made between a deputy sheriff and an undersheriff, although both are subordinate to the sheriff.

undersigned. The person whose name is signed, or the persons whose names are signed, at the end of a document; the subscriber or subscribers. Farmers' Exchange Bank v Sollars, 353 111224, 187 NE 289, 89 ALR 398.

understand. To have full and clear knowledge of; to have full comprehension of; to comprehend. Fox v Shaeffer, 131 Conn 439, 41 A2d 46, 157 ALR 132.

understanding. The mental quality of discernment. An interpretation. Agreement.

"Understood" is synonymous with the word agreed". Phoenix Iron & Steel Co. v Wilkoff Co. (CA6 Ohio) 253 F 165, 1 ALR 1497.

"The words 'understood' and 'agreed' may be used synonymously." Mount v Montgomery County, 168 Ind 661, 80 NE 629.

While, in a sense, the word may be said to involve a conclusion, it is an ambiguous word, and is sometimes used as synonymous with the word " agreement." While a witness should not be asked what "understanding" was arrived at, if such testimony is admitted without objection, or cross-examination, it should go to the jury with a view to ascertaining what was meant by the word. Sykes v City Sav. Bank, 115 Mich 321.

understood. See **understanding.**

undertaker. A person engaged in the business of caring for the bodies of deceased persons and the disposition of them by burial or otherwise. 54 Am J1st Und & E § 2. One whose business it is to arrange for burying the dead and to oversee funerals. State ex rel. Kempinger v White, 177 Wis 541, 188 NW 607, 23 ALR 67, 69.

An undertaker is not necessarily an embalmer. State ex rel. Kempinger v White, 177 Wis 541, 188 NW 607, 23 ALR 67. 69.

undertaker's license. A license required of an under taker by the state under its police power. 54 Am J1st Und & E § 5.

undertaking. Broadly, that which one has agreed to do. Technically, an obligation in writing binding the signatories to pay such an amount as shall be adjudged due. General American Industries, Inc. v County Court of Clear Creek County, 136 Colo 86, 316 P2d 565.

Although the essential purpose of all undertaking is the same as that of a bond, and an undertaking with security is in common usage and in the language of the law, a bond, the dissimilarity in terms is fundamental. An undertaking has to do with amounts to be determined, whereas a bond has to do with liquidated amounts. 12 Am J2d Bonds § 1.

The distinction between a bond and all undertaking is that the principal should sign the former and that he is not required to sign the latter. Russell , Chicago, B. & Q. R. Co. 37 Mont 1, 94 P 48 8, 501.

undertaking for costs. See **security for costs.**

undertaking to keep the peace. See **bond to keep the peace.**

under-tenant. A tenant who holds under an underlease or sublease. Bedford v Terhune, 30 NY 453.

See **underlease.**

under the age limit fixed by law. A familiar term ill exclusion clauses in policies of automobile insurance, having reference to the operation of the vehicle covered by the policy in violation of statute or ordinance which prescribes a regulation in reference to the age of drivers. 7 Am J2d Auto his § 38.

under the influence of an intoxicant. Under so much influence from intoxicant as impairs the ability of the subject to care for himself. Kuroske v Aetna Life Ins. Co. 234 Wis 394, 291 NW 384, 127 ALR 1505 (clause in accident insurance policy excluding from coverage injuries sustained while under the influence of an intoxicant).

See **driving while intoxicated.**

under the influence of intoxicating liquor. Affected by the taking of intoxicating liquor, irrespective of a specific degree of intoxication. 7 Am 32d Auto § 257 Intoxicated. 29A Am J Rev ed Ins § 1230. So affected by intoxicating liquor as not to have the full use of one's physical and mental powers as such are present when one is in a normal condition. Grinnell v General Acci. Co. 80 Vt 526, 68 A 655 (clause appearing in an exception in a policy of accident insurance).

See **driving while intoxicated.**

under the law. In conformity with law. Subject to the law.

"We are under the laws of the United States---that is, we are subject to those laws. We live under a certain jurisdiction --- that is, we are subject to it." Mills v Stoddard (US) 8 How 345, 366, 12 L Ed 1107, 1115.

under the peace. In the king's peace; under the protection of the king; within the jurisdiction and protection of the state. Commonwealth v Macloon, 101 Mass 1.

See **bond to keep the peace.**

under the rule. See **rule.**

under-tutor. (Civil law.) A person appointed by a court to act for a minor when his tutor's interests are in conflict with his own. Welch v Baxter, 45 La Ann 1062, 1064. 13 So 629.

underway. In progress. Moving.

A vessel is underway when she is not at anchor, not made fast to the shore, and not aground. A steam vessel which is being towed is underway, within the definition. The Scandinavia (DC NY) 11 F2d 542.

underwriter. One who has incurred all obligation by executing his signature to all instrument, particularly all insurance contract. One who insures another under a contract of policy of insurance. Childs ex rel. Smith v Firemen's Ins. Co. 66 Minn 393, 69 NW 141. One who has agreed to take all entire stock or bond issue or so much of a stock or bond issue as is not taken by the public. Re Hackett, Hoff & Thiermann (CA7 Wis) 70 172d 815: Rauer's Law & Collection Co. v Harrell, 32 Cal App 45, 162 P 125.

An underwriter's contract is not an agreement to lend money. See Re Hackett, Hoff & Thiermann (CA7 Wis) 70 F2d 815.

An underwriting contract is not a contract to make a loan, but is one to insure the sale of bonds. It is a contract to insure the sale of the bonds subscribed, and, in case they are not sold before the

instalments fall due, then to purchase and pay for them at par. It is an underwriting and not air agreement to loan money. *Stewart v Miller & Co.* 161 Ga 919, 132 SE 535, 45 ALR 559, 565.

See **board of fire underwriters**.

underwriters' association. A voluntary association organized by insurance companies or insurance agents for the purpose of promoting the business, welfare, and convenience of the parties thereto, and to secure uniformity in the business. 29 Am J Rev ed Ins § 109.

underwriters' rules. Rules established by insurance companies relative to the classification of risks in reference to the type and manner of construction of buildings, electric wiring, etc. 29A Am J Rev ed Ins § 1893.

underwriting contract. See **underwriter**.

underwriting ratio. See **expense ratio; loss ratio**.

undique. In all directions; on all sides.

undisbursed income. Income retained in the estate by executor or trustee.

Under a provision in a will that "any undisbursed income" should be paid to the residuary estate after the death of the life tenant, the words will be taken to mean any income not actually paid out to the life tenant, and will not be restricted in their meaning to include only that income accruing during the period between the death of the life tenant and the distribution to the residuary estate. *Rhode Island Hospital Trust Co. v Otis*, 77 RI 296, 75 A2d 210.

undisclosed agency. A situation where one who is in fact an agent for another deals with a third person in the character of a principal, his status as an agent being unknown to the third person. 3 Am J2d Agency § 307.

undisclosed assets. Assets of a bankrupt not disclosed by him to his trustee in bankruptcy or otherwise coming to the notice of the trustee. 9 Am J2d Bankr § 860,

undisclosed principal. A principal whose identify is unknown to a third person who deals with his agent, knowing that the latter is acting for some principal. The principal in an undisclosed agency. 3 Am J2d Agency § 307.

See **undisclosed agency**.

undisposed of. See **undisbursed income**.

undisputed. Not contested.

undistributed profits. See **undivided profits**.

undivided interest. A fractional interest in property. 23 Am J2d Deeds § 290. An interest which has not been segregated. The nature of the title held by a tenant in common or a joint tenant.

undivided profits. Profits of a corporation which have neither been distributed as dividends nor carried to surplus account. *Edwards v Douglas*, 269 US 204, 70 L Ed 235, 46 S Ct 85.

Surplus and undivided profits are the property of the corporation. As their names indicate, they are not capital stock, but are something besides capital stock. *First Nat. Bank v Moon*, 102 Karl 334, 170 P 33.

undocumented vessel. Any vessel which is not required to have, and does not have, a valid marine document issued by the Bureau of Customs. 46 USC § 527(1).

undres. Minors; persons under age.

undressed lumber. Boards which have not been processed and fashioned for use as building materials.

undrinkable. Not potable. Not suitable for drinking. Anno: 11 ALR 1237.

undue influence. A species of fraud or constructive fraud whereby means brought to bear upon a person his free agency is destroyed and the will of another person substituted therefor. 25 Am J2d Dur §§ 35, 36. A species of constructive fraud which the court will not undertake to define particularly less the very definition itself should furnish a guide by which its consequences may be evaded. 23 Am J2d Deeds § 148. As invalidating a will, influence which substitutes the wishes of another for those of

the testator; such influence as overcomes the free volition of the testator and substitutes the purposes of another. 57 Am J1st Wills §§ 350, 351.

Strictly speaking, there is a difference between fraud and undue influence as grounds of a caveat. Undue influence may, in a general way, be characterized as fraudulent; but not all fraud amounts to undue influence in the meaning of the law. To constitute undue influence within the meaning of the law, there must be mental constraint, moral coercion, the substitution of external for internal agency. *Franklin v Belt*, 130 Ga 37, 60 SE 146.

undue means. An inappropriate, unsuitable, and unjust means.

A statute providing for the vacation of an award of arbitrators procured by "undue means" does not apply merely because an award is made by two arbitrators after the resignation of the third and before the expiration of the three-day period claimed to be established by the arbitration agreement for appointing a successor. *Amalgamated Asso. v Connecticut Co.* 142 Conn 186, 112 A2d 501, 49 ALR2d 891.

undue return. An officer's false, defective or inaccurate return of a writ or process placed in his hands for execution.

To make return according to law is not only to return the precept to the authority that issued it, but to return with it a statement by the officer of his doings in executing it. That statement must contain all of his doings within the scope of proper execution; otherwise the return will be undue, and may be essentially false. *Gibson v Holmes*, 78 Vt 110, 62 A 11.

unearned income. Income from property of an investment, as distinguished from income received from a trade, profession, or employment. *New York ex rel. Cohn v Graves*, 300 US 308, 81 L Ed 666, 57 S Ct 466, 108 ALR 721.

unearned premium. An insurance premium or part of such premium to which the insurance company is not entitled because of not having carried the risk. That portion of the premium paid by a borrower to a building and loan association which is proportionate to the unexpired part of the period for which the loan was made, upon a premature severance of their relation. 13 Am J2d B& L Assoc § 121.

unearned premium reserve. A reserve required by modern statutes of insurance companies to assure the return of unearned premiums. 29 Am J Rev ed Ins § 56. A reserve which comes into being as the natural result of collecting premiums in advance for insurance to extend over a stated period of time in

[1315]

the future. The estimated aggregate amount which an insurance company would be obliged to tender to its policyholders as returned premiums for the unexpired terms, should it wish to cancel every policy in force.

The premium reserve, so-called, of a life insurance company, represents the insurer's debt at any given time on the policies it has issued and which are in force, and, hence, the corresponding fund which, in addition to general assets, it should have in reserve to meet such indebtedness. Anno: 13 ALR 187.

unemployment compensation. See **unemployment insurance.**

unemployment insurance. A form of social security, under state statutes complementary to the Federal Social Security Act, which provides for the payment of benefits to unemployed persons, subject to terms and conditions. 48 Am J1st Soc Sec § 10. Compulsory, state-imposed insurance, carried at the expense of employers, or employers and employees jointly, by which the financial burden of unemployment is transferred from the taxpayers generally to the industry in which unemployment exists or to industry as a whole. Insurance against loss arising from unemployment, voluntarily procured by an employee at his own expense from an insurer carrying such risks. 29 Am J Rev ed Ins § 17.

A subsistence allowance paid by the United States to a veteran attending school, under the provisions of the Servicemen's Readjustment Act, is within the provision of a previously enacted state statute disqualifying, for unemployment benefits, anyone receiving "unemployment allowances or compensation granted by the United States ... to ex-servicemen." *Hannan v Administrator, Unemployment Compensation Act*, 137 Conn 240, 75 A2d 483, 21 ALR2d 1068.

Before an individual may be deemed "unemployed" for any week, within the meaning of the unemployment compensation statute, two things must exist: (1) he must perform no service during the week and (2) he must be paid no wages for the week. *Ackerson v Western Union Tel. Co.* 234 Minn 271, 48 NW2d 338, 25 ALR2d 1063.

See **railroad unemployment insurance act.**

unemployment relief arrangement. An arrangement by an association for the sale of contracts to employed persons by way of compensation for them in the event they become unemployed. 29 Am J Rev ed Ins § 17.

unemployment trust fund. A trust fund established by the Social Security Act into which is required to be paid all moneys received in the statutory unemployment funds of the several states. 48 Am J1st Soc Sec § 11.

unequivocal. Certain. Not doubtful. Without ambiguity. Clear, sincere; plain. *Molyneux v Twin Falls Canal Co.* 54 Idaho 619, 35 P2d 651, 94 ALR 1264.

unerring. Incapable of error or failure; certain; infallible. *Gardner v State*, 27 Wyo 316, 196 P 750, 15 ALR 1040.

unethical. Wanting in observance of ethical principles.

See **ethics**.

unexpected. Not expected; coming without warning; sudden. *Bachus v Ronnebaurn*, 98 Ind App 603, 186 NE 386.

unexpected injury. An injury to an employee not intended or expected to be the result of what he was doing on the particular occasion. 58 Am J1st Workm Comp § 196.

unexpended. Not spent.

The word as it is used in a will may carry with it a clear and unambiguous purpose on decedent's part to give his beneficiaries unrestricted power to spend such part of the corpus of his estate as they see fit. Anno: 114 ALR 952.

unfair comment. The antithesis of fair comment. Comment actuated by malice as inferred from false statements exceeding the limits of fair and reasonable criticism, made recklessly in disregard of the rights of one who may be injured by them. 33 Am J1st L & S § 162.

unfair competition. The unjust appropriation of, or injury to, the goodwill or business reputation of another. 52 Am J1st Tradem §§ 86, 93 et seq. Acts done or practices employed for the purpose of pirating the trade of a competitor. The simulation by one person of the name, symbols, or devices employed by a business rival, so as to induce the purchase of his goods under a false impression as to their origin or ownership and thus secure for himself benefits properly belonging to his competitor. 52 Am J1st Tradem § 86. The repetition of words of a competitor in business in such a way as to convey a misrepresentation materially injuring the person who first used them, by appropriating credit of some kind which the first user has earned. *International News Service v Associated Press*, 248 US 215, 63 L Ed 211, 39 S Ct 68, 2 ALR 293.

Practices opposed to good morals, because characterized by deception, bad faith, fraud, and oppression, are unfair methods of competition. *Consolidated Book Publishers v Federal Trade Com.* (CA7) 53 F2d 942.

Unfair competition in the use of names or marks consists in the use of a name or mark by the defendant which tends to delude the public into believing the defendant's business is in some way connected with that of the plaintiff. The test is, whether the use of the name or mark would breed confusion in the minds of the public. *Martha Washington Candies Co. v Goldstein* (DC Pa) 28 F Supp 861.

unfair labor practice. An act, whether by employer or employee, in violation of the regulations and prohibitions of a labor relations act. 31 Am J Rev ed Lab §§ 224 et seq.

As the word is employed by labor organizations, it has the technical and well-understood meaning, as applied to an employer, not that he has been guilty of any fraud, breach of faith, or dishonorable conduct, but that he has refused to comply with the conditions upon which union men would consent to remain in the employ or handle materials supplied by the employer. *J. F. Parkinson Co. v Building Trades Council*, 154 Cal 581, 98 P 1027.

unfair list. A listing of names frequently used as the means of promoting a boycott. 31 Am J Rev ed Lab § 480.

See **boycott**.

unfair products. For the purposes of a boycott, the products of an employer deemed to be unfair to union labor. Anno: 6 ALR 957, s. 116 ALR 513.

unfair to organized labor. A familiar expression in times of labor unrest, appearing on the placards or banners of pickets. 31 Am J Rev ed Lab § 428.

unfair trade practice. See **unfair competition**.

[1316]

unfaithfulness. See **adultery**.

unfavorable signal. A traffic signal halting traffic. 8 Am J2d Auto § 743,

unfit for food. Adulterated; consisting in whole or in part of filthy, decomposed, or putrid substances. Anno: 45 ALR2d 861.

unfit premises. See **untenable condition**.

unforeseen clause. An undiscovered cause or a cause not discovered in time to prevent injurious effects from its operation. A cause which could not have been foreseen as likely to occur. *Viterbo v Friedlander*, 120 US 707, 30 1, Ed 776, 7 S Ct 962.

ungeld. (Saxon.) An outlaw. unguarded shaft. An open elevator shaft.

uniform. Noun: Clothing of a prescribed color and tailoring, as worn by members of the Armed Forces, pupils in certain schools, and employees in certain trades and occupations. Adjective: Without variation. Conforming to a standard.

As the word is used in the first paragraph of section 8, article 1, of the United States Constitution, providing that all duties, imposts and excises shall be uniform throughout the United States, this word is to be understood in what has been termed its "geographical" sense, or as meaning uniformity as to all the taxpayers similarly situated with regard to the subject matter of the tax. *Nicol v Ames*, 173 US 509, 521, 43 L Ed 786, 794, 19 S Ct 522. That is to say, wherever a subject is taxed anywhere, it must be taxed everywhere throughout the United States, and at the same rate. *Knowlton v Moore*, 178 US 41, 84, 44 L Ed 969, 987, 20 S Ct 747.

See **act of uniformity**.

uniform acts. See **uniform statutes**.

Uniform Commercial Code. See **Commercial Code**.

Uniform Code of Military Justice. See **Code of Military Justice**.

uniformity. A condition characterized by absence of variation between two or more things or activities.

See **Uniform**.

Uniformity of Process Act. An English statute, 2 William IV Ch 39, making original process uniform for the courts of Westminster.

uniformity of taxation. A requirement of the United States Constitution in reference to federal duties, imposts, and excises. Art I § 8 cl 1. A general principle that taxes should be levied in accord with some reasonable system of apportionment. 51 Am J1st Tax § 151.

As this clause is used in Article 1, § 8 of the Constitution, providing that all duties, imposts, and excises shall be uniform throughout the United States, it means that such taxes may only be levied with geographical uniformity. See *United States v Doiemus*, 249 US 86, 63 1, Ed 493, 39 S Ct 214.

The uniformity required by the provision of the United States Constitution that excises imposed by the United States must be uniform throughout the United States is not an intrinsic uniformity relating to the inherent character of the tax as respects its operations on individuals, but is merely it geographical uniformity requiring the same plan and the same method to be operative throughout the United States. *Fernandez v Wiener*, 326 US 140 90 L Ed 116, 66 S Ct 178, reh den 327 LIS 814, 96 1, Ed 1038, 66 S Ct 525.

uniform laws. See **uniform statutes**.

uniform operation of laws. An embodiment of the guaranty of equal protection of the laws. 16 Am J2d Const L §§ 488, 489.

A law which applies alike to all the subjects upon which it acts, which applies equally to all persons or things within a legitimate class to which, alone, it is addressed, complies with a constitutional provision requiring laws of a general nature to have a Uniform operation. The word uniform, in this connection, does not mean universal. The provision intends simply that the effect of general laws shall be the same to and upon all persons who stand in the same relation to the law,-that is, all the facts of whose cases are substantially the same. See *Re Sohncke*. 148 Cal 262, 82 P 956.

uniform state laws. See **uniform statutes**.

uniform statutes. Statutes drafted by a commission on Uniform Laws, or by a committee appointed by State Boards of Commissioners for promoting Uniformity of Legislation, and recommended to the legislatures of the various states for adoption, the purpose being to provide statutes on the subjects involved which, upon being adopted as recommended, will render the statutory provisions and rules uniform in terms and operation throughout the country. 50 Am J1st Stat §§ 40et seq. Published in *Uniform Laws Annotated*.

For particular uniform statute, see the specific subject, such as **Commercial Code; Negotiable Instruments Act; Warehouse Receipts Act**, etc.

uniform tax. See **uniformity of taxation**.

unilateral. One-sided.

unilateral contract. A contract in which there is it promise on one side only, the consideration therefor being an act or something other than another promise. 17 Am J2d Contr § 5.

The term "unilateral" has also been used to describe what is sometimes denominated a contract but which is in reality merely an offer to contract, as, for example, it promise to pay one for services if he should perform them, the latter being under no obligation to perform such services. 17 Am J2d Contr § 5.

unilateral mistake. A mistake on the part of only one of the parties to a transaction. Peterson v Paulson, 24 Wash 2d 166, 163 P2d 830. A mistake in the expression of the intention of one of the parties to a contract. 17 Am J2d Contr § 146.

A unilateral error is not, in itself, a ground of avoidance of a contract. If accompanied by other facts, however, such as hardship amounting to injustice, coupled with knowledge on the part of the one party that the other was laboring under a mistake, a unilateral mistake is ground for avoidance of a contract Anno: 59 ALR 815.

unilateral rescission. A rescission of a contract by one party for cause. 17 Am J2d Contr § 501.

unimpeachable for waste. A phrase, such as "without impeachment of waste," in an instrument which creates a tenancy, which legalizes or authorizes acts or conduct that would otherwise constitute waste on the part of the tenant. 56 Am J1st Waste § 7.

The phrase "without impeachment of waste" is, in equity, so restrained in its meaning that it will not permit the tenant for life to commit malicious waste so as to destroy the estate, and a court of equity will sometimes, when there is no remedy at law, interpose when the tenant "without impeachment of waste" does something affecting the inheritance in an unreasonable way, or seeks maliciously

[1317]

or unconscionably to destroy it. Derham v Hovey, 195 Mich 243, 161 NW 883, 21 ALR 999.

unimproved land. Land in relation to which nothing has been done, either on or off the land, the direct and proximate tendency of which was to enhance its value in the market. Vandall v South San Francisco Dock Co. 40 Cal 83, 90. Land without buildings or other improvements. Land in a state of nature.

uninclosed land. Land which is not fenced. Graves v Ashburn, 215 US 331, 54 L Ed 217, 30 S Ct 108.

unincorporated association. See **association.**

unincorporated territory. A territory, organized or unorganized, belonging to the United States but not incorporated into the United States. 49 Am J1st States § 4.

uninhabitability. See **untenantable condition.**

uninhabited premises. Real property not presently occupied by persons who actually live or abide thereon. Shepherd v Board of Supervisors, 137 Cal App 421, 30 112d 578.

uninsured motorist clause. A clause in an automobile insurance policy intended to protect the insured who is injured in person or in property through the fault of a motorist who is not himself insured or is a hit-and-run driver. 7 Am J2d Auto Ins § 135.

unintelligible. Incapable of being understood; not expressing any meaning.

Union. The inseparable United States of America. Coyle v Oklahoma, 221 US 559, 55 1, Ed 853, 31 S Ct 688. A one-time disputed merger of Great Britain and Ireland.

See **Act of Union; Articles of Union.**

union. A labor union. 31 Am J Rev ed Lab § 13. A trade union. Tracy v Banker, 170 Mass 266, 49 NE 308. Consolidation or merger, especially of churches. 45 Am J1st Reli Soc § 78.

union button. A button to be worn on the lapel, indicating labor-union membership. 31 Am J Rev ed Lab § 230.

union depot. Same as **union station.**

union-depot company. A company which maintains and operates a station for two or more carriers, being a corporation separate and apart from the several carriers. 44 Am J1st RR § 268.

unionizing. Organizing a union of employees of a particular shop or business; inducing the employees of it particular shop or business to join a labor union. 31 Am J Rev ed Lab § 54. In fine distinction, not the inducing of employees to become members of a labor union, but inducing the employer to enter into a collective labor agreement with the union. Per Opinion of Brandeis, J., dissenting in Hitchman Coal & Coke Co. v Mitchell, 245 US 229, 62 L Ed 260, 38 S Ct 65.

union label. A part of the workings of trade unions; a label which shows that the goods which bear it are made by the labor of members of the union. 31 Am J Rev ed Lab § 73. A quasi trademark indicating the origin of a manufactured product in union labor. Anno: 42 ALR2d 718.

union mortgage clause. A clause in a policy of insurance covering property, which, in addition to a provision for payment of the proceeds of insurance to a mortgagee as his interest may appear, contains terms for the additional protection of the mortgagee, providing that the interest of the mortgagee in the proceeds shall not be invalidated by the act or neglect of the mortgagor or owner of the insured property, or, less frequently, that no act or default of any person other than the mortgagee or those claiming under him shall affect his right to recover in case of loss. 29 Am J Rev ed Ins § 731.

union of students. See **students' union.**

union rules. The rules and regulations provided and promulgated by a labor union for the conduct of its members. 31 Am J Rev ed Lab § 36.

union-security contract. A collective labor agreement establishing a union shop. *Pacific Fire Rating Bureau v Book Binders and Bindery Women's Union, etc.* 115 Cal App 2d 111, 251 P2d 694

See **agency-shop agreement.**

union shop. A place of work where membership in a labor union is a condition of remaining in employment, even though not a condition precedent to employment. 31 Am J Rev ed Lab § 95.

union shop card. A card or placard identifying a shop or place of employment as one in which only union labor is employed. *Di Leo v Daneault*, 329 Mass 590 109 NE2d 824.

union station. A railroad station used jointly by two or more railroads. 44 Am J1st RR § 268.

See **union-depot company.**

unique value. A special value based upon an unusual or appealing nature of an article, the scarcity of articles of such kind, or a sentimental consideration arising from the personal use and personal associations involved.

unissued stock. Corporate stock which has been authorized but is not outstanding.

unit. One single thing. One single person. One single group of persons, as a squad, platoon, or company of men in a military force. An apartment in a condominium. 15 Am J2d Con Apt § 1.

See **employing unit.**

unitary award. An award for alimony and child support combined. Anno: 2 ALR3d 599, § 3.

unitary business. A descriptive term meaning that the concert to which it is applied is carrying on one kind of business--a business the component parts of which are to closely connected and necessary to each other to justify division or separate consideration as independent units. *State v Kent-Coffey Mfg. Co.* 204 NC 365, 168 SE 397, 90 ALR 476.

unitary domicil. The matrimonial domicil, the domicil resulting where the domicil of a married woman is merged by fiction in that of her husband. 24 Am J2d Div & S § 257.

unitary transaction rule. See **Kimbell-Diamond doctrine.**

unitas personarum. The merger of two legal persons into one.

unit assessment. A separate assessment for taxation of parts or parcels of land belonging to the same owner. 51 Am J1st Tax § 686. The assessment for taxation of the property of transportation and communication companies owning, or operating upon, it continuous line of property, such as tracks or wires, extending into or through several states, or several Counties or other taxing districts of a single state, as a homogenous unit representing a single profit-earning business, as an alternative to assessing separately so much of the line as lies within the

[1318]

state or smaller taxing unit in question, assuming that such portion of the entire assessment representing the share referable to the particular taxing district in question is set aside by a proper and reasonable method of apportionment 51 Am J1st Tax § 877.

See **unit valuation rule.**

united in interest. See **unity of ownership.**

United Kingdom. Great Britain and Northern Ireland.

United Nations. A governmental agency of international status created by nations of the world to deal with questions of an international character. 30 Am J Rev ed Internat L § 9.

The overlying purpose of the United Nations is the maintenance of peaceful relations between nations by providing a forum wherein differences may be discussed and adjusted without resort to arms, although collateral thereto are activities in economic, social, cultural, educational, health, and related matters.

United Nations Charter. The Charter of the United Nations, an exercise of the treaty-making power of the United States so far as participation by the United States is concerned. *Rice v Sioux City Cemetery*, 349 US 70, 99 L Ed 897, 75 S Ct 614. Drawn up at the United Nations Conference on International Organizations at San Francisco, California, April 25---June 26, 1945.

united nuisance. Same as a mixed nuisance. 39 Am J1st Nuis §§ 6, 7.

United Press. A well-known organization for the gathering and dissemination of news, Serving newspapers in its membership throughout the world.

United States. The Union of several states, each equal in power, dignity, and authority, brought into being by the Constitution, emanating from and adopted by the people in whom the sovereignty resides. *McCulloch v Maryland (US)* 4 Wheat 316, 4 L Ed 579. A body politic and corporate, capable of attaining the objects for which it was created, by the means which are necessary for their attainment. *Van Brocklin v Tennessee*, 117 US 151, 29 L Ed 845, 6 S Ct 670. A person for the purpose of a pretrial deposition under Federal Rule 26(a) of the Federal Rules of Civil Procedure. 23 Am J2d Dep § 242. Inclusive in reference to transactions with foreign nations of all territories subject to the jurisdiction of the Federal Government, wherever located. *Downes v Bidwell*, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

A Federal government was created in 1777 by the union of thirteen colonies of Great Britain in "certain articles of confederation and perpetual union," the first one of which declared that "the stile of this confederacy shall be the United States of America." Each member of the confederacy was denominated a "state." The confederacy, owing to well-known historical reasons, having proven a failure, a new Constitution was formed in 1787, by "The people of the United States" "for the United States of America," as its preamble declares. *Downes v Bidwell*, 182 US 244, 249, 45 1, Ed 1088, 1092, 21 S Ct 770.

See expressions following which begin with "United States," also terms and expressions beginning "federal" or "national."

United States agency. See **federal agency**.

United States Attorney General. See **Attorney General of the United States**.

United States Cemeteries. National cemeteries; military cemeteries in foreign countries; a congressional cemetery. 14 Am J2d Cern § 3.

United States Circuit Court. A United States court of original jurisdiction which was abolished in 1911, and the jurisdiction of which was taken over by the United States District Court.

United States Circuit Court of Appeals. A United States court which was created in 1891, with three judges for each circuit, and hearing appeals from the United States district courts and formerly, appeals from the United States Circuit Court. Succeeded by the United States Court of Appeals.

See **court of appeals**.

United States citizen. The antithesis of alien. A person born or naturalized in the United States and subject to the jurisdiction thereof. US Const Art 14, cl 1. One who by birth, naturalization, or other means is a member of the independent political society of the United States of America. 3 Am J2d Aliens § 1.

United States Code. The codification of the federal statutes.

United States Commissioner. An officer of the federal district court, vested with certain duties in reference to arraignment of persons accused of federal offenses, admission to bail, etc. Not to be classified as a judge of a United States court. *Todd v United States*, 158 US 278, 39 L Ed 982, 15 S Ct 889.

United States Constitution. The fundamental document of the American system of government, constituting the supreme law of the land, as adopted by the people of the United States through their representatives in the Convention of 1787 and ratified by conventions in the states, and as amended in compliance with provisions regarding amendments contained in the document. 16 Am J2d Const L §§ 11, 18 et seq.

United States Court of Appeals. See **court of appeals**.

United States Courts. Courts upon which the judicial power of the United States is conferred by the third article of the United States Constitution, *American Ins. Co. v Canter (US)* 1 Pet 511, 7 L Ed 242; *Federal Trade Com. v Klesner*, 274 US 145, 71 L Ed 972, 47 S Ct 557. The United States Supreme Court and courts inferior to it, commonly known as federal courts, ordained and established by Congress in the exercise of its constitutional powers. 20 Am J2d Cts § 6.

For the purpose of enforcing Federal law applicable to the whole country and therefore applicable to the District of Columbia, the courts of the District are held to be Federal courts. *Federal Trade Com. v Klesner*, 274 US 145, 71 L Ed 972, 47 S Ct 557.

United States District Attorney. An officer appointed in each federal judicial district whose duty it is to prosecute therein all delinquents for crimes and offenses cognizable under the authority of the United States and all civil actions in which the United States is concerned, under the general superintendence and direction of the Attorney General. 42 Am J1st Pros Atty § 2.

United States District Courts. The trial courts of the federal system, one for each federal judicial district, the jurisdiction of such courts and the venue of actions brought therein being prescribed by the United States Code. 20 Am J2d Cts § 11.

[1319]

United States Government Life Insurance. Life Insurance provided by the government and made available to veterans of World War I by way of conversion of their level-premium term insurance known as United States War Risk Insurance. 29A Am J Rev ed Ins § 1970.

United States homeopathic pharmacopoeia. An official publication listing drugs and medicines, adapted to the homeopathic school of medicine. 25 Am J2d Drugs § 1.

United States judge. A judge of a court of the United States. *Fong Yue Ting v United States*, 149 US 698, 37 L Ed 905, 13 S Ct 1016.

United States Land Office. See **General Land Office**.

United States Marshal. A ministerial officer through whom the commands of the Judicial Department of the United States must be executed, although belonging to the executive department of the government. *Re Neagle*, 135 US 1, 34 L Ed 55, 10 S Ct 658.

Marshals are mere ministers of the law to execute the orders of the Federal courts, with no authority in their official characters to do any act that shall expressly or impliedly bind anyone by warranty. If a marshal steps out of his official duty and does what the law has given him no authority to do, he is usually personally liable to the injured party. *The Monte Allegre (US)* 9 Wheat 616, 645, 6 L Ed 174, 181.

United States Mint. See **mint**.

United States notes. Notes issued by the United States under the authority of Congress, intended to circulate as money and with the national bank notes to constitute the credit currency of the country.

They were obligations of the United States and each one was an engagement to pay to the bearer a certain number of gold or silver dollars. *People ex rel. Bank of New York v Supervisors of New York (US)* 7 Wall 26, 19 L Ed 60.

See **bank note**; **treasury note**.

United States of America. See **United States**.

United States Pharmacopoeia. An official list of drugs and medicines, noting their properties. 25 Am J2d Drugs § 1.

United States Rule. An old and indeterminate appellation for the principle that a partial payment, in the absence of an agreement or statute to the contrary, should be applied first to the interest due.

For discussion of application of the principle, see 30 Am J Rev ed Int § 49.

United States Statutes at Large. An official publication of the federal statutes, concurrent resolutions of Congress, treaties, international agreements other than treaties, proclamations by the President, and proposed or ratified amendments to the Constitution of the United States.

United States Supreme Court. The highest of the courts of the federal court system, established by the Constitution of the United States, and having both original and appellate jurisdiction. US Const Art 3; 20 Am J2d Cis §§ 6, 9.

Occupying a singular position within the dual system of federal and state jurisdiction to the extent that certain decisions of the highest court of a state are reviewable and may be set aside by it. 20 Am J2d Cts § 9.

United States treasury notes. See **treasury note**.

United States Treaties and other International Agreements. A compilation of treaties and international agreements entered into by the United States. 1 USC § 112(a).

See **treaty**.

United States vessel. See **vessel of the United States**.

unit owner. The owner, singular or plural, of an apartment in a condominium. 15 Am J2d Con Apt § 1.

unit-price contract. A contract under which payment of compensation is to be made at specified unit rates for different kinds of work performed or materials furnished or both. 17 Am J2d Contr § 346.

unit prices. Prices at which the various articles in the inventory of a public utility plant are taken in the valuation of the plant for rate-making purposes. 43 Am J1st Pub Util § 114.

unit rates. The rates specified in a contract for different kinds of work performed or materials furnished or both. 17 Am J2d Contr § 346.

unit rule. The rule applied in some political conventions that the entire vote of a delegation shall be cast as a unit, the proposition or candidate for whom it is to be cast being determined by a majority vote of the delegation.

See **unit assessment**; **unit valuation rule**.

unit rule in taxation. See **unit assessment**; **unit valuation rule**.

unit valuation rule. The rule that the value of shares of corporate stock for death tax purposes is ascertained by multiplying the total number of shares to be valued by the sale price of one share sold on an exchange. *Citizens Fidelity Bank & Trust Co. v Reeves* (Ky) 259 SW2d 432.

See **unit assessment**.

unity of husband and wife. See **unity of spouses**.

unity of interest. See **unity of ownership**.

unity of ownership. By the whole, not by the half or other part. The identity of the interests of joint tenants, whereby each joint tenant is entitled to the same period of duration or quantity of interest in lands. See 2 Bl Comm 181.

unity of possession. One of the essential elements of a joint tenancy, meaning that each of the joint tenants has the entire possession of the property, as well of every parcel of it as the whole.

That is, no one of them has the sole possession or any part. See 2 Bl Comm 181.

See **unity of possession**.

unity of seisin. The merger of one seisin in another, as where the owner of a servient tenement acquires the dominant tenement also.

See **unity of possession**.

unity of spouses. The concept of the common law whereby husband and wife become by marriage one person, the entire legal existence of the wife being completely merged or incorporated in that of the husband. 26 Am J1st H & W § 3.

It has been said that a husband and wife are considered separate persons in equity, in divorce proceedings, and in proceedings brought for the annulment of a divorce obtained by fraud. *Usen v User*, 136 Me 480, 13 A2d 738, 128 ALR 1449.

unity of time. One of the essential Properties of a joint tenancy whereby the estates of the joint tenants must be vested at one and the same time. See 2 Bl Comm 181.

unity of title. One of the essential properties of a joint tenancy, under which the estates of the joint tenants must be created by one and the same act,

whether legal or illegal; as by one and the same grant, or by one and the same disseisin. See 2 Bl Comm 181.

See **unity of ownership**.

Uniuscujusque contractus initium spectandum est et causa. (Civil law.) The beginning and the consideration of every contract should be scrutinized.

Unius responsio testis, omnino non audiatur. The evidence of one witness may never be admitted.

This was the ancient rule of the civil law, which the early common law adopted and which Blackstone characterized as absurd. See 3 Bl Comm 370.

universal. Not limited in application. Pertaining to all, without exception. *Koen v State*, 35 Neb 676, 53 NW 595.

universal agent. An agent authorized to transact all the business of his principal of every kind and do all delegable acts for him. *Baldwin v Tucker*, 112 Ky 282, 65 SW 841.

A principal can have only one universal agent. *Baldwin v Tucker*, 112 Ky 282, 65 SW 841.

Universal Copyright Convention. An international copyright agreement ratified by the United States Senate in 1954, effective for the United States September 16, 1955. 18 Am 32d Copyr § 76.

Universalia sunt notiora singularibus. Universal matters are better known than particular ones.

universal military service. Military service required by law of every able-bodied citizen or national. 36 Am J1st Mil §§ 22, 23.

universal partnership. A partnership in which each individual partner has contributed all of his property to the partnership.

universal succession. The artificial continuance of the person of a deceased by an executor, heir, or the like, so far as succession to rights and obligations is concerned.

It is a fiction, the historical origin of which is familiar to scholars, and it is this fiction that gives whatever meaning it has to the saying **mobilia sequuntur personam**. *Blackstone v Miller*, 188 US 189, 47 L Ed 439, 23 S Ct 277.

universitas. (Latin.) The whole. The total.

As the term was used in the civil law it meant a corporation: that is one whole entity formed out of many individuals. See 1 Bl Comm 469.

universitas bonorum. All of a person's goods; all of a person's estate.

Universitas vel corporatio non dicitur aliquid facere nisi id sit collegialiter deliberatum, etiamsi major pars id faciat. A university or a corporation is said not to do anything unless it is deliberated upon collectively, even though a majority of the members should act upon it.

university. Precisely, an aggregation or union of colleges. An educational institution in which the teaching covers a broad, if not universal, field, instructing in many branches of the arts and science's reaching out to cover all manner of higher learning: and possessing the power to confer degrees indicating proficiency in the branches taught. 15 Am J2d Colleges § 1.

A university is a "scientific institution" within the meaning of a statutory provision for exemption from personal property taxes. *District of Columbia v Catholic Education Press, Inc.* 91 App DC 126, 199 F2d 176, 34 ALR2d 1214.

universum jus. An entire right; sole ownership.

universus. All; the whole; whole; entire.

unjust. Unfair. Contrary to justice.

All human actions are either just or unjust as they are in conformity to or in opposition to law. *Borden v State*, 11 Ark 519.

unjust discrimination. See **discrimination**.

unjust enrichment. The circumstances which give rise to the obligation of restitution, that is, the receiving and retention of property, money, or benefits which in justice and equity belong to another. *Herrmann v Gleason* (CA6 Mich) 126 F2d 936; *Straube v Bowling Green Gas Co.* 360 Mo 132, 227 SW2d 666, 18 ALR2d 1335.

See **restitution**.

unkerjay. A morphine addict.

unknown contents. See **contents unknown.**

unknown motorist clause. A clause of an automobile insurance policy protecting the insured in reference to injury in person or in property by a hit-and-run driver, the conditions of the accident being such that it is impossible to ascertain whether or not the offending driver has insurance. 7 Am J2d Auto Ins § 135.

unknown parties. Persons within the meaning of statutes authorizing actions to be prosecuted against unknown persons.

Proceedings against unknown persons are of two classes: (1) those brought against that class of claimants to property who are known to exist, but whose names are unknown; and (2) those brought against that class of claimants whose names are not known, and who may or may not exist. 39 Am J1st Parties § 7.

unkouth. Same as **uncuth.**

unlade. To relieve a vessel of the burden of cargo.

In some cases the word means to transship cargo from one vessel to another. See *The Cherie* (CA1 Me) 13 F2d 992, 995.

unlage. (Saxon.) An unjust law.

unlaw. A property qualification which was required of witnesses.

unlawful. Contrary to law. Not allowed or permitted by law. Not in the manner required by law. *State v Campbell*, 217 Iowa 848, 251 NW 717, 92 ALR 1176; *State v Falkner*, 182 NC 793, 108 SE 756, 17 AIR 987.

See **illegal; illicit; invalid; ultra vires.**

unlawful ab initio. Unlawful from the beginning.

In cases of total divorce, the marriage is declared null, as having been absolutely unlawful ab initio (from the beginning); and the parties are therefore separated pro salute animarum (for the welfare of their souls). See 1 Bl Comm 440.

See **trespass ab initio.**

unlawful accumulation. An accumulation of an estate in violation of the rule against perpetuities or

[1321]

in violation of statutes comparable to the Thellusson Act of England. 41 Am J1st Perp § 44.

See **Thellusson Act.**

unlawful act. See **unlawful.**

unlawful arrest. See **false arrest; false imprisonment.**

unlawful assembly. A gathering of persons, usually three or more, with a common intent, formed before or at any time during the meeting, to attain a purpose, lawful or unlawful, which will interfere with the rights of others, by committing disorderly acts in such a manner as to cause sane, firm, and courageous persons in the neighborhood to apprehend a breach of the peace. Anno: 58 ALR 75 1, s. 93 ALR 737; 46 Am J1st Riot § 2.

Each charge of unlawfully assembling largely and necessarily depends upon the object and character of the meeting, and whether or not the overt acts done by the participants therein pursuant to a common understanding are of such a nature as to incite well grounded fear in persons of reasonable firmness and courage, of a riot, rout, affray, or other breach of the peace. *State v Butterworth*, 104 NJL 579, 142 A 57, 58 ALR 744.

See **mob; riot.**

unlawful belligerent. An enemy not entitled to the protection of the laws of war, because of the want of a lawful war or of the violation by it of the laws of war. 56 Am J1st War §§ 3 et seq.

unlawful cohabitation. The living together as husband and wife by a man and woman who are not married to each other. Ex parte Nielsen, 131 US 176, 33 L Ed 118, 121, 9 S Ct 672.

unlawful combination. An agreement in restraint of trade.

See **monopoly; restraint of trade.**

unlawful conspiracy. A criminal offense, indictable at common law where two or more persons confederate and combine together, by concerted means, to do that which is unlawful or criminal, to the injury of the public, or portions or classes of the community, or even to the rights of an individual. *Beck v Railway Teamsters' Protective Union*, 118 Mich 497, 77 NW 13.

See **conspiracy**.

unlawful contract. A contract wherein a person undertakes to do all act which the law forbids, or to omit an act which the law enjoins, and for that reason unenforceable.

It is distinguishable from a void contract which is a contract which has no legal force, and which for that reason, cannot be enforced. *King v King*: 63 Ohio St 363, 59 NE 111.

See **illegal contract**.

unlawful detainer. The unlawful withholding or detention of real property after the acquisition of a peaceable and actual, but unlawful, possession. 35 Am J2d Forc E & D § 32.

unlawful entry. A trespass. A going upon the property of another without right or authority. As an element of burglary, the intrusion of any part of the body for the purpose of committing a felony upon the premises. Anno: 23 ALR 289; 13 Am J2d Burgl § 10.

unlawful injury. An actionable wrong.

Giving to the term the broadest meaning possible under the authorities, it can include no injury that is not of such a character that it would constitute an actionable wrong, -an injury for which an action for the resultant damages could be maintained against the perpetrator; or which, if merely threatened, could be enjoined in equity if the remedy at law were deemed inadequate. *People v Schmitz*, 7 Cal App 330, 369, 94 P 419.

unlawful killing. See **homicide; manslaughter; murder**.

unlawfully. Illegally; illicitly. In a manner contrary to law. A technical word in an indictment of information. 27 Am J1st Indict § 67.

The term implies that an act is done, or not done, as the law allows or requires. *State v Falknet*, 182 NC 793, 108 SE 756, 17 ALR 986, 990.

See **unlawful**.

unlawful order. An order rendered without jurisdiction. An erroneous order.

Every erroneous order is unlawful, and for that reason may be reversed on appeal. *Ex parte Cohen*, 5 Cal 494.

unlawful picketing. Picketing which is not in furtherance of a legitimate interest of labor or is not carried out peacefully. 31 Am J Rev ed Lab §§ 433 et seq.

unlawful possession of intoxicating liquor. Maintaining custody or exercising the right of ownership, management, or control over intoxicating liquor when possession of such article is in violation of law. 30 Am J Rev ed Intox L § 59.

unlawful trust. See **trust**.

unlearned parliament. Same as **parliament of dunces**.

unless lease. An oil or gas lease containing a provision that a default by the lessee in the prosecution of exploratory work shall terminate his rights unless on or before a day set there shall be paid the agreed computation for the period specified, with like payments for like successive periods. 24 Am J1st Gas & O § 60.

unliquidated claim. A claim in respect to which the exact amount which the claimant is entitled to recover has not been ascertained. *Dycus v Brown*, 135 Ky 140, 121 SW 1010.

unliquidated damages. Damages not stipulated by the parties or otherwise determined as to amount thereof. 22 Am J2d Damg § 212. Not an existing indebtedness within the meaning of attachment statutes. *Craig v Gaddis*, 171 Miss 379, 157 So 684, 95 ALR 1494.

A claim for unliquidated damages is not included within the expression "goods, effects, or credits." *Wilde v Mahaney*, 183 Mass 455, 67 NE 337.

unliquidated demand. See **unliquidated claim; unliquidated damages**.

unlisted stock. Shares of stock not listed on a stock exchange.

unlivery. Discharge of cargo from a vessel. *The Two Catherines* (CC RI) 2 Mason 319, F Cas No 14288.

unloading. See **loading and unloading.**

unloading clause. See **loading and unloading clause.**

unmailable. Same as **nonmailable.**

unmarried. Not presently under the bonds of matrimony, irrespective of prior status. *Myers v Deliver & R. G. R. Co.* 61 Colo 302, 157 P 196. *Estate of Kaufman*, 131 NY 620, 30 NE 242. In some contexts, the equivalent of never having been married. Anno: 7 ALR2d 1386.

unmeasured right of common. A commoner's right of common before

[1322]

it was admeasured or apportioned under a writ of admeasurement of pasture.

The uncertainty of this right caused it to be called erroneously a "common without stuff or sans nombre." See 3 Bl Comm 239

unnatural offense. Same as **crime against nature.**

unnatural will. A will in which the testator provide for spouse or children, the natural, objects of his bounty, or makes a provision for them which is inadequate from the standpoint of the size of tire estate and their financial circumstances. 57 Am J1st Wills §§ 149, 150.

unnecessary cruelty. Torture or abuse of an animal; the infliction of pain without need. 4 Am J2d Am § 28.

unnecessary exposure. The failure to use ordinary care for one's own safety, that is, contributory negligence. *Shevlin v American Mot. Acci. Asso.* 94 Wis 180, 68 NW 866.

Unnecessary exposure to danger is the equivalent of voluntary exposure to unnecessary danger. 29A Am J Rev ed Ins §§ 1174, 1175.

See **indecent exposure.**

unnecessary exposure to danger. See **unnecessary exposure.**

unnecessary hardship. An imprecise term appearing in some zoning ordinances.

It is recognized that the term does not lend itself to precise definition automatically resolving every case. The criterion of unnecessary hardship is whether the use restriction, viewing the property in the setting of its environment, is so unreasonable as to constitute all arbitrary and capricious interference with the basic right of private property. The fact that the enforcement of zoning regulation in question would deprive the applicant of any practical economic use of his property, without any commensurate advantage to other properties in the neighborhood, was held to constitute an unnecessary hardship within the operation of the zoning ordinance. Anno: 168 ALR 26 et seq.

Un ne doit prise avantage de son tort demesne. A person ought not to take advantage of his own wrong.

Uno absurdo dato, infinita sequuntur. If one absurdity is allowed, an infinite number will follow.

uno actu. By one act.

unoccupancy. See **unoccupied building.**

unoccupied building. A building without animate occupants. 29A Am J Rev ed Ins § 907.

See **vacant and unoccupied.**

unoccupied vehicle. A vehicle which is unattended so that there is no one to move or to see to the moving of it in case traffic conditions require removal. *McLaurine v Birmingham*, 247 Ala 414, 24 So 2d 755, 163 ALR 962.

unoffered lands. Those public lands of the United States which have not been offered for sale or settlement. *Northern Pacific Railway Co. v De Lacey*, 174 US 622, 628, 43 L Ed 1111, 1113, 19 S C, 791.

unofficial notes. Notes of the testimony of a witness taken by one other than the official reporter. 29 Am J2d Ev § 765.

unofficial opinion. An opinion of a court commissioner or referee which has not been confirmed by the court and accordingly is of no value as a precedent. *Flint v Chaloupka*, 72 Neb 34, 99 NW 825.

See **unofficial report**.

unofficial primary. A caucus called for the purpose of nominating candidates of a political party. 25 m J2d Elect § 145.

unofficial publication. A publication of laws or court reports by a private publisher.

unofficial report. A court report published by a private publisher. *Ex parte Griffiths*, 118 Ind 83, 20 NE 513.

uno flatu. In one breath.

"Yet it (the code) is to be considered as one homogeneous whole, established uno flatu." *Central of Georgia Railway Co. v State*, 104 Ga 831, 31 SE 531.

unopened way. A way used by the public which has never been officially and formally opened to public use. *Klepper v Seymour House Corp.* 246 NY 851, 158 NE 29, 62 ALR 955.

unorganized territory. A territory of the United States without a government in an elaborate form 49Am J1st States §4.

unperfected. See expressions beginning "imperfect."

unpermitted. See **unlawful**.

unpleaded. Not alleged in a pleading; not pleaded.

unprecedented. Without precedent. Unknown to history or record of past events.

unprofessional conduct. See **professional misconduct**.

unpossessed. Not held fit possession; unoccupied.

unqualifiedly subject to the demands of the shareholder. The actual receipt of a dividend by a shareholder or an entry of the amount of the dividend to the credit of the shareholder in his account with the corporation. Anno: 158 ALR 1432.

unques. Yet; still; always.

unques prist. Always ready.

unreasonable. Not rational or reasonable.

unreasonable rates. Rates of a public service corporation which are so low as to be noncompensatory, or those which are so much higher than simply compensatory rates that they are exorbitant. *Homestead Co. v Des Moines Elec. Co.* CA8 Iowa) 248 F 439, 12 ALR 390.

unreasonable restraint of trade. See **restraint of trade**.

unreasonable search. An examination or inspection without authority of law of one's premises or person, with a view to the discovery of stolen, contraband, or illicit property, or for some evidence of guilt, to be used in the prosecution of a criminal action. 47 Am J1st Search § 52.

unreasonable search and seizure. A seizure of property discovered on an unreasonable search. 47 Am J1st Search § 52.

A literal "search" and "seizure" is not required to constitute all unreasonable search and seizure. The surreptitious removal from his office of incriminating documents belonging to the accused by an officer making a supposedly friendly visit constitutes an unreasonable search and seizure. 47 Am J1st Search § 52.

unreasonable seizure. A seizure of one's property or

[1323]

effects without authority of law. 47 Am J1st Search § 52.

See **unreasonable search and seizure**.

unreasonable time. See **reasonable time**.

unrecorded. The state or condition of a document which has neither been filed for record nor placed of record on the public records.

unrelated business income. Income of a tax exempt organization from a trade or business not substantially related to the purpose of the organization which exempts it from income tax. Internal Revenue Code § 512(b)(12).

unresponsive answer. An answer by a witness which avoids or fails to meet the question or interrogatory propounded.

unrestricted. Without restrictions; without conditions; absolute. *Columbia Water Power Co. v Columbia Street Railway, etc. Co.* 172 US 475, 491, 43 L Ed 521, 527, 19 S Ct 247.

unrestricted district. A district established by a zoning law but not restricted thereby in reference to the use to be made of premises therein. 58 Am J1st Zon § 33.

unruly animal. An animal difficult, if not impossible, to control. 4 Am J2d Am § 49.

unsafe bank. A bank which is insolvent or approaching insolvency.

unsafe driver. An incompetent or inexperienced driver of a motor vehicle.

unsafe speed. The speed of a motor vehicle at such a rate as to render it impossible to control the course of the vehicle or to stop it in time to avoid a collision with other vehicles or objects along the way. *Robinson v LeSage*, 145 Me 300, 75 A2d 447.

unsatisfactory title. A title to real estate so defective as not to be a marketable title.

See **marketable title**.

unseated land. Land which is neither occupied nor cultivated.

Land which has not been farmed or cultivated, or which has not been cleared, or which, after having been cultivated has not been used for a long period of time. *Keating v Williams (Pa)* 5 Watts 382, 384.

unseaworthy. Not seaworthy.

See **seaworthy**.

unscheduled assets. Assets of a bankrupt not listed in the schedule of his property. 9 Am J2d Bankr § 860.

unset diamond. A diamond of a nature to be worn as a jewel which has not been mounted upon a ring or other article of jewelry. 29 Am J Rev ed Ins § 298.

unsettled pauper. A poor person who has not gained a residence.

See **settlement of pauper**.

unsolemn admissions. Admissions which have been acted upon, or have been made to influence the conduct of others, or to derive some advantage to the party, and which cannot afterwards be denied without a breach of good faith. *Metcalf v Hart*, 3 Wyo 513, 31 1) 407.

unsolemn war. A war in which there has been no solemn or formal declaration of war by either belligerent.

unsound animal. An animal having an organic defect or infirmity which renders it unfit for immediate, present, usual, and reasonable use. 46 Am J1st Sales § 396.

unsound memory. An imperfect memory. A memory which has failed in situations where there should have been a recollection.

"That men may and do have what is denominated unsound memories, although otherwise of sound mind, is a matter of common knowledge. It is most generally observable in persons of old age, who have lost the power to remember past events; but no one would class them as insane persons. That such a person might do an act and be perfectly conscious of it, and of its moral and legal effect, and yet forget it, is not open to dispute." *State v Coyne*, 214 Mo 344, 114 SW 8.

unsound mind. The mind of an insane or mentally deficient person.

As used in a statute providing for the appointment of a guardian of the property and minor children of a person of unsound mind, the term relates to the capacity of the person to transact business. The unsoundness of mind which will justify such an appointment must be more than mere debility or impairment of memory; it must be such as to deprive the person affected of ability to manage his estate. *Emerick v Emerick*, 83 Iowa 411, 49 NW 1017.

See **sound mind**.

untenant. To evict or remove a tenant from the premises of the landlord.

untenantable condition. A condition of premises rendering them unfit for the purpose for which they were leased, particularly where the lease expressly designates the use to be made of the premises. *Tyson v Weil*, 169 Ala 558, 53 So 912. A condition of premises rendering them unfit for occupation for any worthwhile purpose. 32 Am J1st L & T § 506.

untenanted. Not occupied by a tenant; not occupied by any person.

unthrift. A prodigal; a spendthrift.

until. To a certain date or event, either inclusive or exclusive of the date or event, according to the manifest intention revealed by the entire context. 52 Am J1st Time § 25 A technical term apt for the creation of a determinable fee. *Consolidated School Dist. v Walter*, 243 Minn 153, 66 NW2d 881, 53 ALR2d 218.

No general rule can be laid down to determine whether the word "until," as a limit of time, is a word of inclusion or exclusion. Anno: 16 ALR 1094; 52 Am J1st Time § 25.

The word may have an inclusive or exclusive meaning, according to the use to which it is applied, the nature of the transaction which it specifies, and the connection in which it is used; and it may be held to include the day to which it is prefixed. State ex rel. *Birdgell v Jorgenson*, 25 ND 539, 142 NW 450.

A contractual provision for payment of a specified rate of interest "until maturity" of the obligation is an express limitation of that interest rate to the period prior to maturity so as to render applicable after maturity a statutory provision for interest at a stipulated rate "if there is no agreement ... for a different rate." *Thompson v Getz* (CA] Mass) 178 F2d 325, 16 ALR2d 898.

untimely. Occurring out of time, as in the case of the death of a person who has not reached maturity.

[1324]

Not in compliance with limitation of time, as in the case of a suit commenced after the running of the period fixed by all applicable statute of limitations.

As to when an application to a lower court for a rehearing may be said to be "untimely," see Anno: 10 ALR2d 1076.

untrue. Lacking truth. Lacking fidelity.

unum austerium. A rent reserved in ancient deeds payable to the lord in goshawks.

Unumquodque dissolvi potest eodem ligamine quo ligatum est. Everything can be undone by the same means by which it was done

Unumquodque dissolvitur eodem ligamine quo ligatur. Every obligation is dissolved in the same manner in which it is made binding. See *Broom's Legal Maxims* 884.

Unumquodque dissolvitur eo ligamine quo ligatur. Every obligation is dissolved in the same manner in which it is made binding.

"Like other old maxims, this has received qualifications, and, indeed, was never true to the letter." *Munroe v Perkins*, 26 Mass (9 Pick) 298.

Unumquodque eodem modo quo colligatum est dissolvitur. Every obligation is dissolved in the same manner in which it is made binding. See *Broom's Legal Maxims* 891.

Unumquodque est id quod est principalius in ipso. Anything which is the principal part is the thing itself.

Unumquodque ligamen dissolvitur eodem ligamine quod ligatur. Every obligation is dissolved in the same manner in which it is made binding. *Esmond v Van Benschoten* (NY) 12 Barb 366, 375.

Unumquodque principiorum est sibimet ipsi fides; et perspicua vera non sunt probanda. Every principle is its own proof, and plain truths need not be proved.

unused portion. That portion of an estate not consumed by the tenant entitled to make use thereof. *Hardy v Mayhew*, 158 Cal 95, 110 P 113.

unusual case. A case which is noteworthy because of either fact or principle involved. A case without precedent.

As the expression is used in a workmen's compensation act requiring the insurer to pay medical bills after the first two weeks in "unusual cases," the statute has been held to refer to injuries which develop unexpected or unusual complications, requiring the services of experts or unusual treatment. Moore's Case, 255 Mass 533, 535, 152 NE 66,67.

unusual noise. See **excessive or unusual noise.**

unusual punishment. See **cruel and unusual punishment.**

unvalued policy. Same as **open policy.**

unwarrantable. Not warrantable; unjustifiable; indefensible.

unwarranted. Not warranted.

written constitution. A system of fundamental laws or principles for the government of a nation which is binding notwithstanding it is not incorporated in a formal writing or document.

Although a constitution may be either written or unwritten, in the United States, the word "Constitution," as applied to the organization of the federal and state governments, always implies a writing. 16 Am J2d Const L § 1.

unwritten contract. An oral contract.

A contract is unwritten if the contract itself cannot be proved wholly by writings. Illinois Cent. R. Co. v Moore (CA5 Miss) 112 F2d 959.

unwritten law. The law as established by cases rather than as enacted by a legislative body. Equity as introduced into the United States. State ex rel. Rhodes v Saunders, 66 NH 39, 25 A 588. The theory that a man should not be punished for a homicide where his victim was the seducer of his wife or daughter.

unwritten law of nations. That part of international law which does not rest upon treaties but which springs from (1) abstract reasoning, (2) custom and usage, (3) the conclusions of publicists based on ancient and admitted practice, and (4) judicial precedents. 30 Am J1st Internat L § 2.

U. P. Abbreviation of **United Press.**

up a stream. Toward the source.

up-draft. An upward movement of air, of concern in the operation of aircraft. 8 Am J2d Avi § 96.

Descriptions running the boundary line up or upon, a river, stream, or creek have generally been construed to refer to the water in its entirety as the monument, and have been regarded as extending to embrace the land to the thread of the stream. Anno: 74 ALR 597

upkeep. The maintenance of premises or of machinery. The cost of maintenance.

uplands. Elevated lands. Lands above the flood plain of a river. Lands upon a plateau or in a mountainous region.

upon. Literally, "up and on," but, in common usage, and equivalent of "on." An apt word in limiting the time for future enjoyment of all estate. Anno: 49 ALR 193, s. 127 ALR 614.

upon a motor vehicle. Being in physical contact with the vehicle. Anno: 39 ALR2d 956. In physical contact with a motor vehicle, although not seated in the place provided for the seating of passengers. 29A Am J Rev ed his § 1241. In physical contact with the vehicle, preparing to enter the vehicle, or in close proximity thereto after alighting therefrom. 29A Am J Rev ed lus § 1241.

upon condition. See **condition.**

upon information and belief. Qualifying a statement as made, not as a fact, but as believed to be true from information. 5 Am J2d Arr § 14.

see **allegation on information and belief.**

upon personal knowledge. Upon knowledge derived from the exercise of one's own senses. Anno: 96 ALR 694.

upon sight. Same as **at sight.**

upon the failure of heirs. Upon all absence of heirs capable of taking by descent or devise. 27 Am J2d Esch § 11.

[1325]

upon the faith of a document. In the belief held in good faith that the possessor was the true owner of the document. Warner v Martin (US) 11 How 209, 13 L Ed 667.

upper bench. See **court of upper bench.**

upper house. Inept terminology for the Senate of the United States Congress, the senate of a state legislature, and the House of Lords in Great Britain.

upper owner. A riparian owner whose land is upstream in reference to the land of another such owner. An owner of land front which surface water drains onto adjoining premises.

upper story. Any story of a building above the ground floor. Rose v King, 49 Ohio St 213, 30 NE 267.

upset. An overturning, but not necessarily a complete overturning: a loss of equilibrium. 7 Am J2d Auto Ins § 62.

As to whether damage to vehicle resulting front wind or other phenomenon of nature is as within coverage of automobile policy insuring against collision or upset. Anno: 14 ALR2d 807.

upset bid. A bid for property sold at judicial sale, in an amount greater than the bid of the purchaser, offered upon application to set aside the sale. 30A Am J Rev ed Jud S §§ 105-113.

upset insurance. Automobile insurance protecting the insured against damage to the vehicle caused by an upset.

upset price. See **minimum price.**

up to. A phrase excluding the time or place to which it pertains. 52 Am J1st Time § 25, 12 Am Bound § 52.

uranium. A radioactive element; special nuclear material. 6 Am J2d Atomic E § 8.

See **fissionable uranium.**

urban. Pertaining to the city, not to the country.

urban easements. The easements belonging to property abutting on streets, including the rights that one's windows should not be darkened; that the free enjoyment of pure air should not be substantially interfered with, and that the free and usual access to the premises should not be impaired. Storms v Manhattan Railway Co. 178 NY 493, 71 NE 3.

urban homestead. A homestead situated within the limits of a village or city. 26 Am J1st Home § 33.

urban redevelopment. A plan for the redevelopment, for all types of uses, of areas in a municipality suffering from blight or decay, through a program of co-operation between government and private enterprise. Anno: 44 ALR2d 1417.

See **slum clearance.**

urban servitude. Same as **urban easement.**

urban surface streetcar passenger service. The transportation of passengers over the streets in suitable cars so operated as to permit passengers to enter and leave at reasonable intervals, irrespective of the fact that a car may be engaged in interurban over a portion of its route. Milwaukee v Milwaukee Elec. R. & Light Co. 173 Wis 400, 180 NW 339, 181 NW 821, 13 ALR 801.

urban transportation. The transportation of passengers over the streets of a city or of a city and its environs in busses or street cars so operated as to permit passengers to enter and leave at reasonable intervals.

urban way. A street in a municipality.

urbs. A city; a fortified city.

ure. Use; operation; custom; practice.

urea. A substance found in urine.

uremia. A disease of the kidneys in which urea is taken into the blood. *Gridley v Boggs*, 62 Cal 190, 198.

uremic poisoning. A poisoning resulting from a diseased condition of the kidneys. *People v Harris*, 136 NY 423, 433.

urgency. A special condition calling for immediate action or relief. Anno: 111 ALR 703.

urinal. A toilet. 39 Am J1st Nuis § 83. A container for urine, of particular use in the care of a bedridden person.

urn. A receptacle for the ashes from a cremation.

U. S. Abbreviation of United States. The brand placed by the federal government upon certain kinds or chattels belonging to it, particularly horses and mules. 46 Am J1st Sales § 311.

U.S.A. Abbreviation of United States of America.

usable value. The value of the use of a chattel for a definite period of time. 22 Am J2d Damg § 153.

usage. A uniform course of conduct in some particular business or calling, even though it is that of only one person. 21 Am J2d Cost & U § 1.

Usage is habitual or customary practice. *Orlich v Rubio Sav. Bank*, 240 Iowa 1074, 38 NW2d 622, 10 ALR2d 340.

See **custom**; **general usage**; **trade usage**.

usage of trade. See **trade usage**.

usance. The customary time allowed for the payment of bills of exchange.

U. S. brand. The branded mark of the letters "U.S." upon government property.

U. S. Pharm. Abbreviation of United States Pharmacopoeia.

U.S.S.Ct. Abbreviation of United States Supreme Court.

use. Noun: A beneficial ownership recognized in equity. A trust. The right granted by a patent for an invention. 40 Am J1st Pat § 140. The employment or enjoyment of property. Utility; advantage. The long-continued possession and employment of a thing for the purpose for which it is adapted, as distinguished from a possession or employment that is merely temporary or occasional. Anno: 139 ALR 376, 377 (construing statute imposing tax upon sale for use). 47 Am J1st Sales T § 25. The act of employing; the act of using; applying to one's service; the state of being used, employed, applied, etc. *Turner v Smith*, 269 Ky 840, 108 SW2d 1019, 113 ALR 468.

A devise by the husband of all his property to his wife, to administer for her own use and the welfare of the children, creates a trust for the children, of their statutory share, and the words are mandatory, not merely directory. *Re Yost (Alberta)* [1927] 1 West Week 925 [1927] 2 DLR 1001.

A use is where the legal estate of lands was in a certain person, and a trust was also reposed in him that some other person, called the cestui que use, should take and enjoy the rents and profits. Before the Statute of Uses, a use was a mere confidence in a friend, that the feoffee to whom the lands were given should permit the feoffor and his heirs,

[1326]

and such other person as he might designate, to receive the profits of the land. The whole system of uses, however, was changed by the statute 27 Henry VIII Ch 10, known as the Statute of Uses, by which the use was transferred into possession by converting the estate or interest of the cestui que use into a legal estate, and by destroying the intermediate estate of the feoffee. The injustice and inconvenience which followed, caused the lawyers to invent and establish a system of trusts which were recognized as valid by the court of chancery. The Statute of Uses was thereby circumvented. *Ware v Richardson*, 3 Md 505.

In several cases involving life estate's, the word "use" (a word of partial dominion over the property) has been held not to be interpreted as granting the power of consumption to the life tenant. Anno: 108 ALR 571.

In a conveyance to it trustee "for the use and benefit" of a church, it was field that there was no implication of a condition, restriction, or negative covenant against alienation, but that the words were merely declaratory of the purposes of the grant. *National Surety Co. v Jarrett*, 95 W Va 420, 121 SE 291, 36 ALR 1171, 1176.

As to meaning of the term "use," it appears in omnibus clause of automobile liability policy, see Anno: 5 ALR2d 607.

See **shifting use**; **springing use**; **Statute of Uses**; **zoning**.

use. Verb: To employ. To apply to one's service. To occupy. *Murphy v Traynor*, 110 Colo 466, 135 P2d 230.

The words "used in manufacture," as they appear in a statute providing for local taxation of machinery, import a degree of permanence, are of broad significance, and do not lend themselves to a narrow or technical construction. *Hamilton Mfg. Co. v Lowell*, 274 Mass 477, 175 NE 73, 74 ALR 1213.

As to meaning of the term "used or occupied," as it appears in the provision of a lease relative to a forfeiture where the premises are used for an unlawful purpose, see Anno: 145 ALR 1063.

use and benefit. See **use**.

use and occupancy insurance. See **business interruption insurance; rent insurance**.

use and occupation. Characterizing the possession of a tenant who has no lease.

use by the public. See **public use**.

used car. A secondhand automobile. 47 Am J1st Sech D § 11.

used goods. See **secondhand goods**.

used necessarily. See **necessarily used**.

used on the highway. Driven, parked, or left standing on the highway. 7 Am J2d Auto § 155.

used or kept for one's trade or business. Kept as reasonably necessary, convenient, or suitable for one's trade or business. *Julius v Druckrey*, 214 Wis 643, 254 NW 358, 94 ALR 293 (phrase appearing in exemption statute).

used or occupied. See **use**.

used or situated on the leased premises. Property of the tenant relating to the maintenance and operation of the leased premises its a farm or which may acquire a situs or location at the leased premises by reason of, or in connection with, the use of the premises by the lessee. *Dorman v Crooks State Bank*, 55 SD 209, 225 NW 661 64 ALR 614. (phrase appearing in provision of farm lease giving the lessor a lien upon lessee's property).

useful. Serviceable. Beneficial.

The word "usefulness" implies capabilities for use, and appertains to the future as well as the present. *Chesapeake, Ohio & Southwestern Railroad Co. v Dyer County*, 87 Tenn 812, 11 SW 943.

An invention is useful, as the word is used in the patent laws, if it is capable of being beneficially used for the purpose for which it was designated. Or, as sometimes stated, if it will operate to perform the functions and secure the results intended, and its use is not contrary to law, moral principles, or public policy. A device which may be used for innocent amusement may possess utility. See *Callison v Dean (CAIO Okla)* 70 F2d 55.

useful art. See **new and useful art**.

usefulness. See **useful**.

use of automobile. See **operating motor vehicle; use of highway**.

use of highway. Driving a vehicle on the highway. Walking along the highway; standing still on the highway. 7 Am J2d Auto § 245.

Stalled or disabled vehicles, or vehicles stopped for repairs, are using the highway within the meaning of statutory provisions relating to lights. 7 Am J2d Auto § 155.

As used in a statute providing that the operation by a nonresident of a motor vehicle on a public highway shall be deemed equivalent to an appointment by the nonresident of the secretary of state as his attorney upon whom summons may be served, the word applies not only where the nonresident's automobile is in motion, but also where it is standing or parked at the time when an accident occurs. *Hand v Frazer*, 139 Misc 446, 248 NYS 557.

use of intoxicating liquor. Personal use as a beverage. An habitual or customary use, rather than an occasional or exceptional use. Anno: 26 ALR 1284 (expression appearing in application for life insurance).

Within the meaning of the liquor law, the term includes the keeping or possessing. *Commonwealth v One Dodge Motor Truck*, 326 Pa 120, 191 A 590, 110 ALR 919.

use of property. See **use**.

use of sewer. A use in fact, an actual use, as distinguished from the privilege of making use of a sewer or of having one available for use. *Southern R. Co. v Richmond*, 175 Va 308, 8 SE2d 271, 127 ALR 1368.

use of ticket. Obtaining the admission, transportation, etc. to which one is entitled as the holder of a ticket.

Where a passenger's ticket stipulates that it is to be "used" within a specified time, the general rule that the condition is complied with if he commences the trip within the time limited, although it time may expire before the actual completion of the trip. 14 Am J2d Car § 826.

use of the mails. The employment of the mails for the delivery of a letter, writing, paper, publication, or articles within the classification of parcels post.

The use of the mails may consist of knowingly causing to be delivered by mail a letter or writing according to the direction thereon and the fact that a clerk who actually mailed the letter was innocent is no defense for one accused of using the mails to

[1327]

defraud who caused the clerk to mail the letter. *Creech v Hudspeth* (CA10 Kati) 112 F2d 603.

use plaintiff. The owner of the beneficial interest whose benefit suit is brought by the holder of the legal title as nominal plaintiff. *Edgewood Lumber Co. v Hull*, 32 Ienn App 577, 223 SW2d 210, 17 ALR2d 228.

user. Use, actual possession and enjoyment. The right to use. An essential quality of the right of property, *Eaton v Boston, C. & M. R. R. Co.* 51 NIJ 504. Exercising the right to use property.

user de action. The institution or bringing of an action.

use restriction. See **restrictive covenant**.

uses. See **use; Statute of Uses**.

use tax. A tax levied upon the use, storage, or consumption of tangible personal property purchased outside the taxing state or taxing district, being a supplement or complement of a sales tax, imposed to prevent residents of a jurisdiction having a sales tax from making purchases outside the jurisdiction in order to avoid such tax. 47 Am J1st Sales T § 42.

The Iowa use tax statute does not impose a tax on the use in Iowa of all personal property, but only such property as was purchased for use in Iowa. *Morrison- Knudsen Co. v State Tax Com.* 242 Iowa 33, 44 NW2d 449, 41 ALR2d 523.

use upon use. A limitation of one beneficial interest upon another, so that only the first is executed by the Statute of Uses as to carry the legal title, the second use remaining a mere equitable interest. 28 Am J2d Est § 344.

usher. One who escorts the patrons of a theater or other place of amusement, or persons in attendance at a church, to their seats or pews.

using mails to defraud. The use of the mails in perpetrating a fraud. A crime in violation of the Federal statutes, the essence of which consists in the making of false promises which the parties never intended to perform, or false representations which they never intended to make good, by means of which they obtain money or other property. *Barnard v United States* (CA9 Cal) 16 F2d 451.

U.S. M. Abbreviation of **United States Mail; United States Marines; United States Mint**.

U.S.M.A. Abbreviation of **United States Military Academy**.

usque. Until; as far as.

usque ad coelum. As far as the sky.

usque ad filum aquae. As far as the thread of the water or stream. 56AmJ1st Water § 51.

usque ad Orcum. As far below as tire infernal regions.

usquebaugh. (Gaelic). Whisky.

U.S.S. An abbreviation of United States ship.

U.S.S.S. Abbreviation of United States Steamship.

usual. Accustomed; ordinary. Common; habitual. Such as occurs in the ordinary course of events. Not extraordinary. *Webb v New Mexico Pub. Co.* 47 NM 279 141 P2d 313 149 ALR 1002.

usual abode. See **usual place of abode.**

usual and ordinary flow of the stream. The waters of a river annually flowing therein before, during, and after the regularly occurring accretions in the volume thereof both from rainfall and melting snows. *Herminghaus v Southern California Edison Co.* 200 Cal 81, 252 P 607.

usual business hours. That period or portion of the day during which the business of the community is ordinarily transacted *Derosia v Winona & St. Peter Railroad Co.* 18 Minn 133.

usual course of business. Business according to the usages and customs of commercial transactions. 11 Am J2d B & N § 411.

As applied to the indorsement of commercial paper, the term may be said generally to include the concurrent indorsement and delivery for value under such circumstances that a business man of ordinary intelligence and capacity would give his money, goods, or credit for it when offered for the purpose for which this was transferred; and it would not be in due course if such a person would at once suspect the integrity of the paper itself, or the credit and standing of the party offering it. *Matlock v Scheuerman*, 51 Or 49, 93 P 823.

usual course of trade. The **usual course of business.** 11 Am J2d B & N § 411.

usual covenants. The covenant to warrant and defend, the covenant of seisin, or of good right to convey, the covenant against encumbrances, and the covenant for quiet enjoyment. 20 Am J2d Cov § 43.

The covenant for further assurance is an additional covenant. *Adams v Seymour*, 191 Va 372, 61 SE2d 23.

usual place of abode. The place at which a person usually lives. 25 Am J2d Dom § 8. The place where a person is usually to be found, at least during some part of the day. *Berryhill v Sepp*, 106 Minn 458, 119 NW 404. A person's customary or settled place of residence as distinguished from a place where he may be sojourning temporarily. Anno: 127 ALR 1272.

As to the meaning of the expression "usual place of abode," within the rule which authorizes service of summons upon an individual by leaving copies at his usual place of abode, see Anno: 46 ALR2d 1239.

usual place of business. A place actually occupied, either continually or at regular periods, by a person or his employees, in the pursuit of a business, trade, or occupation which occupies his time, attention, and labor. *Stephenson v Primrose (Ala)* 8 Porter 155. Inclusive in some instances of the usual place of labor or employment in the service of another. 56 Am J1st Ven § 28.

Although the phrase "usual place of business", apart from special circumstances throwing light upon its meaning, may be given a comprehensive meaning and includes the usual place of labor or employment in the service of another, a statute limiting suits to be brought in the county in which the plaintiff has his usual place of business has been held, in the light of its history, not to include the place where one pursues a trade or calling or his place of employment. *Hanley v Eastern S.S. Corp* 221 Mass 125 109 NE 167.

usual place of residence. One's domicil. *Ruby v Pierce*, 74 Neb 754, 104 NW 1142.

See, **domicil.**

usuarius. Same as **usuary.**

usuary. (Civil law.) A bailee who had the bare use of the chattel.

[1328]

usucapio. A term of the Roman law for the acquisition of title to property by continued possession. *Townsend v Jemison (US)* 9 How 407, 13 L Ed 194.

Usucapio constituta est ut aliquis litium finis esset. (Civil law.) Prescription was instituted in order that there might be some end to litigation. See *Broom's Legal Maxims* 894, footnote.

usufruct. The right to the use, enjoyment, profits, and avails of property belonging to another. *Winsberg v Winsberg*, 233 La 67, 96 So 2d 44.

usufructuary right. Same as **usufruct.**

usura. (Civil law.) Interest paid on borrowed money; usury.

usurae asses. Same as **usurae centesimae.**

usurae centesimae. The term of the Roman law for the highest rate of legal interest.

In calculating, the Romans divided the principal sum into one hundred parts, one of which they allowed to be taken monthly. This was the highest rate permitted and it amounted to twelve per cent a year. They called this *usurae centesimae*. The *as*, or Roman pound, was used to express any integral sum, and was divisible into twelve parts or *unciae*. Hence, these twelve monthly payments or *unciae* were held to amount to one pound a year, or as *usuranus*~ and so the *usurae asses* were synonymous with the *usurae centesimae*, and all lower rates of interest were designated according to their relation to this centesimal usury, or *usurae asses*. See 2 Bl Comm 462, footnote.

usura manifesta. (Civil law.) Unconcealed usury; open usury.

usura maritima. An agreement for the repayment of a marine loan with extraordinary interest. See 2 Bl Comm 459.

usurare. To pay interest.

usura velata. (Civil law.) Veiled or concealed usury, as by adding interest to the principal.

usu rem capere. To gain a thing by use of it, to acquire a prescriptive right to it. See 2 Bl Comm 264.

usurious. Amounting to or constituting usury.

See **usury.**

usurious contract. See **usury.**

usurious rate. See **usury.**

usurpation. The seizure of position or authority without right. Intruding upon and exercising the powers of a public office, having neither title nor color of title to the office. *Handin v Kassafer*, 15 Or 456, 15 P 778. An unlawful assumption of the use of real property which belongs to another. An absolute ouster or dispossession of a patron by a stranger who with no right to do so presented a clerk to a benefice who was thereupon admitted to the living and instituted therein. See 3 Bl Comm 242. An invasion of the kingdom by foreign enemies to give laws and usurp the government, or an internal armed force in rebellion, assuming the power of government, by making laws, and punishing for not obeying those laws: an invasion from abroad, or an internal rebellion, when armies are employed to support it; when the laws are dormant and silent, and the firing of towns is unavoidable. *City Fire Ins. Co. v Corlies (NY)* 21 Wend 367.

usurpation of franchise. Exercising the privileges and powers of a corporation in the name of the corporation but without power or authority to act for or represent the corporation. *Grant v Elder*, 64 Colo 104, 170 P 198.

usurper. See **usurpation.**

usury. An unlawful contract upon the loan of money, to receive the same again with exorbitant increase. *Lassman v Jacobson*, 125 Minn 218, 146 NW 350. The exaction, or an agreement for the exaction, of a greater sum for the loan, use, or forbearance of money, goods, or things in action than interest at the highest rate allowed by law. 55 Am J1st Usury § 2.

It is the agreement, not necessarily its performance, which renders a debt usurious, the intent actually to get excessive interest being the controlling element, considering the elements of the agreement as and when made. *Seebold v Eustermarm*, 216 Minn 566, 13 NW2d 739, 152 ALR 586.

Any premium, profit, bonus, or charge exacted or required by the lender in excess of money actually loaned, with interest at the legal rate, is usurious. *Hall v Mortgage Secur. Corp.* 119 W Va 140, 192SE 145, 111 ALR 118.

To be a usurious contract, there must be a loan or forbearance of money, or its equivalent, and an unlawful intent and understanding that the loan be paid with an exaction, for the use of the loan, of something in excess of what is permitted by law. *State v Miller*, 177 Kan 324, 279 P2d 223, 52 ALR2d 691.

The three essential elements of usury are (1) a loan or forbearance of money, (2) an agreement for a return of the money in all events; and (3) an agreement to pay more than the legal rate of interest for its use. *Seebold v Eustermann*, 216 Minn 566, 13 NW2d 739, 152 ALR 586.

The taking of exorbitant, that is, interest exceeding forty per cent, was a misdemeanor at common law in England before the enactment of prohibitory statutes; and as late as 1814, it was thought that an indictment for usury might lie at common law, but it is now generally considered that usury is not an offense unless made so by statute. 55 Am J1st Usury § 172.

See **lawful interest; legal interest; legal rate of interest.**

usus. Use; a use.

usus bellici. Use in warfare; warlike use.

Usus est dominium fiduciarium. A use is a fiduciary ownership.

usus fori. The practice of the court.

usus fructus. Same as usufruct.

usus loquendi. The usage of speaking; the customary language. *Hurtado v California*, 110 US 516, 534, 28 L Ed 232, 238, 4 S Ct I 11, 292.

ut. That; in order that; as; so as.

ut antiquum. As in ancient times.

utas. Same as **octave**.

[1329]

ut audiui. As I have heard.

ut credo. As I believe.

ut currere solebat. As it is accustomed to flow.

ut de feodo. As of fee.

utensils. Tools, pots, pails, or implements, especially those used in the kitchen. Anno: 2 ALR 818.

The word more especially means all implement or vessel for domestic or farming use. "Utensils" is a translation of "utensiles," used in article 2102 of the Code Napoleon. In France it has been to include a "machine à battre," or threshing machine and in French law is used as synonymous with "agricultural instruments" of all kinds. In some states of the Union mowers and combined harvesters have been held to be "farming utensils, or implements," as used in exemption statutes. *Cook v Massey*, 38 Idaho 264, 220 P 1088, 35 ALR 200, 205.

uterine brother. A half-brother by the mother's side. See 2 Bl Comm 232.

utero gestation. Pregnancy.

utero matris. See **in utero matris**.

utfangthefe. Same as **outfangthef**.

uti. Same as **ut**.

Utile non debet per inutile vitiari. That which is useful or valid ought not to be vitiated by that which is superfluous or invalid.

"Courts lean in favor of the preservation of at such valid parts of a will as can be separated from those that are invalid, without defeating the general intention of the testator." *Edgerly v Barker*, 66 NH 434, 31 A 900.

Utile per inutile non vitiatur. That which is useful is not vitiated by that which is superfluous. *State of West Virginia v Richards*, 32 W Va 348, 9 SE 245.

utilis. Useful; profitable; advantageous.

utilitarian. Looking toward or stressing the point of utility.

utility. Usefulness, especially to a number of persons. An essential of patentability; capable of beneficial use in society. 40 Am J1st Pat §§ 22-24.

utilization facility. (1) Any equipment or device, except an atomic weapon, determined by rule of the Atomic Energy Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and

security, or in such manner as to affect the health and safety of the public, peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. USC § 2014(aa).

uti possidetis. As you possess, an expression which when used in a treaty signifies that the respective nation parties may retain the property which they have captured.

Utitur jure auctoris. He enjoys the right of his assignor.

utlagatas. An outlaw.

utlagatum. See *capias utlagatum*.

utlage. An outlaw.

utlagh. An outlaw.

utmost care. The highest degree of care to be exercised in a particular situation, consistent with the nature of the undertaking and the circumstances of the case. *Dodge v Boston & Bangor S.S. Co.* 148 Mass 207, 19 NE 373.

As applied to the care required of passenger carriers, the term implies the highest degree of practicable care and diligence consistent with the mode of transportation adopted, and with the practical prosecution of the carrier's business. 14 Am J2d Car § 916.

utmost care and skill. The highest degree of care and skill known which may be used under the same or similar circumstances. *Phelan v Louisville Electrical Co.* 122 Ky 476, 91 SW 703.

utmost degree of care. See **utmost care**.

ut poena ad paucos, metus ad omnes perveniat. That few may suffer, but all may dread punishment. See 4 Bl Comm 11.

utraque parte. See **ex utraque parte**.

ut res magis valeat quam pereat. That it may rather become operative than null.

The most common application of the maxim is in connection with the duty of courts, in passing upon the constitutionality of statutes, to uphold them whenever it can rationally be done. 16 Am J2d Const L § 175.

utrisque parentibus conjuncti. See **ex utrisque parentibus conjuncti**.

utroque jure. See **in utroque jure**.

utrum. See **assize of utrum**.

ut statuta illa, et omnes articulos in eisdem contentos, in singulis locis ubi expedire viderit, publice proclamari, et firmiter teneri et observari faciat. That he cause those statutes and all of the articles contained in them to be publicly proclaimed and to be strictly kept and observed. See 1 Bl Comm 185.

ut supra. As above; as above stated.

utter bar. Same as **outer bar**.

utter barrister. Same as **outer barrister**.

uttering and publishing counterfeit. Declaring or asserting, directly or indirectly, by words or acts, that money or a note offered to another is good. 20 Am J2d Counterf § 4.

uttering forged instrument. An offering to another of a forged instrument with knowledge of the falsity of the writing and with intent to defraud. 36 Am J2d Forg §20.

uttering worthless check. Obtaining goods or money by drawing and delivering a check on a bank in which the drawer has no funds or credit. 32 Am J2d False Pret § 19.

utterly. To the utmost; to the full extent; fully, totally; as, utterly without fault.

[1330]

u-turn. A turn made by the driver of a vehicle upon the highway whereby the course of the vehicle is reversed. 8 Am J2d Auto § 805.

ux. See **et ux.**

uxor. A wife.

uxore rapta et abducta. See **de uxore rapta et abducta.**

Uxor et filius sunt nomina naturae. Wife and son are names of nature.

uxoricide. The killing of a woman by her husband.

Uxor non est sui juris, sed sub potestate viri. A wife has no power of her own, but is under the control of her husband.

Uxor non est sui juris, sed sub potestate viri, cui in vita contradicere non potest. A wife has no power of her own, but is under the control of her husband, whom she cannot in his lifetime gainsay.

Uxor sequitur domicilium viri. The wife follows the domicil of her husband.