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

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

P U. R. Initials of "*uti rogas*," be it as you desire, a ballot thus inscribed, by which the Romans voted in favor of a bill or candidate. Tayl. Civil Law, 191.

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

R UBERRIMA FIDES. Lat. The most abundant good faith; absolute and perfect candor or openness and honesty; the absence of any concealment or deception, however slight.

S Ubi aliquid conceditur, conceditur et id sine quo res ipsa esse non potest. When anything is granted, that also is granted without which the thing granted cannot exist. Broom, Max. 483; 13 Mees. & W. 706.

T Ubi aliquid impeditur propter unum, eo remoto, tollitur impedimentum. Where anything is impeded by one single cause, if that be removed, the impediment is removed. Branch, Princ., citing 5 Coke, 77a.

U Ubi cessat remedium ordinarium, ibi decurritur ad extraordinarium. Where the ordinary remedy fails, recourse must be had to an extraordinary one. 4 Coke, 92b.

Ubi culpa est, ibi poena subesse debet. Where the crime is committed, there ought the punishment to be undergone. Jenk. Cent. 325.

Ubi damna dantur, victus victori in expensis condemnari debet. Where damages are given, the vanquished party ought to be condemned in costs to the victor. 2 Inst. 289.

Ubi eadem ratio, ibi eadem lex; et de similibus idem est iudicium. 7 Coke, 18. Where the same reason exists, there the same law prevails; and, of things similar, the judgment is similar.

Ubi et dantis et accipientis turpitudine versatur, non posse repeti dicimus; quotiens autem accipientis turpitudine versatur, repeti posse. Where there is turpitude on the part of both giver and receiver, we

say it cannot be recovered back; but as often as the turpitude is on the side of the receiver [alone] it can be recovered back. 17 Mass. 562.

Ubi factum nullum, ibi fortia nulla. Where there is no principal fact, there can be no accessory. 4 Coke, 426.

Ubi jus, ibi remedium. Where there is a right, there is a remedy. Broom, Max. 191, 204; 1 Term R. 512; Co. Litt. 197b.

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

Ubi lex aliquem cogit ostendere causam, necesse est quod causa sit iusta et legitima. Where the law compels a man to show cause, it is necessary that the cause be just and lawful. 2 Inst. 289.

Ubi lex est specialis, et ratio ejus generalis, generaliter accipienda est. 2 Inst. 43. Where the law is special, and the reason of it general, it ought to be taken as being general.

Ubi lex non distinguit, nec nos distinguere debemus. Where the law does not distinguish, neither ought we to distinguish. 7 Coke, 5b.

Ubi major pars est, ibi totum. Where the greater part is, there the whole is. That is, majorities govern. Moore, 578.

Ubi non adest norma legis, omnia quasi pro suspectis habenda sunt. When the law fails to serve as a rule, almost everything ought to be suspected. Bac. Aphorisms, 25.

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

Ubi non est condendi auctoritas, ibi non est parendi necessitas. Dav. Ir. K. B. 69. Where there is no authority for establishing a rule, there is no necessity of obeying it.

Ubi non est directa lex, standum est arbitrio iudicis, vel procedendum ad similia. Ellesm. Post. N. 41. Where there is no direct law, the opinion of the judge is to be taken, or references to be made to similar cases.

Ubi non est lex, ibi non est transgressio, quoad mundum. Where there is no law, there is no transgression, so far as relates to the world. 4 Coke, 166.

Ubi non est manifesta injustitia, iudices habentur pro bonis viris, et iudicatum pro veritate. Where there is no manifest injustice, the judges are to be regarded as honest men, and their judgment as truth. 1 Johns. Cas. 341, 345.

Ubi non est principalis, non potest esse accessorius. 4 Coke, 43. Where there is no principal, there cannot be an accessory.

Ubi nulla est conjectura quæ ducat alio, verba intelligenda sunt ex proprietate, non grammatica, sed populari ex usu. Where there is nothing to call for a different construction, [the] words [of an instrument] are to be understood, not according to their strict grammatical meaning, but according to their popular and ordinary sense. Grot. de Jure B. lib. 2, c. 16.

Ubi nullum matrimonium, ibi nulla dos. Where there is no marriage, there is no dower. Bract. fol. 92; 2 Bl. Comm. 130.

Ubi periculum, ibi et lucrum collocatur. He at whose risk a thing is, should receive the profits arising from it.

Ubi pugnantia inter se in testamento iuberentur, neutrum ratum est. Where repugnant or inconsistent directions are contained in a will, neither is valid. Dig. 50, 17, 188, pr.

Ubi quid generaliter conceditur inest hæc exceptio, si non aliquid sit contra jus fasque. 10 Coke, 78. Where a thing is conceded generally this exception is implied: that there shall be nothing contrary to law and right.

Ubi quis delinquit, ibi punietur. Where a man offends, there he shall be punished. 6 Coke, 47*b*. In cases of felony, the trial shall be always by the common law in the same place where the offense was, and shall not be supposed in any other place. *Id.*

UBI RE VERA. Where in reality; when in truth or in point of fact. Cro. Eliz. 645; Cro. Jac. 4.

Ubi verba conjuncta non sunt sufficit alterutrum esse factum. Dig. 50, 17, 110, 3. Where words are not conjoined, it is enough if one or other be complied with.

UBIQUITY. Omnipresence; presence in several places, or in all places, at one time.

A fiction of English law is the "legal ubiquity" of the sovereign, by which he is constructively present in all the courts. 1 Bl. Comm. 270.

UDAL. A term mentioned by Blackstone as used in Finland to denote that kind of right in real property which is called, in English law, "allodial." 2 Bl. Comm. 45, note *f*.

UKAAS, UKASE. The name of a law or ordinance made by the czar of Russia.

ULLAGE. In commercial law. The amount wanting when a cask, on being gauged, is found not to be completely full.

ULNA FERREA. In old English law. The iron ell; the standard ell of iron, kept in the exchequer for the rule of measure.

ULNAGE. Alnage, (which see.)

ULTIMA RATIO. Lat. The last argument; the last resort; the means last to be resorted to.

Ultima voluntas testatoris est implenda secundum veram intentionem suam. Co. Litt. 322. The last will of a testator is to be fulfilled according to his true intention.

ULTIMATE FACTS. In pleading and practice. Facts in issue; opposed to probative or evidential facts, the latter being such as serve to establish or disprove the issues. 2 Utah, 379.

ULTIMATUM. Lat. The last. The final and ultimate proposition made in negotiating a treaty, or a contract, or the like.

ULTIMUM SUPPLICIUM. Lat. The extreme punishment; the extremity of punishment; the punishment of death. 4 Bl. Comm. 17.

Ultimum supplicium esse mortem solum interpretamur. The extremest punishment we consider to be death alone. Dig. 48, 19, 21.

ULTIMUS HÆRES. Lat. The last or remote heir; the lord. So called in contradistinction to the *hæres proximus* and the *hæres remotior*. Dalr. Feud. Prop. 110.

ULTRA. Lat. Beyond; outside of; in excess of.

Damages *ultra*, damages beyond a sum paid into court.

ULTRA MARE. Beyond sea. One of the old essoins or excuses for not appearing

N in court at the return of process. Bract. fol. 338.

O Ultra posse non potest esse, et vice versa. What is beyond possibility cannot exist, and the reverse, [what cannot exist is not possible.] Wing. Max. 100.

P ULTRA REPRISES. After deduction of drawbacks; in excess of deductions or expenses.

Q ULTRA VIRES. A term used to express the action of a corporation which is beyond the powers conferred upon it by its charter, or the statutes under which it was instituted. 13 Amer. Law Rev. 632.

R "Ultra vires" is also sometimes applied to an act which, though within the powers of a corporation, is not binding on it because the consent or agreement of the corporation has not been given in the manner required by its constitution. Thus, where a company delegates certain powers to its directors, all acts done by the directors beyond the scope of those powers are *ultra vires*, and not binding on the company, unless it subsequently ratifies them. Sweet.

T ULTRONEOUS WITNESS. In Scotch law. A volunteer witness; one who appears to give evidence without being called upon. 2 Alis. Crim. Pr. 393.

U UMPIRAGE. The decision of an umpire. The word "umpirage," in reference to an umpire, is the same as the word "award," in reference to arbitrators; but "award" is commonly applied to the decision of the umpire also.

UMPIRE. When matters in dispute are submitted to two or more arbitrators, and they do not agree in their decision, it is usual for another person to be called in as "umpire," to whose sole judgment it is then referred. Brown.

Un ne doit prise avantage de son tort demesne. 2 And. 38, 40. One ought not to take advantage of his own wrong.

Una persona vix potest supplere vices duarum. 7 Coke, 118. One person can scarcely supply the places of two. See 9 H. L. Cas. 274.

UNA VOCE. Lat. With one voice; unanimously; without dissent.

UNALIENABLE. Incapable of being aliened, that is, sold and transferred.

UNANIMITY. Agreement of all the persons concerned, in holding one and the

same opinion or determination of any matter or question; as the concurrence of a jury in deciding upon their verdict.

UNASCERTAINED DUTIES. Payment in gross, on an estimate as to amount, and where the merchant, on a final liquidation, will be entitled by law to allowances or deductions which do not depend on the rate of duty charged, but on the ascertainment of the quantity of the article subject to duty. 5 Blatchf. 274.

UNAVOIDABLE ACCIDENT. Not necessarily an accident which it was physically impossible, in the nature of things, for the person to have prevented, but one not occasioned in any degree, either remotely or directly, by the want of such care or skill as the law holds every man bound to exercise. 8 Wend. 473.

UNCEASESATH. In Saxon law. An oath by relations not to avenge a relation's death. Blount.

UNCERTAINTY. Such vagueness, obscurity, or confusion in any written instrument, *e. g.*, a will, as to render it unintelligible to those who are called upon to execute or interpret it, so that no definite meaning can be extracted from it.

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

UNCIA AGRI, UNCIA TERRÆ. These phrases often occur in the charters of the British kings, and signify some measure or quantity of land. It is said to have been the quantity of twelve *modii*; each *modius* being possibly one hundred feet square. Jacob.

UNCIARIUS HÆRES. Lat. In Roman law. An heir to one-twelfth of an estate or inheritance. Calvin.

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

UNCONSCIONABLE BARGAIN. A contract which no man in his senses, not under delusion, would make, on the one hand, and which no fair and honest man would accept, on the other. 4 Bouv. Inst. no. 3848.

UNCONSTITUTIONAL. That which is contrary to the constitution. The opposite of "constitutional."

UNCORE PRIST. L. Fr. Still ready. A species of plea or replication by which the party alleges that he is still ready to pay or perform all that is justly demanded of him. In conjunction with the phrase "*tout temps prist*," it signifies that he has always been and still is ready.

UNCUTH. In Saxon law. Unknown; a stranger. A person entertained in the house of another was, on the first night of his entertainment, so called. Bract. fol. 124b.

UNDE NIHIL HABET. Lat. In old English law. The name of the writ of dower, which lay for a widow, where *no dower* at all had been assigned her within the time limited by law. 3 Bl. Comm. 183.

UNDEFENDED. A term sometimes applied to one who is obliged to make his own defense when on trial, or in a civil cause. A cause is said to be undefended when the defendant makes default, in not putting in an appearance to the plaintiff's action; in not putting in his statement of defense; or in not appearing at the trial either personally or by counsel, after having received due notice. Mozley & Whitley.

UNDER AND SUBJECT. Words frequently used in conveyances of land which is subject to a mortgage, to show that the grantee takes subject to such mortgage. 27 Amer. Law Reg. (N. S.) 337.

UNDER-CHAMBERLAINS OF THE EXCHEQUER. Two officers who cleaved the tallies written by the clerk of the tallies, and read the same, that the clerk of the pell and comptrollers thereof might see their entries were true. They also made searches for records in the treasury, and had the custody of Domesday Book. Cowell. The office is now abolished.

UNDER-LEASE. In conveyancing. A lease granted by one who is himself a lessee for years, for any fewer or less number of years than he himself holds. If a deed passes *all* the estate or time of the termor, it is an *assignment*; but, if it be for a *less* portion of time than the whole term, it is an *under-lease*, and leaves a reversion in the termor. 4 Kent, Comm. 96.

UNDER-SHERIFF. An officer who acts directly under the sheriff, and performs all the duties of the sheriff's office, a few only excepted where the personal presence of the high-sheriff is necessary. The sheriff is civilly responsible for the acts or omissions of his under-sheriff. Mozley & Whitley.

A distinction is made between this officer and a *deputy*, the latter being appointed for a special occasion or purpose, while the former discharges, in general, all the duties required by the sheriff's office.

UNDER-TENANT. A tenant under one who is himself a tenant; one who holds by under-lease.

UNDER-TUTOR. In Louisiana. In every tutorship there shall be an under-tutor, whom it shall be the duty of the judge to appoint at the time letters of tutorship are certified for the tutor. It is the duty of the under-tutor to act for the minor whenever the interest of the minor is in opposition to the interest of the tutor. Civil Code La. 1838, arts. 300, 301.

UNDER-TREASURER OF ENGLAND. He who transacted the business of the lord high treasurer.

UNDERLIE THE LAW. In Scotch criminal procedure, an accused person, in appearing to take his trial, is said "to compare and underlie the law." Mozley & Whitley.

UNDERSTANDING. In the law of contracts. This is a loose and ambiguous term, unless it be accompanied by some expression to show that it constituted a meeting of the minds of parties upon something respecting which they intended to be bound. 25 Conn. 529. But it may denote an informal agreement, or a concurrence as to its terms. See 47 Wis. 507.

UNDERSTOOD. The phrase "it is understood," when employed as a word of contract in a written agreement, has the same force as the words "it is agreed." 14 Gray, 165.

UNDERTAKING. A promise, engagement, or stipulation. Each of the promises made by the parties to a contract, considered independently and not as mutual, may, in this sense, be denominated an "undertaking."

"Undertaking" is frequently used in the special sense of a promise given in the course of legal proceedings by a party or his counsel, generally as a condition to obtaining some concession from the court or the opposite party. Sweet.

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

N **UNDERWRITER.** The person who insures another in a fire or life policy; the insurer.

O A person who joins with others in entering into a marine policy of insurance as insurer.

P **UNDIVIDED.** An undivided right or title, or a title to an undivided portion of an estate, is that owned by one of two or more tenants in common or joint tenants before partition.

Q **UNDRES.** Minors or persons under age not capable of bearing arms. *Fleta*, l. 1, c. 9; *Cowell*.

R **UNDUE INFLUENCE.** Undue influence consists (1) in the use, by one in whom a confidence is reposed by another, or who holds a real or apparent authority over him, of such confidence or authority, for the purpose of obtaining an unfair advantage over him; (2) in taking an unfair advantage of another's weakness of mind; or (3) in taking a grossly oppressive and unfair advantage of another's necessities or distress. *Civil Code Dak.* § 886.

S Undue influence at elections is where any one interferes with the free exercise of a voter's franchise, by violence, intimidation, or otherwise. It is a misdemeanor. 1 *Russ. Crimes*, 321; *Steph. Crim. Dig.* 79.

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

UNICA TAXATIO. The obsolete language of a special award of *venire*, where, of several defendants, one pleads, and one lets judgment go by default, whereby the jury, who are to try and assess damages on the issue, are also to assess damages against the defendant suffering judgment by default. *Wharton*.

UNIFORM. A statute is general and uniform in its operation when it operates equally upon all persons who are brought within the relations and circumstances provided for. 20 *Iowa*, 338.

UNIFORMITY. In taxation. Uniformity in taxation implies equality in the burden of taxation, which cannot exist without uniformity in the mode of assessment, as well as in the rate of taxation. Further, the uniformity must be co-extensive with the territory to which it applies. And it must be extended to all property subject to taxation,

so that all property may be taxed alike and equally. 3 *Ohio St.* 15.

UNIFORMITY, ACT OF, which regulates the terms of membership in the Church of England and the colleges of Oxford and Cambridge, (*St. 13 & 14 Car. II. c. 4.*) See *St. 9 & 10 Vict. c. 59.* The act of uniformity has been amended by the *St. 35 & 36 Vict. c. 35*, which *inter alia* provides a shortened form of morning and evening prayer. *Wharton*.

UNIFORMITY OF PROCESS ACT. The English statute of 2 *Wm. IV. c. 39*, establishing a uniform process for the commencement of actions in all the courts of law at Westminster. 3 *Steph. Comm.* 566.

UNIGENITURE. The state of being the only begotten.

UNILATERAL. One-sided.

UNILATERAL CONTRACT. In the civil law. When the party to whom an engagement is made makes no express agreement on his part, the contract is called "unilateral," even in cases where the law attaches certain obligations to his acceptance. *Civil Code La. art.* 1765.

UNINTELLIGIBLE. That which cannot be understood.

UNIO. Lat. In canon law. A consolidation of two churches into one. *Cowell*.

UNIO PROLIUM. Lat. Uniting of offspring. A method of adoption, chiefly used in Germany, by which step-children (on either or both sides of the house) are made equal, in respect to the right of succession, with the children who spring from the marriage of the two contracting parties. See *Heinecc. Elem.* § 188.

UNION. In English poor-law. A union consists of two or more parishes which have been consolidated for the better administration of the poor-law therein.

In ecclesiastical law. A union consists of two or more benefices which have been united into one benefice. *Sweet*.

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

In Scotch law. A "clause of union" is a clause in a feoffment by which two estates, separated or not adjacent, are united as one,

for the purpose of making a single seisin suffice for both.

UNION-JACK. The national flag of Great Britain and Ireland, which combines the banner of St. Patrick with the crosses of St. George and St. Andrew. The word "jack" is most probably derived from the surcoat, charged with a red cross, anciently used by the English soldiery. This appears to have been called a "*jacque*," whence the word "jacket," anciently written "*jacquit*." Some, however, without a shadow of evidence, derive the word from "*Jacques*," the first alteration having been made in the reign of King James I. Wharton.

UNION OF CHURCHES. A combining and consolidating of two churches into one. Also it is when one church is made subject to another, and one man is rector of both; and where a conventual church is made a cathedral. Tomlins.

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

UNITED STATES BONDS. Obligations for payment of money which have been at various times issued by the government of the United States.

UNITED STATES COMMISSIONERS. Each circuit court of the United States may appoint, in different parts of the district for which it is held, as many discreet persons as it may deem necessary, who shall be called "commissioners of the circuit court," and shall exercise the powers which are or may be conferred upon them. Rev. St. U. S. § 627.

UNITED STATES NOTES. Promissory notes, resembling bank-notes, issued by the government of the United States.

UNITY. In the law of estates. The peculiar characteristic of an estate held by several in joint tenancy, and which is fourfold, viz., unity of interest, unity of title, unity of time, and unity of possession. In other words, joint tenants have one and the same interest, accruing by one and the same conveyance, commencing at one and the same time, and held by one and the same undivided possession. 2 Bl. Comm. 180.

UNITY OF INTEREST. This term is applied to joint tenants, to signify that no one of them can have a greater interest in the property than each of the others, while, in the case of tenants in common, one of

them may have a larger share than any of the others. Williams, Real Prop. 134, 139.

UNITY OF POSSESSION. Joint possession of two rights by several titles. As if I take a lease of land from a person at a certain rent, and afterwards I buy the fee-simple of such land, by this I acquire unity of possession, by which the lease is extinguished. Cowell; Brown.

It is also one of the essential properties of a joint estate, each of the tenants having the entire possession as well of every parcel as of the whole. 2 Bl. Comm. 182.

UNITY OF SEISIN is where a person seised of land which is subject to an easement, *profit à prendre*, or similar right, also becomes seised of the land to which the easement or other right is annexed. Sweet.

UNITY OF TIME. One of the essential properties of a joint estate; the estates of the tenants being vested at one and the same period. 2 Bl. Comm. 181.

UNITY OF TITLE is applied to joint tenants, to signify that they hold their property by one and the same title, while tenants in common may take property by several titles. Williams, Real Prop. 134.

Unius omnino testis responsio non audiatur. The answer of one witness shall not be heard at all; the testimony of a single witness shall not be admitted under any circumstances. A maxim of the civil and canon law. Cod. 4, 20, 9; 3 Bl. Comm. 370; Best, Ev. p. 426, § 390, and note.

Uniuscujusque contractus initium spectandum est, et causa. The commencement and cause of every contract are to be regarded. Dig. 17, 1, 8; Story, Bailm. § 56.

UNIVERSAL AGENT. One who is appointed to do all the acts which the principal can personally do, and which he may lawfully delegate the power to another to do. Story, Ag. 18.

UNIVERSAL LEGACY. In the civil law. A testamentary disposition by which the testator gives to one or several persons the whole of the property which he leaves at his decease. Civil Code La. art. 1606.

UNIVERSAL PARTNERSHIP. One in which the partners jointly agree to contribute to the common fund of the partnership the whole of their property, of whatever character, and future, as well as present. Poth. Société, 23.

N **UNIVERSAL REPRESENTATION.** In Scotch law. A term applied to the representation by an heir of his ancestor. Bell.

D *Universalis sunt notiora singularibus.* 2 Rolle, 294. Things universal are better known than things particular.

P **UNIVERSITAS.** Lat. In the civil law. A corporation aggregate. Dig. 3, 4, 7. Literally, a whole formed out of many individuals. 1 Bl. Comm. 469.

Q **UNIVERSITAS FACTI.** Lat. In the civil law. A plurality of corporeal things of the same kind, which are regarded as a whole; *e. g.*, a herd of cattle, a stock of goods. Mackeld. Rom. Law, § 162.

R **UNIVERSITAS JURIS.** Lat. In the civil law. A quantity of things of all sorts, corporeal as well as incorporeal, which, taken together, are regarded as a whole; *e. g.*, an inheritance, an estate. Mackeld. Rom. Law, § 162.

S **UNIVERSITAS RERUM.** Lat. In the civil law. Literally, a whole of things. Several single things, which, though not mechanically connected with one another, are, when taken together, regarded as a whole in any legal respect. Mackeld. Rom. Law, § 162.

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

UNIVERSITY COURT. See CHANCELLOR'S COURTS IN THE TWO UNIVERSITIES.

UNIVERSUS. Lat. The whole; all together. Calvin.

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

UNKOUTH. Unknown. The law French form of the Saxon "uncouth." Britt. c. 12.

UNLAGE. Sax. An unjust law.

UNLARICH. In old Scotch law. That which is done without law or against law. Spelman.

UNLAW. In Scotch law. A witness was formerly inadmissible who was not worth the king's *unlaw*; *i. e.*, the sum of £10 Scots,

then the common fine for absence from court and for small delinquencies. Bell.

UNLAWFUL. That which is contrary to law.

"Unlawful" and "illegal" are frequently used as synonymous terms, but, in the proper sense of the word, "unlawful," as applied to promises, agreements, considerations, and the like, denotes that they are ineffectual in law because they involve acts which, although not illegal, *i. e.*, positively forbidden, are disapproved of by the law, and are therefore not recognized as the ground of legal rights, either because they are immoral or because they are against public policy. It is on this ground that contracts in restraint of marriage or of trade are generally void. Sweet.

UNLAWFUL ASSEMBLY. At common law. The meeting together of three or more persons, to the disturbance of the public peace, and with the intention of co-operating in the forcible and violent execution of some unlawful private enterprise. If they take steps towards the performance of their purpose, it becomes a *riot*; and, if they put their design into actual execution, it is a *riot*. 4 Bl. Comm. 146.

Any meeting of great numbers of people, with such circumstances of terror as cannot but endanger the public peace, and raise fears and jealousies among the subjects of the realm. 4 Steph. Comm. 254.

UNLAWFULLY. The term is commonly used in indictments for statutory crimes, to show that the act constituting the offense was in violation of a positive law, especially where the statute itself uses the same phrase.

UNLIQUIDATED. Not ascertained in amount; not determined; remaining unassessed or unsettled; as unliquidated damages.

UNNATURAL OFFENSE. The infamous crime against nature; *i. e.*, sodomy or buggery.

Uno absurdo dato, infinita sequuntur. 1 Coke, 102. One absurdity being allowed, an infinity follows.

UNO ACTU. Lat. In a single act; by one and the same act.

UNO FLATU. Lat. In one breath. 3 Man. & G. 45. *Uno flatu, et uno intuitu*, at one breath, and in one view. 3 Story, 504.

UNQUES. L. Fr. Ever; always. *Ne unques*, never.

UNQUES PRIST. L. Fr. Always ready. Cowell. Another form of *tout temps prist*.

UNSEATED LAND. A phrase used in the Pennsylvania tax laws to describe land which, though owned by a private person, has not been reclaimed, cultivated, improved, occupied, or made a place of residence. See **SEATED LAND**.

UNSEAWORTHY. See **SEAWORTHY**.

UNSOLEMN WAR. War denounced without a declaration; war made not upon general but special declaration; imperfect war. 1 Hill, 409.

UNSOUND MIND. A person of unsound mind is an adult who from infirmity of mind is incapable of managing himself or his affairs. The term, therefore, includes insane persons, idiots, and imbeciles. Sweet.

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

UNTIL. This term generally excludes the day to which it relates; but it will be construed otherwise, if required by the evident intention of the parties. 120 Mass. 95.

Unumquodque dissolvitur eodem ligamine quo ligatur. Every obligation is dissolved by the same solemnity with which it is created. Broom, Max. 884.

Unumquodque eodem modo quo colli-gatum est, dissolvitur,—quo constitui-tur, destruitur. Everything is dissolved by the same means by which it is put together,—destroyed by the same means by which it is established. 2 Rolle, 39; Broom, Max. 891.

Unumquodque est id quod est principalius in ipso. Hob. 123. That which is the principal part of a thing is the thing itself.

Unumquodque principiorum est sibi-metipsi fides; et perspicua vera non sunt probanda. Every general principle [or maxim of law] is its own pledge or warrant; and things that are clearly true are not to be proved. Branch; Co. Litt. 11.

UNUS NULLUS RULE, THE. The rule of evidence which obtains in the civil law, that the testimony of *one* witness is equivalent to the testimony of *none*. Wharton.

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

UNWRITTEN LAW. See **LEX NON SCRIPTA**.

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

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

UPSET PRICE. In sales by auctions, an amount for which property to be sold is put up, so that the first bidder at that price is declared the buyer. Wharton.

UPSUN. In Scotch law. Between the hours of sunrise and sunset. Pounding must be executed with *upsun*. 1 Forb. Inst. pt. 3, p. 32.

URBAN SERVITUDE. City servitudes, or servitudes of houses, are called "urban." They are the easements appertaining to the building and construction of houses; as, for instance, the right to light and air, or the right to build a house so as to throw the rain-water on a neighbor's house. Mozley & Whitley.

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

URE. L. Fr. Effect; practice. *Mis en ure*, put in practice; carried into effect. Kellham.

USAGE. Usage is a reasonable and lawful public custom concerning transactions of the same nature as those which are to be effected thereby, existing at the place where the obligation is to be performed, and either known to the parties, or so well established, general, and uniform that they must be presumed to have acted with reference thereto. Civil Code Dak. § 2119.

This word, as used in English law, differs from "custom" and "prescription," in that no man may claim a rent common or other inheritance by usage, though he may by prescription. Moreover, a usage is local in all cases, and must be proved; whereas, a custom is frequently general, and as such is noticed without proof. "Usage," in French

N law, is the "*usus*" of Roman law, and corresponds very nearly to the tenancy at will or on sufferance of English law. Brown.

O "Usage," in its most extensive meaning, includes both custom and prescription; but, in its narrower signification, the term refers to a general habit, mode, or course of procedure. A usage differs from a custom, in that it does not require that the usage should be immemorial to establish it; but the usage must be known, certain, uniform, reasonable, and not contrary to law. 3 Brewst. 452.

P "Usage" is also called a "custom," though the latter word has also another signification; it is a long and uniform practice, applied to habits, modes, and courses of dealing. It relates to modes of action, and does not comprehend the mere adoption of certain peculiar doctrines or rules of law. 7 Allen, 29.

Q **USAGE OF TRADE.** A course of dealing; a mode of conducting transactions of a particular kind, proved by witnesses testifying of its existence and uniformity from their knowledge obtained by observation of what is practiced by themselves and others in the trade to which it relates. 115 Mass. 535.

S **USANCE.** In mercantile law. The common period fixed by the usage or custom or habit of dealing between the country where a bill is drawn, and that where it is payable, for the payment of bills of exchange. It means, in some countries, a month, in others two or more months, and in others half a month. Story, Bills, §§ 50, 144, 332.

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

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

Use is the right given to any one to make a gratuitous use of a thing belonging to another, or to exact such a portion of the fruit it produces as is necessary for his personal wants and those of his family. Civil Code La. art. 626.

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

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

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

In the civil law. A right of receiving so much of the natural profits of a thing as is necessary to daily sustenance. It differs from "usufruct," which is a right not only to use, but to enjoy. 1 Browne, Civil & Adm. Law, 184.

As to the various kinds of uses, see CHARITABLE USE; CONSTRUCTIVE USE; CONTINGENT USE; RESULTING USE; SHIFTING USE; SPRINGING USE; SUPERSTITIOUS USE.

USE AND OCCUPATION. This is the name of an action, being a variety of *assumpsit*, to be maintained by a landlord against one who has had the occupation and enjoyment of an estate, under a contract to pay therefor, express or implied, but not under such a lease as would support an action specifically for rent.

USEE. A person for whose use a suit is brought; otherwise termed the "use-plain-tiff."

USEFUL. By "useful," in the patent law, is meant not an invention in all cases superior to the modes now in use for the same purposes, but "useful," in contradistinction to frivolous and mischievous, invention. 1 Mass. 182, 186.

By "useful" is meant such an invention as may be applied to some beneficial use in society, in contradistinction to an invention which is injurious to the morals, the health, or the good order of society. 1 Mass. 302.

USER. The actual exercise or enjoyment of any right or property. It is particularly used of franchises.

USER DE ACTION. L. Fr. In old practice. The pursuing or bringing an action. Cowell.

USHER. This word is said to be derived from "*huissier*," and is the name of a subordinate officer in some English courts of law. Archb. Pr. 25.

USHER OF THE BLACK ROD. The gentleman usher of the black rod is an officer of the house of lords appointed by letters patent from the crown. His duties are, by himself or deputy, to desire the attendance of the commons in the house of peers when the royal assent is given to bills, either by the queen in person or by commission, to execute orders for the commitment of persons guilty of breach of privilege, and also to assist in the introduction of peers when they take the oaths and their seats. Brown.

USO. In Spanish law. Usage; that which arises from certain things which men say and do and practice uninterruptedly for a great length of time, without any hindrance whatever. Las Partidas, pt. 1, tit. 2, l. 1.

USQUE. Lat. Up to; until. This is a word of exclusion, and a release of all demands *usque ad* a certain day does not cover a bond made on that day. 2 Mod. 280.

USQUE AD FILUM AQUÆ, OR VIÆ. Up to the middle of the stream or road.

USUAL COVENANTS. An agreement on the part of a seller of real property to give the usual covenants binds him to insert in the grant covenants of "seisin," "quiet enjoyment," "further assurance," "general warranty," and "against incumbrances." Civil Code Cal. § 1733.

The result of the authorities appears to be that in a case where the agreement is silent as to the particular covenants to be inserted in the lease, and provides merely for the lease containing "usual covenants," or, which is the same thing, in an open agreement without any reference to the covenants, and there are no special circumstances justifying the introduction of other covenants, the following are the only ones which either party can insist upon, namely: Covenants by the lessee (1) to pay rent; (2) to pay taxes, except such as are expressly payable by the landlord; (3) to keep and deliver up the premises in repair; and (4) to allow the lessor to enter and view the state of repair; and the usual qualified covenant by the lessor for quiet enjoyment by the lessee. 7 Ch. Div. 561.

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

USUARIUS. Lat. In the civil law. One who had the mere use of a thing belonging to another for the purpose of supplying his daily wants; a usuary. Dig. 7, 8, 10, pr.; Calvin.

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

Usucapio constituta est ut aliquis litium finis esset. Prescription was instituted that there might be some end to litigation. Dig. 41, 10, 5; Broom, Max. 894, note.

USUFRUCT. In the civil law. The right of enjoying a thing, the property of which is vested in another, and to draw from the same all the profit, utility, and advantage which it may produce, provided it be without altering the substance of the thing Civil Code La. art. 533.

USUFRUCTUARY. In the civil law. One who has the usufruct or right of enjoying anything in which he has no property. 18 Tex. 628.

USUFRUIT. In French law. The same as the *usufruct* of the English and Roman law.

USURA. Lat. In the civil law. Money given for the use of money; interest. Commonly used in the plural, "*usura*" Dig. 22, 1.

Usura est commodum certum quod propter usum rei mutuatae recipitur. Sed secundario spirare de aliqua retributione, ad voluntatem ejus qui mutuatus est, hoc non est vitiosum. Usury is a certain benefit which is received for the use of a thing lent. But to have an understanding, [literally, to breathe or whisper,] in an incidental way, about some compensation to be made at the pleasure of the borrower, is not lawful. Branch, Princ.; 5 Coke, 70b; Glan. lib. 7, c. 16.

USURA MANIFESTA. Manifest or open usury; as distinguished from *usura velata*, veiled or concealed usury, which consists in giving a bond for the loan, in the amount of which is included the stipulated interest.

N **USURA MARITIMA.** Interest taken on bottomry or respondentia bonds, which is proportioned to the risk, and is not affected by the usury laws.

O **USURARIUS.** In old English law. A usurer. Fleta, lib. 2, c. 52, § 14.

P **USURIOUS.** Pertaining to usury; partaking of the nature of usury; involving usury; tainted with usury; as, a usurious contract.

Q **USURPATIO.** Lat. In the civil law. The interruption of a usucaption, by some act on the part of the real owner. Calvin.

R **USURPATION.** Torts. The unlawful assumption of the use of property which belongs to another; an interruption or the disturbing a man in his right and possession. Tomlins.

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

T **USURPATION OF ADVOWSON.** An injury which consists in the absolute ouster or dispossession of the patron from the advowson or right of presentation, and which happens when a stranger who has no right presents a clerk, and the latter is thereupon admitted and instituted. Brown.

U **USURPATION OF FRANCHISE or OFFICE.** The unjustly intruding upon or exercising any office, franchise, or liberty belonging to another.

USURPED POWER. In insurance. An invasion from abroad, or an internal rebellion, where armies are drawn up against each other, when the laws are silent, and when the firing of towns becomes unavoidable. These words cannot mean the power of a common mob. 2 Marsh. Ins. 791.

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

USURY. In old English law. Interest of money; increase for the loan of money; a reward for the use of money. 2 Bl. Comm. 454.

In modern law. Unlawful interest; a premium or compensation paid or stipulated to be paid for the use of money borrowed or returned, beyond the rate of interest established by law. Webster.

An unlawful contract upon the loan of

money, to receive the same again with exorbitant increase. 4 Bl. Comm. 156.

Usury is the reserving and taking, or contracting to reserve and take, either directly or by indirection, a greater sum for the use of money than the lawful interest. Code Ga. 1882, § 2051. See 11 Bush, 180; 11 Conn. 487.

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

USUS BELLICI. Lat. In international law. Warlike uses or objects. It is the *usus bellici* which determine an article to be contraband. 1 Kent, Comm. 141.

Usus est dominium fiduciarium. Bac. St. Uses. Use is a fiduciary dominion.

Usus et status sive possessio potius differunt secundum rationem fori, quam secundum rationem rei. Bac. St. Uses. Use and estate, or possession, differ more in the rule of the court than in the rule of the matter.

USUS FRUCTUS. Lat. In Roman law. Usufruct; usufructuary right or possession. The temporary right of using a thing, without having the ultimate property, or full dominion, of the substance. 2 Bl. Comm. 327.

UT CURRERE SOLEBAT. Lat. As it was wont to run; applied to a water-course.

UT DE FEODO. L. Lat. As of fee.

UT HOSPITES. Lat. As guests. 1 Salk. 25, pl. 10.

Ut pœna ad paucos, metus ad omnes perveniat. That the punishment may reach a few, but the fear of it affect all. A maxim in criminal law, expressive of one of the principal objects of human punishment. 4 Inst. 6; 4 Bl. Comm. 11.

Ut res magis valeat quam pereat. That the thing may rather have effect than be destroyed. 11 Allen, 445; 100 Mass. 113; 108 Mass. 373.

Ut summæ potestatis regis est posse quantum velit, sic magnitudinis est velle quantum possit. 3 Inst. 236. As the highest power of a king is to be able to do all he wishes, so the highest greatness of him is to wish all he is able to do.

UTAS. In old English practice. Octave; the octave; the eighth day following any term or feast. Cowell.

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

UTERO-GESTATION. Pregnancy.

UTERQUE. Lat. Both; each. "The justices, being in doubt as to the meaning of this word in an indictment, demanded the opinions of grammarians, who delivered their opinions that this word doth aptly signify one of them." 1 Leon. 241.

UTFANGTHEF. In Saxon and old English law. The privilege of a lord of a manor to judge and punish a thief dwelling out of his liberty, and committing theft without the same, if he were caught within the lord's jurisdiction. Cowell.

UTI. Lat. In the civil law. To use. Strictly, to use for necessary purposes; as distinguished from "*frui*," to enjoy. Heinecc. Elem. lib. 2, tit. 4, § 415.

UTI FRUI. Lat. In the civil law. To have the full use and enjoyment of a thing, without damage to its substance. Calvin.

UTI POSSIDETIS. Lat. In the civil law. A species of interdict for the purpose of retaining possession of a thing, granted to one who, at the time of contesting suit, was in possession of an immovable thing, in order that he might be declared the legal possessor. Halifax, Civil Law, b. 3, c. 6, no. 8.

In international law. A phrase used to signify that the parties to a treaty are to retain possession of what they have acquired by force during the war. Wheat. Int. Law, 627.

UTI ROGAS. Lat. In Roman law. The form of words by which a vote in favor of a proposed law was orally expressed. *Uti rogas, volo vel jubeo*, as you ask, I will or order; I vote as you propose; I am for the law. The letters "U. R." on a ballot expressed the same sentiment. Adams, Rom. Ant. 98, 100.

Utile per inutile non vitiatur. The useful is not vitiated by the useless. Sur-

plusage does not spoil the remaining part if that is good in itself. Dyer, 392; Broom, Max. 627.

UTILIDAD. Span. In Spanish law. The profit of a thing. White, New Recop. b. 2, tit. 2, c. 1.

UTILIS. Lat. In the civil law. Useful; beneficial; equitable; available. *Actio utilis*, an equitable action. Calvin. *Dies utilis*, an available day.

UTLAGATUS. In old English law. An outlawed person; an outlaw.

Utlagatus est quasi extra legem positus. Caput gerit lupinum. 7 Coke, 14. An outlaw is, as it were, put out of the protection of the law. He bears the head of a wolf.

Utlagatus pro contumacia et fuga, non propter hoc convictus est de facto principali. Fleta. One who is outlawed for contumacy and flight is not on that account convicted of the principal fact.

UTLAGE. L. Fr. An outlaw. Britt. c. 12.

UTLESSE. An escape of a felon out of prison.

UTRUBI. In the civil law. The name of a species of interdict for retaining a thing, granted for the purpose of protecting the possession of a movable thing, as the *uti possidetis* was granted for an immovable. Inst. 4, 15, 4; Mackeld. Rom. Law, § 260.

In Scotch law. An interdict as to movables, by which the colorable possession of a *bona fide* holder is continued until the final settlement of a contested right; corresponding to *uti possidetis* as to heritable property. Bell.

UTRUMQUE NOSTRUM. Both of us. Words used formerly in bonds.

UTTER. To put or send into circulation; to publish or put forth. To utter and publish an instrument is to declare or assert, directly or indirectly, by words or actions, that it is good; uttering it is a declaration that it is good, with an intention or offer to pass it. Whart. Crim. Law, § 703.

To utter, as used in a statute against forgery and counterfeiting, means to offer, whether accepted or not, a forged instrument, with the representation, by words or actions, that the same is genuine. 48 Mo. 520.

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

D

P Brown.

Q **UTTER BARRISTER.** In English law. Those barristers who plead without the bar, and are distinguished from benchers, or those who have been readers, and who are allowed to plead within the bar, as the king's counsel are. Cowell.

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UXOR. Lat. In the civil law. A wife; a woman lawfully married.

Uxor et filius sunt nomina naturæ. Wife and son are names of nature. 4 Bac. Works, 350.

Uxor non est sui juris, sed sub potestate viri. A wife is not her own mistress, but is under the power of her husband. 3 Inst. 108.

Uxor sequitur domicilium viri. A wife follows the domicile of her husband. Tray. Lat. Max. 606.

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