

## V

v. An abbreviation of versus and also of vide.

**vacancy in office.** A matter of a public office being without an incumbent who has a right to exercise its functions and take its fees or emoluments. 42 Am J1st Pub Of § 131. The condition of a public office which is unoccupied and without an incumbent who has a lawful right to continue therein until the happening of some future event. 42 Am J1st Pub Of § 131. A matter of a corporate office or directorship being without an incumbent. 19 Am J2d Corp § 1086.

The word "vacant" involves no technical or peculiar meanings; as applied to a public office it means empty, unoccupied, without an incumbent. State ex rel. McKittrick v Wilson, 350 Mo 486, 166 SW2d 499, 143 ALR 1465.

A vacancy in public office results from the death of the incumbent, or from his resignation or removal from office. It may exist where there is a newly created office, where the person elected or appointed to the office fails to qualify or dies before qualifying or before the commencement of his term. 42 Am J1st Pub Of § 135.

A provision authorizing corporate directors to fill vacancies is ordinarily held not applicable to newly created directorships. Automatic Steel Products Co. v Johnston (Sup) 31 Del Ch 469, 64 A2d 416, 6 ALR2d 170.

**vacant and unoccupied building.** A building in which no one is living or residing and which is empty for all practical purposes. 29A Am J Rev ed Ins § 907

**vacant building.** A building without inanimate objects. 29A Am J Rev ed Ins § 907.

**vacantia bona.** (Civil law.) Goods which no one claimed and which by the law of nature belonged to the first occupant or finder. See 1 Bl Comm 298.

**vacant land.** Lands of the government, national or state, which are absolutely free, unclaimed, and unoccupied, exclusive of lands belonging to the state by purchase. 42 Am J1st Pub L § 13.

**vacant succession.** An inheritance which no one claims and the heirs who are entitled to which are unknown.

**vacare.** To be empty or vacant.

**vacate.** To annul or set aside. To cease the occupancy of premises, leaving them empty.

To vacate, in its English form, has acquired an active sense through a long period of transition, by popular usage and in consequence of its early adoption as a technical and legal term, although it was originally used only as a passive verb. To leave empty; to cease from occupying; to annul; to make void, express the different meanings which it has acquired. Originally it meant to be empty, void or vacant; to be void of, free from, or without; to lack or want a thing. Walsh v Commonwealth, 89 Pa 419.

**vacatio.** (Civil law.) A freedom from something; an immunity; an exemption.

**vacation.** A setting aside. An annulment of a prior act or determination. A respite from work or study. A period without school.

**vacation club deposit.** A type of deposit in a bank or trust company, made in accordance with a plan which provides for the making of regular deposits during the year and the withdrawal of the money for use in taking a vacation. 10 Am J2d Banks § 357.

**vacation of attachment or garnishment.** See **dissolution of attachment or garnishment.**

**vacation of adjudication.** The setting aside of an adjudication of bankruptcy. 9 Am J2d Bankr § 274.  
See **vacation of judgment.**

**vacation of award.** The setting aside of an award made in an arbitration. 5 Am J2d Arb & A § 167.

**vacation of court.** The time between the end of one term of court and the beginning of another. Ex parte Earman, 85 Fla 297, 95 So 755, 31 ALR 1226; Conkling v Ridgely & Co. 112 Ill 36, 1 NE 261. Broadly, any considerable period of time when the court does not function, whether such is a period when the court is in recess or a period between terms. 20 Am J2d Cts § 50.

**vacation of execution.** A special proceeding in the original action by which relief from an execution is granted. 30 Am J2d Exec §§ 711 et seq.

**vacation of highway.** The termination of the existence of a highway by direct action of the public authorities. 25 Am J1st High § 117.

**vacation of injunction.** See dissolution of injunction.

**vacation of judgment.** The destruction or elimination of a judgment in its entirety. 30A Am J Rev ed Judgm § 630.

**vacation of judicial sale.** The setting aside of a judicial sale by a direct attack upon the order of sale or the sale for want of jurisdiction, fraud, collusion, accident, mutual mistake, breach of trust, or misconduct of the purchaser or other person connected with the sale. 30A Am J Rev ed Jud S §§ 247 et seq.

**vacation of return.** A setting aside on motion of a sheriff's return of an execution. 30 Am J2d Exec § 572.

**vacatur.** Let it be vacated. An order of court vacating a proceeding.

**vaccination.** The inoculation of a person with a prepared substance, known as vaccine, intended to produce immunity to a specific disease. 25 Am J1st Hlth § 35.

**vacuo.** See **in vacuo.**

**vadari.** (Civil law.) To hold to bail; to give bail.

**vades.** (Civil law.) Pledges; sureties.

**vadiare.** To wage; to gage; to give security.

**vadiare duellum.** To wage battel; to engage in trial by combat.

**vadiare legem.** To wage law.  
See **wager of law.**

**vadiatio legis.** Wager of law.  
See **wager of law.**

**vadio.** Pledge.  
See **estate in pledge.**

**vadium.** A pledge.

See **estate in pledge.**

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**vadium mortuum.** Same as mortuum vadium.

**vadium ponere.** To take pledges; to take bail.

**vadium vivum.** Same as **vivum vadium.**

**vadlet.** The eldest son of the king.

**vagabond.** A tramp; a wanderer. An idle person. A rascal. One using any subtle craft, means, or device to deceive or impose on another. Anno: 14 ALR 1489.

**Vagabundum nuncupamus eum qui nullibi domicilium contraxit habitationis.** We call him a vagabond who has nowhere acquired a domicil of residence.

**vagrancy.** At common law, the wandering or going about from place to place by an idle person without lawful visible means of support, subsisting on charity, and refraining from working for a living, although able to work. 55 Am J1st Vag § 1.

In most of the states, there has been a departure in some particulars, even to a considerable extent, from the common-law definition.

**vagrant.** One in a state of vagrancy; one guilty of vagrancy.

At common law, a vagrant was originally understood to be an idle person without visible means of support, who, though able to work for his maintenance, refused to do so. The idea connected with the word "vagrant" or "vagrancy" also had connected with it, and as a part of it, not only an idle person, but one whose business, pursuit, or occupation, or want of it, was vicious to society, and one who loitered or stayed about immoral places. The English vagrant acts, as in effect defined by old English statutes and referred to in 4 Bl Comm 169, also tended to show that this was the idea of a vagrant. Under modern legislation in many states of the Union, vagrants are defined to be and are punished for pursuing a business or occupation or profession of a vicious, illegal, or demoralizing tendency, and the idea conveyed and intended to be conveyed thereby was and is as to the status, course of conduct, business, pursuit, or occupation of such persons who are denounced as vagrants, and proven by showing many specific acts which make up their general course of conduct, status, business, pursuit, or occupation, in contradistinction to their committing a specific act. The idea further is that such persons are denominated "vagrants" because their course of conduct, status, business, pursuit, or occupation is habitual in its nature. Anne: 14 ALR 1483.

See **vagrancy.**

**vagrant waters.** Flood waters, sometimes known as enemy waters. *Herminghaus v Southern California Edison Co.* 200 Cal 81, 252 P 607.

**vagueness.** Uncertainty; indefiniteness; obscurity.

**vail'q'vail'pur.'** Same as **Valeat quantum valere potest.**

**vain act.** A futile act. A useless act. *Cantwell v Cantwell*, 237 Ind 168, 143 NE2d 275 app den 356 US 225, 2 L Ed 2d 700, reh den 356 US 954, 2 L Ed 2d 847, 78 S Ct 913. An act ineffectual in accomplishing the object in view. 34 Am J1st Mand § 37.

**vain thing.** See **vain act.**

**vale.** A beautiful word for a poet, meaning valley. (Spanish.) A promissory note.

**Valeat quantum valere potest.** Let it have effect to such extent as it can have effect.

The maxim is applicable to almost every legal transaction. In wills, the method of the courts has been not to set aside the intent because it cannot take effect so fully as the testator desired, but to let it work as far as it can. *Edgerly v Barker*, 66 N H 434, 31 A 900.

**valentia.** Value; price.

**valid.** Effective; operative; not void; sufficient in law.

See **lawful; legality.**

**validating act.** Same as **curative act.**

**validation.** Rendering legal that which was previously illegal. Giving legality to a bond or other security issued by a public body which otherwise will remain illegal and unenforceable. Confirmation.

**validation of statute.** Amending a statute which is unconstitutional by removing its objectionable provisions, or supplying provisions, to conform it to the requirements of the Constitution. 16 Am 32d Const L § 179.

**validation of ticket.** The confirmation of a return ticket of a passenger, made by an agent of the carrier, usually at the place constituting the outer terminus of the trip.

**valid defense.** A defense required as a condition of the vacation of a judgment, being a defense having such merit that the law will recognize it and give effect thereto when sufficient proof thereof is forthcoming.

It is not essential that the defense extend to the whole cause of action. *State ex rel. Comrs. of Land Office v Jones*, 198 Okla 187, 176 P2d 992, 174 ALR 1.

**valid excuse.** A good, sufficient, and satisfactory excuse. *Dennis v Massachusetts Ben. Asso.* 120 NY 496, 24 NE 843 (excuse for failure to pay assessment by mutual benefit association).

**validity.** The state of being valid and effective.

See **valid.**

**validity of statute.** The effectiveness of a statute in reference to constitutionality, the power of the Congress or a legislature to enact the statute, the manner of enactment, and the form of the statute. 50 Am J1st Stat § 47 1.

The validity of a statute is drawn in question whenever the power to enact it as it is by its terms, or as it is made to read by construction, is fairly open to denial and is denied. *Baltimore & P. R. Co. v Hopkins*, 130 US 210, 32 L Ed 908, 9 S Ct 503.

**valid marriage.** A marriage effective to create the relationship of husband and wife. Marriage which is not void.

**valley.** An area of lowlands or depressions of considerable size, with bottoms of gentle slope as compared to the sides; that is to say, it is the space inclosed between two ranges of mountains or hills. *Whaley v Northern Pacific Railway Co.* (CC Mont) 167 F 664, 669.

valor beneficiorum. The value of benefices. See 1 Bl Comm 285.

**valor maritaggi.** The value of the right of marriage.

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This value was the amount or sum of money which a suitable person who desired to marry an infant ward would be willing to pay to the ward's guardian for the marriage. See 2 Bl Comm 70.

**valuable consideration.** A consideration in money or in something having monetary value. 17 Am J2d Contr § 95. A consideration in money, money's worth, the release of a right, or the compromise of a demand. 37 Am J2d Frd Conv § 18. Something received of monetary value or bearing a value measurable in money. 23 Am J2d Deeds § 63.

Valuable consideration for a deed is not necessarily coincident with valuable consideration such as will make a promise binding. It may consist of marriage, an agreement to marry; a promise of support, antecedent services, etc. 23 Am J2d Deeds § 63.

**valuable effects.** Items of personal property having at least some value. 32 Am J2d False Pret § 41.

**valuable for mining.** A term characterizing a reservation by the United States of certain lands.

Lands are valuable for minerals when they contain minerals in such quantities as to justify expenditures in extraction and are, on the whole, more valuable for mining than for agriculture. 36 Am J1st Min & M § 12.

**valuable papers.** Papers considered worthy of being preserved as records of the facts purported to be stated and perpetuated therein. *Brogan v Barnard*, 115 Tenn 260, 90 SW 858.

**valuable security.** A pledge of a valuable chattel. A document, such as a stock certificate, bond, or mortgage. Checks, notes, etc., obtained from the person executing or signing the same have been held to constitute valuable security within the meaning of statutes declaring it to be a criminal offense to "obtain any valuable security" by false pretenses. *Reg v Greenhalgh* (Eng) 6 Cox CC 257.

**valuable thing.** See **thing of value.**

**valuation.** A determination of the value of particular property, as for the purpose of taxation. The price set upon anything; the estimated or rated worth of anything; the estimated value or worth of a thing. See *State v Central Pacific Railroad Co.* 7 Nev 99, 104.

See **assessment; fair valuation.**

**Valuation Reserve.** See **Mandatory Securities Valuation Reserve.**

**value.** The worth of a thing in money, goods, or other property. The effect in exchange of the relative social desire for compared objects expressed in terms of a common denominator. *International Harvester Co. v Kentucky*, 234 US 216, 222, 58 L Ed 1284, 1287, 34 S Ct 853. Somewhat of a guess, a prediction, or a prophecy; an educated guess which may or may not correspond with ultimate realities. *McMurtry v Commissioner* (CA1) 203 F2d 659. The amount which a thing will bring in money in the market. *State v Doepke*, 68 Mo 208. The market value. *World F. & M. Ins. Co. v Palmer* (CA5 Miss) 182 F2d 707, 17 ALR2d 1217.

For rate-making purposes, value must be measured by the sound judgment and common sense of impartial tribunals. *Petersburg Gas Co. v Petersburg*, 132 Va 82, 110 SE 533, 20 ALR 542.

A proceeding for the appointment of a guardian of the estate of an alleged incompetent cannot strictly be said to have a "value in controversy" exceeding \$20, so as to come within the protection of the Seventh Amendment of the United States Constitution as to the right of trial by jury, even though the result of the determination as to competency may affect extensive property holdings. *Ward v Booth* (CA9 Hawaii) 197 F2d 963, 33 ALR2d 1134.

See **market value**.

**valued policy.** A policy of insurance in which the value of the subject matter insured is fixed by agreement and stated in the policy. 29A Am J Rev ed Ins § 1586.

If there is anything in the policy which clearly indicates an intention on the part of the insurer to value the risk and loss, in whatever words expressed, the policy is valued. *American Ins. Co. v Gentile Bros. Co.* (CA5 Fla) 109 F2d 732.

**value in controversy.** See **value**.

**value of life insurance policy.** For inheritance tax purposes, its face value, less a proper rebate for the period during which payment may be deferred. *Anne*: 73 ALR2d 232.

See **cash surrender value**.

**value of the marriage.** The value of the right of marriage; the sum of money which a suitable person who desires to marry an infant ward will pay her guardian in order to accomplish the marriage. See 2 Bl Comm 70.

**value received.** A formalized recital of consideration without elaboration. 49 Am J1st Stat of F § 373.

As the expression is used in a promissory note, it does not necessarily import a consideration in money, and a promise to pay may legally be the consideration, without any money passing. The consideration may be as varied as the transactions of men. Not only does the phrase not necessarily import a consideration of money, but it does not conclusively import a consideration of any kind; for it is competent, notwithstanding these words, to show that no consideration has been, in fact, received. *Osgood v Bringolf*, 32 Iowa 265, 270.

The words as used in a written instrument, other than a negotiable or sealed instrument, have generally been held to create a presumption, or make a prima facie case, of a sufficient consideration to support the instrument. Thus, the recital "value received" in an assignment of a life insurance policy, being in the nature of an admission by the assignor of the receipt of a consideration, creates a prima facie case that there was a sufficient consideration to make the assignment effective. *Finegan v Prudential Ins. Co.* 300 Mass 147, 14 NE2d 172, 116 ALR 535.

See **for value received; valuable consideration**.

**value rule.** A rule of damages applied in an action for breach of contract by a contractor-builder, that the owner is entitled to recover the difference in value between the building as constructed and as it should have been constructed. *Shell v Schmidt*, 164 Cal App 2d 350, 330 P2d 817, 76 ALR2d 792, cert den 359 US 959, 3 L Ed 2d 766, 79 S Ct 799.

**valvasor.** A title of dignity, next beneath peer. See 1 Bl Comm 403.

**Vana est illa potentia quae nunquam venit in actum.** A power or authority is a vain one which is never exercised.

**vandalism.** Wilful or malicious injury to, or the destruction of, property. General Acci.

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*Fire & Life Assur. Corp. v Azar*, 103 Ga App 215, 119 SE2d 82. Wilful, wanton, and ruthless acts intended to damage or destroy property. 7 Am J2d Auto Ins § 75. Any unusual destruction of property wrought in the doing of a wrongful act. *Great American Ins. Co. v Dedmon*, 260 Ala 330, 72 So 2d 421, 43 ALR2d 599 (construction of term in automobile comprehensive policy).

As to what constitutes "vandalism" within the meaning of an automobile comprehensive policy, see Anno: 43 ALR2d 604.

**Vani timores sunt aestimandi, qui non cadunt in constantem virem.** Those fears are to be regarded as groundless which do not affect a man of ordinary firmness.

**Vani timoris justa excusatio non est.** An idle fear is not a lawful excuse. *Williams v Kansas City Southern Railway Co.* 257 Mo 87, 165 SW 788.

**vara.** A land measure used in Spanish-American grants.

The true vara is slightly less than 33-1/3 inches, but by usage it is estimated at 33-1/3 inches in Texas and at 33 inches in California. *United States v Perot*, 98 US 428, 25 L Ed 251.

**varech.** (French.) Seaweed.

**variable annuity.** An annuity under a contract which guarantees the annuitant that upon reaching a specified age he will receive periodic payments, the amount of which is not fixed and has no assured minimum, but will vary according to the success of the investment policy of the company which issues the contract. *Securities & Exchange Com. v Variable Annuity Life Ins. Co.* 359 US 65, 3 L Ed 2d 640, 79 S Ct 618.

**variance.** An exception from the application of a zoning regulation granted by proper authority to relieve against practical difficulties and unnecessary hardship. 58 Am J1st Zon §§ 194 et seq. A disagreement or difference between two parts of the same proceeding which ought to agree especially the pleading and proof. 41 Am J1st PI § 370. A difference between a party's allegations and his proofs. A substantial departure from the issue in the evidence adduced concerning a matter which in point of law is essential to the charge or claim. 41 Am J1st PI §§ 370 et seq. A discrepancy between the allegations in the indictment or information and the proof as to some matter which is legally essential to the charge. *State v Crean*, 43 Mont 47, 114 P 603.

In a criminal case, a variance is an essential difference between the accusation and the proof, and the variance is not material unless it is such as might mislead the defense, or expose the defendant to the injury of being put twice in jeopardy for the same offense. *Brashears v State*, 38 Okla Crim 175, 259 P 665.

**vary.** To alter; to modify. To change to something else.

Power given to trustees to invest and reinvest the trust funds and to "vary" the securities has been held to authorize the trustees to change the investment from one form of securities to another. *Merchants' Loan & Trust Co. v Northern Trust Co.* 250 111 86, 95 NE 59.

See **variance**.

**vas.** (Civil law.) A surety or pledge.

**vas deferens.** A duct which carries seminal fluid from the testicles.

**vas deferens mulieris.** The Fallopian tube in the body of a woman.

**vasectomy.** The removal of the vas deferens or of a part thereof; a surgical operation whereby a male is sterilized so as to be incapable of procreation, but not of performing the sexual act. 21 Am J2d Crim L § 612.

**vassal.** A grantee of land, a tenant, a feudatory, a landholder, under the feudal system.

Originally no stigma was attached to the word but the abuses which crept into feudal tenure altered its meaning so that it came to signify a slave or bondman. See 2 Bl Comm 53.

**vassalus.** A vassal.

**Vassalus, qui abnegavit feudum ejusve conditionem, exspoliabitur.** The vassal who has denied either his fee or the terms of it shall be deprived of it. See 3 Bl Comm 234.

**vastitas.** An empty space; a waste.

See **de vasto.**

**vasto.** To plunder; to commit waste.

**vastum.** Waste. A common lying open to the cattle of all tenants of one landlord.

**vauderie.** Witchcraft.

**vaudeville.** A type of entertainment.

A term used in the theatrical trade as describing a species of entertainment composed of a number of isolated acts and attractions so put together as to form a balanced show. The acts run in sequence. The theaters where they are played are referred to as vaudeville houses. *Hart v B. F. Keith Vaudeville Exchange* (CA2 NY) 12 F2d 341, 47 ALR 775.

**vaudeville house.** See **vaudeville.**

**vault.** A repository for the remains of a dead person *Dries v Charles Evans Cemetery Co.* 109 Pa Supe 498, 167 A 237. A crypt or burial chamber. 14 Am J2d Cem § 1. A chamber or room, particularly in a bank, for the safekeeping of money and valuables

**vavator.** Same as **valvator.**

**vectigal.** (Civil law.) A tax: an impost; a duty.

vectura. Freight.

**veer.** To change course suddenly.

vegetable. An edible plant.

**vegetarianism.** The belief and practice in confining diet to vegetables, excluding all meat. Anno: 12 ALR2d 874-876, § 5.

**vehicle.** An instrumentality for the carrying of goods or people. 29A Am J Rev ed Ins § 1237. A broader term than motor vehicle. *Golding-Keene Co. v Fidelity-Phoenix Fire Ins. Co.* 96 NH 64, 69 A2d 56, 12 ALR2d 591. Any carriage or contrivance used or capable of being used as a means of transportation on land. *National Fire Ins. Co. v Elliott* (CA8 Mo) 7 F2d 522, 42 ALR 1121, 1126. A graphic expression for a means of communication.

The word is commonly understood as something which moves or runs on the land, not something which flies in the air, although etymologically the term might be considered as broad enough to cover a conveyance propelled in the air. *MeBoyle v United States*, 283 US 25, 75 L Ed 816, 51 S Ct 340

As to what constitutes a "vehicle" within the

meaning of insurance coverage or exception. Anno: 12 ALR2d 598.

**vein.** A fissure in rock filled with quartz or other substance bearing mineral. A stratum or rock in which mineral appears. 36 Am J1st Min & M § 110. A vessel which carries blood from some part of the body to the heart.

See **apex of vein; blanket vein; lode.**

**vel.** Whether; or.

**velata.** See **donatio velata.**

**velle.** (Civil law.) To be willing; to consent.

**Velle non creditur qui obsequitur imperio patris vel domini.** (Civil law.) He is not deemed to consent who obeys the command of his father or master,

**vel non.** Or not.

**venaria.** Wild animals which are hunted.

**venatio.** Hunting.

**venationes, et sylvaticas vagationes cum canibus et accipitribus.** Hunting and prowling about the woods with dogs and hawks. See 2 Bl Comm 412.

**vendee.** The purchaser under a sale or contract of sale of real property. In less frequent use, the purchaser under a sale or contract of sale of personal property.

**vendee's lien.** The lien of a purchaser of real estate under an executory contract of purchase upon the land covered by the contract for the amount paid by him upon the purchase price. 55 Am J1st V & P § 548.

**Vendens eandem rem duobus falsarius est.** A person who sells the same thing to two persons is fraudulent.

**vender.** To sell. Also, same as vendor.

**vendetta.** A private blood feud, often hereditary, in which a family seeks to avenge an injury to or a murder of one of its members upon the offender or his family. *Stephens v Howell Sales Co.* (DC NY) 16 F2d 805, 808.

**venting.** Selling goods. Giving expression to one's opinions. A right secured by the Federal copyright law which does not differ from the "right to vend" secured by the Federal patent law, it being in both instances the intention of Congress to provide an exclusive right to sell. *Bauer v O'Donnell*, 229 US 1, 17, 57 L Ed 1041, 1046, 33 S Ct 616.

**venting machine.** A machine which vends small items of merchandise without a clerk or other employee in attendance, the machine delivering the parcel upon being activated by a coin dropped in a slot.

**vendition.** A selling; a sale.

**venditioni exponas.** A writ authorizing and requiring an execution officer to sell the property seized by him under an execution. 30 Am J2d Exec § 307.

**venditio per mutuum manuum complexionem.** A sale by the mutual clasping of hands; a handsale. See 2 Bl Comm 448.

**venditor.** A vendor; a seller.

**venditor regis.** The salesman of the king, -a person who seized and sold the goods of a debtor of the king, to satisfy the debt.

**vendor.** The seller in a sale or contract of sale of real property. In less frequent use, the seller in a sale or contract of sale of personal property.

**vendor and purchaser.** A title much used in digests, encyclopedias, and textbooks for a discussion of sales and contracts to sell real property, the title "sales" being used for the comparable discussion involving personal property.

**vendor's express lien.** See **vendor's lien.**

**vendor's implied lien.** See **vendor's lien.**

**vendor's lien.** The implied lien of a vendor of real estate, who has conveyed the legal title, as security for the unpaid purchase money. 55 Am J1st V & P § 462. The express lien of a vendor of real estate under a provision of the contract that he is to retain title until the purchase money is paid, the vendee being put in possession of the premises. 55 Am J1st V & P § 447. The lien which the vendor of goods has at common law for the whole or the unpaid portion of the purchase price of the goods, where he has parted with title but not with possession, being in the nature of a pledge for the security of the vendor in reference to the unpaid purchase money in the event of the insolvency of the buyer. 46 Am J1st Sales §518.

**vendor's option.** See **seller's option.**

**vendue.** A sale; an auction sale.

**venia aetatis.** (Civil law.) The privilege of age, the privilege of a person who by reason of his age is entitled to act in his own right.

**Venia facilitas incentivum est delinquendi.** Facility of pardon is an incentive or encouragement to crime.

**venire.** A writ directing the summoning of jurors by the sheriff or other officer with authority to act in this respect. The list of jurors annexed to the writ of venire. 31 Am J Rev ed Jury § 74. A term sometimes used for array or panel.

**venire de novo.** Same as venire facias de novo.

**venire facias.** A writ for summoning jurors. A writ summoning a person to service as a grand juror. Powers v United States, 223 US 303, 56 L Ed 448, 32 S Ct 281.

**venire facias ad respondendum.** A writ by which a defendant was ordered to appear and answer a charge of misdemeanor.

**venire facias de novo.** An award, the effect of which is a new trial, granted by the appellate court for error occurring during the course of the trial. A proceeding of ancient origin, resulting in a new trial, granted for some cause apparent on the record. 39 Am J1st New Tr § 3. In modern terminology, the same as new trial.

**venire facias judicationis.** The common-law writ by which the sheriff causes to come from the body of his county, a certain number of qualified citizens who are to act as jurors in the court. *Durrah v State*, 44 Miss 789, 796.

**venire facias tot matronas.** A venire to summon a jury of matrons.

See **jury of matrons**.

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**veniremen.** Persons whose names are drawn from the jury wheel for a venire or special venire and who are summoned by a writ of venire and are thereby upon the jury panel for a term of court, a part of a term, or for choosing jurors for a particular case. 31 Am J Rev ed Jury § 3.

**venire proceedings.** Proceedings in the impaneling or selection of the jury.

**Venit et defendit vim et injuriam.** He comes and denies the force and injury.

**Venit et dicit.** He comes and says.

**vente a réméré.** (French.) An agreement or contract of sale with conditions, and a right or power of redemption annexed; an agreement or paction by which the vendor reserves to himself the power of taking back the thing sold, by returning the price paid for it. *Livingston's Executrix v Story* (US) 11 Pet 351, 387, 9 L Ed 746, 760.

**venting system.** A system of pipes and other installations on gas-burning appliances which carry off fumes. 26 Am J2d Electr § 239.

**ventre inspiciendo.** See **de ventre inspiciendo**.

**ventre sa mere.** See **en ventre sa mere**.

**venture.** Verb: To take chances. See *Allan v Hargadine-McKittrick Dry Goods Co.* 315 Mo 254, 264, 286 SW 16. Noun: A taking of chances. Embarking upon a business enterprise.

**venue.** The county or district wherein a cause is to be tried. 56 Am J1st Ven § 2. The county or district in which an indictment is returned. 27 Am J1st Indict § 12. In the original meaning, the county district, or neighborhood from which the jury was to come. *Eck v State Tax Com.* 204 Md 245, 103 A2d 850, 48 ALR2d 415.

Not to be confused with "jurisdiction," since jurisdiction may not be conferred by consent or waiver, whereas the venue of an action as fixed by statute may be changed by the consent of the parties and an objection that the plaintiff brought his suit in the wrong county may be waived by failure to make a timely objection, thereby Permitting the court to proceed and render a valid judgment. *Hardenburgh v Hardenburgh*, 115 Mont 469, 146 P2d 151.

**venue of affidavit.** The place where an affidavit is taken; the designation in an affidavit of the place where taken. 3 Am J2d Affi § 14.

**veracity.** Truthfulness. Honesty. *Wachstetter v State*, 99 Ind 290.

**vera copula.** Perfect coition; complete sexual intercourse. Anno: 65 ALR2d 781, § 4.

**vera lex, recta ratio, naturae congruens.** True law, right reason, agreeable to nature.

**veray.** True.

**verba.** Words.

See **haec verba.**

**Verba accipienda sunt cum effectu ut sortiantur effectum.** Words are to be taken with effect, so that they may be productive of effect.

**Verba accipienda sunt secundum subjectam materiam.** Words are to be taken according to their subject matter.

**Verba accipienda ut sortiantur effectum.** Words should be so taken that they may be productive of effect.

**Verba aequivoca ac in dubio sensu posita, intelliguntur digniori et potentiori sensu.** Equivocal words and those which are used in a doubtful sense are to be understood according to their more worthy and effective signification.

**Verba aliquid operari debent; debent intelligi ut aliquid operentur.** Words ought to be effective in some way; they ought to be understood as being in some way operative or effective.

**Verba aliquid operari debent; verba cum effectu sunt accipienda.** Words ought to be operative in some way; words ought to be taken so that they may have effect.

**Verba artis ex arte.** Words of art should be interpreted by the art.

**Verba chartarum fortius accipiuntur contra proferentem.** The language of the contract shall be construed most strictly against the person who offers it. *Owens v Graetzel*, 146 Md 361, 126 A 224, 39 ALR 943, 949.

**Verba cum effectu accipienda sunt.** Words should be so taken as to have effect.

**Verba currentis monetae tempus solutionis designant.** The words "current money" refer to the time of payment.

**Verba debent intelligi cum effectu.** Words ought to be understood so as to have effect.

**Verba debent intelligi cum effectu, ut res magis valeat quam pereat.** Language ought to be understood with such effect that the subject matter will rather have effect than be lost. See 2 Bl Comm 380.

**Verba debent intelligi ut aliquid operentur.** Words ought to be so understood that they may have some effect.

**Verba dicta de persona, intelligi debent de conditione personae.** Words which are spoken concerning a person ought to be understood as referring to the condition of the person.

**Verba fortius accipiuntur contra proferentem.** Language should be taken more strictly against him who makes use of it. See 2 Bl Comm 380.

**Verba generalia generaliter sunt intelligenda.** General words ought to be understood generally.

**Verba generalia restringuntur ad habilitatem rei vel aptitudinem personae.** (Civil law.) General words should be confined to the character of the thing or the aptitude of the person

**Verba generalia restringuntur ad habilitatem rei vel personae.** General words should be confined or restricted to the character of the thing or the person. See Broom's Legal Maxims 646.

**Verba illata (relata) inesse videntur.** Words which are referred to are deemed to be included.

**Verba in differenti materia per prius, non per posterius, intelligenda sunt.** (Civil law.) Words concerning a different matter are to be understood by the matter preceding, and not by that following.

**Verba intelligenda sunt in casu possibili.** (Civil law.) Words are to be understood as referring to a possible case.

**Verba intentioni debent inservire.** Language ought to serve to express the intent.

From this maxim of the law, it follows that the construction of language must be reasonable and agreeable to common understanding. *Edgerly v Barker*, 66 NH 434, 31 A 900.

**Verba intentioni, et non e contra, debent inservire.** Words ought to serve intention, and not the contrary.

**Verba ita sunt intelligenda, ut res magis valeat quam pereat.** Words should be so understood that the thing should have effect rather than be null.

**verbal.** By word of mouth, spoken; oral; parol.

See **parol**.

**verbal abuse.** Abusive language.

**verbal acts.** Statements which characterize or illustrate an act or transaction. *People v Carlton*, 57 Cal 83; *Cox v State*, 64 Ga 374. A statement which, because of its materiality in showing the motive, character, and object of an act, is admissible in evidence as against an objection that it is hearsay or self-serving. 29 Am J2d Ev § 710.

**verbal will.** Same as oral will.

**Verba mere aequivoca, si per communem usum loquendi in intellectu certo sumuntur, talis intellectus praeferendus est.** (Civil law.) The words being merely equivocal, if by common usage of speech they take a certain meaning, such meaning is to be preferred.

**Verba nihil operari melius est quam absurde.** (Civil law.) It is better that words have no effect than to have an absurd one.

**Verba non tam intuenda, quam causa et natura rei, ut mens contrahentium ex eis potius quam ex verbis appareat.** (Civil law.) Words are not to be regarded as much as the cause and nature of the thing, so that the intent of the contracting parties may appear from these rather than from the words.

**Verba offendi possunt, imo ab eis recedere licet, ut verba ad sanum intellectum reducantur.** (Civil law.) Words can be stricken out, nay rather it is proper to depart from them, so that they may be reduced to a sensible meaning.

**Verba ordinationis quando verificari possunt in sua vera significatione, trahi ad extraneum intellectum non debent.** (Civil law.) When the words of an ordinance can be verified in their true signification, they ought not to be twisted into a foreign meaning.

**Verba posteriora propter certitudinem addita, ad priora quae certitudine indigent, sunt referenda.** Subsequent words which are added for the sake of certainty ought to be referred to prior ones lacking in certainty. See Broom's Legal Maxims 586.

**verba precaria.** Precatory words. See **precatory words**.

**Verba pro re et subjecta materia accipi debent.** (Civil law.) Words ought to be taken favorably to the thing and the subject matter.

**Verba quae aliquid operari possunt non debent esse superflua.** (Civil law.) Words which can have any effect ought not to be regarded as superfluous.

**Verba quantumvis generalia ad aptitudinem restringuntur, etiamsi nullam aliam paterentur restrictionem.** (Civil law.) Words, however general, are confined to fitness, although they disclose no other restriction.

**Verba relata hoc maxime operantur per referentiam ut in eis inesse videntur.** Words incorporated by reference have as great effect through reference, as they are deemed to be included in them. See Broom's Legal Maxims 673.

**Verba relata inesse videntur.** Words which are incorporated by reference are deemed to be included. Commonwealth v Hart, 65 Mass (11 Cush) 130, 137.

**Verba restringuntur ad habilitatem rei vel personae.** Words are restricted or confined according to the character of the person or the thing.

**Verba secundum materiam subjectam intelligi nemo est qui nescit.** There is no one who does not know that words are to be understood according to their subject matter.

**Verba semper accipienda sunt in mitiori sensu.** Words should always be taken in their milder sense.

**Verba strictae significationis ad latam extendi possunt, si subsit ratio.** (Civil law.) Words of strict significance can be extended to a broad meaning, if reason requires it.

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**Verba sunt indices animi.** Words are the indexes of the mind.

**verbatim.** In the very same words. Word for word.

**verbatim transcript.** A transcript of the testimony of a witness in the exact words of the witness, being neither condensed nor narrative in form. 4 Am J2d A & E §435.

**verbis aut cantilenis.** By words or in song.

"The publication may be *verbis aut cantilenis*, as when the libel is maliciously repeated or sung in the presence of others." Adams v Lawson, 58 Va (17 Graft) 250.

**Verbis plane expressis omnino standum est.** Words which plainly express their meaning must in all respects be sustained. The Pedro, 175 US 354, 364, 44 L Ed 195, 199, 175 S Ct 138.

**Verbis standum ubi nulla ambiguitas.** Where there is no ambiguity, the words are to be adhered to.

**verbo in verbum.** Word for word.

**verbosity.** The use of unnecessary words, particularly in a pleading. 27 Am J2d Equity § 187.

**Verbum imperfecti temporis rem adhuc imperfectam significat.** A verb in the imperfect tense signifies an uncompleted matter.

**verderors of the forest.** See **sweinmote court.**

See **advisory verdict; chance verdict; compromise verdict; general verdict; privy verdict; public verdict; quotient verdict; sealed verdict; special verdict.**

**verdict.** The final determination of the jury. *Fidelity & Co. v Huse & Carleton*, 272 Mass 448, 172 NE 590, 72 ALR 1143. The final decision of a jury concerning matters of fact submitted to it by the court for determination. 53 Am J1st Trial § 1005. Not an indebtedness; not personal property, within the meaning of a garnishment statute. *Bassett v McCarty*, 3 Wash 2d 488, 101 P2d 575.

**verdict against evidence.** A verdict which is contrary to the evidence, or to the weight of the evidence, or which is not sustained by sufficient evidence. 39 Am J1st New Tr § 129.

**verdict against law.** See **verdict contrary to law.**

**verdict contrary to law.** The verdict of a jury who in arriving at it have failed or neglected to follow the directions of the judge upon matters of law. 39 Am J1st New Tr § 126.

According to the weight of authority, even if the instructions are erroneous, they constitute the law of the case and it is the duty of the jury to follow them. 39 Am J1st New Tr § 127,

**verdict of guilty.** A determination of the jury in a criminal case, leading to a final judgment of guilt. A proper form of verdict in a civil case where the issue is raised by a plea of not guilty. *Peters v Johnson, Jackson & Co.* 50 W Va 644, 41 SE 190.

**verdict of non licet.** A jury's verdict expressing doubt and asking further time for deliberation.

**verdict of not guilty.** An acquittal of the accused in a criminal case. A proper form of verdict in a civil case where the issue is raised by a plea of not guilty. *Peters v Johnson, Jackson & Co.* 50 W Va 644, 41SE 190.

**verdicto non obstante.** Notwithstanding the verdict.

See **judgment notwithstanding the verdict.**

**Verdictum, quasi dictum veritatis; ut iudicium, quasi juris dictum.** A verdict is, as it were, the expression of the truth; as a judgment is, as it were, the expression of the law.

**verge.** The space included within a radius of twelve miles from the residence of the king of England.

**vergens ad inopiam.** Verging or declining toward poverty.

**verge of the court.** Same as **verge.**

**verifiable certainty.** A test of judicial notice, referring to facts which can be verified to a certainty by reference to competent authoritative sources. 29 Am J2d Ev § 25.

**verification.** A sworn statement of the truth of the facts stated in an instrument. 3 Am J2d Affi § 20. A statement under oath by a party who pleads that his pleading is true of his own knowledge or to the best of his knowledge and belief. 41 Am J1st PI § 284. Testing the accuracy of a statement or an account.

**verified account.** A statement of account verified under oath as to the accuracy thereof. 1 Am J2d Acctg § 12.

**verified pleading.** See verification.

**verify.** To test the accuracy of a statement or an account. To substantiate the truth of a statement or of an account by formal oath, in other words, to make a verification. *Watts v Gerking*, 111 Or 641, 228 P 135, 34 ALR 1489, 1495.

See **verification**.

**veritas.** Truth; accuracy; correctness.

**Veritas demonstrationis tollit errorem nominis.** Correctness of description cures error of name.

**Veritas habenda est in jurator; justitia et iudicium in iudice.** Truth should be possessed by a juror; justice and judgment by a judge.

**Veritas nihil veretur nisi abscondi.** Truth fears nothing except concealment.

**Veritas nimium altercando amittitur.** Truth is lost by too much altercation.

**Veritas nominis tollit errorem demonstrationis.** Correctness of name cures error in description. *Joiner v Joiner*, 55 NC (2 Jones Eq) 68, 72.

**veritatem dicere.** To speak the truth; the preliminary examination of a juryman touching his qualifications. See 3 Bl Comm 364.

**Veritatem qui non libere pronunciat, proditor est veritatis.** He who does not express the truth freely is a traitor to the truth.

**verity of judgment.** Conclusiveness of judgment.

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**vermin.** Rats, mice, lice, or other representatives of small animal life of destructive or filthy and troublesome tendencies. 32 Am J1st L & T § 247.

**vernacular.** Characterizing the language of the people as distinguished from the language of the dictionary or of literary persons. 17 Am J2d Contr § 247.

**veronal.** A drug; a barbiturate. *Mansbacher v Prudential Ins. Co.* 273 NY 140, 7 NE2d 18, 111 ALR 618, rch den 274 NY 487, 8 NE2d 616.

**vers.** An abbreviation of **versus**.

**versari.** (Civil law.) To be engaged, occupied or employed in; to be versed in or conversant with.

**versus.** Against. The meaning of "versus" and its abbreviation "vs." is well understood and it is quite as appropriate, even in a pleading, as the word "against" could be. They have, in fact, become engrafted upon the English language, at least so far as they are used in this country in legal proceedings. *Smith v Butler*, 25 NH 521, 523.

**vert.** Verdant; green; green growth; pertaining to the forest.

**vertical price-fixing agreement.** An agreement between the manufacturer or dealer in an article with purchasers who buy numbers of such article for resale in the course of business, having the purpose of controlling the resale or retail price. 52 Am J1st Tradem § 173.

**vertical union.** Same as **industrial union**.

**vertigo.** Dizziness.

**verus.** True; genuine.

**very high degree of care.** Due care in the face of imminent danger. 38 Am J1st Negl § 31.

**very matrimony.** A term used in the ancient canon law, signifying a valid marriage.

Under that law the contract per verba de praesenti did not require consummation in order to become "very matrimony;" but it ipso facto et Ipso jure constituted the relation of man and wife. See 17 ERC 10.

**vessel.** A marine structure intended for transportation of goods or passengers. 48 Am J1st Ship § 35. Anything floating in and on the water, built and used for navigation, regardless of form, rig, or motive power. *Cope v Vallette Drydock Co.* 119 US 625, 30 L Ed 501, 7 S Ct 336. Watercraft of every description, other than a seaplane on the water, used or capable of being used as a means of transportation on water. 46 USC § 527(2) (Federal Boating Act).

See **burdened vessel; favored vessel; overtaking vessel; public vessel.**

**vessel belonging to or employed in the government of the United States.** A vessel under the control of the United States. *Ackerlind v United States*, 240 US 531, 60 L Ed 783, 36 S Ct 438 (phrase appearing in tariff act). A ship registered by the United States for the foreign trade or licensed or enrolled by the United States for the coasting trade. 48 Am J1st Ship § 40.

**vessel of the United States.** Any vessel registered, enrolled, or licensed under the laws of the United States, whether permanently or temporarily. 46 USC § 911(2)(4) (Ship Mortgage Act).

**vessels.** A generic term within the meaning of tariff regulations and laws. 21 Am J2d Cust D § 49.

See **vessel.**

**vest.** To pass to a person, as where the title to property comes to the heir upon the death of the owner intestate. To descend; to take effect. *D. M. Ferry & Co. v Forquer*, 61 Mont 336, 202 P 193, 29 ALR 642. To give an immediate fixed right of present or future enjoyment. *Stewart v Harriman*, 56 NH 25.

The use of the term "vest in," in reference to surviving remaindermen, does not operate, in the absence of other controlling language, to prevent the ascertainment of surviving remaindermen at the death of the testator. Anno: 114 ALR 26.

**vested.** Fixed in interest. Indefeasible. 57 Am J1st Wills § 1230.

**vested estate.** An absolute, unconditional, and indefeasible interest. 57 Am J1st Wills § 1230. An estate which is not contingent or expectant; an estate carrying a fixed right of present or future enjoyment. 28 Am J2d Est § 6. An estate which gives a certain and fixed right of present or future enjoyment; that is, an interest clothed with a present legal and existing right of alienation. *Allison v Allison*, 101 Va 537, 44 SE 904.

An estate is vested in possession when there exists a right of present enjoyment, and vested in interest when there is a present right of future enjoyment. *Re Kohrs*, 122 Mont 145, 199 P2d 856, 5 ALR2d 1046; *Carroll v Newark*, 108 NJL 323, 158 A 458, 79 ALR 509.

An estate is said to be vested in interest, when there is a present fixed right in someone of future enjoyment of it; it is not vested, but is contingent, when either the person who is to enjoy it, or the event upon which the estate is to arise is uncertain. See *Johnston's Estate*, 185 Pa 179, 39 A 879.

**vested future estate.** An estate which exists when there is a person in being who would have an immediate right to the possession of the lands upon the ceasing of the intermediate or precedent estate. *Palmer v Dunham*, 52 Hun 468, 471, 6 NYS 46.

See **vested remainder**.

**vested gift.** A gift which vests immediately in interest, albeit the enjoyment is postponed. 24 Am J1st Gifts § 31.

**vested in interest.** See **vested estate**.

**vested in possession.** See **vested estate**.

**vested interest.** A fixed right to the enjoyment of property in an ascertained person which is subject to no condition other than the termination of a precedent estate. *Stevens v Carroll*, 64 Or 417, 129 P 1044.

An interest when vested, whether it entitles the owner to the possession now or at a future period, is fixed and present; so that the right of ownership, to the extent of the estate, may be aliened. *Allison v Allison*, 101 Va 537, 44 SE 904.

See **vested estate**; **vested right**.

**vested legacy.** A legacy provided absolutely and unconditionally, although sometimes payable at a future time. *Magoffin v Patton* (Pa) 4 Rawie 113, 116.

**vested remainder.** A remainder limited to an ascertained person or persons with no further condition imposed upon the taking effect in possession than the determination of the precedent estate. 28 Am J2d Est § 217. An estate invariably fixed, to remain to a determinate person, after the precedent estate

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is spent. 2 Bl Comm § 168. An estate passing absolutely by will or conveyance, where possession or enjoyment is postponed until the termination of the particular estate upon which it is limited - *Re Phearman*, 211 Iowa 1137, 232 NW 826, 82 ALR 674.

A remainder is vested if, at every n its continuance, it is a present estate, however the preceding freehold estate determines. *Sands v Fly*, 200 Tenn 414, 292 SW2d 706, 57 ALR2d 188.

Wherever the preceding estate is limited, so as to determine on an event which certainly must happen, and the remainder is so limited to a person in esse, and ascertained, that the preceding estate may by any means determine before the expiration of the estate limited in remainder, such remainder is vested, *Fearne*, *Contingent Remainders* p 216, quoted in 28 Am J2d Est § 217.

Unless the intent of the testator is made to appear to the contrary, a devise or bequest will be construed in favor of a vested remainder instead of a contingent remainder. *Re Phearman*, 211 Iowa 1137, 232 NW 826, 82 ALR 674.

**vested right.** An immediate fixed right of present or future enjoyment; an immediate right of present enjoyment, or a present fixed right of future enjoyment. 16 Am J2d Const L § 421; 28 Am J2d Est § 6. A right in the form of a title, legal or equitable, to the present or future enjoyment of property, or to the present or future enforcement of a demand, or a legal exemption from a demand made by another. *Hagerty v Administrator, Unemployment Compensation Act*, 137 Conn 129, 75 A2d 406, 20 ALR2d 960.

The term includes title, legal or equitable, to the present or future enforcement of a demand or a legal exemption from a demand made by another, though it must be something more than such a mere expectation as may be based on an anticipated continuance of general laws. *Massa v Mastri*, 125 Conn 144, 3 A2d 839, 120 ALR 939.

To be vested, a right must have become a title, legal or equitable, to the present or Future enjoyment of property, or to the present or future enforcement of a demand, or a legal exemption from a demand made by another. *Hagerty v Administrator, Unemployment Compensation Act*, 137 Conn 129, 75 A2d 406, 20 AI\_R2d 960.

See **vested estate; vested interest.**

**vested subject to divesting.** A phrase characterizing an estate intermediate a vested interest and a contingent interest. 57 Am J1st Wills § 1217. A remainder which will be defeated upon the occurrence of the contingency stated in the limitation. 28 Am J2d Est § 320.

**vested water rights.** See **accrued water rights.**

**vestibule.** An inclosed space at the end of a railroad car or streetcar through which passengers enter or leave the main part of the car. An inclosed space immediately inside the door of a public building or a building frequented by the public.

**vestigial words or phrases.** Words or phrases which have been permitted to remain in a statute after it has been amended, but which are rendered useless and meaningless by the amendment. *Saltonstall v Birtwell*, 164 US 54, 70, 41 L Ed 348, 353, 17 S Ct 19.

**vestigium.** A vestige; a trace; a scintilla.

**vestmentum.** Investiture; seisin.

**vesting order.** An order or decree of a court of equity transferring title to land.

**vestire.** To vest; to invest, as with title.

**vestry.** See **vestrymen.**

**vestrymen.** Church members composing the vestry or body which manages the temporal affairs of the church. 44 Am J1st Quo W § 83.

**vestura terrae.** The clothing of the land. Vesture.

**vesture.** Clothing. In more frequent use, grass, grain, or other plants which cover the earth. *Simpson v Coe*, 4 NH 301, 303.

**veteran.** One who has served as an enlisted man or a commissioned officer in any of the Armed Services. 56 Am J1st Vet & V A § 2.

**Veterans' Acts.** Statutes making special provision for the benefit or welfare of veterans of the Armed Services and their dependents, or extending to veterans privileges or preferences not accorded to other classes of citizens, particularly in reference to appointment in the public service. 15 Am J2d Civ S § 15.

**Veterans' Administration.** The federal agency, established in 1930, responsible for the administration of federal statutes providing direct benefits for veterans and their dependents, their duties, powers, and functions being in part those formerly vested in various hospitals, bureaus, agencies, and offices of the federal government. 56 Am J1st Vet & V A § 3.

**veterans' benefits.** Benefits provided by law for veterans of the Armed Forces. 56 Am J1st Vet & V A § 2.

**veterans' cemetery.** A national cemetery. 24 USC § 281.

**veterans' homes.** National homes for veterans, now under the jurisdiction of the Veterans' Administration. Also homes maintained by states for veterans. 56 Am J1st Vet & V A § 7.

**veterans' hospital.** A hospital primarily for the care of veterans of the Armed Services. 56 Am J1st Vet & V A § 6.

**veterans' insurance.** Insurance issued to persons in the Armed Forces and maintained in force by them or converted to life insurance in another form after discharge or separation from the service. 29A Am J Rev ed Ins § 1970.

An organization of veterans of the Armed Forces, distinctive particularly in the limitation of membership to veterans with service on foreign fields.

**veterans' organizations.** Organizations of veterans of the Armed Services, having the primary purposes of strengthening and preserving comradeship, promoting and advancing mutual helpfulness among members, the protection of their widows and orphans, and the stimulation of patriotism. 56 Am J1st Vet & V A § 17.

**veterans' preference.** See **Veterans' Acts.**

**veterans' settlement.** A settlement on public lands under a project primarily for the benefit of veterans. 56 Am J1st Vet & V A § 14.

**vetera statuta.** Ancient statutes; a name given to those statutes which were enacted

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from the time of Magna Charta in 1215 through the reign of Edward the Second in 1327.

**Veteres enim haeredes pro dominis appellabant.** For the ancients called heirs, "owners" or "masters." Emeric v Alvarado, 64 Cal 529, 558, 2 P 419.

**veterinarian.** One who practices medicine or surgery in the limited field of the treatment of animals. Staples v Steed, 167 Ala 214, 52 So646.

**veterinary hospital.** A place for the care of sick or disabled animals. Wergin v Voss, 179 Wis 603, 192 NW 51, 26 ALR 933.

**vetitio principii.** A supposition of what is not granted; a begging the question. Case upon the Statute for Distribution, Wythe (Va) 302, 309.

**vetitum namium.** A forbidden taking—a remedy by means of a second or reciprocal distress for a wrongful distress. See 3 Bl Comm 148.

**veto.** A qualified right of a governor of a state to prevent an enactment of the legislature from becoming law. 49 Am J1st States § 47. The refusal of the executive to approve a bill passed by the legislative body, having the effect of nullifying such legislative action unless the bill is passed by the requisite number of votes upon reconsideration by the legislative body after such disapproval by the executive. 50 Am J1st Stat § 111.

The disapproval by the President of the United States of a bill after it has passed both houses of Congress, or by the governor of a state of the Union after the bill has passed both houses of the state legislature. The veto is essentially a legislative act. The fact that the President or the governor is limited to negation or concurrence, and cannot affirmatively initiate or amend legislation, does not take away the legislative character of his act, any more than want of power in the Senate of the United States to originate revenue bills changes its character as a co-ordinate branch of Congress. Commonwealth ex rel. Elkin v Barnett, 199 Pa 161, 48 A 976.

See **pocket veto**.

**veto power.** The power of the executive to veto a legislative act. 16 Am J2d Const L §§ 213, 214.

See **veto**.

**vetus depositio pecuniae.** The former concealment of the money.

**vetustas.** (Civil law.) Antiquity; time out of mind.

**vexatae quaestiones.** Vexatious questions; moot questions.

**vexata quaestio.** Singular of **vexatae quaestiones**.

**vexatious appeal.** A frivolous or unjustified appeal taken for the purpose of hindering or delaying justice. 5 Am J2d A & E § 1024. vexatious litigation. Same as vexatious suit.

**vexatious motion.** A motion presented or filed for the purpose of vexation or delay, rather than to subserve the ends of justice. 37 Am J1st Motions § 4.

**vexatious proceeding.** Same as vexatious suit.

**vexatious refusal to pay claim.** A ground for subjecting an insurance company to a penalty. A refusal to pay founded, not upon what appear to be the facts, but only upon a possibility that later investigation may develop facts justifying refusal to pay. 29A Am J Rev ed Ins § 1697.

A refusal is held not to be vexatious if founded on what at the time appeared to be facts justifying the refusal, even though at the trial it may be shown that the true facts were exactly opposite of what they appeared to be at first. Buffalo Ins. Co. v Bommarito (CA8 Mo) 42 F2d 53, 70 ALR 1211.

**vexatious suit.** Litigation for the purpose of harassing, annoying, and vexing an opponent, rather than for the adjudication of rights, being invoked, not for the attainment of justice, but to further or satisfy a malicious motive. 28 Am J Rev ed Inj § 210.

**vi.** With violence; with force; forcibly; violently.

**via.** Preposition: By way of. Noun: A way.

Lord Coke, adopting the civil law, divided private ways into three kinds: a footway, called "iter; a footway and horseway, called "actus;" and a cartway which embraced both of the other two, called "via." To these was added a "driftway," a road over which cattle could be driven. *Jones v Venable*, 120 Ga 1, 47 NE 549.

**via alta.** A highway,

**viable.** Capable of living, physically fit to live; of a fetus, having reached such a stage of development as to permit continued existence under normal conditions, outside of the womb. *Williams v Marion Rapid Transit*, 152 Ohio St 114, 87 NE2d 334, 10 ALR2d 1051.

**viability.** Ability to live; the capability of a newborn infant to survive.

**via amabili.** In a friendly way.

**Via antiqua via est tuta.** The old way is the safe way.

"I consider myself bound by those principles, which were known and established as law in courts of equity in England, at the time of the institution of this court." *Manning v Manning* (NY) 1 Johns Ch 527, 530.

**viaduct.** A long bridge, especially one which spans a valley or gorge. A structure carrying traffic over other lines of traffic. *Re Yesler Way*, 94 Wash 427, 162 P 536.

**viaggio.** A voyage.

**viagium.** A voyage.

**viam.** A way.

See **extra viam**.

**via other ports.** A phrase in a bill of lading relating to the route of the vessel.

These words in a recital in a bill of lading that the goods are received for transportation on a vessel bound for the port of destination "via other ports," do not have the effect of broadening a provision of the charter party giving the vessel "liberty to call at any port or ports in any order, for any purpose." Anno: 33 ALR2d 166.

**via publica.** A public way.

**via regia.** The king's highway; any public road or highway in England.

**viator.** A traveler; a wayfarer.

See **caveat viator**.

**Via trita est tutissima.** The beaten path is the safest. See *Broom's Legal Maxims* 134.

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**Via trita, via tuta.** The beaten path is the safe path. See *Ex parte Crane* (US) 5 Pet 190, 223, 8 L Ed 92, 104.

**vi aut clam.** By force or fraud.

**vi aut metu.** Same as **vis aut meta**.

**vibration.** A process of agitating or shaking. A kind of oscillation. Re Junghans, 28 Cust & Pat App (Pat) 1237, 120 F2d 638.

**vibrator.** An instrument used in massage. Cornbrooks v Terminal Barber Shops, 282 NY 217, 26 NE2d 25.

**vicar.** One of the clergy. In the Anglican and Episcopal churches, a deputy of another minister. In the Roman Catholic Church, a deputy of a bishop; the Pope himself as a representative of Christ.

**vicarious.** Through the agency or by means of a representative, agent or servant.

**vicarious liability.** A liability imposed upon one person because of the act or omission of another, such as his employee.

**vicarius.** (Eccles.) A vicar, an officiating minister deputed by an appropriating corporation or religious house to perform divine services in a parish of the corporation. See 1 Bl Comm 387.

See **vicar.**

**Vicarius non habet vicarium.** A vicar has no deputy. See 1 Bl Comm 390.

The maxim has been construed more freely as meaning that a person who acts in a representative capacity cannot employ a representative, on the principle that delegated authority cannot be redelegated. See Broom's Legal Maxims 840.

**vice.** Preposition: As a substitute for; in the place of; instead of, as a vice president, a vice consul. Noun: Evil, sinful, and immoral conduct in a collective sense, as in "vice district" or "vice conditions in a city." An imperfection in an animal.

**vice admiral.** A naval officer ranking immediately below admiral and immediately above rear admiral his rank being comparable to that of lieutenant general of the army. 36 Am J1st Mil § 55.

**vice-admiralty courts.** Inferior courts of admiralty in the American Colonies and other settlements, from which appeals lay to the courts of admiralty in England, though they could also be brought before the king in council. See 3 Bl Comm 69.

**vice-comes.** Same as viscount.

**Vicecomes non misit breve.** The sheriff has not sent the writ.

**vice-commercial agent.** A person substituted temporarily for a commercial agent of the consular service. United States v Eaton, 169 US 331, 42 L Ed 767, 18 S Ct 374.

**vice consul.** A person in the consular service, subordinate to or serving temporarily in the place of a consul. United States v Eaton, 169 US 331, 336, 42 L Ed 767, 769, 18 S Ct 374.

**vice district.** A district in a city, given over to licensed prostitution. A district in a city, wherein houses of prostitution abound.

**vice-domini.** Same as **vidames.**

**vicem seu personam ecclesiae gerere.** To represent the church. See 1 Bl Comm 384.

**vice mayor.** A municipal officer empowered to act as mayor during the absence of the mayor from the municipality during a disability of the mayor rendering him unfit to perform the duties of the office, or temporarily during a vacancy in the office of mayor resulting from the death of the mayor or his removal from office.

**vice president.** An officer next in rank below a president. *Pond v National Mortg. & Debenture Co.* 6 Kan App 718, 50 P 973. A corporate officer empowered to act as the chief executive of the corporation in the absence of, or during vacancy in the office of, the president, and sometimes given executive duties by the board of directors or bylaws of the corporation. 19 Am J2d Corp § 1171.

**Vice President of the United States.** An office provided by the Constitution of the United States, the incumbent of which is elected with the President and serves the same term of office as the President, the salient feature of which is the succession of the incumbent to the powers and duties of the office of the President upon the removal of the latter from office or his death, resignation, or inability to discharge the duties of the office. Any employee who represents the employer in the discharge of those personal or absolute duties which every employer owes to his employees.

**vice-principal.** One entrusted with the conduct of an employer's business, especially in the direction or superintendence of other employees. 35 Am J1st M & S § 129.

Among those employees who have been held to be vice principals are those charged with the duty of providing machinery and appliances, the place to work, the inspection and repair of premises and appliances, the selection and retention of servants, establishment of proper rules and regulations, and the instruction of servants. *Moore v Dublin Cotton Mills*, 127 Ga 609, 56 SE 839.

**vice versa.** The other way about; under a reversed position of the parties.

**vicinage.** The area surrounding a particular place, especially the place where the cause of action is alleged to have arisen or where a crime is alleged to have been committed. 56 Am J1st Ven § 2. The neighborhood or vicinity. 31 Am J Rev ed Jury § 6. The county, district, or other subdivision of venue.

At common law, the right of trial by jury includes the right of a prisoner to have the jury obtained from the vicinage or county where the crime is supposed to have been committed. The reason for this is that the accused may have the benefit, on his trial, of his own good reputation and standing with the neighbors, if these he has preserved, and also of such knowledge as the jury may possess of the witnesses who may give evidence against him. 31 Am J Rev ed Jury § 5.

**vicineto.** Neighborhood; vicinage.

**vicinetum.** Neighborhood; vicinity.

**vicinity.** A place near to a place designated, but not adjoining or abutting on it. 23 Am J2d Deeds § 243.

The word is not an absolute but a relative one, and what is in the vicinity of a place under one set of circumstances may not be so under other circumstances. In a sparsely settled region a person residing fifteen miles from a road might be regarded as being in the vicinity of it. *Sterling v Carter*, 105 Kan

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423, 185 P 11; *Burton v Douglas*, 141 Wis 110, 123 NW 631.

See **immediate vicinity**; **vicinage**.

**Vicini viciniora praesumuntur scire.** Neighbors are presumed to know neighborhood matters.

**vicious.** Partaking of vice; wicked; harmful.

**vicious animal.** An animal dangerous by nature. 4 Am J2d Am §§ 80 et seq. A domestic animal with a propensity for injuring persons. 4 Am J2d Am §§ 85 et seq. Any individual of a vicious species, or a vicious individual of a harmless species. *Mellicker v Sedlacek*, 189 Iowa 946, 179 NW 197, 11 ALR 259, 267.

**vicious for false Latin.** Defective because of an error in Latin in which all proceedings were formerly written.

In the earlier English cases, it was considered that any stranger, as *amicus curiae*, might move the court of matters apparent in the writ, and the court *ex officio* was bound to abate the writ, if it was vicious for false Latin or default of form. *Haley v Eureka County Bank*, 21 Nev 127, 26 P 64.

**vicious propensity.** Such a propensity as exists in an animal which might attack or injure the safety of persons without being provoked to do so. *Mellicker v Sedlacek*, 189 Iowa 946, 179 NW 197, 11 ALR 259, 267.

**vi clam aut precario.** Forcibly, secretly or by sufferance.

An easement cannot be acquired by prescription if its enjoyment is characterized by either of these attributes. *Lehigh Valley Railroad Co. v McFarlan*, 43 NJL 605, 622.

**vicontiel.** Pertaining to a sheriff.

**victim.** One who has suffered the commission of a crime, tort, or wrong.

**Victoria.** The queen of England from June 20th, 1837, until January 22nd, 1901.

**victualer.** One who serves food or drink for consumption on the premises. *Friend v Childs Dining Hall Co.* 231 Mass 65, 120 NE 407, 5 ALR 1100.

**victualing house.** A house where provision is made for strangers to eat; an eating house. Anno: 9 ALR 429.

**victuals.** Those things which are food for man in themselves or when mixed with something else. Anno: 9 ALR 429. Food ready to eat. *Friend v Childs Dining Hall Co.* 231 Mass 65, 120 NE 407, 5 ALR 1100, 1105.

**victus.** (Civil law.) The means of living or support. The vanquished; the unsuccessful party to an action.

**Victus victori in expensis condemnandus est.** The losing party is adjudged to pay the costs to the successful party.

See 3 Bl Comm 399.

**vicus.** A village.

**vidame.** A title of dignity, next beneath peer. See 1 Bl Comm 403.

**vide.** See; refer to.

**videlicet.** That is to say; namely. To wit. Words particularizing a general statement and explaining obscurities therein, without being repugnant to the statement. 57 Am J1st Wills § 1156. A formal statement in a pleading intended to dispense with strict proof. *Lindekugel v Spokane, P. & S. R. Co.* 149 Or 634, 42 P2d 907, 99 ALR 721.

When any fact alleged in a pleading is preceded by the words "to wit," or "that is to say," such fact is said to be laid under a *videlicet*. The object of a *videlicet* is to dispense with strict proof. The office of a *videlicet* is to note that the party does not undertake to prove the precise circumstances alleged. *Lindekugel v Spokane, P. & S. R. Co.* 149 Or 634, 42 P2d 907, 99 ALR 72L

The following note of the famous Sergeant Williams is appended to Dakin's Case, 2 Wms. Saund. 290, 291: "So a videlicet may sometimes restrain the generality of the former words, where they are not express and special, but stand indifferent, so as to be capable of being restrained without apparent injury to them; as if lands be granted to a man and his heirs, that is to say, the heirs of his body, it is an estate tail." See Hall v Hall, 84 Vt 259, 78 A 971.

**Videtur qui surdus et mutus ne poet faire alienation.** He who is deaf and dumb is deemed not to be, able to make an alienation. See Brower v Fisher (NY) 4 Johns Ch 441, 443.

**vidimus.** We have seen.

**vidua.** A widow.

**vidua regis.** The widow of the king; the widow of a tenant in capite.

**viduitate.** Widowhood.

**viduity.** Widowhood.

**vie.** (French.) Life.

See **auter vie; cestui que vie; de sa vie; en vie.**

**vi et armis.** With force and arms; that is, with actual violence. Taylor v State, 25 Tenn (6 Humph) 284, 286.

See **trespass vi et armis.**

**view.** An opinion. The range of vision at a particular place. A prospect. An easement. 26 Am J2d Em D § 175. A negative easement. 25 Am J2d Ease § 8.

See **easements of light, air, and view.**

**view and delivery.** A right of common to be exercised only in the places indicated by the owner of the premises.

**view by court.** A view of the scene of matters involved in an action taken by the judge in a trial to the court without a jury. 53 Am J1st Trial § 1128.

See **view of premises.**

**view by jury.** An arranged visit by the jury to the scene of matters involved in the action or of premises involved in the issues of the case, made pursuant to a order of court. 53 Am J1st Trial § 441. In criminal procedure, the taking of the jury, during the trial, to see and examine the place where the crime is alleged to have been committed. 21 Am J2d Crim L § 295. A method of procedure which does not involve the judicial powers of the court at the time it is employed. Carpenter v Carpenter, 78 NH 440, 101 A 62 8.

**viewer.** A member of a commission locating a highway. 25 Am J1st High § 26. A member of a body appointed by the court to determine the amount of special assessments against properties benefited by the improvement. 49 Am J1st Spec A §§ 140et seq.

See **fence viewer.**

**viewers' report.** A report by viewers of their findings and determinations. 22 Am J1st Ferr § 6.

**view of frank-pledge.** An inspection by the sheriff of the frank-pledges in the district.

**view of premises.** The acts of the court in departing from the courtroom and examining premises pertinent to the issues of the case. 20 Am J2d Cts § 40. A requisite on the part of an execution officer in making a levy under the writ. 30 Am J2d Exec § 237.

See **view by jury.**

**view of the body.** An essential of an inquest conducted by coroner or medical examiner. 18 Am J2d Corn § 11.

The expression means more than looking, seeing, beholding. It means inspection; investigation; an inquiry into the cause of the death. Lancaster County v Holyoke, 37 Neb 328, 55 NW 950.

**vigilant.** Alert.

The vigilant are aided by equity. 27 Am J2d Equity § 130.

**Vigilantibus et non dormientibus acquitas subvenient.** Equity comes to the aid of the vigilant, but not to those who slumber.

**Vigilantibus, et non dormientibus, jura subveniunt.** The laws assist the vigilant and not those who slumber.

To one supinely inattentive to his own concerns, and improvidently and credulously confiding in the naked and interested assertions of another, the maxim emphatically applies. See Bostwick v Mutual Life Ins. Co. 116 Wis 392, 89 NW 538.

**Vigilantibus, et non dormientibus servat lex.** The law aids the vigilant, but not those who slumber.

The maxim does not apply where the defendant by his assurances put the plaintiff to sleep. Bostwick v Mutual Life Ins. Co. 116 Wis 392, 89 NW 538.

**Vigilantibus, et non dormientibus succurunt jura.** The laws assist the vigilant, and not those who slumber.

The maxim is grounded on that wise policy of the law which at every turn of life casts upon all persons the duty of exercising some care for their own protection. Bostwick v Mutual Life Ins. Co. 116 Wis 392, 89 NW 538.

**Vigilantibus non dormientibus aequitas subvenit.** Equity comes to the aid of the vigilant, but not to those who slumber. Doster v Manistee Nat. Bank, 67 Ark 325, 329, 55 SW 137.

**Vigilantibus non dormientibus jura subveniunt.** The law, and equity as well, aids the vigilant, and not those who slumber upon their rights. Jacob C. Slemmer's Appeal, 58 Pa 168.

**vigilia.** A vigil; a guard; a watch.

**vigore cujus.** By the force of which.

**viis et modis.** By ways and means; by substituted service.

**vi laica amovenda.** Removing the force of the laity. The purpose of a writ to prevent a layman from entering into a contest or strife between churchmen.

**vilis.** (Latin.) Cheap. Inferior.

**vill.** A hamlet or village.

**villa.** A dwelling house in the country. (Spanish.) A village.

**village.** A municipal corporation of limited population. A small municipality characterized by business and residential structures reasonably contiguous. State ex rel. Lorenzino v McKinley County, 20 NM 67, 145 P 1083. An assemblage of houses in an area which may be incorporated or unincorporated. 37 Am J1st Mun Corp § 5.

**village proper.** The actual and physical village for the purpose of taxation. Atherton v Essex Junction, 83 Vt 218, 74 A 1118.

**Villana faciunt servitia, sed certa et determinata.** They perform villein services, but certain and fixed. See 2 Bl Comm 99.

**villanum socagium.** Villein socage.

**villanus.** Same as **villein**.

**ville.** See **bas-ville**.

**villein.** A tenant of the lowest order in the feudal period. See 2 Bl Comm 22. Possessed by the lord of the manor, the same as one of a flock. Jackson v Phillips, 96 Mass (14 Allen) 539, 562.

**villeinage.** A kind of estate in land, which was superior to downright slavery, but inferior to every other condition. See 2 Bl Comm 92.

**villein in gross.** A villein at large; that is, a villein who was annexed to the person of the lord as a sort of body servant. He was transferable by deed from one owner to another, but had no connection with the soil. See 2 Bl Comm 93.

**villeinous judgment.** An ancient form of judgment in a prosecution for the crime of conspiring to indict an innocent person for a felony. See 4 Bl Comm 136.

**villein regardant.** A villein annexed to the manor or lands of the lord, not attached to the person of the lord. See 2 Bl Comm 93.

**villein services.** The services required of a villein by the lord of the manor.

**villein socage.** Sometimes called privileged villeinage. A kind of villeinage such as has been held of the kings of England since the Norman Conquest.

The services were villein services, but they were fixed and certain; the tenant could not alien but was compelled to surrender to the lord. See 2 Bl Comm 99.

**villemous judgment.** A judgment which commits the accused to prison and deprives him of certain civil rights. 21 Am J2d Crim L § 616.

**Vim A repellere licet.** It is lawful to repel force with force.

When an officer transcends his powers, obedience to him may become even an offense. If he is without jurisdiction, then issues the terse command of the maxim. See State v Durham, 141 NC 741, 53 SE 720.

**Vim A repellere licet, modo fiat moderamine inculpatae tutelae, non ad sumendam vindictam, sed ad propulsandam injuriam.**

It is lawful to repel force with force, but let it be done in the moderate manner of self-defense, not to take revenge, but to repel or ward off injury.

**vinculo matrimonii.** The bonds of marriage.

**vinculum.** A chain; a bond.

**vinculum personarum ab eodem stipite descendentium.** The relation of persons descended from the same stock or common ancestor; Blackstone's definition of "consanguinity." See 2 Bl Comm 202.

**vindictory.** The part of a statute which imposes punishment or penalty for violation. 50 Am J1st Stat § 151.

**vindices injuriarum.** The avengers of wrongs, -the king and his courts. See 4 Bl Comm 185.

**vindictive damages.** Same as exemplary damages. 22 Am J2d Damg § 236.

**vine.** A plant characterized by tendrils which attach to a wall, trellis, frame, or other support; a cultivated plant of such character, such as grapes. 21 Am J2d Crops § 4.

**vineyard.** A tract of land whereon grape vines are grown and cultivated.

**vinous.** Having the character of wine.

**vinous liquor.** Liquor made from the juice of the grape or of other fruits or berries by the process of fermentation. 30 Am J Rev ed Intox L § 13.

Alcohol may be obtained from all vinous liquors by distillation. See *Eureka Vinegar Co. v Gazette Printing Co.* (CC Ark) 35 F 570, 572.

**vintner.** A wine seller.

**vinum.** Wine.

**violate.** To break; to infringe; to disobey: as, to violate a statute. To force; to ravish. *State v Montgomery*, 79 Iowa 737, 739, 45 NW 292.

**violation of blockade.** A cause under prize law for the forfeiture of ship, and in some cases its cargo, to capture and condemnation. 56 Am J1st War § 174.

To constitute a violation of blockade, three things must be proved: first, the existence of an actual blockade; second, the knowledge of the party supposed to have offended; and third, some act of violation, either by going in or coming out with a cargo laden after the commencement of the blockade. 56 Am J1st War § 175.

**violation of law.** To fail to observe the law whether by act of commission or omission. *State v Case*, 53 Mo 246, 250.

In its ordinary sense, the expression includes the violation of a positive law, whether the law is a civil or a criminal law. See *Bloom v Franklin Life Ins. Co.* 97 Ind 478.

As to what constitutes a "violation of law as to age," within the meaning of the phrase as it appears in an exclusion clause of an automobile insurance policy, see *Anno: 72 ALR 1079*.

**violation of privacy.** The actionable wrong of interfering with another person's seclusion by subjecting him to unwarranted and undesired publicity.

The usual form of violation has been the publication of another's name or picture for selfish purposes or for purposes of trade. 41 Am J1st Priv §§ 20 et seq.

**violation of sepulcher.** A crime, as well as a civil wrong, in disturbing the repose of the dead by an unauthorized exhumation and removal of remains or the desecration of a grave by an act affecting the grave or the body therein interred. 22 Am J2d Dead B § 18.

**violation of statute.** See **violation of law.**

**violence.** Physical force applied so as to injure or damage. *Alexander v State*, 40 Tex Crim 395, 411, 49 SW 229, 50 SW 716.

The snatching or jerking the property of another from his person, where such property is so attached to his person or clothing as to afford resistance, or all antecedent or contemporaneous struggle over the taking of the property will constitute that violence essential for robbery, but a mere filching of loose property from the pocket with no more force than is necessary to lift and remove the property from the pocket is not a taking by force or violence, and is a mere larceny. See *State v Parker*, 262 Mo 169, 170 SW 1121.

See **physical force; physical violence.**

**violent.** Acting with physical force.

See **violence.**

**violent death.** Death caused by an external agency; not occurring in the ordinary course of nature from disease or a wasting of the body.

**violent means.** An act not occurring in the ordinary course of events, involving the application of force, however slight. *Schonberg v New York Life Ins. Co.* 235 La 461, 104 So 2d 171.

See **accidental means.**

**violent presumption.** A presumption which is very strong and forcible, although not necessarily a conclusive or irrebuttable one.

It is an inference which the law unhesitatingly requires to be drawn from given facts; it is a conclusion quite self-evident from the premises. *Shealy & Finn v Edwards*, 75 Ala 411, 419.

**Viperina est expositio quae corrodit viscera textus.** It is a snake-like explanation which gnaws away the vitals of the text.

**vir.** A man; a husband.

**Vires acquirit eundo.** It gains strength by continuing.

When a word has been stretched beyond its ordinary legal meaning, it is difficult to know where to stop. *Mann v Executors of Mann (NY)* 1 Johnson Ch 231, 237.

**Vir et uxor consentur in lege una persona.** Husband and wife are considered in law as one person.

**virgata regia.** The verge of the king.

See **verge.**

**Virgin Islands of the United States.** A number of islands in the chain of islands separating the Caribbean Sea and the Atlantic Ocean, east of Puerto Rico, the three largest of which are St. Thomas, St. John, and St. Croix, acquired by the United States from Denmark in 1917.

**virginitate.** Virginité.

**viride observantia.** See in **viride observantia.**

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**virilia.** The testicles.

**virii magnae dignitatis.** Men of high rank.

**viripotens.** Capable of performing the sexual act; the reverse of impotent.

**virtual possession.** That kind of actual possession consisting of an occupancy in fact of a part of a tract claimed in the name of the whole, where there is sufficient evidence of the bounds of the whole that is claimed as one entirety, and the circumstances are such that the law extends the possession of the part that is occupied to these bounds.

It is so called to distinguish it from the actual possession consisting in an occupancy in fact of the whole of the tract claimed, which is called "substantial possession". *Wheeler v Clark*, 114 Tenn 117, 85 SW 258.

**virtual representation.** The principle whereunder members of a class are deemed represented in a suit by one of the class named as a party specifically, although they themselves are not named. 39 Am J1st Parties § 44. A doctrine frequently applied in the case of actions by or against voluntary unincorporated associations or clubs. 6 Am J2d Asso & C § 55.

**virtue.** Moral excellence. Chastity. Effect. Efficacy.

**virtuous.** Pure; chaste; undefiled.

**virtuous female.** A female who has not had sexual intercourse unlawfully, out of wedlock, knowingly and voluntarily. *State v Dacke*, 59 Wash 238, 109 P 1050.

**virtute cuius.** By virtue of which.

**virtute officii.** Characterizing acts of an officer which are within the authority of the officer when properly performed, but which are improperly performed. *Haffner v United States F. & G. Co.* 35 Idaho 517, 207 P 716.

**virtute officii sui.** By virtue of his office.

**vis.** Force.

**visa.** Noun: A stamp of approval, required by some countries, to be affixed to a passport by an authorized officer, usually a consular officer, of the country to be visited. A recognition of the validity of the passport and having otherwise such significance as the country which requires it may attach thereto. *United States v Phelps* (DC Vt) 14 F2d 679. Verb: To affix a visa to a passport.

**vis armata.** An armed force.

**viscera.** The internal organs of the body.

**visceribus.** The bowels and other internal organs.

**viscount.** A nobleman ranking next above a baron and next below a count.

The title appears to have been created by Henry the Sixth when in 1439 he made John Beaumont a peer, by the name of Viscount Beaumont. See 1 Bl Comm 398.

**vis divina.** Divine force, that is, an act of God; vis major.

**visé.** A term derived from the French for an indorsement upon a passport showing that it has been examined by an officer of the country wherein it is presented in obtaining admittance to the country.

**vis et metus.** Force and fear.

**vis fluminis.** The force of the current.

**visible.** Noticeable; apparent; open; conspicuous. Discoverable; in sight; obvious; manifest; clear; distinct; plain; patent; unmistakable. Perceptible by the eye, apparent or obvious. Anno: 14 ALR 1497.

**visible contusion.** Any injury to or morbid change in either the subcutaneous tissue or the skin, whether such results directly from external violence operating upon the exterior of the body or from internal injuries resulting from violence. 29A Am J Reved Ins §1173.

**visible dirt.** Mud, dust, trash, or filth which is open to view, as where it appears in milk. Anno: 122 ALR 1084.

**visible easement.** See open and visible easement.

**visible mark or injury.** A perceptible, discernible clear, distinct, and evident mark upon or injury to the body, whether manifest by its abnormal nature or upon observation or examination. 29A Am J Rev ed Ins § 1170.

**visible marks of force or violence.** Marks clearly evidencing the use of force or violence employed in gaining an entrance to premises. 29A Am J Rev ed Ins § 1336.

**visible means of support.** Something or someone in sight from which or from whom the obtaining of support is naturally to be presumed, as a farm upon which a person is living or a husband with whom a woman is living.

**visible possession.** See

**vis impressa.** The original force employed in the commission of a tort or injury done with force.

If the proximate cause of the injury is but a continuation of the original force, or vis impressa, the effect is immediate, and the appropriate remedy is trespass vi et armis. But if the original force, or vis impressa, had ceased to act before the injury commenced, the effect is mediate, and the appropriate remedy is trespass on the case. See Ricker v Freeman, 50 NH 420.

**vis inermis.** An unarmed force.

**vision.** Eyesight. Awareness of things to come, particularly of things to be desired in the interest of mankind.

See **sight.**

**visit and search.** The right of a belligerent growing out of the greater right of capture, being the right to visit and search a neutral vessel on the high seas for goods of the enemy and contraband of war which such vessel may be carrying. 56AmJ1stWar § 152. The right of an officer of the customs to hail, stop, and board a vessel and to search it and the cargo aboard in the course of enforcing the payment of customs duties. 21 Am J2d Cost & D § 113.

**visitation.** A form of personal inquiry whereby an administrative agency exercises investigatory or inquisitorial powers, particularly in reference to public institutions such as state hospitals, prisons, and reformatories. 1 Am J2d Admin L § 85. The act of examining into the affairs of a corporation. 19 Am J2d Corp § 1441. The right, referred to in earlier cases, of the founder of a charity or his heirs to a judicial investigation into alleged mismanagement of the trust property. 15 Am J2d Char § 113. The exercise of control by the founder or founders of

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a college or university over the management of the affairs of the institution. 15 Am J2d Colleges § 10. The right of a parent to visit his child who is in the custody of the guardian, An no: 6 A LR 1150, 1151. The right of divorced parent denied the custody of a minor child to visit such child at such times and places as the court may fix in its decree. 24 Am J2d Div & S § 801. The right provided by a decree annulling a marriage and granting the custody of a child to one of the parties, whereby the other is permitted to visit such child. 4 Am J2d Annul § 103. The right of friends or relatives of an insane person to visit him in the institution in which he is confined. 29 Am J Rev ed Ins Per § 37. The privilege accorded relatives of a person confined in a penal institution of visiting him there.

**visitation and search.** Same as **visit and search**.

**visitation books.** Books kept by attendants upon the military court, called heralds, in which they registered "such marriages and descents as were verified to them on oath" in their regular circuits of the kingdom.

These books were competent evidence in matters of pedigree. See 3 Bl Comm 105.

**visitatione Dei.** Divine visitation; divine dispensation.

**visitor.** One who comes upon premises to see the owner or occupant, whether for social, business, or professional reasons. Narrowly defined a person who comes only for health or pleasure: and who engages in no business while visiting, and remains only for a reasonable time. Ex parte Archy, 9 Cal 147, 168. One exercising functions applicable to a right of visitation.

See **business visitor**; **guest**; **visitation**.

**visitorial power.** A power existing by virtue of a right of visitation.

See **visitation**.

**vis laica.** A lay force, a force composed of laymen.

**Vis legibus est inimica.** Force or violence is the enemy of law.

**vis major.** A higher force; an irresistible force. An event which cannot be definitely foreseen or controlled. Krause v Board of School Trustees, 162 Ind 278, 284, 70 NE 264.

The Latin expression "vis major," or "force majeure," is not exactly the equivalent of an act of God. The test of "vis major" is whether under the particular circumstances there was such an insuperable interference without the party's intervention as could not have been prevented by the exercise of prudence, diligence, and care; and, unlike an act of God, it may consist, for instance, of governmental intervention resulting from the necessities of war. 1 Am J2d Act of God § 4.

**visne.** Same as vicinage.

**visnetum.** Same as vicinage.

**visoires.** The equivalent of viewers.

**vis proxima.** Same as **vis impressa.**

**visual flight rules.** Air traffic rules and regulations applicable to flights at a time when visibility is not impaired by weather conditions or other circumstances. 14 CFR §§ 60.1 et seq.

**visus.** A view.

**visu scriptionis.** The observing of the act of writing.

**visus firanci plegii.** View of frank-pledge.

See **view of frank-pledge.**

**vita.** Life.

See **in vita.**

**Vita et membra sunt in potestate legis.** Life and limbs are in the power of the law.

**vitalized.** Endowed with life.

Any human embryo which is not dead is vitalized. It is no less endowed with life before reaching the stage of development known as quickening than after. See *State v Patterson*, 105 Kan 9, 181 P 609.

**vital statistics.** Those statistics which have been compiled under public authority relative primarily to the subject of health, but commonly including therein the registrations of births, deaths, marriages, and the like. 25 Am J1st Hlth § 47.

**Vital Statistics Act.** One of the Uniform Laws. 30 Am J2d Ev §§ 1007, 1009.

**vitamin.** Air organic substance found in most foods, but in varying amounts, essential to a proper functioning of the human body. A drug where administered or used as a medicine; otherwise a food product. Anno: 98 ALR2d 1088, § 5[b].

**vi termini.** See **ex vi termini.**

**vitiate.** To weaken, particularly in reference to moral stamina. To invalidate.

**viticulture.** Cultivation of the vine, particularly the grape vine.

**vitious intromission.** A term of the Scottish law for meddling with the assets left by a decedent. 31 Am 12d Ex & Ad § 661.

**vitium.** Vice; error; mistake.

**vitium clerici.** The error or mistake of a clerk; a clerical error.

**Vitium clerici nocere non debet.** A clerical error ought not to prejudice.

**Vitium est quod fugi debet, ne, si rationem non invenias, mox legem sine ratione esse clames.** It is a mistake which ought to be avoided, that if you cannot discover the reason, you presently exclaim that the law is without reason.

**vitium scriptoris.** The error or mistake of a copyist or scribe.

**vitreous.** Having the nature of or resembling glass.

**viva aqua.** Living water; flowing water.

**viva pecunia.** An ancient expression for living things, such as cattle, which are accepted as the equivalent of money.

**vivarium.** A place for raising wild animals under conditions fairly close to those of their natural environment.

**viva voce.** The living voice. Word of mouth. Characterizing the testimony of a witness given in person, rather than by deposition or transcript of testimony given in former trial.

See **voting viva voce.**

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**vivos.** The living. See **inter vivos.**

**vivo vadium.** Same as **vivum vadium.**

**vivum vadium.** Living pledge. An estate which arises where a person borrows a specific sum and grants property to the lender to hold until the rents and profits shall repay the sum so borrowed, whereupon the property reverts to the borrower. Spect v Spect, 88 Cal 437, 26 P 203.

**vix.** Scarcely; hardly; with difficulty.

**Vix ulla lex fieri potest quae omnibus commoda sit, sed si majori parti prospiciat, utilis est.** Scarcely any law can be made which is convenient to everyone, but if it provides for the majority, it is of advantage.

**vixen.** A common scold. 15 Am J2d Com S § 2.

**viz.** An abbreviation of videlicet, meaning namely; that is to say.

**vocabula artis.** Words of art; technical terms.

**Vocabula artium explicanda sunt secundum definitiones prudentium.** Technical terms should be explained according to the definitions of experienced persons.

**vocans.** A voucher; a person who vouches for someone else.

**vocare.** To call; to summon.

**vocat.** Called; summoned.

**vocation.** A trade, profession, occupation, or calling, whether lawful or unlawful. Anno: 43 ALR 800; 50 ALR 1176.

**vocational rehabilitation.** Training to restore physical ability and earning power, as well as the capacity to enjoy life, of persons who have been disabled by injury or sickness. A primary project for the benefit of disabled members and veterans of the Armed Forces. 56 Am J1st Vet & V A § 15.

**vocatus.** One who has been called or summoned; a person who has been vouched for; a vouchee.

**vociferatio.** Hue and cry.  
See **hue and cry.**

**vociferous.** Clamorous; noisy; as, vociferous heralds. With great noise in calling, shouting, etc. *Anderson v State* (Tex Crim) 20 SW 358, 359.

**vociferous demand.** A demand asserted in loud and boisterous language, sometimes constituting a breach of the peace, especially where tainted by profanity. 12 Am J2d Breach P § 35.

**void.** Noun: An empty space. Adjective: Constituting a nullity. Binding on neither party and not subject to ratification. Anno: 31 ALR 1002. Sometimes construed as "voidable." *Hall v Baylous*, 109 W Va 1, 153 SE 293, 69 ALR 527.

The words "to be void and of no effect" are often used in statutes and legal documents, such as deeds, leases, bonds, mortgages and others, in the sense of voidable, merely, that is, capable of being avoided, and not as meaning that the act or transaction is absolutely a nullity as if it never had existed, incapable of giving rise to any rights or obligations under any circumstances. Thus we speak of conveyances, void as to creditors, meaning that creditors may avoid them, but not others. Leases which contain a forfeiture of the lessee's estate for non-payment of rent, or breach of other condition, declare that on the happening of the contingency the demise shall thereupon become null and void, meaning that the forfeiture may be enforced by re-entry, at the option of the lessor. A deed obtained by fraud is sometimes said to be void, meaning that the party defrauded may elect to treat it as void. *Ewell v Dags*, 108 US 143, 149, 27 L Ed 682, 684, 2 S Ct 408.

A statutory provision that, in the absence of compliance therewith, a sale in bulk shall be "void" as against creditors of the seller, means that the sale shall be voidable. *Evans v Herbranson*, 241 Iowa 268, 41 NW2d 113, 15 ALR2d 925.

**voidable.** Defective but capable of confirmation or ratification. 50 Am J1st Stat § 287. Obligatory as to other persons until disaffirmed by the person entitled to confirm or disaffirm. Anno: 31 ALR 1002.

**voidable assignment.** An assignment by a debtor which is fraudulent as to creditors hindered or delayed thereby in reference to realization upon their claims. 6 Am J2d Assign for Crs § 63.

See **voidable preference.**

**voidable contract.** A contract which, although defective so as to be avoided by one of the parties, is valid and binding until it is avoided by a disaffirmance. *Williston, Contracts* 3d ed § 15; *Restatement, Contracts* § 113; 17 Am J2d Contr § 7.

The view of some authorities that an executory contract of an infant is invalid until confirmed has been adversely criticized, and in some jurisdictions there are statutes to the effect that both executed and executory agreements of an infant are valid until disaffirmed. 27 Am J1st Inf § 12.

**voidable deed.** An instrument which, although defective, is operative to convey the property until set aside by the court. 23 Am J2d Deeds § 137.

**voidable judgment.** A judgment which is apparently valid, but in truth wanting in some material respect; in other words, a judgment which is erroneous. *Southern Surety Co. v Texas Oil Clearing House* (Tex Com App) 281 SW 1045, 1046. A

judgment which, because of defect, is subject to being reversed, vacated, or superseded but which is binding everywhere until a successful attack has been made upon it. 30A Am J Rev ed Judgm § 44.

**voidable lien.** A lien which is subject to disaffirmance by the lienee. A lien given by a bankrupt which may be avoided at the instance of his trustee in bankruptcy.

See **fraudulent transfer; voidable preference.**

**voidable marriage.** A marriage which, although prohibited by law, or subject to annulment, under the circumstances, may be made legal and binding upon both parties through subsequent ratification by the parties. 35 Am J1st Mar §§ 46, 85 et seq.

**voidable preference.** A preferential transfer made by an insolvent within such period of time prior to insolvency proceedings as to render the transfer voidable under insolvency laws. 29 Am J Rev ed Insolv § 82. A transfer of property by one since adjudicated a bankrupt which is subject to avoidance so as to permit the trustee in bankruptcy to recover for the estate the assets thus transferred. 9 Am J2d Bankr §§ 1056 et seq.

For statement of elements of a voidable prefer-

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ence under the Bankruptcy Act, see 9 Am J2d Bankr § 1057.

**voidable process.** Process which is defective but amendable so as to be rendered fully effective by correction of the defects therein. 42 Am J1st Proc § 20.

**voidable release.** A release which is binding until set aside for cause such as infancy, mental incompetency, or fraudulent representation. 45 Am J1st Rel § 17.

**void agreement.** See **void contract.**

**voidance.** A vacancy. Ejection from a benefice.

**void as to creditors.** Voidable as to creditors. 37 Am J2d Frd Conv § 106.

**void contract.** An absolute nullity from the contractual aspect. The equivalent of no contract at all. Williston, Contracts 3d ed § 15; 17 Am J2d Contr § 7. A contract which cannot be validated by ratification or other act or omission. 17 Am J2d Contr § 7.

**void deed.** A deed which is invalid in law for any purpose whatsoever. 23 Am J2d Deeds § 137.

**void divorce.** A divorce absolutely ineffective in severing the marital relation.

See **void judgment.**

**void grant.** A patent or other grant of public lands which is absolutely inoperative for want of title in the government or want of authority to convey. 42 Am J1st Pub L § 38.

**voiding.** Declaring void that which is voidable. Emptying.

**void judgment.** A judgment which in legal effect is no judgment; a judgment under which no rights are acquired or divested; a judgment which neither binds nor bars anyone. *Stafford v Gallope*, 123 NC 19, 21, 31 SE 265. A judgment which because of want of jurisdiction is entitled to no respect whatever but may be entirely disregarded or declared inoperative by any court in which effect is sought to be given to it. 30A Am J Rev ed Judgm § 45. A judgment which is an absolute nullity, so that its

invalidity may be asserted upon either direct or collateral attack by any person whose rights are affected, at any time and at any place. *Southern Surety Co. v Texas Oil Clearing House* (Tex Com App) 281 SW 1045, 1046.

**void marriage.** A marriage absolutely prohibited by law and not subject to ratification. A marriage which is expressly declared a nullity ab initio by statute. 35 Am J1st Mar § 46.

**void process.** Process which is defective to the extent of being a nullity and not amendable, either because in violation of statute which prohibits it or because it is not in substantial compliance with statutory requirements. 42 Am J1st Proc § 20. Such process as the court has no power to award, or has not acquired jurisdiction to issue in the particular case, or which does not in some material respect comply in form with the legal requisites of such process, or which loses its vitality in consequence of noncompliance with a condition subsequent, obedience to which is rendered essential. *Fischer v Langbein*, 103 NY 84, 90, 8 NE 251.

**void release.** A release which is forged, prohibited by express statute, contrary to public policy, or given by one without power to grant a release. 45 Am J1st Rel § 17.

**void tax.** A tax imposed without basis in law, as where the statute under which it is levied is unconstitutional or so indefinite, uncertain, or inconsistent as to be entirely inoperative. 51 Am J1st Tax § 303. A tax which never had any effect, which never created any lien or raised any obligation to pay.

A void tax is no tax. It is as if there never had been any attempt at assessment. The owner of property is under no duty, either at law or in equity, to pay it. There is no equitable reason for requiring the owner to pay such a tax before a cloud upon his title made by a tax sale shall be removed. *Morrill v Lovett*, 95 Me 165, 49 A 666.

**voir dire.** To speak the truth. An oath administered to one called as a witness or juror preliminary to an examination of him in reference to his qualifications or disqualifications as witness or juror. 31 Am J Rev ed Jury § 136.

**voir dire examination.** The examination of a prospective juror by a litigant, usually through the latter's counsel, for the purpose of determining whether such prospective juror is qualified to act as a juror and for the further purpose of aiding the litigant in the exercise of his peremptory challenges. 31 Am J Rev ed Jury § 136. The preliminary examination of one called as a witness to determine competency. 58 Am J1st Witn § 211.

**voiture.** (French.) Carriage; coach; vehicle.

**voiturier.** (French.) Carrier. One engaged in transportation.

**volatile estates.** Movables of a solid character, such as tables and other heavy furniture. See 2 Bl Comm 428.

**volens.** Willing, but not necessarily wishing.

It is said in the *Kambour Case*, 77 NH at page 47, that "volens means wishing, not willing; and it by no means follows from the fact that a person is willing to chance being injured, that he wishes, or even is willing to be injured." Whether volens means wishing rather than willing may be questioned, but if one may be willing to chance being injured, he at least is willing to be injured rather than not take the chance of it, for otherwise his action would not be taken. *Smith v Twin State Gas & Electric Co.* 83 NH 439, 61 ALR 1015, 144 A 57.

**volenti non fit injuria.** One is not legally injured if he has consented to the act complained of or was willing that it should occur. Anno: 17 ALR2d 348, § 3. The maxim upon which the principal of assumption of risk is based. 35 Am J1st M & S § 293.

The maxim is frequently applied to a plaintiff who is complaining of a nuisance to which he voluntarily exposed himself. 39 Am J1st Nuis § 196. If a vendee blindly trusts where he should not and closes his eyes where ordinary prudence requires him to see, he is willing to be deceived, and the maxim applies. 55 Am J1st V & P § 67.

**volition.** Choice or determination by one's own will.

See **rational volition.**

**volitional insanity.** Irresistible impulse. 26 Am J1st Homi §§ 78, 80.

**volo.** I will; I wish.

**Volstead Act.** The federal statute which established national prohibition of the liquor traffic under the Eighteenth Amendment to the

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United States Constitution. 41 Stat at Large 305 Ch 83; Anno: 10 ALR 1553.

**volt.** The unit of force of an electric current; the force which causes a current of I ampere to flow through a conductor whose resistance is I ohm. Peoria Water Works Co. v Peoria R. Co. (CC 111) 181 F 990.

**voltage.** The force of electricity expressed in a given number of volts. Harrison v Kansas City Electric Light Co. 198 Mo 606, 93 SW 951.

See **volt.**

**Voluit sed non dixit.** He willed but he did not say.

**volume.** A book, especially one of a set of books, as Volume 14 of American Jurisprudence, 2d. Quantity in bulk or mass. Amount of space in cubic contents.

**volumus.** We will; we wish.

**voluntarily.** Freely. Of one's own accord.

When used in its ordinary sense, the word means "willingly," or "without compulsion," but it sometimes means more than this; and whenever in order to make a statute effective it is necessary to construe the word "voluntarily" as implying knowledge, it is the duty of the court to so construe it. Sweeney v Sweeney, 96 Vt 196, 118 A 882, 26 ALR 1066, 1067.

**voluntarius daemon.** A person who is voluntarily demented, a person who has become voluntarily intoxicated.

**voluntary.** Intended. Not by compulsion or by accident. Anno: 2 ALR 62.

**voluntary abandonment.** See voluntary separation.

**voluntary admission.** See voluntary statement.

**voluntary affidavit.** An affidavit made on an occasion where the law does not require a sworn statement. See 4 Bl Comm 137.

**voluntary appearance.** An appearance in an action by a defendant in person or through his attorney, the effect of which is a waiver of the service of summons or other formal notice. *Harrison v Morton*, 87 Md 671, 674, 40 A 897.

**voluntary assignment.** A transfer, without compulsion of law, by a debtor, of his property to an assignee, in trust, to apply the same, or the proceeds thereof, to the payment of his debts, and to return the surplus, if any, to the debtor. *Farwell v Nilsson*, 133 111 45, 49, 24 NE 74.

**voluntary assignment for creditors.** See **voluntary assignment**.

**voluntary association.** An unincorporated society or body of individuals, formed for social, political, moral, religious, benevolent, protective, or mutual purposes, or to promote some public, scientific or educational object, or to facilitate business, and not for purposes of trade or direct pecuniary profit. 40 Am J1st Partn § 7. An association in which one may seek, or be accepted into, membership as a matter of choice.

If membership is required by law, such as in the case of some public officers or employees, or if membership in a professional society is necessary, in a substantial sense, for the practice of one's profession, such an organization is not voluntary. 6 Am J2d Asso & C § 1.

**voluntary assumption of risk.** See **assumption of risk**.

**voluntary bankruptcy.** Bankruptcy instituted by an adjudication upon the petition of a debtor seeking such an adjudication. 9 Am J2d Bankr § 175.

**voluntary bond.** A bond executed by a public officer where no constitutional or statutory provision requires a bond of him. 43 Am J1st Pub Of § 411.

**voluntary cohabitation.** As a defense to an action for annulment of a marriage, cohabitation with knowledge of all essential facts relied upon as the ground for annulment. *Sampson v Sampson*, 332 Mich 214, 50 NW2d 764.

**voluntary confession.** See **confession**.

**voluntary conveyance.** See **voluntary deed**.

**voluntary deed.** A deed executed and given without consideration. As to creditors, a conveyance made without any consideration or for an unsubstantial consideration. 37 Am J2d Frd Conv § 23.

A voluntary grant, within the meaning of a statute declaring that realty received by a railroad by voluntary grant shall be held and used for the purpose of such grant only, means a conveyance without valuable consideration. *Brown v Weare*, 348 Mo 135, 152 SW2d 649, 136 ALR 286.

**voluntary deposit.** (Civil law.) A deposit effected by the mere consent of the parties.

**voluntary discontinuance.** The dismissal of an action or the taking of a nonsuit by the plaintiff. 24 Am J2d Dism § 2.

**voluntary dissolution.** The dissolution of a corporation upon a vote of the stockholders, subject to statutory conditions respecting the percentage of the stock voted in favor of dissolution, or at the instance of the directors with the consent of a certain proportion of the stockholders. 19 Am J2d Corp §§ 1596 et seq.

See **voluntary liquidation**.

**voluntary domicil.** A domicil which a person acquires voluntarily, as distinguished from a domicil by operation of law, as in the case of a married woman or infant.

**voluntary escape.** An escape of a prisoner occurring where an officer having the prisoner lawfully in his custody voluntarily permits him to escape or go at large. 27 Am J2d Escape § 22.

**voluntary expatriation.** See **expatriation.**

**voluntary exposure to danger.** Intentionally doing some act which reasonable and ordinary prudence would pronounce dangerous.

The approach to an unknown and unexpected danger does not make the act a voluntary exposure thereto. The result of the act does not necessarily determine the motive which prompted the action. The act may be voluntary, yet the exposure may be involuntary. The danger being unknown, the injury is accidental. *Equitable Acci. Ins. Co. v Osborn*, 90 Ala 201, 9 So 869.

**voluntary grant.** See **voluntary deed.**

**voluntary ignorance.** The failure to make a reasonable use of a means readily available for obtaining information. 37 Am J2d Fraud § 248.

**voluntary license.** Same as **simple license.**

**voluntary liquidation.** The closing of a solvent bank and the liquidation of the business pursuant to the vote of the stockholders holding a certain percentage (usually 2/3) of the shares of the bank. 10 Am J2d Banks §828.

See **voluntary dissolution.**

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**voluntary manslaughter.** A homicide, in which the act of killing, although intentional, is committed under the influence of passion or in heat of blood, produced by an adequate or reasonable provocation and before a reasonable time has elapsed for the blood to cool and reason to resume its habitual control, such act not being the result of wickedness of heart, cruelty, or recklessness of disposition. 26 Am J1st Homi § 19.

**voluntary nonsuit.** A judgment given against the plaintiff when he fails to appear as required of him, or where he refuses or neglects to proceed to the trial of a case after it has been put in issue. 24 Am J2d Dism § 3. A nonsuit which is entered against a plaintiff when he throws up his case and consents to a judgment in favor of the defendant for costs.

The plaintiff has the right to do this at any time before the jury retires, or if there is no jury, at any time before the decision is announced. See *Sandoval v Rosser*, 86 Tex 682, 686, 26 SW 933.

**voluntary oath.** See **voluntary affidavit.**

**voluntary overexertion.** Conscious and intentional overexertion or a reckless disregard of consequences likely to ensue from great physical effort. *Rustin v Standard Life & Acci. Ins. Co.* 58 Neb 792, 79 NW 712.

**voluntary partition.** A partition of real estate made by the owners of undivided interests by mutual consent, effected by mutual conveyances or releases to each person of the share which he is to hold, executed by the other owner or owners. 40 Am J1st Partit § 16.

**voluntary payment.** A payment of an illegal demand, with a full knowledge of all the facts which render the demand illegal, without an immediate and urgent necessity therefor, unless it is to release his person or property from detention or to prevent an immediate seizure of his person or property.

A payment is not to be regarded as compulsory unless made to emancipate the person or property from an actual and existing duress, imposed by the parties to whom the money is paid, and if a payment is otherwise voluntary, the fact that a person making a payment files a written protest at the time does not change its character. 40 Am J1st Paym § 159.

In determining whether a payment of taxes was voluntary or involuntary the real question is whether there was such an immediate and urgent necessity for the payment as to imply that it was made under compulsion. Without such an immediate and urgent necessity, such a payment will be deemed voluntary. *United States v New York & C. Mail S. S. Co.* 200 US 488, 50 L Ed 569, 26 S Ct 327.

A payment of taxes may be voluntary, although made unwillingly. Anno: 64 ALR 11, s. 84 ALR 294.

It is well established in the absence of statute that the right of a party who has paid a tax, local assessment, or license fee, to recover the same back, depends upon whether or not the payment was voluntary. If the payment was voluntary it cannot be recovered back; if it may be deemed involuntary a recovery may be had. A payment is voluntary in the sense that no action lies to recover back the amount, not only where it is made willingly and without objection, but in all cases where there is no compulsion or duress, or any necessity of making the payment as a means of saving the property from legal restraint or the grasp of legal process. Anno: 84 ALR 294.

Where a taxpayer pays taxes before their payment can be enforced by distraint or the imposition of other penalties, such premature payment has been held to be a voluntary payment and therefore not recoverable, even though the taxes were invalid. *Canard S.S. Co. v Elting* (CA2 NY) 97 F2d 373.

See **volunteer**.

**voluntary payment of taxes.** See **voluntary payment**.

**voluntary peonage.** An antithetical expression.

Peonage is sometimes classed as voluntary or involuntary, but this implies simply a difference in the mode of origin, none in the character of the servitude. The one exists where the debtor voluntarily contracts to enter the service of his creditor. The other is forced upon the debtor by some provision of law. But peonage, however created, is compulsory service, involuntary servitude. The peon can release himself therefrom, it is true, by the payment of the debt, but otherwise the service is enforced. A clear distinction exists between peonage and the voluntary performance of labor or rendering of services in payment of a debt. In the latter case the debtor, though contracting to pay his indebtedness by labor or service, and subject like any other contractor to an action for damages for a breach of that contract, can elect at any time to break it, and no law or force compels performance or a continuance of the service. *Ex parte Hollman*, 79 SC 9, 60 SE 19.

**voluntary petition.** A petition in bankruptcy wherein petitioner asks that he be adjudicated a bankrupt. 9 Am J2d Bankr § 207.

**voluntary reorganization.** The reorganization of a corporation by the voluntary action of the stockholders and creditors, or, where statute permits, by the creditors and a prescribed percentage of the stockholders. 19 Am J2d Corp §§ 1518 et seq.

**voluntary sacrifice.** An element of liability to contribution in general average.

To satisfy the requirement of a voluntary sacrifice, that there may be a general average contribution toward a marine loss, it is not enough that there be a deliberate intent to do an act that may or may not lead to a loss; there must be a purpose to sacrifice the thing at all events, or at least to put it in a situation in which the danger of eventual destruction is increased. 48 Am J1st Ship § 627.

**voluntary self-destruction.** The taking of one's own life purposely and intentionally. *Courtemanche v Independent Order of Foresters*, 136 Mich 30, 98 NW 749.

**voluntary separation.** A common ground of divorce provided by statute, the condition being a separation that is voluntary, on the part of at least one of the parties, not forced as would be the case if the husband was inducted into the Armed Forces or confined in prison. 24 Am J2d Div & S § 151.

**voluntary settlement.** A dissolution and winding up of the affairs of a partnership, effected by the partners without court action.

See **compromise; settlement; voluntary payment.**

**voluntary statement.** A statement by the accused in a criminal prosecution, proceeding from the spontaneous suggestion of his own mind, free from the influence of any extraneous disturbing cause.

A reason why admissions by defendants are only

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admissible when voluntary is that they should be received with great caution. because they may not be true, for the mind of an accused, when oppressed by the calamity of his situation, is often influenced, by hope or fear, to make an untrue statement, when, as a matter of fact, the truth would be better. Tuttle v People, 33 Colo 243, 79 P 1035.

See **confession.**

**voluntary stranding.** The stranding of his ship by the master to save the ship and her cargo from the greater expense which her sinking then imminent would cause. Fowler v Rathbone (US) 12 Wall 102, 20 L Ed 281, 285.

**voluntary transfer.** See **voluntary assignment; voluntary deed.**

**voluntary trust.** An obligation arising out of a personal confidence reposed in, and voluntarily accepted by, one for the benefit of another. Bath Sav. Institution v Hathorn, 88 Me 122, 33 A 836.

**voluntary validity.** The effect of a tacit or implied consent of the parties to continue in force a compact which one of them has breached.

**voluntary waste.** Waste committed by acts of commission such as destroying, altering, or removing buildings, or cutting down trees, as distinguished from the mere failure to exercise care to preserve and protect the estate. 56 Am J1st Waste § 4.

**voluntary withdrawal.** A termination of employment at the instance of the employee. Quitting the service of the employer. 35 Am J1st M & S § 26.

**voluntas.** Will; intent; intention; a will; a testament.

**Voluntas donatoris in charta doni sui manifeste expressa observetur.** The will or intention of the donor which is clearly expressed in his deed of gift should be observed.

**Voluntas et proposition distinguunt maleficia.** The intent and the purpose distinguish offenses.

**Voluntas facit quod in testamento scriptum valeat.** (Civil law.) The intention is that which makes valid the writing in a will.

**Voluntas in delictis non exitus spectatur.** In crimes, the intent, and not the result, is regarded.

**Voluntas pro facto.** The will for the deed.

**Voluntas pro facto reputatur.** The will is regarded as the deed. Commonwealth v Barlow, 4 Mass 439.

**Voluntas regis in curia, non in camera.** The will of the king in court, not in his chamber.

**Voluntas reputabitur pro facto.** The intent is to be regarded as the act.

"In some Year Books of the fourteenth century we find our lawyers appealing to . . . a dangerous maxim." See 2 Pollocks & Maitland's History of English Law p 475, note.

**Voluntas reputatur pro facto.** The will is regarded as the deed. See Broom's Legal Maxims 311.

**Voluntas testatoris ambulatoria est usque ad mortem.** The will of the testator is changeable up to the moment of his death.

**Voluntas testatoris habet interpretationem latam et benignam.** The intention of the testator should have a broad and liberal interpretation.

**Voluntas testatoris pro lege habetur.** The will of the testator is regarded as the law. The intention of the testator is the law of the case. Panaud v Jones, 1 Cal 488, 511.

**Voluntas ultima testatoris est perimplenda secundum veram intentionem suam.** The last will of a testator should be carried out according to his true intention.

**voluntate.** See **ex voluntate.**

**volunteer.** One who enlists in one of the Armed Forces of his own volition, not under the compulsion of a military draft. One who works for another without engagement of services. One, who, without duty, moral or otherwise, pays the debt or discharges the obligation of another. 50 Am J1st Subro § 21. One who pays a debt, although not a party to, or interested in, the contract or transaction in which the debt arose. 40Am J1st Paym § 22.

One who pays the debt of another to protect an interest of his own is not a volunteer and is therefore entitled to subrogation. McMillan v O'Brien, 219 Cal 775, 29 P2d 183, 91 ALR 383.

See **voluntary payment.**

**vote.** Verb: To express one's choice for a candidate or for or against a proposition submitted at an election. Anno: 14 ALR 1262. The choice expressed by a voter at an election, whether in reference to candidates or a proposition submitted to the voters. The exercise of the right of suffrage. Anno: 14 ALR 1262. The entire number of votes cast at an election.

See **preferential voting; proportional representation; suffrage.**

**vote of the people.** A plurality or majority vote, as the case may be, of the qualified electors.

In statutes providing for the issuance of bonds when authorized by "a vote of the people," the words "authorized by the vote" can but mean by a majority, as there are but two answers to be made to the question submitted,-an affirmative and a negative one; and, to be authorized, the matter of the proposition must receive the greater number or majority of the votes. It could not be a plurality, as might be when there are more than two candidates for office, and the one receiving the highest number of votes is elected, but may not have received a majority of the votes. The word "people," as used here, must mean "electors" or "voters. Bryan v Stephenson, 50 Neb 620, 70 NW 252.

**voter.** One who expresses his choice of candidates or measures offered or proposed at an election by marking a ballot or indicating his choice by appropriate act upon a voting machine. One possessing the legal qualifications of an elector, so as to be entitled to vote. Re Denny, 150 Ind 104, 59 NE 359.

See **elector**.

**votes cast at election.** The number of voters voting. *Gottstein v Lister*, 88 Wash 462. 153 P 595.

In the absence of a certification of the number of electors voting, the court must presume that the

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highest number of votes cast for candidates for any one office represents the number of electors voting. *State ex rel. Howie v Brantley*, 113 Miss 786, 74 So 662.

In ascertaining whether a school bond issue has been approved by the requisite two-thirds of the qualified voters voting thereon, void ballots are not to be considered as voting thereon, even though in tabulating the result of the election the canvassing board has included them in its total of ballots cast. Anno: 4 ALR2d 612.

As to whether the majority vote required for the adoption of a proposition or measure submitted at a general election is to be determined on the basis of the entire vote cast upon such proposition or measure or the total number of votes cast at the election, see 26 Am J2d Elect § 311. voting. See **vote**.

**voting agreement.** An agreement between the stockholders of a corporation, sometimes called a pooling agreement, intended to combine votes with a view to concerted action for a common object, and which control the votes of one or more of the parties by limiting their voting rights or conferring them upon others. 19 Am J2d Corp § 680.

See **voting trust**.

**voting booth.** The place provided in an election precinct or district for holding the election. A booth which can be transported on the street as need arises for its use in a particular ward, district, or precinct. The space provided at the polls for the purpose of enabling the voter to cast his vote in secrecy.

**voting by ballot.** The method of implementing constitutional and statutory requirements for secrecy in voting.

In common speech, the word "ballot" is used to mean the ticket used in voting; the act of voting; the result of voting. But from earliest times "voting by ballot" has been a term used to contradistinguish open, viva voce, or public voting, and secret voting. "The material guaranty of the provision of the (state) constitution, that all elections by the people shall be by ballot, is inviolable secrecy as to the person for whom an elector shall vote." *People ex rel. Detroit v Board of Inspectors of Election*, 139 Mich 549, 102 NW 1029.

**Voting by New Residents in Presidential Election Act.** One of the uniform laws. 25 Am J2d Elect § 69.

**voting contest.** A contest conducted by a mercantile establishment for the purpose of increasing sales, ballots being given with purchases, the same to be used in voting for someone, usually a girl, as the most popular person. *National Sales Co. v Manciet*, 83 Or 34, 162 P 1055.

**voting district.** See **election district**.

**voting hours.** The period of time on election day during which qualified voters may vote, such being determined by statute.

**voting illegally.** See **illegal voting**.

**voting machine.** A machine used by voters in expressing their choice of candidates or their preference for or against propositions or measures submitted at an election, the same keeping the totals of the votes cast for the various candidates and measures, so that, at the closing of the polls, the results may be obtained by the election inspectors upon opening the machine. 26 Am J2d Elect § 232.

**voting precinct.** Same as **election district**.

**Voting Rights Act.** A federal statute enacted in 1965, prohibiting any state or political subdivision from imposing or applying any voting qualification or prerequisite to voting, or any standard, practice, or procedure, denying the right of any citizen of the United States to vote on account of race or color, such prohibition applying to all types of elections, federal, state, and local. 42 USC § 1973.

**voting thereon.** See **votes cast at election**.

**voting trust.** Simply stated, a device whereby persons owning stock with voting powers divorce the voting rights thereof from the ownership, retaining the latter to all intents and purposes and transferring the former to trustees in whom the voting rights of all depositors in the trust are pooled. *Smith v Biggs Boiler Works Co.* 33 Del Ch 183, 91 A2d 193, 34 ALR2d 1125.

A trust created by an agreement between a group of the stockholders of a corporation and the trustee or by a group of identical agreements between individual stockholders and a common trustee, whereby it is provided that for a term of years, or for a period contingent upon a certain event, or until the agreement is terminated, control over the stock owned by such stockholders, either for certain purposes or for all purposes, is to be lodged in the trustee, either with or without a reservation to the owners, or persons designated by them, of the power to direct how such control shall be used. Annotation: 98 ALR2d 379, § 1[d]; 19 Am J2d Corp § 685.

The term generally contemplates the transfer of corporate stock to trustees, the issuance of new stock certificates to trustees, and the issuance by them of trust certificates to the beneficial owners of the stock, with the right to vote in the trustees and the right to receive dividends in the trust certificate holders. Anno: 105 ALR 124.

**voting viva voce.** Voting publicly; voting without secrecy in respect of the exercise of choice. 26 Am J2d Elect § 234.

**vouch.** To give assurance as to the honesty and ability of another. To affirm the truth of a statement. To give one's testimony.

The word "witness" in its strict legal sense, means one that gives evidence in a cause before a court; and the phrase "vouched by witnesses," seems to import the same as "testified by witnesses" called into court, and in this sense, a note subscribed by two persons as and for witnesses, cannot be said to be vouched by two witnesses, until those persons are vouched, or called and do testify before the court respecting it. See *Barker v Coit* (Conn) 1 Root 224, 225.

See **vouching in**.

**vouched by witnesses.** See **vouch**.

**vouchee.** A person who is called or summoned-, a person who is called upon to defend the title to land under a warranty of title. One for whom another vouches.

**voucher.** A receipt or other evidence of payment. An account book in which charges and acquittances are entered. *Whitwell v Willard*, 42 Mass 216, 218. A cancelled check. 40 Am J1st Paym § 288. A written instrument which attests, warrants, maintains, and bears witness. *State v Hickman*, 8 NJL 299, 301. Most literally, one who vouches.

When used in connection with the disbursement of moneys, the word implies some written or

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printed instrument in the nature of a receipt, note, account, bill of particulars, or something of that character which shows on what account or by what authority a particular payment has been made, and which may be kept or filed away by the party receiving it, for his own convenience or protection, or that of the public. *People v Swigert*, 107 111 494, 504.

See **vouch**.

**vouching in.** The practice whereby persons liable over to a defendant are brought into the action as parties of record having opportunity to defend. 30A Am J Rev ed Judgm § 417. Requesting one bound by a covenant of warranty to defend the title.

**vox Dei.** The voice of God.

**Vox ernissa volat; litera scripta manet.** Speech flies away; written letters endure. See Broom's Legal Maxims 666.

**vox et preterea nihil.** Voice and nothing more; that is, nothing but wind. See Mitchell v Hazen, 4 Conn 495.

**Vox populi vox Dei.** The voice of the people is the voice of God.

**voyage.** A long journey, particularly by ship or aircraft. The sailing of a vessel from one port or place to another port or place.

The purpose for which the voyage is to be conducted, whether for trading, freighting, or fishing, is often mentioned in marine policies, but this mention or designation cannot vary or extend the voyage as described in the policy, unless some usage connected with the particular business is shown. Burgess v Equitable Marine Ins. Co. 126 Mass 70.

**voyage policy.** A policy of marine insurance which establishes the duration of the risk by specifying the voyage, setting out the termini or places of beginning and termination, as from one port to another. 29A Am J Rev ed Ins § 324.

**voyeur.** (French.) A pervert, the perversion being in obtaining sexual gratification in looking at an exposed body or sexual scene.

**vs.** An abbreviation of **versus**.

**vulcanization.** The process whereby crude rubber is converted to a form fit for use in the manufacture of tires and other products of industry, one type of such process being known to the trade as "cold vulcanization." Vultex Corp. v Heveatex Corp. (CAI Mass) 100 F2d 838.

**vulgar.** Unrefined. Wanting in culture. Lack of taste in language, particularly in using coarse and indecent terms.

**vulgaris opinio.** Common opinion or repute.

**vulgaris purgatio.** Common purgation, -the *judicium Dei*, that is, the trial by water-ordeal or fire-ordeal was often called *vulgaris purgatio* to distinguish it from the canonical purgation, which was by the oath of the accused. See 4 Bl Comm 342.

See **judicium Dei**.

**vulgarity.** The state of being vulgar.

See **vulgar**.

**vulgar purgation.** Same as **vulgaris purgatio**.

**Vulgate Edition.** An edition of the Year Books, otherwise known as the Folio Edition or Edition of 1679.

See **Year Books**.

**vulgo concepti.** Bastards.

**vulgo quaesiti.** (Latin.) A term of the civil law for offspring of promiscuous cohabitation; children who are said to be children of the people, for the reason that identification of the father or fathers is impossible.

**vulva.** The external female genitals. State v Wisdom, 122 Or 148, 257 P 826.