in good faith, to enforce the rights of property which would have been competent to her if the marriage had been valid, and of rendering the children of such marriage legitimate.

This species of marriage was not recognized by the civil law: it was introduced by the canon law. It is unknown to the law of the United States, and in England and Ireland. In France it has been adopted by the Code Civil, art. 201, 202. In Scotland the question has not been settled. Burge, Confl. Laws, 151, 152.

PUTTING IN FEAR. These words are used in the definition of a robbery from the person: the offence must have been committed by *putting in fear* the person robbed. Co. 3d Inst. 68; 4 Bla. Com. 243.

This is the circumstance which distinguishes robbery from all other larcenies. But what force must be used or what kind of fears excited are questions very proper for discussion. The goods must be taken *against the will* of the possessor.

There must either be a putting in fear or actual violence, though both need not be positively shown, for the former will be inferred from the latter, and the latter is sufficiently implied in the former. For example, when a man is suddenly knocked down, and robbed while he is senseless, there is no fear, yet in consequence of the violence, it is presumed; 2 East, Pl. Cr. 711; 4 Binn. 379; 3 Wash. C. C. 209.

In an indictment for robbery, at common law, it is not necessary to allege a putting in fear in addition to the allegation of force and violence; 7 Mass. 242; 8 Cush. 217.

Q.

QUACK. One who, without sufficient knowledge, study, or previous preparation, undertakes to practise medicine or surgery, under the pretence that he possesses secrets in those arts.

To call a regular physician a quack is actionable. A quack is criminally answerable for his unskilful practice, and also civilly to his patient in certain cases. See MALPRACTICE; PHYSICIAN.

QUADRANS (Lat.). **In Civil Law.** The fourth part of the whole. Hence the heir *ex quadrante;* that is to say, of the fourth part of the whole.

QUADRIENNIUM UTILE (Lat.). **In Scotch Law.** The four years of a minor between his age of twenty-one and twenty-five years are so called. During this period he is permitted to impeach contracts made against his interest previous to his arriving at the age of twenty-one years. 1 Bell, Com. 135.

QUADRIPARTITE (Lat.). Having four parts, or divided into four parts: as, this indenture quadripartite, made between A B, of the one part, C D, of the second part, E F, of the third part, and G H, of the fourth part.

QUADROON. A person who is descended from a white person, and another person who has an equal mixture of the European and African blood. 2 Bail. 558. See MULATTO.

QUADRUPLICATION. In Pleading. Formerly this word was used instead of surrebutter. 1 Brown, Civ. Law, 469, n.

QUÆ EST EADEM (Lat. which is the same). **In Pleading.** A clause containing a statement that the trespass, or other fact mentioned in the plea, is the same as that laid in the declaration, where from the circumstances there is an apparent difference between the two. 1 Chitty, Pl. *582, Gould, Pl. c. 3, §§ 79, 80; 29 Vt. 455.

The form is as follows: "which are the same assaulting, beating, and ill-treating, the said John, in the said declaration mentioned, and whereof the said John hath above thereof complained against the said James." See 1 Saund. 14, 208, n. 2; 2 *id.* 5 a, n. 3; Arch. Civ. Pl. 217; Comyns, Dig. *Pleader* (E 31); Cro. Jac. 372.

QUÆRE (Lat.). Query; noun and verb. A word frequently used to denote that an inquiry ought to be made of a doubtful thing. 2 Lilly, Abr. 406. Commonly used in the syllabi of the reports, to mark points of law considered doubtful.

QUÆRENS NON INVENIT PLEGIUM (Lat.). **In Practice.** The plaintiff has not found pledge. The return made by the sheriff to a writ directed to him with this clause, namely, *si A fecerit B securum de clamore suo prosequando*, when the plaintiff has neglected to find sufficient security. Fitz. N. B. 38.

QUÆSTIO (Lat.). **In Roman Law.** A sort of commission (*ad quærendum*) to inquire into some criminal matter given to a magistrate or citizen, who was called *quæsitor* or *quæstor*, who made report thereon to the senate or the people, as the one or the other appointed

him. In progress of time he was empowered (with the assistance of a counsel) to adjudge the case; and the tribunal thus constituted was called *quæstio*.

This special tribunal continued in use until the end of the Roman republic, although it was resorted to, during the last times of the republic, only in extraordinary cases.

The manner in which they were constituted was this. If the matter to be inquired of was within the jurisdiction of the comitia, the senate, on the demand of the consul, or of a tribune, or of one of its members, declared by a decree that there was cause to prosecute a citizen. Then the consul *ex auctoritate senatus* asked the people in comitia (*rogabat rogatio*) to enact this decree into a law. The comitia adopted it, either simply or with amendment, or they rejected it.

The increase of population and of crimes rendered this method, which was tardy at best, onerous, and even impracticable. In the year A. U. C. 604, or 149 B. C., under the consulship of Censorinus and Manilius, the tribune Calpurnius Piso procured the passage of a law establishing a *questio perpetua*, to take cognizance of the crime of extortion committed by Roman magistrates against strangers *de pecuniis repetundis*. Cicero, Brut. 27; de Off. ii. 21; in Verr. iv. 25.

Many such tribunals were afterwards established, such as Quæstiones de majestate, de ambitu, de peculatu, de vi, de sodalitiis, etc. Each was composed of a certain number of judges taken from the senators, and presided over by a prætor, although he might delegate his authority to a public officer, who was called *judex quæstionis*. These tribunals continued a year only; for the meaning of the word *perpetuus* is *non interruptus*, not interrupted during the term of its appointed duration.

The establishment of these *quæstiones* deprived the comitia of their criminal jurisdiction, except the crime of treason: they were, in fact, the depositories of the judicial power during the sixth and seventh centuries of the Roman republic, the last of which was remarkable for civil dissensions and replete with great public transactions. Without some knowledge of the constitution of the *Quæstio perpetua*, it is impossible to understand the forensic speeches of Cicero, or even the political history of that age. But when Julius Cæsar, as dictator, sat for the trial of Ligarius, the ancient constitution of the republic was, in fact, destroyed, and the criminal tribunals, which had existed in more or less vigor and purity until then, existed no longer but in name. Under Augustus, the concentration of the triple power of the consuls, pro-consuls, and tribunes in his person transferred to him, as of course, all judicial powers and authorities.

QUÆSTOR (Lat.). The name of a magistrate of ancient Rome.

QUALIFICATION. Having the requisite qualities for a thing: as, to be president of the United States, the candidate must possess certain qualifications. 64 Mo. 89.

QUALIFIED ELECTOR. A person who is legally qualified to vote. 28 Wisc. 358.

QUALIFIED FEE. One which has a qualification subjoined to it, and which must be determined whenever the qualification annexed to it is at an end. A limitation to a man and *his heirs on the part of his father* affords an example of this species of estate. Littleton, § 254; 2 Bla. Com. 109.

QUALIFIED INDORSEMENT. A transfer of a bill of exchange or promissory note to an indorsee, without any liability to the indorser: the words usually employed for this purpose are *sans recours*, without recourse. 1 Bouv. Inst. n. 1138.

QUALIFIED PROPERTY. Property not in its nature permanent, but which may sometimes subsist and at other times not subsist. A defeasible and precarious ownership, which lasts as long as the thing is in actual use and occupation: *e. g.*, *first*, property in animals *feræ naturæ*, or in light, or air, where the qualified property arises from the nature of the thing; *second*, property in a thing held by any one as a bailee, where the qualified property arises not from the nature of the thing, but from the peculiar circumstances under which it is held; 2 Bla. Com. 391, 395*; 2 Kent, 347; 2 Woodd. Lect. 385.

Any ownership not absolute.

QUALIFY. To become qualified or fit for any office or employment. To take the necessary steps to prepare one's self for an appointment; as, to take an oath to discharge the duties of an office, to give the bond required of an executor, etc.

QUALITY. Persons. The state or condition of a person.

Two contrary qualities cannot be in the same person at the same time. Dig. 41. 10. 4. Every one is presumed to know the quality of the person with whom he is contracting. In the United States the people are all upon an equality in their civil rights.

In Pleading. That which distinguishes one thing from another of the same kind.

It is, in general, necessary, when the declaration alleges an injury to the goods and chattels, or any contract relating to them, that the quality should be stated; and it is also essential, in an action for the recovery of real estate, that its quality should be shown: as, whether it consists of houses, lands, or other hereditaments, whether the lands are meadow, pasture, or arable, etc. The same rule requires that, in an action for an injury to real property, the quality should be shown; Steph. Pl. 214, 215. See, as to the various qualities, Ayliffe, Pand. [60].

It is often allowable to omit from the indictment, and it is seldom necessary to prove with precision, allegations of quality, or, in other words, those allegations which describe the mode in which certain acts have been done. Thus, if the charge is of a felonious assault with a staff, and the proof is of such an assault with a stone, or if a wound, alleged to have been given with a sword, is proved to have been inflicted by an axe, or if a pistol is stated to have been loaded with a bullet, and it turns out to have been loaded with some other destructive material, the charge is

substantially proved, and no variance occurs; 1 East, Pl. C. 341; 5 C. & P. 128; 9 *id.* 525, 548.

QUAMDIU SE BENE GESSERIT (Lat. as long as he shall behave himself well). A clause inserted in commissions, when such instruments were written in Latin, to signify the tenure by which the officer held his office.

QUANDO ACCIDERINT (Lat. when they fall in).

In Practice. When a defendant, executor or administrator, pleads *plene administravit*, the plaintiff may pray to have judgment of assets *quando acciderint*; Bull. N. P. 169; Bacon, Abr. *Executor* (M).

By taking a judgment in this form the plaintiff admits that the defendant has fully administered to that time; 1 Pet. C. C. 442, n. See 11 Viner, Abr. 379; Comyns. Dig. *Pleader* (2 D 9).

QUANTI MINORIS (Lat.). The name of a particular action in Louisiana. An action *quanti minoris* is one brought for the reduction of the price of a thing sold, in consequence of defects in the thing which is the object of the sale.

Such action must be commenced within twelve months from the date of the sale, or from the time within which the defect became known to the purchaser; 3 Mart. La. N. S. 287; 11 Mart. La. 11.

QUANTITY. In Pleading. That which is susceptible of measure.

It is a general rule that, when the declaration alleges an injury to goods and chattels, or any contract relating to them, their quantity should be stated; Gould, Pl. c. 4, § 35. And in actions for the recovery of real estate the quantity of the land should be specified; Bracton, 431 *a*; 11 Co. 25 *b*, 55 *a*; Doctr. Plac. 85, 86; 1 East, 441; 8 *id.* 367; 13 *id.* 102; Steph. Pl. 314, 315.

QUANTUM DAMNIFICATUS (Lat.). **In Equity Practice.** An issue directed by a court of equity to be tried in a court of law, to ascertain by a trial before a jury the amount of damages suffered by the non-performance of some collateral undertaking which a penalty has been given to secure. When such damages have thus been ascertained, the court will grant relief upon their payment. 4 Bouvier, Inst. n. 3913.

QUANTUM MERUIT (Lat.). **In Pleading.** As much as he has deserved.

When a person employs another to do work for him, without any agreement as to his compensation, the law implies a promise from the employer to the workman that he will pay him for his services as much as he may deserve or merit. In such case the plaintiff may suggest in his declaration that the defendant promised to pay him as much as he reasonably deserved, and then aver that his trouble was worth such a sum of money, which the defendant has omitted to pay. This is called an assumpsit on a *quantum meruit*. 2 Bla. Com. 162, 163; 1 Viner, Abr. 346.

When there is an express contract for a stipulated amount and mode of compensation for services, the plaintiff cannot abandon the contract and resort to an action for a *quantum meruit* on an implied assumpsit; 14 Johns. 326; 18 *id.* 169; 10 S. & R. 236. But see 7 Cra. 299; Stark. 277; Holt, N. P. 236; 10 Johns. 36; 12 *id.* 374; 13 *id.* 56, 94, 359; 14 *id.* 326; 5 M. & W. 114; 4 C. & P. 93; 4 Scott, N. S. 374; 4 Taunt. 475; 1 Ad. & E. 333. See COMMON COUNTS.

QUANTUM VALEBAT (Lat. as much as it was worth). **In Pleading.** When goods are sold without specifying any price, the law implies a promise from the buyer to the seller that he will pay him for them as much as they were worth.

The plaintiff may, in such case, suggest in his declaration that the defendant promised to pay him as much as the said goods were worth, and then aver that they were worth so much, which the defendant has refused to pay. See the authorities cited under the article QUANTUM MERUIT.

QUARANTINE. In Maritime Law. The space of forty days, or less, during which the crew of a ship or vessel coming from a port or place infected or supposed to be infected with disease are required to remain on board after their arrival, before they can be permitted to land. It was probably established by the Venetians in 1484. Baker, Quar. 3.

By act of congress of April 29, 1878, ch. 66, vessels from foreign ports where contagious, and other diseases exist, are forbidden to enter the United States, excepting subject to certain regulations prescribed.

The object of the quarantine is to ascertain whether the crew are infected or not. To break the quarantine without legal authority is a misdemeanor; 1 Russ. Cr. 133.

Quarantine regulations made by the states are sustainable as the exercise of the police power; Cooley, Const. Lim. 729; 95 U. S. 465.

In cases of insurance of ships, the insurer is responsible when the insurance extends to her being moored in port twenty-four hours in safety, although she may have arrived, if before the twenty-four hours are expired she is ordered to perform quarantine, if any accident contemplated by the policy occur; 1 Marsh. Ins. 264.

See Baker, Quarantine.

In Real Property. The space of forty days during which a widow has a right to remain in her late husband's principal mansion immediately after his death. The right of the widow is also called her quarantine.

In some, perhaps all, of the states of the United States, provision has been expressly made by statute securing to the widow this right for a greater or less space of time. See 4 Kent, 62; Walk. Am. Law, 231; 3

Washb. R. P. 272. Quarantine is a personal right, forfeited, by implication of law, by a second marriage; Co. Litt. 32. See Bacon, Abr. *Dower* (B); Co. Litt. 32 *b*, 34 *b*; Co. 2d Inst. 16, 17.

QUARE (Lat.). **In Pleading.** Wherefore.

This word is sometimes used in the writ in certain actions, but is inadmissible in a material averment in the pleadings, for it is merely interrogatory; and, therefore, when a declaration began with complaining of the defendant, "wherefore with force, etc. he broke and entered" the plaintiff's close, it was considered ill; Bacon, Abr. *Pleas* (B. 5, 4): Gould, Pl. c. 3, § 34.

QUARE CLAUSUM FREGIT. See TRESPASS.

QUARE EJECIT INFRA TERMINUM. See EJECTMENT.

QUARE IMPEDIT (Lat. why he hinders). **In English Law.** A real possessory action which can be brought only in the court of common pleas, and lies to recover a presentation when the patron's right is disturbed, or to try a disputed title to an advowson. See DISTURBANCE; Mireh. Advow. 265; 2 Saund. 336 *a*.

QUARE OBSTRUXIT (Lat. why he obstructs). The name of a writ formerly used in favor of one who, having a right to pass through his neighbor's grounds, was prevented enjoying such right, because the owner of the grounds had obstructed the way.

QUARREL. A dispute; a difference. In law, particularly in releases, which are taken most strongly against the releasor, when a man releases all quarrel he is said to release all actions, real and personal; 8 Co. 153.

QUARRY. A place whence stones are dug for the purpose of being employed in building, making roads, and the like. In mining law it is said to be an open excavation where the works are visible at the surface. It is said to be derived from *quadratarius*, a stone-cutter or squarer. Bainbr. Mines, 2.

When a farm is let with an open quarry, the tenant may, when not restrained by his contract, take out the stone; but he has no right to *open* new quarries. See MINES; WASTE.

QUART. A liquid measure, containing one-fourth part of a gallon.

QUARTER. A measure of length, equal to four inches. See MEASURE.

QUARTER-DAYS. The four days of the year on which rent payable quarterly becomes due.

QUARTER-DOLLAR. A silver coin of the United States, of the value of twenty-five cents.

Previous to the act of Feb. 21, 1853, c. 79, 10 U. S. Stat. at Large, 160, the weight of the quarter-dollar was one hundred and three and one-eighth grains; but coins struck after the passage of that act were of the weight of ninety-six grains. The fineness was not altered by the act cited: of one thousand parts, nine hundred are pure silver and one hundred alloy. By the act of 12th of Feb. 1873, the weight of the quarter-dollar is fixed at one-half that of the half-dollar (twelve and one-half grams); R. S. § 3573; and by act of July 22, 1876, it is made legal tender in all sums public and private not exceeding ten dollars; Supplement R. S. p. 488.

See HALF-DOLLAR,—in which the change in the weight of silver coins is more fully noticed.

QUARTER-EAGLE. A gold coin of the United States, of the value of two and a half dollars. See MONEY; COIN.

QUARTER-SALES. In New York a certain fraction of the purchase-money is often conditioned to be paid back on alienation of the estate; and this fine on alienation is expressed as a tenth-sales, a quarter-sales, etc. 7 Cow. 285; 7 Hill, 253; 7 N. Y. 490.

QUARTER SEAL. In Scotch Law. The seal kept by the director of the chancery in Scotland is so called. It is in the shape and impression of the fourth part of the great seal. Bell, Dict.

QUARTER SESSIONS. A court bearing this name, mostly invested with the trial of criminals. It takes its name from sitting quarterly, or once in three months.

The English courts of quarter sessions were erected during the reign of Edward III. See stat. 36 Edw. III.; Crabb, Eng. Law, 278.

QUARTER-YEAR. In the computation of time, a quarter-year consists of ninety-one days. Co. Litt. 135 *b*; 2 Rolle, Abr. 521, l. 40; N. Y. Rev. Stat. pt. 1, c. 19, t. 1, § 3.

QUARTERING. A barbarous punishment formerly inflicted on criminals by tearing them to pieces by means of four horses, one attached to each limb.

QUARTERING OF SOLDIERS. Furnishing soldiers with board or lodging or both. The constitution of the United States, Amendm. art. 3, provides that "no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law." See Cooley, Const. Lim. 378; Rawle, Const. 126.

QUARTEROON. One who has had one of his grandparents of the black or African race.

QUARTO DIE POST (Lat. fourth day after). Appearance-day, which is the fourth day inclusive from the return of the writ; and if the person summoned appears on that day, it is sufficient. On this day, also, the court begins to sit for despatch of business. These three days were originally given as an indulgence. 3 Sharsw. Bla. Com. 278*; Tidd, New Pr. 134. But this practice is now altered. 15 & 16 Vict. c. 76.

QUASH. In Practice. To overthrow or annul.

When proceedings are clearly irregular and

void, the courts will quash them, both in civil and criminal cases: for example, when the array is clearly irregular, as, if the jurors have been selected by persons not authorized by law, it will be quashed. 3 Bouvier, Inst. n. 3342.

In criminal cases, when an indictment is so defective that no judgment can be given upon it, should the defendant be convicted, the court, upon application, will, in general, quash it: as, if it have no jurisdiction of the offence charged, or when the matter charged is not indictable. 1 Burr. 516, 543; Andr. 226. It is in the discretion of the court to quash an indictment or to leave the defendant to a motion in arrest of judgment; 1 Cush. 189. When the application to quash is made on the part of the defendant, in English practice, the court generally refuses to quash the indictment when it appears some enormous crime has been committed; Comyns, Dig. *Indictment* (H); Wils. 325; 3 Term, 621; 5 Mod. 13; 6 *id.* 42; 3 Burr. 1841; Bacon, Abr. *Indictment* (K).

When the application is made on the part of the prosecution, the indictment will be quashed whenever it is defective so that the defendant cannot be convicted, and the prosecution appears to be *bona fide*. If the prosecution be instituted by the attorney-general, he may, in some states, enter a *nolle prosequi*, which has the same effect; 1 Dougl. 239, 240. The application should be made before plea pleaded; Leach, 11; 4 State Tr. 232; 1 Hale, 35; Fost. 231; and before the defendant's recognizance has been forfeited; 1 Salk. 380. See CASSETUR BREVE.

QUASI (Lat. as if, almost). A term used to mark a resemblance, and which supposes a difference between two objects. Dig. 11. 7. 1. 8. 1. It is exclusively a term of classification. Prefixed to a term of Roman law, it implies that the conception to which it serves as an index is connected with the conception with which the comparison is instituted by a strong superficial analogy or resemblance. It negatives the idea of identity, but points out that the conceptions are sufficiently similar for one to be classed as the equal of the other; Maine, Anc. Law, 332. Civilians use the expressions *quasi-contractus*, *quasi-delictum*, *quasi-possessio*, *quasi-traditio*, etc.

QUASI-AFFINITY. In Civil Law. The affinity which exists between two persons, one of whom has been betrothed to the kindred of the other, but who have never been married.

For example: my brother is betrothed to Maria, and afterwards, before marriage, he dies, there then exists between Maria and me a quasi-affinity.

The history of England furnishes an example of this kind. Catherine of Arragon was betrothed to the brother of Henry VIII. Afterwards, Henry married her, and under the pretence of this quasi-affinity he repudiated her, because the marriage was incestuous.

QUASI-CONTRACTUS (Lat.). **In Civil Law.** The act of a person, permitted by law, by which he obligates himself towards another, or by which another binds himself to him, without any agreement between them.

By article 2272 of the Civil Code of Louisiana, which is translated from article 1371 of the Code Civil, quasi-contracts are defined to be "the lawful and purely voluntary acts of a man, from which there results any obligation whatever to a third person, and sometimes a reciprocal obligation between the parties." In contracts, it is the consent of the contracting parties which produces the obligation; in quasi-contracts no consent is required, and the obligation arises from the law or natural equity, on the facts of the case. These acts are called quasi-contracts, because, without being contracts, they bind the parties as contracts do.

There is no term in the common law which answers to that of quasi-contracts; many quasi-contracts may doubtless be classed among implied contracts: there is, however, a difference to be noticed. For example: in case money should be paid by mistake to a minor, it may be recovered from him by the civil law, because his consent is not necessary to a quasi-contract; but by the common law, if it can be recovered, it must be upon an agreement to which the law presumes he has consented, and it is doubtful, upon principle, whether such recovery could be had.

Quasi-contracts may be multiplied almost to infinity. They are, however, divided into five classes; such as relate to the voluntary and spontaneous management of the affairs of another, without authority (*negotiorum gestio*); the administration of tutorship; the management of common property (*communio bonorum*); the acquisition of an inheritance; and the payment of a sum of money or other thing by mistake, when nothing was due (*indebiti solutio*).

Each of these quasi-contracts has an affinity with some contract: thus, the management of the affairs of another without authority, and tutorship, are compared to a mandate; the community of property, to a partnership; the acquisition of an inheritance, to a stipulation; and the payment of a thing which is not due, to a loan.

All persons, even infants and persons destitute of reason, who are consequently incapable of consent, may be obliged by the quasi-contract which results from the act of another, and may also oblige others in their favor; for it is not consent which forms these obligations: they are contracted by the act of another, without any act on our part. The use of reason is indeed required in the person whose act forms the quasi-contract, but it is not required in the person by whom or in whose favor the obligations which result from it are contracted. For instance, if a person undertakes the business of an infant or a lunatic, this is a quasi-contract, which obliges the infant or the lunatic to the person undertaking his affairs, for what he has beneficially expended, and reciprocally obliges the person to give an account of his administration or management.

Quasi-contracts are usually identified with *implied* contracts, but this is an error, for implied contracts are true contracts which quasi-contracts are not, inasmuch as the *convention*, the essential part of a contract, was wanting: Maine, Anc. Law, 332.

See, generally, Justinian, Inst. 3. 28; Dig. 3. 5; Ayl. Pand. b. 4, tit. 31; 1 Brown, Civil Law, 386; Erskine, Inst. 3. 3. 16; Pardessus, Dr. Com. n. 192 *et seq.;* Pothier, Obl. n. 113 *et seq.;* Merlin, Répert. *Quasi-Contract.*

QUASI-CORPORATIONS. A term applied to those bodies or municipal societies which, though not vested with the general powers of corporations, are yet recognized, by statutes or immemorial usage, as persons or aggregate corporations, with precise duties which may be enforced, and privileges which may be maintained, by suits at law. They may be considered *quasi*-corporations, with limited powers, coextensive with the duties imposed upon them by statute or usage, but restrained from a general use of the authority which belongs to those metaphysical persons by the common law. See 13 Mass. 192; L. R. 1 H. L. 293; Boone, Corp. § 10.

Among *quasi*-corporations may be ranked counties, and also towns, townships, parishes, hundreds, and other political divisions of counties, which are established without an express charter of incorporation; commissioners of a county, most of the commissions instituted for public use, supervisors of highways, overseers or guardians of the poor, loan officers of a county, trustees of a school fund, trustees of the poor, school districts, trustees of schools, judges of a court authorized to take bonds to themselves in their official capacity, and the like, who are invested with corporate powers *sub modo* and for a few specified purposes only. The governor of a state has been held a *quasi*-corporation sole; 8 Humph. 176; so has a trustee of a friendly society in whom, by statute, property is vested, and by and against whom suits may be brought; see 1 B. & Ald. 157; so if a levee district organized by statute to reclaim land from overflow; 51 Cal. 406; and fire departments having by statute certain powers and duties which necessarily invest them with a limited capacity to sue and be sued; 1 Sweeny, 224. It may be laid down as a general rule that where a body is created by statute possessing powers and duties which involve incidentally a qualified capacity to sue and be sued, such body is to be considered a *quasi*-corporation; *id.*; 51 Cal. 406. See, generally, Ang. & A. Corp. § 24; 13 Am. Dec. 524; but not such a body as the general assembly of the Presbyterian church, which has not the capacity to sue and be sued; 4 Whart. 531; Ang. & A. Corp. § 24.

QUASI-DELICT. In Civil Law. An act whereby a person, without malice, but by fault, negligence, or imprudence not legally excusable, causes injury to another.

A quasi-delict may be public or private: the neglect of the affairs of a community, when it is our duty to attend to them, may be a crime; the neglect of a private matter, under similar circumstances, may be the ground of a civil action. Bowyer, Mod. Civ. Law, c. 43, p. 265.

QUASI-DEPOSIT. A kind of involuntary bailment, which takes place where a person acquires possession of property lawfully, by finding. Story, Bailm. § 85.

QUASI-OFFENCES. Offences for which some person other than the actual perpetrator is responsible, the perpetrator being presumed to act by command of the responsible party.

Injuries which have been unintentionally caused. See MASTER AND SERVANT.

QUASI-PARTNERS. Partners of lands, goods, or chattels, who are not actual partners, are sometimes so called. Pothier, de Société, App. n. 184. See PART-OWNERS.

QUASI-POSTHUMOUS CHILD. In Civil Law. One who, born during the life of his grandfather or other male ascendant, was not his heir at the time he made his testament, but who by the death of his father became his heir in his lifetime. Inst. 2. 13. 2; Dig. 28. 3. 13.

QUASI-PURCHASE. This term is used in the civil law to denote that a thing is to be considered as purchased from the presumed consent of the owner of a thing: as, if a man should consume a cheese, which is in his possession and belonging to another, with an intent to pay the price of it to the owner, the consent of the latter will be presumed, as the cheese would have been spoiled by keeping it longer. Wolff, Dr. de la Nat. § 691.

QUASI-TRADITIO (Lat.). **In Civil Law.** A term used to designate that a person is in the use of the property of another, which the latter suffers and does not oppose. Leç. Elem. § 396. It also signifies the act by which the right of property is ceded in a thing to a person who is in possession of it; as, if I loan a boat to Paul, and deliver it to him, and afterwards I sell him the boat, it is not requisite that he should deliver the boat to me to be again delivered to him: there is a quasi tradition or delivery.

QUATUORVIRI (Lat. four men). **In Roman Law.** Magistrates who had the care and inspection of roads. Dig. 1. 2. 3. 30.

QUAY. A wharf at which to load or land goods. (Sometimes spelled *key.*)

In its enlarged sense the word *quay* means the whole space between the first row of houses of a city, and the sea or river; 5 La. 152, 215. So much of the quay as is requisite for the public use of loading and unloading vessels is public property, and cannot be appropriated to private use, but the rest may be private property.

QUE EST MESME (L. Fr.). Which is the same. See QUÆ EST EADEM.

QUE ESTATE (*quem statum*, or *which estate*). A plea by which a man prescribes

in himself and those whose estate he holds. 2 Bla. Com. 270; 18 Viner, Abr. 133–140; Co. Litt. 121 *a*.

QUEAN. A worthless woman; a strumpet. The meaning of this word, which is now seldom used, is said not to be well ascertained. 2 Rolle, Abr. 296; Bacon, Abr. *Slander* (U 3).

QUEEN ANNE'S BOUNTY. By stat. 2 Anne, c. 11, all the revenue of first-fruits and tenths was vested in trustees forever, to form a perpetual fund for the augmentation of poor livings. 1 Bla. Com. 286; 2 Burn, Eccl. Law, 260–268.

QUEEN CONSORT. The wife of a reigning king. 1 Bla. Com. 218. She is looked upon by the law as a feme sole, as to her power of contracting, suing, etc. *Id.*

QUEEN DOWAGER. The widow of the king. She has most of the privileges belonging to a queen consort. 1 Bla. Com. 229.

QUEEN-GOLD. A royal revenue belonging to every queen consort during her marriage with the king, and due from every person who has made a voluntary fine or offer to the king of ten marks or upwards, in consideration of any grant or privilege conferred by the crown. It is due of record on the recording of the fine. It was last exacted in the reign of Charles I. It is now quite obsolete. 1 Bla. Com. 220–222; Fortescue, de Laud. 398.

QUEEN REGNANT. She who holds the crown in her own right. She has the same duties and prerogatives, etc. as a king. Stat. 1 Mar. I. st. 3, c. 1; 1 Bla. Com. 218; 1 Woodd. Lect. 94.

QUERELA (Lat.). An action preferred in any court of justice. The plaintiff was called *querens*, or complainant, and his brief, complaint, or declaration was called *querela*. Jacob, Law Dict.

QUERELA INOFFICIOSI TESTAMENTI (Lat. complaint of an undutiful or unkind will). **In Civil Law.** A species of action allowed to a child who had been unjustly disinherited, to set aside the will, founded on the presumption of law, in such cases, that the parent was not in his right mind. Calvinus, Lex.; 2 Kent, 327; Bell, Dict.

QUESTION. In Criminal Law. A means sometimes employed, in some countries, by torture, to compel supposed great criminals to disclose their accomplices or to acknowledge their crimes.

This torture is called *question* because, as the unfortunate person accused is made to suffer pain, he is *asked questions* as to his supposed crime or accomplices. This is unknown in the United States. See Pothier, Procédure Criminelle, sect. 5, art. 2, § 3.

In Evidence. An interrogation put to a witness, requesting him to declare the truth of certain facts as far as he knows them.

Questions are either *general* or *leading*. By a *general* question is meant such a one as requires the witness to state all he knows, without any suggestion being made to him: as, *Who gave the blow?*

A leading question is one which leads the mind of the witness to the answer, or suggests it to him: as, *Did A B give the blow?*

The Romans called a question by which the fact or supposed fact which the interrogator expected or wished to find asserted in and by the answer was made known to the proposed respondent, a *suggestive* interrogation: as, *Is not your name A B?* See LEADING QUESTION.

In Practice. A point on which the parties are not agreed, and which is submitted to the decision of a judge and jury.

When the doubt or difference arises as to what the law is on a certain state of facts, this is said to be a *legal question;* and when the party demurs, this is to be decided by the court; when it arises as to the truth or falsehood of facts, this is a *question of fact*, and is to be decided by the jury.

QUÆSTORES CLASSICI (Lat.). **In Roman Law.** Officers intrusted with the care of the public money.

Their duties consisted in making the necessary payments from the *ærarium*, and receiving the public revenues. Of both they had to keep correct accounts in their *tabulæ publicæ*. Demands which any one might have on the ærarium, and outstanding debts, were likewise registered by them. Fines to be paid to the public treasury were registered and exacted by them. They were likewise to provide proper accommodations for foreign ambassadors and such persons as were connected with the republic by ties of public hospitality. Lastly, they were charged with the care of the burials and monuments of distinguished men, the expenses for which had been decreed by the senate to be paid by the treasury. Their number at first was confined to two; but this was afterwards increased as the empire became extended. There were questors of cities and of provinces, and questors of the army: the latter were in fact paymasters.

QUESTORES PARRICIDII (Lat.). **In Roman Law.** Public accusers, two in number, who conducted the accusation of persons guilty of murder or any other capital offence, and carried the sentence into execution. They ceased to be appointed at an early period. Smith, Dict. Gr. & Rom. Antiq.

QUI TAM (Lat. who as well). An action under a statute which imposes a penalty for the doing or not doing an act, and gives that penalty in part to whomsoever will sue for the same, and the other part to the commonwealth, or some charitable, literary, or other institution, and makes it recoverable by action. The plaintiff describes himself as suing *as well* for the commonwealth, for example, as for himself. Espinasse, Pen. Act, 5, 6; 1 Viner, Abr. 197; 1 Salk. ‡29, n.; Bacon, Abr.

QUIA (Lat.). **In Pleading.** Because. This word is considered a term of affirmation.

It is sufficiently direct and positive for introducing a material averment. 1 Saund. 117, n. 4; Comyns, Dig. *Pleader* (C 77).

QUIA EMPTORES (Lat.). A name sometimes given to the English Statute of Westminster 3, 18 Edw. I. c. 1, from its initial words. 2 Bla. Com. 91.

QUIA TIMET (Lat. because he fears). A term applied to preventive or anticipatory remedies. According to Lord Coke, "there be six writs of law that may be maintained *quia timet*, before any molestation, distress, or impleading: as, *First*, a man may have his writ or mesne before he be distrained. *Second*, a *warrantia chartæ*, before he be impleaded. *Third*, a *monstraverunt*, before any distress or vexation. *Fourth*, an *audita querela*, before any execution sued. *Fifth*, a *curia claudenda*, before any default of enclosure. *Sixth*, a *ne injuste vexes*, before any distress or molestation. And these are called *brevia anticipantia*, writs of prevention." Co. Litt. 100. And see 7 Bro. P. C. 125.

These writs are generally obsolete. In chancery, when it is contemplated to prevent an expected injury, a bill *quia timet* is filed. See BILL QUIA TIMET.

QUIBBLE. A slight difficulty raised without necessity or propriety; a cavil.

No justly eminent member of the bar will resort to a quibble in his argument. It is contrary to his oath, which is to be true to the court as well as to the client; and bad policy, because by resorting to it he will lose his character as a man of probity.

QUICK WITH CHILD. See QUICKENING.

QUICKENING. In Medical Jurisprudence. The sensation a mother has of the motion of the child she has conceived.

The period when quickening is first experienced varies from the tenth to the twenty-fifth, but is usually about the sixteenth week from conception; Denman, Midw. p. 129.

It was formerly supposed that either the child was not alive until the time of quickening, or that it had acquired some new kind of existence that it did not possess before: hence the presumption of law that dates the life of the child from that time.

The child is, in truth, alive from the first moment of conception, and, according to its age and state of development, has different modes of manifesting its life, and, during a portion of the period of gestation, by its motion. By the growth of the embryo, the womb is enlarged until it becomes of too great a size to be contained in the pelvis, it then rises to the abdomen, when the motion of the fœtus is for the first time felt. See 1 Leg. Gaz. Rep. (Pa.) 183.

Quickening as indicating a distinct point in the existence of the fœtus, has no foundation in physiology; for it arises merely from the relation which the organs of gestation bear to the parts that surround them: it may take place early or late, according to the condition of these different parts, but not from any inherent vitality for the first time manifested by the fœtus.

As life, by law, is said to commence when a woman first becomes quick with child, so procuring an abortion after that period is a misdemeanor. Before this time, formerly the law did not interfere to prevent a pregnant woman convicted of a capital offence from being executed; 2 Hale, Pl. Cr. 413. If, however, the humanity of the law of the present day would not allow a woman to be executed who is, as Blackstone terms it, *privément enceinte*, Com. 129, *i. e.* pregnant, although not quick, it would be but carrying out the same desire to interfere with long-established rules, to hold that the penalty for procuring abortion should also extend to the whole period of pregnancy.

"Quick with child is having conceived; with quick child is where the child has quickened." 8 C. & P. 265; approved in 1 Leg. Gaz. Rep. (Pa.) 183; 2 Whar. & St. Med. Jur. 1230. See 26 Am. Dec. 60, n.

QUID PRO QUO (Lat. what for what). A term denoting the consideration of a contract. See Co. Litt. 47 *b*; 7 M. & G. 998.

QUIDAM (Lat. some one; somebody). **In French Law.** A term used to express an unknown person, or one who cannot be named.

A *quidam* is usually described by the features of his face, the color of his hair, his height, his clothing, and the like, in any process which may be issued against him. Merlin, *Répert.*; Encyclopédie.

QUIET ENJOYMENT. The name of a covenant in a lease, by which the lessor agrees that the lessee shall peaceably enjoy the premises leased. This covenant goes to the possession, and not to the title; 3 Johns. 471; 5 *id.* 120; 2 Dev. 388; 3 *id.* 200. A covenant for quiet enjoyment does not extend as far as a covenant of warranty; 1 Aik. 233.

The covenant for quiet enjoyment is broken only by an entry, or lawful expulsion from, or some actual disturbance in, the possession; 3 Johns. 471; 8 *id.* 198; 15 *id.* 483; 7 Wend. 281; 2 Hill, N. Y. 105; 9 Metc. 63; 4 Whart. 86; 4 Cow. 340. But the tortious entry of the covenantor, without title, is a breach of the covenant for quiet enjoyment; 7 Johns. 376.

QUIETUS (Lat. freed or acquitted). **In English Law.** A discharge; an acquittance.

An instrument by the clerk of the pipe and auditors in the exchequer, as proof of their acquittance or discharge of accountants. Cowel.

Discharge of a judge or attorney-general. 3 Mod. 99*.

In American Law. The discharge of an executor by the probate court. 4 Mas. 131.

QUINTO EXACTUS (Lat.). **In Old English Law.** The fifth call or last requisition of a defendant sued to outlawry.

QUIT-CLAIM. In Conveyancing. A form of deed of the nature of a release containing words of grant as well as release. 2 Washb. R. P. 606.

The term is in constant and general use in American law to denote a deed substantially the same as a release in English law. It presupposes a previous or precedent conveyance or a subsisting estate and possession; Thornt. Conv. 44. It is a conveyance at common law, but differs from a release in that it is regarded as an original conveyance in American law, at least in some states; 6 Pick. 499; 3 Conn. 398; 9 Ohio, 96; 5 Ill. 117; Me. Rev. Stat. c. 73, § 14; Miss. Code 1857, p. 309, art. 17. The operative words are remise, release, and forever quit-claim; Thornt. Conv. 44. Covenants of warranty against incumbrances by the grantor are usually added. See a full article in 12 Cent. L. J. 127.

QUIT-RENT. A rent paid by the tenant of the freehold, by which he goes quit and free,—that is, discharged from any other rent. 2 Bla. Com. 42.

In England, quit-rents were rents reserved to the king or a proprietor, on an absolute grant of waste land, for which a price in gross was at first paid, and a mere nominal rent reserved as a feudal acknowledgment of tenure. Inasmuch as no rent of this description can exist in the United States, when a quit-rent is spoken of some other interest must be intended. 5 Call. 364. A perpetual rent reserved on a conveyance in fee-simple is sometimes known by the name of quit-rent in Massachusetts. See GROUND-RENT; RENT.

QUO ANIMO (Lat. with what intention). The intent; the mind with which a thing has been done: as, the *quo animo* with which the words were spoken may be shown by the proof of conversations of the defendant relating to the original defamation. 19 Wend. 296.

QUO JURE, WRIT OF. In English Law. The name of writ commanding the defendant to show *by what right* he demands common of pasture in the land of the complainant who claims to have a fee in the same. Fitzh. N. B. 299.

QUO MINUS (Lat.). The name of a writ. In England, when the king's debtor is sued in the court of the exchequer, he may sue out a writ of *quo minus*, in which he suggests that he is the king's debtor, and that the defendant has done him the injury or damage complained of, *quo minus sufficiens existit*, by which *he is less able* to pay the king's debt. This was originally requisite in order to give jurisdiction to the court of exchequer; but now this suggestion is a mere form. 3 Bla. Com. 46.

QUO WARRANTO (Lat. by what authority). **In Practice.** The name of a writ (and also of the whole pleading) by which the government commences an action to recover an office or franchise from the person or corporation in possession of it.

The writ commands the sheriff to summon the defendant to appear before the court to which it is returnable, to show (*quo warranto*) *by what authority* he claims the office or franchise. It is a writ of right, a civil remedy to try the mere right to the franchise or office, where the person in possession never had a right to it or has forfeited it by neglect or abuse; 3 Bla. Com. 262, 263.

The action of *quo warranto* was prescribed by the Statute of Gloster, 6 Edw. I., and is a limitation upon the royal prerogative. Before this statute, the king, by virtue of his prerogative, sent commissions over the kingdom to inquire into the right to all franchises, *quo jure et quore nomine illi retinent*, etc.; and, as they were grants from the crown, if those in possession of them could not show a charter, the franchises were seized into the king's hands without any judicial proceeding. Like all other original civil writs, the writ of *quo warranto* issued out of chancery, and was returnable alternatively before the king's bench or justices in eyre; Co. 2d Inst. 277, 494; 2 Term, 549.

The writ of *quo warranto* has given place to an *information in the nature of quo warranto*. This, though in *form* a criminal; see 14 Fla. 256; is in *substance* a civil, proceeding, to try the mere right to the franchise or office; 3 Bla. Com. 263; 1 S. & R. 382; Ang. & A. Corp. 469; 2 Kent, 312; 3 Term, 199; 23 Wend. 537, 591; but see 13 Ill. 66.

If the proceedings refer to the usurpation of the franchises of a municipal corporation, the right to file the information is in the state, at the discretion of the attorney-general; 14 Fla. 256; not of citizens; *id.* see 20 Penn. 518. Individuals cannot take proceedings to dissolve a corporation; 16 S. & R. 144; but in regard to the election of a corporate officer, the writ may issue at the suit of the attorney-general or of any person interested; 1 Zab. 9; 20 Penn. 415; but a private citizen must have some interest; 50 Mo. 97. The attorney-general may act without leave of court; 83 Penn. 105; 38 N. J. L. 282; 12 Fla. 190; but a private relator may not; 15 S. & R. 127; s. c. 16 Am. Dec. 531; and the court will use its discretion in granting the writ; 70 Ill. 25; 2 Johns. 184. Leave is granted on a petition or motion with affidavits, upon which a rule to show cause is granted; 70 Ill. 25. The writ lies against the corporate body, if it is to restrain a usurpation; 50 Mo. 56; or enforce a forfeiture; 57 N. H. 498; but if it is to inquire whether a corporation has been legally organized, the writ lies against the individuals; 15 Wend. 113; s. c. 30 Am. Dec. 34.

In New York a statutory action in the nature of a *quo warranto*, has been substituted. Code Civ. Proc. § 1983. This is a civil writ of legal, not equitable cognizance; 52 N. Y. 576. So in other states it is subject to the rules strictly applicable to civil proceedings; 50 Ala. 568; 44 Mo. 154; Boone, Corp. § 161. The terms "*quo warranto*" and "information in the nature of a *quo warranto*" are synonymous; 34 Wisc. 197; *contra*, 25 Mo. 555; 26 Ark. 281.

Although *quo warranto* proceedings will lie against a municipal corporation in this country, yet they are seldom employed. See a case in 32 Vt. 50; and see 66 Mo. 328. They

will lie against members of a city council 70 Penn. 465; 80 N. Y. 117; *contra*, 47 Cal. 624; 20 Kans. 692; a county treasurer, 15 Ill. 517; a sheriff; 5 Mich. 146; 83 Penn. 105; a lieutenant-governor; 12 Fla. 265; a governor; 4 Wisc. 567; a judge of probate; 77 N. C. 18; a mayor; 55 N. Y. 525; an elector of president of the United States, proceedings being taken in the name of the United States; 8 S. C. 400; a major-general of militia; 5 R. I. 1; so of other militia officers; 26 Penn. 31; 2 Green, Law, 84. There must first be a user of the office; 83 Ill. 128; but taking the oath; *id.*; or exercising its functions without taking the oath; 52 Miss. 665; is enough.

Pleadings in *quo warranto* are anomalous. In ordinary legal proceedings, the plaintiff, whether he be the state or a person, is bound to show a case against the defendant. But in an information of *quo warranto*, as well as in the writ for which it is substituted, the order is reversed. The state is not bound to show any thing, but the defendant is bound to show that he has a right to the franchise or office in question; and if he fail to show authority, judgment must be given against him; 4 Burr. 2146, 2127; Ang. & A. Corp. 636. To the writ of *quo warranto* the defendant simply pleaded his charter, which was a full answer to the writ; just as before the statute of Edward I. the production of the charter to the king's commissioners was full authority for the possession of the franchise or office. But to an information of *quo warranto* the plea of the defendant consists of his charter, with an *absque hoc* denying that he usurped the franchise, and concludes with a verification. The plea is in *form* a special traverse, but in *substance* it is not such. The information was originally a criminal proceeding, to punish the usurpation of the franchise by a fine, as well as to seize the franchise; therefore the information charged usurpation, and the defendant was compelled to deny the usurpation, as well as to show his charter, which he did in the form of an *absque hoc* to his plea. But when the proceeding ceased to be criminal, and, like the writ of *quo warranto*, was applied to the mere purpose of trying the civil right to the franchise, the *absque hoc* denying the usurpation became immaterial, though it is still retained in the forms; 5 Jacob, Law Dict. 374; 4 Cow. 106, note. In Coke's Entries, 351; there is a plea to an information of *quo warranto* without the *absque hoc*. The *absque hoc*, being immaterial, should not be answered by the replication, as it must always be in a special traverse; but the charter, in the first part of the plea, though occupying the place of an inducement, must be denied by the replication, its existence and character being the sole question in controversy upon which the legality of the acts of the corporation turns; Gilb. Ev. 6–8, 145; 10 Mod. 111, 296.

Until the statute 32 Geo. III. c. 58, the defendant could not plead double in an information of *quo warranto* to forfeit an office or franchise; 1 P. Wms. 220; 4 Burr. 2146, n.; 1 Chitty, Pl. 479; 5 Bacon, Abr. 449; 4 Cow. 113, n.; 2 Dutch. 215.

In information of *quo warranto* there are two forms of judgment. When it is against an officer or against individuals, the judgment is *ouster;* but when it is against a corporation by its corporate name, the judgment was *ouster* and *seizure*. In the first case, there being no franchise forfeited, there is none to seize; in the last case, there is; consequently the franchise is seized; 2 Kent, 312, and note; 2 Term, 521, 550. Now, judgment is ouster and dissolution; 15 Wend. 113; s. c. 30 Am. Dec. 34; but there may be a judgment of ouster of a particular franchise, and not of the whole charter; 15 Wend. 113. See, as to the judgment, 32 Vt. 50; 4 Cow. 120. By such judgment of ouster and seizure the franchises are not destroyed, but exist in the hands of the state; but the corporation was destroyed, and ceased to be the owner or possessor of lands or goods, or rights or credits. The lands reverted to the grantor and his heirs, and the goods escheated to the state. But, later, it has been held that the judgment must be confined to seizure of the franchises: if it be extended to seizure of the property, so far it is erroneous; 1 Blackf. 267. See SCIRE FACIAS; 30 Barb. 588.

The principle of forfeiture is that the franchise is a trust; and all the terms of the charter are conditions of the trust; and if any one of the conditions of the trust be violated, it will work a forfeiture of the charter. And the corporate powers must be construed strictly, and must be exercised in the manner and in the forms and by the agents prescribed in the charter; 2 Kent, 298, 299; 1 Bla. Com. 485; 13 Viner, Abr. 511; 13 Pet. 587; 5 Wend. 211; 2 Term, 546; 4 Gill & J. 121.

Cases of forfeiture may be divided into two great classes. *Cases of perversion:* as, where a corporation does an act inconsistent with the nature and destructive of the ends and purposes of the grant. In such cases, unless the perversion is such as to amount to an *injury to the public* who are interested in the franchise; 34 Penn. 283; it will not work a forfeiture. *Cases of usurpation:* as, where a corporation exercises a power which it has no right to exercise. In such cases the cause of forfeiture is not determined by any question of *injury to the public*, but the abuse which will work a forfeiture need not be of any particular measure or extent; 3 Term, 216, 246; 23 Wend. 242; 34 Miss. 688; 21 Ill. 65. See 30 Ala. N. S. 66. In case of usurpation of an office or franchise by an individual, it must be of a public nature to be reached by this writ; 21 Ill. 65; 28 Vt. 594, 714; 9 Cush. 596.

In England, corporations are the creatures of the crown, and on dissolution their franchises revert to the crown; and they may be re-granted by the crown either to the old, or to the new, or to the old and new, corporators;

and such grant restores the old rights, even to sue on a bond given to the old corporation, and the corporation is restored to the full enjoyment of its ancient liberties; and if it were a corporation by prescription it would still be so; 2 Term, 524, 543; 3 *id.* 241. In the United States, corporations are the creatures of the legislature, and on dissolution their franchises revert to the state; and the legislature can exercise the same powers by legislation over the franchises, and with the same effects, as the crown can in England; Ang. & A. Corp. 652.

By the statute of Anne, c. 20, an information in the nature of *quo warranto* may by leave of court be applied to disputes between party and party about the right to a corporate office or franchise; 4 Zabr. 529; 1 Dutch. 354; 32 Penn. 478; 33 Miss. 508; 7 Cal. 393, 432. And the person at whose instance the proceeding is instituted is called the *relator;* 3 Bla. Com. 264. The court will not give leave to private informers to use the king's name and suit to call in question the validity of a franchise, when such persons apply under very unfavorable circumstances; 4 Burr. 2123. As to where the burden falls of showing the lawful or unlawful character of a franchise or right, see 28 Penn. 383; 5 Mich. 146. The information, it is said, may be filed after the expiration of the term of office; 2 Jones, No. C. 124; but see High, Extr. Leg. Rem. § 633.

See High, Extr. Leg. Rem.; 30 Am. Dec. 33 and full note; Boone, Corp.; Ang. & A. Corp.

QUOAD HOC (Lat. as to this; with respect to this). A term frequently used to signify, *as to the thing named*, the law is so and so.

QUOD COMPUTET (Lat. that he account). The name of an interlocutory judgment in an action of account-render; also the name of a decree in the case of creditors' bills against executors or administrators. Such a decree directs the master to take the accounts between the deceased and all his creditors, to cause the creditors, upon due and public notice, to come before him to prove their debts, at a certain place and within a limited period, and also directs the master to take an account of all personal estate of the deceased in the hands of the executor or administrator; Story, Eq. Jur. § 548. See JUDGMENT QUOD COMPUTET; ACCOUNT.

QUOD CUM (Lat.). **In Pleading.** For that whereas. A form of introducing matter of inducement in those actions in which introductory matter is allowed to explain the nature of the claim: as, assumpsit and case. Hardr. 1; 2 Show. 180.

This form is not allowable to introduce the matter which constitutes the gravamen of the charge, as such matter must be stated by positive averment, while *quod cum* introduces the matter which depends upon it by way of recital merely. Hence in those actions, as trespass *vi et armis*, in which the complaint is stated without matter of inducement, *quod cum* cannot be properly used; 2 Bulstr. 214. But its improper use is cured by verdict; 1 P. A. Browne, 68; Comyns, Dig. *Pleader* (C 86).

QUOD EI DEFORCEAT (Lat.). **In English Law.** The name of a writ given by stat. Westm. 2, 13 Edw. I. c. 4, to the owners of a particular estate, as for life, in dower, by the curtesy, or in fee-tail, who are barred of the right of possession by a recovery had against them through their default or non-appearance in a possessory action; by which the right was restored to him who had been thus unwarily deforced by his own default. 3 Bla. Com. 193.

QUOD PERMITTAT (Lat.). **In English Law.** That he permit. The name of a writ which lies for the heir of him who is disseised of his common of pasture, against the heir of the disseisor, he being dead. Termes de la Ley.

QUOD PERMITTAT PROSTERNERE (Lat. that he give leave to demolish). **In English Law.** The name of a writ which commands the defendant to permit the plaintiff to abate the nuisance of which complaint is made, or otherwise to appear in court and to show cause why he will not. On proof of the facts, the plaintiff is entitled to have judgment to abate the nuisance and to recover damages. This proceeding, on account of its tediousness and expense, has given way to a special action on the case.

QUOD PROSTRAVIT (Lat.). The name of a judgment upon an indictment for a nuisance, that the defendant abate such nuisance.

QUOD RECUPERET. See JUDGMENT QUOD RECUPERET.

QUORUM. Used substantively, quorum signifies the number of persons belonging to a legislative assembly, a corporation, society, or other body, required to transact business. There is a difference between an act done by a definite number of persons, and one performed by an indefinite number; in the first case a majority is required to constitute a quorum, unless the law expressly directs that another number may make one; in the latter case any number who may be present may act, the majority of those present having, as in other cases, the right to act; 7 Cow. 402; 9 B. & C. 856; 34 Vt. 316; 27 Miss. 517.

Where articles of association did not prescribe the number of directors necessary for a quorum, it was held that the number who usually transacted the business constituted a quorum; L. R. 4 Eq. 233. A single shareholder was held not to constitute a meeting; 2 Q. B. Div. 26. A majority of a board of directors is a quorum, and a majority of such quorum can act; 19 N. J. Eq. 402; so of a board of selectmen of a town; Maine Laws (1880), 225.

Sometimes the law requires a greater number than a bare majority to form a quorum.

In such case no quorum is present until such a number convene.

When an authority is confided to several persons for a private purpose, all must join in the act, unless otherwise authorized; 6 Johns. 38; 17 Abb. Pr. 201; otherwise if the trust is a continuous public duty; 17 Abb. Pr. 201. See AUTHORITY; MAJORITY; PLURALITY; MEETING.

QUOT. In Scotch Law. The twentieth part of the movables, computed without computation of debts, was so called.

Formerly the bishop was entitled, in all confirmations, to the quot of the testament. Erskine, Inst. 3. 9. 11.

QUOTA. That part which each one is to bear of some expense: as, his quota of this debt; that is, his proportion of such debt.

QUOTATION. In Practice. The allegation of some authority or case, or passage of some law, in support of a position which it is desired to establish.

The transcript of a part of a book or writing from a book or paper into another.

If the quotation is fair, and not so extensive as to extract the whole value or the most valuable part of an author, it will not be a violation of the copyright. It is mostly difficult to define what is a fair quotation. When the quotation is unfair, an injunction will lie to restrain the publication. See 17 Ves. 424; 1 Bell, Com. 121.

"That part of a work of one author found in another," observed Lord Ellenborough, "is not of itself piracy, or sufficient to support an action; a man may adopt part of the work of another; he may so make use of another's labors for the promotion of science and the benefit of the public." 1 Camp. 94. See Curtis, Copyr. 242; 3 Myl. & C. 737; 17 Ves. 422; 2 Stor. 100; 2 Beav. 6; ABRIDGMENT; COPYRIGHT.

QUOUSQUE. A Latin adverb, which signifies how long, how far, until.

In old conveyances it is used as a word of limitation; 10 Co. 41.

In practice, it is the name of an execution which is to have force until the defendant shall do a certain thing. Of this kind is the *capias ad satisfaciendum*, by virtue of which the body of the defendant is taken into execution, and he is imprisoned *until* he shall satisfy the execution; 3 Bouvier, Inst. n. 3371.

R.

RACHETUM (Fr. *racheter*, to redeem). **In Scotch Law.** Ransom: corresponding to Saxon *weregild*, a pecuniary composition for an offence. Skene; Jacob, Law Dict.

RACK. An engine with which to torture a supposed criminal, in order to extort a confession of his supposed crime and the names of his supposed accomplices.

It is unknown in the United States, but, known by the nickname of the Duke of Exeter's daughter, was in use in England. Barrington, Stat. 366; 12 S. & R. 227.

RACK RENT. In English Law. The full extended value of land left by lease, payable by a tenant for life or years. Wood, Inst. 192.

RADOUR. In French Law. A term including the repairs made to a ship, and a fresh supply of furniture and victuals, munitions, and other provisions required for the voyage. Pardessus, n. 602.

RAILROAD. A road graded and having rails of iron or other material for the wheels of railroad cars to run upon.

Railroads in their present form first began to be extensively constructed after the successful experiments in the use of locomotives in 1829. They had been in use in a rude form as early as 1676. These earlier railroads were of limited extent, built by private persons on their own land or upon the land of others, by special license, called way-leave. In their modern form, railroads are usually owned by a corporation; 2 Col. 673; 18 Penn. 187; which is authorized to exercise some important privileges, such as a right of eminent domain, etc. But a private individual may construct and work a railroad if he can obtain a right of way by purchase; 70 Penn. 210; L. R. 4 H. L. 171; 30 Vt. 182. Within recent years, another class of railroads, namely, those laid in the streets of towns and cities, have become very numerous.

As to a distinction between railroads and railways, see 89 Penn. 210.

The *charter* of a public railway requires the grant of the supreme legislative authority of the state; 3 Engl. Railw. Cas. 65; 2 Railw. Cas. 177; 3 N. Y. 430. It is usually conferred upon a private corporation, but sometimes upon a public one, where the stock is owned and the company controlled by the state; Redf. Railw. § 17; 1 Ohio St. 657; 21 Conn. 304; 10 Leigh, 454; 4 Wheat. 668; 8 Watts, 316. Such charter, when conferred upon a private company or a natural person, as it may be, is in the absence of constitutional or statutory provisions to the contrary, irrevocable, and only subject to general legislative control, the same as other persons natural or artificial; 4 Wheat. 668; 2 Kent,