A SELECTION

OF

MAXIMS OF LAW

— AN ENGLISH VERSION —

Compiled and Edited

by

CHARLES A. WEISMAN

WITH OVER 1,600 MAXIMS LISTED UNDER 105 DIFFERENT SUBJECT HEADINGS BEING ALPHABETICALLY ARRANGED

Maxims are the condensed good sense of nations.
— SIR J. MACKINTOSH.

Law is a rule of right. — A MAXIM OF LAW.

WEISMAN PUBLICATIONS
Burnsville, Minnesota
1990

CONTENTS

PREFACE ..... 5 - 6
MAXIMS OF LAW ..... 7 - 101
ABBREVIATIONS & BIBLIOGRAPHY ..... 102 - 104

SUBJECT MATTER INDEX

1. Accident 7
2. Act, Acts, Actions 7
3. Advice, Opinion 8
4. Agent 9
5. Agree, Agreement 9
6. Ambiguity 10
7. Annul, Abrogate, Revoke 11
8. Arguments 12
9. Arms 12
10. Attempt 13
11. Authority, Power 13
12. Benefits, Privileges 14
13. Buying & Selling 15
14. Cause, Effect 16
15. Certain, Certainty 17
16. Clause, Provision 18
17. Common Knowledge & Usage 18
18. Common Law 19
19. Condition 19
20. Confirm 20
21. Consent 20
22. Construction & Interpretation 21
23. Continue, Discontinue 24
24. Contracts 24
25. Corrupt Acts, Corruption 26
26. Crime, Criminal Acts 27
27. Custom 28
28. Debt, Debtor, Creditor 30
29. Deceit, Fraud 31
30. Deeds (Writings) 32
31. Describe, Define 33
32. Doubt, Doubtful 34
33. Dower 34
34. Duty 34
35. Economics, Business 35
36. Equity & Civil Practices 36
37. Error, Mistake 37
38. Event 38
39. Evidence, Proof & Witnesses 38
40. Exception 40
41. Excess 41
42. Execution (Of Law) 41
43. Express, Imply 41

44. Fault, Blame, Guilt 42
45. Fiction 43
46. Form of Law 43
47. Freedom, Liberty 44
48. Gift 44
49. God, Divinity 45
50. Good Faith 46
51. Government 46
52. Grants, Permission 47
53. Guardian 48
54. Homes, House 48
55. Human Nature 49
56. Identity, Identify 49
57. Ignorance 50
58. Inheritance, Heir, Descent 50
59. Injury, Damage, Harm 52
60. Intent, Intention 54
61. Interpersonal Relationship 55
62. Invalid, Valid, Void 56
63. Judge, Judges 57
64. Judgment, Decision 58
65. Judicial Acts & Procedures 60
66. Jurisdiction 62
67. Jury, Jurors 63
68. Justice 63
69. Knowledge, Understanding 64
70. Land, Real Estate 65
71. Law, Laws 67
72. Law (Adherence To) 69
73. Lawful, Unlawful 70
74. Law of Nature 71
75. Legal Action & Proceedings 71
76. Legal Capacity & Status ..73
77. Legal Rights 74
78. Malice, Evil, Bad 75
79. Marriage 75
80. Minor, Juvenile 76
81. Name 77
82. Natural Rights 78
83. Necessity, Necessary 78
84. Oaths 79
85. Partnership 79
86. Personal Rights 80
87. Plea, Pleading 81
88. Precedent 82
89. Presume, Presumption 83
90. Prohibit 84
91. Property Rights & Possession 84
92. Punishment 86
93. Relation, Incident 88
94. Remedy, Recovery 88
95. Rules & Principles of Law 90
96. Servant, Service 92
97. Similar, Dissimilar 92
98. Specific, Special, General 93
99. Suits & Trials 94
100. Time, Day 95
101. Truth 96
102. War, Law of Nations 97
103. Wills & Testaments 97
104. Words & Meanings 99
105. Wrong, Wrongful Acts .101

PREFACE

In Law, as with any science, their exists certain fundamental principles which form its basis and to which reference must be frequently made in its application. These fundamental principles in law are referred to as "Maxims of Law." Sir William Blackstone says they are *"somewhat like axioms in geometry."*[1]

Certain Maxims of Law have prevailed throughout recorded history. They can be found in the old English Common Law, in the ancient Roman Law, and can be found in the Bible as well. These maxims of law are so manifestly founded on reason, necessity and Divine precepts, that they have been universally accepted as being true rules and principles of law. They thus have become a part of the general customs and common law of the land of every civilized nation.

In describing the established Maxims of Law, Sir Edward Coke, a leading English authority on the law, stated:

> *"A maxim is so called because its dignity is chiefest, and its authority the most certain, and because it is universally approved by all."*[2]

Perhaps the most renowned work on law is Coke's four *Institutes* in which Coke supported his legal dissertations with maxims of law. In 1814, Thomas Jefferson wrote to Dr. Thomas Cooper regarding law and Coke's *Institutes* stating:

> *"This work is executed with so much learning and judgment, that I do not recollect a single position in it has ever been judicially denied. . . It may still be considered as the fundamental code of the English law."*

In a letter to Darbney Terrell, Esq. in 1821, Jefferson made this recommendation:

> *"You mentioned to me your intention of studying the law, and asked my opinion as to the sufficient course of reading . . . First, begin with Coke's four Institutes."*

John Rutledge, a signer of the U.S. Constitution at the Constitutional Convention, remarked that:

> *"In regard to particular law books — Coke's Institutes seem to be almost the foundation of our law."*

A brief examination of the earlier case reports of England and America will readily show the importance which was attached to the acknowledged Maxims of Law. Maxims were continually relied

1 Blackstone, *Commentaries on the Law of England,* Vol. I, p. 68.

2 *Chrisman v. Linderman,* 100 S.W. 1090, 1092; 202 Mo. 606.

upon to settle matters dealing with wills, inheritance, land, economics, crime, marriage, property, contracts, rights, and virtually every aspect of law and jurisprudence that would arise.

> **MAXIM.** An established principle or proposition. A principle of law universally admitted, as being a correct statement of the law, or as agreeable to natural reason.
>
> Coke defines a maxim to be "conclusion of reason," and says that it is so called "*quia maxima ejus dignitas et certissima auctoritas, et quod maxime omnibus probetur.*" Co. Litt. 11*a*. He says in another place: "A maxime is a proposition to be of all men confessed and granted without proofe, argument, or discourse." Id. 67*a*.
>
> Reproduced from: *Black's Law Dictionary,* 2nd Edition (1910) p. 767.

If one fails to understand the fundamental principles of law, then there is no end to which he can be misled or deceived about what is right and what is wrong. Such a person could easily become subject to government encroachments, or be maneuvered into surrendering his rights. This is so because law governs all events and things that concern our lives. Clearly, a failure to have a practical understanding of the Maxims of Law could lead to grievous errors in our actions, no less so than the errors resulting from one's ignorance in the principles of any other science.

Maxims of Law, like any other fundamental laws, always hold true and yield the same results under the same conditions. Thus the application of a maxim to a case before the court is generally the only question, not its validity *per se.*

The true method of making the application is to ascertain how the maxim arose, and to consider whether the case to which it is applied is of the same character, or whether it is an exception to an apparently general rule. Further, the understanding or application of a particular maxim may involve the consideration of other maxims which may guide or clarify its correct meaning or application. Thus, certain situations may involve two or more principles of law which would need to be considered in determining the way the law works or is applied.

In this work I have endeavored to point out the more important Legal Maxims of practical use. An effort was also made to eliminate those maxims of the English law which are not applicable to American Law.

Understanding the principles of law in this book can put one at a definite advantage in whatever his endeavors, since so many aspects of our lives are affected by law.

—Charles A. Weisman (6/90)

1. ACCIDENT

1a. An unforeseen event, occurring without the will or design of the person whose mere act causes it, is known as an accident. *Burkhard v. Travelers' Ins. Co.,* 102 Pa. 262.

1b. A fortuitous event is not to be expected or presumed, and no one is bound to foresee it. 4 *Coke,* 66; *Hardr.* 82, arg.

1c. No one is held to answer for the effects of a superior force, or of an accident, unless his own fault has contributed. *Fleta,* lib. 2, c. 72, s. 16.

1d. Mistakes, neglect, or misconducts are not to be regarded as accidents. *Citizens Nat. Bank v. Cincinnati,* 19 Ohio Dec. 685, 687.

1e. Laws cannot prevent accidents nor can a law equally protect all against them. *Louisiana v. Resweber,* 329 U.S. 459, 465.

2. ACT, ACTS, ACTIONS

2a. The frequency of an act effects much. 4 *Coke,* 78; *Wing. Max.* 192.

2b. Acts required to be done by law do not admit of qualification. *Hob.* 153; Branch, *Princ.*

2c. Every action proceeds in its own way or course. *Jenk. Cent.* 77.

2d. Not what is said, but what is done, is to be regarded. *Co. Litt.* 36; 6 Bingh. 310; *Osborn v. Cook,* 11 Cush. (Mass.) 536.

2e. Certain legal consequences are attached to the voluntary act of a person. *Duncan v. Landis,* 106 Fed. 839.

2f. Things which are done simultaneously with an act are supposed to be inherent in it; to be a constituent part of it. *Co. Litt.* 236*b*.

2g. Environment illuminates the meaning of acts, as context does that of words. *Cramer v. United States,* 325 U.S. 1, 33.

2h. By various acts experience frames the law. 4 *Inst.* 50.

2i. Where there is no act, there can be no force. 4 *Coke,* 43.

2j. Your motive gives a name to your act. *Bract.* 2*b*, 101*b*.

2k. No man ought to be burdened in consequence of another's act. 2 Kent, *Comm.* 646.

2l. A repugnant act cannot be brought into being, *i.e.,* cannot be made effectual. *Plowd.* 355.

2m. When many join in one act, the law will construe it as the act of him who could best accomplish it. Noy, *Max.* 38.

2n. One may not do an act to himself. *Bouv.* 146.

2o. Take away the will, and every action will be indifferent. *Bract.* 2.

2p. Every man is presumed to intend the natural and probable consequences of his own voluntary act. *Greenl. Ev.* s. 18; 9 *East,* 277.

2q. An act done by me, against my will, is not my act. Branch, *Princ.*; *Bract.* 101*b*; *Cycl. Dict.* 25.

2r. Acts indicate the intention. 8 *Coke,* 291; Broom, *Max.* 270; *Troy v. Yelle,* 176 P.2d 459, 463.

2s. To write is to act. 2 *Rolle,* 89; 4 *Bl. Comm.* 80; Broom, *Max.* 312, 967.

2t. External acts indicate undisclosed thoughts. 8 Coke, 146*b*.

2u. All actions in the world are limited within certain periods. *Bract.* 52.

2v. A party's own act should prejudice himself, not his adversary. *Dig.* 50, 17, 155.

2w. When there is doubt about an act, it receives interpretation from the (known) feelings of the actor. *Dig.* 50, 17, 68, 1.

2x. A thing done cannot be undone. 1 Kames, *Eq.* 96, 259.

2y. No one can do that indirectly which cannot be done directly. C.L.M.

2z. There is no surer way to find out what parties meant, than to see what they have done. *Brooklyn Ins. Co. v. Dutcher,* 5 Otto (95 U.S.) 269, 273.

2aa. No one can contradict his own deed. 2 *Inst.* 66.

3. ADVICE, OPINION

3a. Hasty counsels are rarely prosperous. 4 *Inst.* 57.

3b. No man is bound for the advice he gives. Story, *Bailm.* s. 155.

3c. Opinion is of two kinds, namely, common opinion, which springs up among grave and discreet men, and which has the appearance of truth, and opinion which springs up only among light and foolish men, without the semblance of truth. 4 *Coke,* 107.

3d. A simple recommendation does not bind the party offering it. *Dig.* 4, 3, 37; 2 Kent, *Comm.* 485; Broom, *Max.* 3d Lond. ed. 700; *Smith v. Goodrich,* 5 Johns. (N.Y.) 354.

3e. Every one is free to ascertain for himself whether a recommendation (or advice) is advantageous to his interests. *Upton v. Vail,* 6 Johns. (N.Y.) 181, 184; 5 Am. Dec. 210.

3f. The advice of many persons is requisite in great affairs. 4 *Inst.* 1.

3g. A wise man does every thing advisedly. 4 *Inst.* 4.

3h. In many counselors there is safety. 4 *Inst.* 1.

4. AGENT

4a. The same person cannot be both agent and patient; *i.e.,* the doer and person to whom the thing is done. *Jenk. Cent.* 40.

4b. He who does a thing by another is considered as doing it himself [*i.e.,* the acts of an agent are the acts of the principal.] Broom, *Max.* 817, 818, et seq.; 1 *Bl. Comm.* 429; Story, *Ag.* s. 440; *Co. Litt.* 258; 2 *Bouv. Inst.* n. 1273; *Comm. v. Dewitt,* 10 Mass. 155.

4c. What I cannot do by myself, I cannot by another [*i.e.,* an agent.] 4 *Coke,* 24*b*; 11 *Coke,* 87*a*; *Jenk. Cent.* 237.

4d. An agent is a person authorized by another to act on his account and under his control. *Wasilowski v. Park Bridge Corp.,* 156 F.2d 612, 614.

4e. A delegate cannot delegate; an agent cannot delegate his functions to a subagent without the knowledge or consent of the principal; the person to whom an office or duty is delegated cannot lawfully devolve the duty on another, unless he be expressly authorized so to do. 9 *Coke,* 77; Broom, *Max.* 840; 2 Kent, *Comm.* 633; 2 *Steph. Comm.* 119.

4f. Faith must be observed. An agent must not violate the confidence reposed in him. Story, *Ag.* s. 192.

4g. Whatever things or rights that are acquired by an agent are acquired for his principal. Story, *Ag.* s. 403.

4h. An agent, as such, does not have title to the principal's property, although he may be intrusted with possession, and although he may have power to pass title. *Rogers v. U.S. Rubber Co.,* 20 A.2d 626, 627, 91 N.H. 398.

4i. An assigner is clothed with the rights of his principal. *Halk. Max.* 14; Broom, *Max.* 3d Lond. ed. 415; *Wing. Max.* 56.

4j. He who commands a thing to be done is held to have done it himself. Story, *Bailm.* s. 147.

5. AGREE, AGREEMENT

(See also: CONSENT -:- CONTRACTS)

5a. When there is a disagreement in the substance, it appears that there is no acceptance. *Gardner v. Lane,* 12 Allen (Mass.) 44.

5b. An agreement induced by fraud cannot stand. *Dig.* 2, 14, 7, *s.* 9.

5c. Those things which are impossible to be given, or which are not in the nature of things, are regarded as no part of an agreement. *Dig.* 50, 17, 135.

5d. Agreements give the law to the contract. *Halk. Max.* 118.

5e. Out of a nude or naked pact [that is, a bare parol agreement without consideration] no action arises. *Bract.* fol. 99; *Fleta,* lib. 2, c. 56, s. 3; *Plowd.* 305. A parol agreement, without a valid consideration, cannot be made the foundation of an action. *Code,* 2, 3, 10; 2 *Bl. Comm.* 445; Smith, *Cont.* 85, 86.

5f. The part which does not agree with its whole is entitled to small or no consideration. *Plowd.* 101; *Shep. Touch.* 87.

5g. If it does not appear what was agreed upon, the consequence will be that we must follow that which is the usage of the place where the agreement was made. *Dig.* 50, 17, 34.

5h. There is no doubt that the rights of others cannot be prejudiced by private agreements. *Dig.* 2, 15, 3, pr.; Broom, *Max.* 623.

5i. Nothing can be effected by an agreement that there shall be no accountability for fraud. *Dig.* 2, 14, 27, 3; Broom, *Max.* 3d Lond. ed. 622, 188, n.

5j. By special agreement, things are allowed which are not otherwise permitted. *Co. Litt.* 166.

5k. One of two opposite positions being affirmed, the other is denied. 3 *Rolle,* 422.

5l. The expressed agreement of the parties overcomes or prevails against the law, because the agreement of the parties makes the law of the contract. Story, *Ag.* s 368; *Dig.* 16, 3, 1, 6; 2 *Coke,* 73.

5m. A naked agreement [*i.e.,* without consideration] does not beget an obligation. *Dig.* 2, 14, 7, 4; Broom, *Max.* 746.

5n. Those things do not differ which agree in substance, though not in the same words. *Jenk. Cent.* p. 70, case 32.

6. AMBIGUITY

(See also: CERTAIN -:- DOUBT)

6a. An ambiguous answer is to be taken against him who offers it. 10 *Coke,* 58, 59.

6b. A latent ambiguity in the language may be removed by evidence; for whatever ambiguity arises from an extrinsic fact may be explained (or removed) by extrinsic evidence. Bacon, *Max.* Reg. 23; 2 Kent, *Comm.* 557.

6c. A patent ambiguity cannot be cleared up by extrinsic evidence. *Lofft,* 249.

6d. It is a wretched state of things when law is vague and mutable. 2 *Salk.* 512.

6e. In ambiguous expressions, the intention of the person using them is chiefly to be regarded. *Dig.* 50, 17, 96; Broom, *Max.* 567.

6f. In an ambiguous expression of law, that signification is to be preferred which is consonant with equity, especially when the spirit of the law can be collected from it. *Dig.* 1, 3, 19; Broom, *Max.* 576.

6g. In cases of ambiguity, such an interpretation should always be made that what is inconvenient and absurd may be avoided. 4 *Inst.* 328.

6h. In obscure cases, we look at what is most probable, or what most commonly happens. *Dig.* 50, 17, 114; *Dig.* 50, 17, 9; 2 Kent, *Comm.* 557.

6i. Ambiguity is doubtfulness; doubleness of meaning. *Chapman v. Metropolitan Life Ins. Co.,* 173 S.E. 801, 803, 172 S.C. 250.

6j. Indistinctness in a written instrument is ambiguity. *Black's,* 2d 64.

6k. An ambiguity in a writing which will warrant the introduction of parol evidence is duplicity, indistinctness, or an uncertainty of meaning or expression, and mere omission or mistake is not an ambiguity. *Beidler v. Davis,* 50 N.E.2d 613, 616, 72 Ohio App. 27.

7. ANNUL, ABROGATE, REVOKE

(See Also: INVALID)

7a. When the form is not observed, it is inferred that the act is annulled. 12 *Coke,* 7.

7b. It matters not whether a revocation be by words or by acts. *Cro. Car.* 49; Branch, *Princ.*

7c. It is a perpetual law that no human or positive law can be perpetual; and a clause in a law which precludes the power of abrogation is void *ab initio.* Broom, *Max,* 3d Lond. ed. 27; Bacon, *Max.* reg. 19.

7d. An act already begun, the completion of which depends on the will of the parties, may be revoked; but if it depend on the will of a third person, or on a contingency, it cannot be revoked. Bacon, *Max.* reg. 20. Story, *Ag.* s. 424.

7e. Laws are abrogated or repealed by the same authority by which they are made. Broom, *Max.* 3d Lond. ed. 785.

7f. What is done without consideration or reflection, upon better consideration we should revoke or undo. *Jenk. Cent.* 116.

7g. By the same mode by which a thing is bound, by that it is also released or dissolved. 2 *Rolle,* 21, 39; *Jenk. Cent.* 74; Broom, *Max.* 884, 891; 6 *Coke,* 53.

7h. To derogate from a law is to take away part of it; to abrogate a law is to abolish it entirely. *Dig.* 50, 17, 102; 1 *Bouv. Inst.* n. 91.

7i. All shall have liberty to renounce those things which have been established in their favor. *Code.* 2, 3, 29; Broom, *Max.* 625.

7j. That which is null produces no effect. *Tray. Leg. Max.* 519.

7k. Whose it is to institute, his it is also to abrogate. Broom, *Max.* 785.

7l. An amendment [to the original instrument] is not a repeal. [Fundamental principles are not annulled by amendment.]. *Mass. Bond & Ins. Co. v. U.S.,* 352 U.S. 128, 139.

7m. Implied repeals are not favored in Law. *United States v. Noce,* 268 U.S. 613, 619.

8. ARGUMENTS

(See Also: PLEA -:- LEGAL ACTION)

8a. An argument from division [of the subject] is of the greatest force in law. *Co. Litt.* 213*b*; 6 *Coke,* 60.

8b. An argument from the greater to the less is of no force negatively; conversely it is. *Jenk. Cent.* 281.

8c. He who approbates does not reprobate, [it is an unsound argument to both accept and reject the same thing.] *Black's,* 2d. 978.

8d. An argument from a similar case, or from analogy, is good in law. *Co. Litt.* 191.

8e. From like things to like things we are to proceed by the same rule or reason, [*i.e.,* we are allowed to argue from the analogy of cases.] Branch, *Princ.*

8f. An argument deduced from impossibility greatly avails in law. *Co. Litt.* 92.

8g. An argument drawn from what is inconvenient is good in law, because the law will not permit any inconvenience. *Co. Litt.* 66*a.*

8h. No argument can be drawn against the use of a thing from its abuse. Branch, *Princ.*

8i. An argument drawn from authority is the strongest in the law. "The book cases are the best proof of what the law is." *Co. Litt.* 254*a.*

8j. An argument drawn from things commonly happening is frequent in law. Broom, *Max.* 44.

9. ARMS

9a. The laws permit the taking up of arms against armed persons. 2 *Inst.* 574.

9b. Under the name of arms are included, not only shields and swords and helmets, but also clubs and stones. *Co. Litt.* 162.

9c. It is a liberty of free citizens to retain arms for their protection and according to their condition. *People v. Horton,* 264 N.Y.S. 84, 88.

9d. Laws are silent amidst arms. 4 *Inst.* 70.

9e. Arms used in the committing an offense include only that which is recognized as a dangerous weapon. C.L.M.

9f. The people have a right to bear arms for the defense of themselves and the state. *An American Maxim.*

10. ATTEMPT

10a. What an attempt is, is not defined in law. 2 *Bulst.* 277; 6 *Coke,* 42.

10b. An attempt does not harm unless a consequence follow. 11 *Coke,* 98; *Cycl. Dict.* 700.

10c. The attempt becomes of consequence, if the effect follows. *Jenk. Cent.* 55; *Bouv.* 145.

10d. An attempt is an intent to do a particular criminal thing with an act toward it falling short of the thing intended. *State v. Davis,* 229 A.2d 842, 844, 108 N.H. 158.

10e. An overt act, failure, interception, or prevention in the execution of a crime are factors inherent in the general legal concept of an attempt. *People v. Urbana,* 163 N.E.2d 511, 514, 18 Ill.2d 81.

11. AUTHORITY, POWER

(See Also: SERVANT -:- JURISDICTION)

11a. A delegated power cannot be again delegated. 2 *Inst.* 597; *Black's,* 2d. 347; 2 *Bouv. Inst.* n. 1300. A deputy cannot have (or appoint) a deputy. Story, *Ag.* s. 13; 9 *Coke,* 77; 2 *Bouv. Inst.* n. 1936.

11b. The derivative power cannot be greater than the original from which it is derived. Noy, *Max.*; *Wing. Max.* 66; Finch, *Law,* b. 1, c. 3.

11c. Nothing is so becoming to authority as to live in accordance with the laws. *Fleta,* lib. 1, c. 17, s. 11.

11d. In the greatest power there is the least freedom. *Hob.* 159.

11e. That power is to no purpose which never comes into act, or which is never exercised. 2 *Coke,* 51.

11f. Power can never be delegated which the authority said to delegate never possessed itself. *N.J. Steam Co. v. Merch Bank,* 6 How. (47 U.S.) 344, 407.

11g. When anything is commanded, everything by which it can be accomplished is also commanded. 5 *Coke,* 116.

11h. Supreme power can dissolve itself. Bacon, *Max.*

11i. Where there is no authority for establishing a rule, there is no necessity of obeying it. *Black's,* 2d. 1181; *Dav. Ir. K.B.* 69. Useless power is to no purpose. Branch, *Princ.*

11j. One has authority when he has a legal or rightful power to act. C.L.M.

11k. An equal has no power over an equal. *Jenk. Cent.* 174. (Example: One of two judges of the same court cannot commit the other for contempt.)

11l. The legality of power must be estimated not by what it will do, but by what it can do. *Block v. Hirsh,* 256 U.S. 135, 162.

11m. The authority of no man ought to avail with us, that we should not follow better opinions should any one present them. *Co. Litt.* 383b.

11n. Power should follow justice, not go before it. 3 *Bulst.* 199; 2 *Inst.* 454.

11o. That power is vain [idle or useless] which never comes into action, [which is never exercised.] 2 *Coke,* 51.

11p. A power is strictly interpreted. *Jenk. Cent.* p. 17, case 29, in marg.

11q. Every ratification relates back and is equivalent to a prior authority. Broom, *Max.* 757, 871; *Chit. Cont.* 196.

11r. Paternal power should consist [or be exercised] in affection, not in atrocity. *Black's,* 2d. 882.

11s. One lawfully commanding must be obeyed. *Jenk. Cent.* 120.

11t. He who contemns (or contemptuously treats) a command contemns the party who gives it. 12 *Coke,* 97.

11u. Reason and authority, the two brightest lights of the world. 4 *Inst.* 320.

11v. Power is not synonymous with right. *Poe v. Seaborn,* 282 U.S. 101, 113.

11w. In the presence of the superior power, the inferior power ceases. *Jenk. Cent.* 214, c. 53; 13 How. (54 U.S.) 142. The less authority is merged in the greater. Broom, *Max.* 111.

12. BENEFITS, PRIVILEGES

(See Also: GRANTS)

12a. A privilege is a personal benefit, and dies with the person. 3 *Bulst.* 8.

12b. A benefit is not conferred on one who is unwilling to receive it; that is to say, no one can be compelled to accept a benefit against his consent. *Dig.* 50, 17, 69; Broom, *Max.* 699, note.

12c. A privilege avails not against the commonwealth. Bacon, *Max.* 25; Broom, *Max.* 3d Lond. ed. 17; Noy, *Max.* 34.

12d. It is a rule of the ancient law that all persons have liberty to renounce those privileges which have been conferred for their benefit. *Code.* 1, 3, 51; *Id.* 2, 3, 29.

12e. One who avails himself of the benefits conferred by a statute cannot deny its validity. *Buck v. Kuykendall,* 267 U.S. 307, 316.

12f. He who receives the advantage or benefit from a thing should also bear the burden or disadvantages attending it. 1 *Coke,* 99; Broom, *Max.* 706-713; 1 Kames, *Eq.* 289; 2 *Bouv. Inst.* n. 1433; 1 Story, *Const.* 78.

12g. He who bears the burden of a thing should also receive the advantage or benefit arising from it. 1 *Coke,* 99*a*; Broom, *Max.* 638; 1 Serg. & R. (Pa) 180.

12h. Privilege is, as it were, a private law. 2 *Bulst.* 189.

12i. What I approve I do not reject. I cannot approve and reject at the same time. I cannot take the benefit of an instrument, and at the same time repudiate it. Broom, *Max.* 712.

12j. He who does any benefit to another for me is considered as doing it to me. 2 *Inst.* 501.

13. BUYING & SELLING

(See Also: ECONOMICS -:- PROPERTY)

13a. To sell is one thing; to consent to sale is another thing. *Dig.* 50, 17, 160.

13b. *Caveat emptor* (let a buyer beware); the buyer ought not to be ignorant that he is purchasing the rights of another. *Hob.* 99; *Barnard v. Kellogg,* 10 Wall. (77 U.S.) 388; Broom, *Max.* 3d Lond. ed. 690; *Co. Litt.* 102*a*; 1 *Bouv. Inst.* 383; 1 Story, *Eq. Jur.* 6.

13c. He who has the right of giving has also the right of selling and granting. *Dig.* 50, 17, 163.

13d. There should be no commerce in illicit or prohibited goods. 3 Kent, *Comm.* 262, note.

13e. The purchaser runs the risk of the loss of a thing sold, though not delivered. 1 *Bouv. Inst.* n. 939; 2 Kent, *Comm.* 498, 499.

13f. The payment of the price of a thing is held as a purchase, [operates as a purchase or sale]. *Jenk. Cent.* p. 56, case 2; 2 Kent, *Comm.* 387.

13g. In the price of buying and selling, it is naturally allowed to the contracting parties to overreach each other. 1 Story, *Cont.* 606.

13h. The price stands in the place of the thing sold. 1 *Bouv. Inst.* n. 939; 2 *Bulst.* 312.

13i. He is fraudulent who sells the same thing twice. *Jenk. Cent.* 107. Law does not suffer that the same thing be twice paid. *Black's,* 2d. 679.

13j. Nothing can be demanded in payment before that time when, in the nature of things, it can be paid. *Dig.* 50, 17, 186.

13k. Law favors public commerce. *Wing. Max.* p. 738, max. 198.

13l. Purchaser without notice is not obliged to discover his own hurt. 4 *Bouv. Inst.* n. 4336.

13m. Mere recommendation of an article does not bind the vendor of it.] *Dig.* 4, 3, 37; 2 Kent, *Comm.* 485; Broom, *Max.* 781.

13n. Those things which, by way of commendation, are stated at sales, if they are openly apparent, do not bind the seller. *Dig.* 18, 43, m.

13o. A thing to be sold must be certain. To make a valid sale, there must be certainty as to the thing which is sold. *Bract.* fol. 61*b*.

13p. Let the seller beware. *Lofft.* 328; *Hargous v. Stone,* 5 N.Y. 73, 82.

13q. In the contract of sale, an ambiguous agreement is to be interpreted against the seller. *Dig.* 50, 17, 172; *Black's,* 2d. 64.

13r. The buyer buys for the lowest price he can; the seller sells for the highest price he can. 2 Kent, *Comm.* 486; *Davoue v. Fanning,* 2 Johns. Ch. (N.Y.) 252, 256.

13s. No rule of law protects a buyer who wilfully closes his ears to information, or refuses to make inquiry when circumstances of grave suspicion imperatively demand it. *Lytly v. Lansing,* 147 US 59, 72.

14. CAUSE, EFFECT

(See Also: RELATION)

14a. The cause of the thing causing is the cause of the effect. 4 *Camp.* 284; *Marble v. City of Worcester,* 4 Gray (Mass.) 398.

14b. The cause and origin is the substance of the thing; the cause and origin of a thing are the material from which negotiations are produced. 1 *Coke,* 99; *Wing. Max.* 41, max. 21

14c. In law, the immediate and not the remote cause is looked at, or considered. 12 *East,* 648; 3 Kent, *Comm.* 302; Story, *Bailm. s.* 515; Bacon, *Max.* reg. 1.

14d. The effect follows the cause. *Wing. Max.* 226.

14e. He who overthrows the cause overthrows its future effects. 10 *Coke,* 51.

14f. The cause of a cause is the cause of the effect. 12 *Mod.* 639; *Bouv.* 119; *Black's,* 177.

14g. It shall have effect as far as it can have effect. Cowp. 600; 4 Kent, *Comm.* 493; *Shep. Touch.* 87.

14h. Where the law compels a man to show cause, it is necessary that the cause be just and lawful. 2 *Inst.* 269.

14i. Remove the cause and the effect will cease. 2 *Bl. Comm.* 203.

14j. Things are construed according to that which was the cause thereof. Finch, *Law,* b. 1, c. 3, n. 4.

14k. When that which I do does not have effect as I do it, let it have as much effect as it can; *i.e.,* in some other way. *Jackson ex dem. Troup v. Blodget,* 16 Johns. (N.Y.) 172, 178; *Vandervolgen v. Yates,* 3 Barb. Ch. (N.Y.) 242, 261. 4 *Kent, Comm.* 493.

14l. He who fails in a syllable fails in his whole cause. *Bract.* fol. 211.

14m. A vague and uncertain cause is not a reasonable cause. 5 *Coke,* 57.

14n. *A necessary or inevitable cause* — a cause without which the effect in question could not have happened. *Hayes v. R.R. Co.,* 111 U.S. 228.

14o. To cause is to bring about, to bring into existence. C.L.M.

14p. The word 'cause' in its ordinary and usual definition may be deemed to mean that which occasions or effects a result. *Kemp v. John Chatillon & Sons,* 169 F.2d 203, 206.

14q. That which is null produces no effect. Tray. Leg. Max. 519.

15. CERTAIN, CERTAINTY, UNCERTAIN

(See also: AMBIGUITY -:- DESCRIBE -:- DOUBT)

15a. That is certain which can be made certain. 2 *Bl. Comm.* 143; 1 *Bouv. Inst.* 78; 4 Kent, *Comm.* 462; Broom, *Max.* 624. But that is more certain which is certain of itself. 9 *Coke,* 47*a*.

15b. Uncertain things are held for nothing. *Dav. Ir. K.B.* 33.

15c. Subsequent words added for the purpose of certainty are to be referred to preceding words in which certainty is wanting. *Wing. Max.* 169; 6 *Coke,* 236.

15d. The law requires, not conjecture, but certainty. *Coffin v. Ogden,* 85 U.S. 120, 124.

15e. Where the law is uncertain, there is no law. *Black's,* 1181; *Bouv.* 160.

15f. Too great subtlety is disapproved of in law; for such nice pretense of certainty confounds true and legal certainty. Broom, *Max.* 3d Lond. ed. 175; 4 *Coke,* 5.

15g. An act of legislature to have force of law must be intelligibly expressed and when too vague is a nullity. *Larkin v. Consolidated Telegraph,* 85 N.Y.S. (2d) 631.

15h. Law that is deficient is better than law that is uncertain. *Lofft.* 395.

15i. It is a miserable state of things where the law is vague and uncertain. 2 *Salk.* 512; *Bouv.* 155.

15j. An uncertain quantity vitiates the act. 1 *Rolle,* 465.

15k. There must be sufficient positive facts proved to take a matter out of the realm of conjecture and presumption to that of certainty. *Reynolds v. Blaisdell,* 49A. 42, 43, 23 R.I. 16.

15l. That which is certain is fixed or stated, precise or exact, free from doubt or question. C.L.M.

15m. Too great certainty destroys certainty itself. *Lofft,* 244.

16. CLAUSE, PROVISION

16a. A general clause does not extend to those things which are previously provided for specially. *Lofft,* App. 419; 8 *Coke,* 154*b*.

16b. A clause in a law which precludes its abrogation is void from the beginning. Bacon, *Max.* reg 19; Broom, *Max.* 3d Lond. ed. 27.

16c. Words to which reference is made in an instrument have the same effect and operation as if they were inserted in the clause referring to them. *Co. Litt.* 359; Broom, *Max.* 3d Lond. ed. 599.

16d. Unusual clauses always excite a suspicion. 3 *Coke,* 81; Broom, *Max.* 3d. Lond. ed. 264.

16e. A *proviso* is to provide for the present or future, not the past. 2 *Coke,* 72; Broom, *Max.* 3d Lond. ed. 275.

16f. Special clauses are comprised in general ones. *Dig.* 50, 17, 147.

16g. When a provision of the party is wanting, the provision of the law is at hand. 6 *Vin. Abr.* 49.

16h. Particular clauses inserted in agreements to avoid doubts and ambiguity do not prejudice the general law. *Dig.* 50, 17, 81.

16i. A useless clause [one which expresses no more than the law by intendment would have supplied] is not supported by a remote presumption, or by a cause arising afterwards. Bacon, *Max.* 82, reg. 21; Broom, *Max.* 3d Lond. ed. 599.

17. COMMON KNOWLEDGE & USAGE

17a. There should be no departure from a common observance or common usage. 2 *Coke,* 74; *Co. Litt.* 186*a*, 229*b*; *Wing. Max.* 203.

17b. Names of things ought to be understood according to common usage, not according to the opinions of individuals. *Dig.* 33. 10. 7. 2.

17c. Common opinion is good authority in law. *Co. Litt.* 186*a*; *Bank of Utica v. Mersereau,* 3 Barb. Ch. (N.Y.) 528, 577, 49 Am. Dec. 189.

17d. Common error sometimes passes current as law. Broom, Max. 139, 140.

17e. Common knowledge includes matters of learning, experience, history, and facts of which judicial notice may be taken, and may be referred to in argument of counsel. *Shelley v. Chilton's Adm'r,* 32 S.W.2d 974, 977; 236 Ky. 221.

17f. Custom and common usage overcomes the unwritten law, if it be special; and interprets the written law, if the law be general. *Jenk. Cent.* 273.

17g. The law dispenses what common use has approved. C.L.M.

18. COMMON LAW

(See Also: CUSTOM -:- LAW)

18a. Those things which are derogatory to the common law are to be strictly interpreted. *Jenk. Cent.* 29; *Id.* p. 221, case 72.

18b. The jurisprudence of the common law is a science social and comprehensive. 7 *Coke,* 28*a*.

18c. Things derogatory to the common law are not to be drawn into precedent. Branch, *Princ.*

18d. What ever is inserted for the purpose of removing doubt and ambiguity does not hurt or affect the common law. *Co. Litt.* 205; *Dig.* 50, 17, 81.

18e. The custom of all the country is the common law of the country. *Jenk. Cent.* 119.

18f. A dispensation is a wound, which wounds common law. *Dav. Ir. K. B.* 69.

18g. An affirmative statute does not take from the common law. *Jenk. Cent.* 24.

19. CONDITION

19a. A beneficial condition, which creates an estate, ought to be construed favorably, according to the intention of the words. 8 *Coke,* 90.

19b. It is called a "condition," when something is given on an uncertain event, which may or may not come into existence. *Co. Litt.* 201.

19c. An unlawful condition is deemed as not annexed. *Black's,* 2d. 239.

19d. A condition precedent must be fulfilled before the effect can follow. *Co. Litt.* 201.

19e. Any conditions are odious, but especially those which are against [in restraint of] marriage and commerce. *Lofft,* App., 644.

19f. No one can improve his condition by his own wrong. *Dig.* 50, 17, 134, 1.

20. CONFIRM, CONFIRMATION

20a. To confirm is to make firm that which was before infirm. *Co. Litt.* 295.

20b. No one can confirm before the right accrues to him. 10 *Coke,* 48.

20c. He confirms the use of a thing who removes the abuse of it. *Moore,* 764.

20d. An exception which confirms the law explains the law. 2 *Bulst.* 189.

20e. There are two instruments for confirming or impugning all things, —reason and authority. 8 *Coke,* 16.

20f. He who confirms does not give. 2 *Bouv. Inst.* no. 2069..

20g. Confirmation is not valid unless he who confirms is either in possession of the thing itself or of the right of which confirmation is to be made, and, in like manner, unless he to whom confirmation is made is in possession. *Co. Litt.* 295.

20h. Confirmation is void where the preceding gift is invalid. *Moore,* 764; *Co. Litt.* 295.

20i. Confirmation supplies all defects, though that which had been done was not valid at the beginning. *Co. Litt.* 295*b*.

21. CONSENT

(See also: AGREE -:- CONSENT)

21a. Every consent involves a submission; but a mere submission does not necessarily involve consent. *Black's,* 2d. 249.

21b. Consent makes the law. Branch, *Princ.*; *Black's,* 2d. 248.

21c. He may consent tacitly who may consent expressly. *Dig.* 50, 17, 3.

21d. He who can will [exercise volition,] has a right to refuse to will, [to withhold consent.] *Dig.* 50, 7, 3.

21e. Consent—A concurrence of wills. *Black's,* 2d 249.

21f. He who does not forbid what he can forbid, seems to assent. 2 *Inst.* 308; 8 *Exch.* 304; 1 Bl. Comm. 430.

21g. What I accept I do not reject. Broom, *Max.* 3d Lond. ed. 636.

21h. Long sufferance is construed as consent. *Fleta,* lib. 4, c. 26, s. 4.

21i. Nothing is so contrary to consent as force and fear. *Dig.* 50, 17, 116.

21j. It is immaterial whether a man gives his assent by words or by acts and deeds. 10 *Coke,* 52.

21k. He who consents cannot receive an injury. Broom, *Max.* 268, 269, 271, 395; *Wing. Max.*. 482; 2 *Bouv. Inst.* n. 2279; *Plowd.* 501.

21l. The silence of a party implies his consent, when his interest is at stake. *Jenk. Cent.* p. 32, case 64; Broom, *Max.* 138, 787; 9 *Mod.* 38.

21m. He who mistakes is not considered as consenting. *Bract.* fol. 44; *Dig.* 50, 17, 116, s. 2; Broom, *Max.* 262; 1 *Bouv. Inst.* n. 581; 2 Kent, *Comm.* 477; *Greer v. Caldwell,* 14 Ga. 207.

21n. He who is silent does not indeed confess, but yet it is true that he does not deny. *Dig.* 50, 17, 142.

21o. He does not appear to have retained his consent, who has changed anything at the command of a party threatening. Broom, *Max.* 278; Bacon, *Max.* reg. 22.

21p. Consent is the united will of several persons interested in one subject-matter. *Davis,* 48; Branch, *Princ*; *Lofft,* 514.

21q. They who consent to an act, and they who do it, shall be visited with equal punishment. 5 *Coke,* 80.

21r. He who does not disapprove when he can approves. 3 Inst. 27.

21s. Consent (acquiescence) removes mistake or error. *Co. Litt.* 126; 2 *Inst.* 123; Broom, *Max.* 3d Lond. ed. 129.

22. CONSTRUCTION & INTERPRETATION

(See also: INTENT -:- WORDS & MEANINGS)

22a. The construction of law obtains the force of law. Branch, *Princ.*

22b. Laws are to be more liberally interpreted, in order that their intent may be preserved. *Dig.* 1, 3, 18, 16.

22c. It is his to interpret whose it is to enact. *Tayl. Civil. Law,* 96.

22d. The more favorable construction is to be placed on general or doubtful expressions. 4 *Coke,* 15; *Dig.* 50, 17, 192, 1; 2 Kent, *Comm.* 557.

22e. The construction of the law (a construction made by the law) works no injury. The law will make such a construction of an instrument as not to injure a party. *Co. Litt.* 183; Broom, *Max.* 603.

22f. In the construction of words, not the mere words, but the thing and the meaning, are to be inquired after. *Jenk. Cent.* 132.

22g. In contracts, the interpretation is to be liberal; in wills, more liberal; in restitutions, most liberal. *Co. Litt.* 112*a*.

22h. The best interpretation is made from things preceding and following; *i.e.*, the context. 1 *Rolle,* 375.

22i. The construction or explanation should arise out of the whole subject-matter. *Wing. Max.* 238.

22j. He who considers merely the letter of an instrument goes but skin deep into its meaning. *Co. Litt.* 289; Broom, *Max.* 685.

22k. The most benignant interpretation is to be made in restitutions. *Co. Litt.* 112.

22l. Examples illustrate, but do not restrain, the law. *Co. Litt.* 240.

22m. That is a guess, not an interpretation, which altogether departs from the letter. Bacon, *Max.* 18, (in reg. 3).

22n. Interpretation is always to be made in such a manner that what is absurd and inconvenient may be avoided, and the judgment be not nugatory or illusory. 1 *Coke,* 52.

22o. To make laws agree or harmonize with laws is the best mode of interpreting them. *Halk. Max.* 70; 8 *Coke,* 169*a*.

22p. An absolute, unqualified sentence (or proposition) needs no expositor. 2 *Inst.* 533.

22q. Law construes things according to common possibility or intendment. *Wing. Max.* p. 705, max. 189.

22r. In the construction of agreements, words are interpreted against the person using them. Thus, the construction of the *stipulatio* is against the stipulator, and the construction of the *promissio* against the promissor. *Dig.* 45, 1, 38, 18; Broom, *Max.* 599.

22s. That is a cursed interpretation which corrupts the text. 4 *Coke,* 35*a*; Broom, *Max.* 622.

22t. Things which have had a certain interpretation [whose interpretation has been settled, as by common opinion] are not to be altered. *Co. Litt.* 365; *Wing. Max.* p. 748, max. 202.

22u. A curious [overnice or subtle] and captious interpretation in the law is to be reproved. 1 *Bulst.* 6; *Bouv.* 122.

22v. In dubious cases, the more favorable or worthy views are to be preferred; the more liberal constructions are always to be followed. *Dig.* 50, 17, 56; 2 Kent, *Comm.* 556.

22w. The best interpretation is made from antecedents and consequents. Broom, *Max.* 3d Lond. ed. 513; 2 *Inst.* 317; 2 *Bl. Comm.* 379. 1 *Bulstr.* 101.

22x. Constructions of written instruments are to be made liberally, on account of the simplicity of the laity, [or common people,] in order that the thing [or subject-matter] may rather have effect than perish, [or become void.] *Co. Litt.* 36*a*; Broom, *Max.* 540; 2 *Bl. Comm.* 379; 1 *Bulst.* 175; *Hob.* 304.

22y. In doubt, the milder or safer course is to be followed. *Black's,* 2d. 601.

22z. Contemporaneous exposition is the best and strongest in the law. 2 *Inst.* 11; 3 *Coke,* 7. A statute is best explained by following the construction put upon it by judges who lived at the time it was made, or soon after. 10 *Coke,* 70; Broom, *Max.* 682.

22aa. That interpretation is to be received [or adopted] which is free from fault [or wrong.] The law will not intend a wrong. Bacon, *Max.* 17, in reg. 3; *Bouv.* 124.

22bb. The best interpreter of a statute is (all its parts being considered) the statute itself. *Wing. Max.* p. 239, max. 68; 8 *Coke,* 117*b*.

22cc. Words are to be interpreted according to the subject-matter. 6 *Coke,* 6, n.

22dd. Every interpretation, if it can be done, is to be so made in instruments that all contradictions may be removed. *Jenk. Cent.* 96.

22ee. Use or usage is the best interpreter of things. 2 *Inst.* 282; Broom, *Max.* 917, 930, 931.

22ff. In obscure constructions we always apply that which is the least obscure. *Dig.* 50, 17, 9; Broom, *Max.* 687n.

22gg. Whenever the same language expresses two meanings, that should be adopted which is the better fitted for carrying out the subject-matter. *Dig.* 50, 17, 67.

22hh. When in the words there is no ambiguity, then no exposition contrary to the words is to be made. *Co. Litt.* 147.

22ii. Every interpretation either declares, extends, or restrains. *Black's,* 2d. 852; *Bouv.* 146.

22jj. The whole instrument is to be viewed and compared in all its parts, so that every part of it may be made consistent and effectual. 2 Kent, *Comm.* 555; 2 *Inst.* 317; *Wing. Max.* 238.

22kk. The best mode of interpretation is to interpret laws so that they may accord with each other. 8 *Coke,* 169.

22ll. The language of a statute is to be understood and interpreted like ordinary spoken language. 10 *Coke,* 101*b*.

22mm. In penal causes or cases, the more favorable interpretation should be adopted. *Dig.* 50, 17, 155, 2; *Plowd.* 86b, 124; 2 Hale, *P.C.* 365.

22nn. That kind of interpretation which is born or drawn from the bowels of a cause is the fittest and most powerful in the law. 10 *Coke,* 24*b*.

23. CONTINUE, DISCONTINUE

23a. To discontinue signifies nothing else than to intermit, to disuse, to interrupt. *Co. Litt.* 325.

23b. It gains strength by continuance. *Mann v. Mann Ex'rs*, 1 Johns. Ch. (N.Y.) 231, 237.

23c. That which is so persistently repeated as to constitute virtually an unbroken series is continuous. *Ingraham v. Hough,* 46 N.C. 43.

23d. That is continuing which is enduring, not terminated by a single act or fact. *Black's,* 2d 260.

24. CONTRACTS

(See also: AGREE -:- DEEDS)

24a. An action cannot be founded on a barren or unconditional contract. C.L.M.

24b. A contract is, as it were, act against act. 2 *Coke,* 15.

24c. An obligation which arises from contract, or quasi contract, is dissolved in the same way in which it was contracted. *Fleta,* lib. 2, c. 60, s. 19.

24d. *Words spoken vanish, words written remain.* A written contract cannot be varied by parol proof. Broom, *Max.* 3d Lond. ed. 594.

24e. Contracts have no locality. The obligation of a contract is purely personal, and actions to enforce it may be brought anywhere. 2 *Inst.* 231; 1 Smith, *Lead. Cas.* 340, 363; Story, *Confl. Laws,* s. 362.

24f. A contract without consideration, or upon a false consideration, (which fails,) or upon unlawful consideration, cannot have any effect. *Code.* 3, 3, 4; *Chit. Cont.* (11th Am. Ed.) 25, note; Noy, *Max.* 24; 2 *Bl. Comm.* 445; 1 Story, *Contr.* s. 525.

24g. The place of the contract governs the act. 2 Kent, *Comm.* 458.

24h. In stipulations [within contracts,] the time when we contract is regarded. *Dig.* 50, 17, 144, 1.

24i. Private contracts (or agreements) cannot derogate from public law or right. Broom, *Max.* 695; 7 *Coke,* 23; *Wing. Max.* max. 201; *Co. Litt.* 166*a*; *Dig.* 50, 17, 45, 1.

24j. In contracts, the truth of the matter ought to be regarded rather than the writing. *Code.* 4, 22, 1.

24k. The contract makes the law. *Black's,* 2d. 704; *Bouv.* 135; *Allen v. Merch. Bank of N.Y.,* 22 Wend. (N.Y.) 215, 233.

24l. Compacts usually take their clothing from the thing itself, from words, from writing, from consent, from delivery. *Plowd.* 161.

24m. Contracts which are not illegal, and do not originate in fraud, must in all respects be observed. *Code.* 2, 3, 29; Broom, *Max.* 624.

24n. In contracts, matters of custom and usage are tacitly implied. A contract is understood to contain the customary clauses, although they are not expressed. Story, *Bills,* s. 143; 3 Kent, *Comm.* 260, note; Broom, *Max.* 842.

24o. Equal knowledge on both sides makes contracting parties equal. 3 *Burrows,* 1905.

24p. A contract founded on a base consideration, or against good morals, is null and cannot be enforced by action. *Hob.* 167; Broom, *Max.* 730, 732; Story, *Ag.* s. 195; *Dig.* 2, 14, 27, 4; *Code.* 2, 3, 6; *Bank of U.S. v. Owens,* 2 Peters. 539; 2 Kent, *Comm.* 466.

24q. Contracts receive legal sanction from the agreement of the parties. *Dig.* 16, 3, 1, 6.

24r. By a contract something is permitted, which without it, could not be admitted. *Co. Litt.* 166.

24s. That which is the less is held to be imported into the contract; (i.e., A. offers to hire B.'s house at six hundred dollars, at the same time B. offers to let it for five hundred dollars; the contract is for five hundred dollars.) 1 Story, *Cont.* 481; *Dig.* 50, 17, 9.

24t. The stipulations of parties constitute the law of the contract. *Hob.* 118.

24u. An individual's power to contract is unlimited. *Hale v. Henkel,* 201 U.S. 43, 74.

24v. The beginning and cause of every contract must be considered. *Dig.* 17, 1, 8; Story, *Bailm.* s. 56.

24w. Nothing is so natural as that an obligation should be dissolved by the same mode and principles in which it were contracted. *Dig.* 50, 17, 35; 2 *Inst.* 359, 360; *Esmond v. Van Benschoten,* 12 Barb. (N.Y.) 366, 375. Therefore, an obligation by words is taken away by words; an obligation of mere consent is dissolved by contrary consent. Broom, *Max.* 887.

24x. A madman [or lunatic] can make no contract. *Dig.* 50, 17, 5; 1 Story, *Contr.* 76

24y. That which bars those who have made a contract will bar their successors. *Dig.* 50, 17, 143.

24z. A contract cannot arise out of an act radically wrong and illegal. 1 *Term,* 734; 3 *Term,* 422; Broom, *Max.* 734.

24aa. In all contracts, whether nominate or innominate, an exchange [of value, *i.e.*, a consideration] is implied. *Gravin.* lib. 2, s. 12; 2 *Bl. Comm.* 444, note.

24bb. *Nudum pactum* (a naked contract) is where there is no consideration except the agreement; and does not create an obligation. *Plowd.* 309; Broom, *Max.* 745, 750; *Dig.* 2, 14, 7, 4; 2 *Bl. Comm.* 445; *Code.* 4, 65, 27.

24cc. In contracts, when the question is what was agreed upon, the terms are to be interpreted against the party offering them. *Dig.* 45, 1, 38, 18; 2 Kent, *Comm.* 721.

24dd. From an illegal contract an action does not arise. Broom, *Max.* 742.

24ee. In agreements, the intention of the contracting parties, rather than the words used, should be regarded. *Jackson v. Wilkinson,* 17 Johns. (N.Y.) 150; 2 Kent, *Comm.* 555; *Dig.* 50, 16, 219.

24ff. He who contracts knows, or ought to know, the quality of the person with whom he contracts, otherwise he is not excusable. *Dig.* 50, 17, 19; *Cycl. Dict.* 839.

24gg. Liberal interpretations are to be made of deeds, so that the purpose may stand rather than fall; and every grant is to be taken most strongly against the grantor. *Wallis v. Wallis,* 4 Mass. 135, 3 Am. Dec. 210; *Hayes v. Kershow,* 1 Sandf. Ch (N.Y.) 258, 268; *Jenk. Cent.* 270; Broom, *Max.* 543.

24hh. When the words and the mind agree, there is no place for interpretation. *Black's,* 2d. 974.

24ii. An obligation without a mutual and concurrent intention of the parties but which is implied or arising from the liability is a quasi contract. *Woods v. Ayres,* 39 Mich. 350; 33 Am. Rep. 396.

24jj. A bond is released in the same manner by which it is contracted or bound. *Co. Litt.* 212*b*; Broom, *Max.* 891; *Livingston v. Lynch*, 4 Johns. Ch. (N.Y.) 582.

24kk. In the contract of loan, a stipulation not to be liable for fraud is not valid. *Dig.* 13, 7, 17, pr.

25. CORRUPT ACTS, CORRUPTION

25a. It is not the rigor but the inexpediency of laws and acts of authority which make them tyrannical. C.L.M.

25b. Things bad [or corrupted] in principle at the commencement improves not by lapse of time [does not achieve a good end.] Broom, *Max.* 178; 4 *Coke,* 2.

25c. It is a poisonous gloss which corrupts the essence of the text. 11 *Coke,* 34.

25d. Corruption of the best is worst. *Black's,* 277.

25e. There may be an abuse of everything of which there is a use, virtue only excepted. *Dav. Ir. K.B.* 79.

25f. Corruption is always the forerunner of despotism. *Mequire v. Corwine,* 11 Otto (101 U.S.) 108, 111-12.

26. CRIME, CRIMINAL ACTS

(See also: PUNISHMENT -:- WRONG)

26a. He who does not forbid a crime while he may, sanctions it. C.L.M.

26b. One who is accessory to a crime cannot be guilty of a higher degree of crime than his principal. 3 *Inst.* 139.

26c. The crime of treason exceeds all other crimes in its punishment. 3 *Inst.* 210; *Black's,* 2d. 300; *Bouv.* 122.

26d. The character of a past offense is never aggravated by a subsequent act or matter. *Dig.* 50, 17, 138, 1; Bacon, *Max.* reg. 8; Broom, *Max.* 42.

26e. Felony, by force of the term, signifies a capital crime perpetrated with a malignant mind. *Co. Litt.* 391.

26f. Prevention is better than cure. *Co. Litt.* 304*b*.

26g. No one is called an accessory after the fact but he who knew the principal to have committed a felony, and received and comforted him. 3 *Inst.* 138.

26h. No one shall be called a principal felon except the party actually committing the felony, or the party present aiding and abetting in its commission. 3 *Inst.* 138.

26i. Felony is implied in every treason. 3 *Inst.* 15.

26j. He who is once criminal is presumed to be always criminal in the same kind or way. *Cro. Car.* 317; Best, *Ev.* 345.

26k. Drunkenness both inflames (or aggravates) and reveals every crime. *Co. Litt.* 247*a*; 4 *Bl. Comm.* 26; Broom, *Max.* 17.

26l. In more atrocious crimes the intent is punished, though an effect does not follow. 2 *Rolle* 82.

26m. Facility of pardon is an incentive to crime. 4 *Coke,* 45. The hope of impunity holds out a continual temptation to crime. 3 *Inst.* 236.

26n. If a man kill another, he is held guilty of felony. 3 *Inst.* 51.

26o. Crime vitiates everything which springs from it. *Henry v. Bank of Salina,* 5 Hill (N.Y.) 523, 531.

26p. In offenses, the intention is regarded, not the event. *Dig.* 48, 8, 14; Bacon, *Max.* reg. 7.

26q. Extortion is a crime when, by color of office, any person extorts that which is not due, or more than is due, or before the time when it is due. 10 *Coke,* 102.

26r. Crimes are extinguished by death. *Black's,* 2d, 300.

26s. In criminal matters or cases, a general malice of intention is sufficient, [if united] with an act of equal or corresponding degree. Bacon, *Max.* p. 65, reg. 15; Broom, *Max.* 3d Lond. ed. 291.

26t. In criminal acts, the will will be taken for the deed. 3 *Inst.* 106.

26u. The will and the proposed end distinguished crimes. *Bract.* fol. 2b, 136b. In crimes, the will, and not the consequence, is looked to. 2 *Inst.* 57.

26v. Capital crimes are punished by death. *Walker v. State,* 13 S.W. 860.

26w. The crime carries the person, (*i.e.,* the commission of a crime gives the courts of the place where it is committed jurisdiction over the person of the offender.) *People v. Adams,* 3 Denio (N.Y.) 190, 210, 45 Am. Dec. 468.

26x. The accessory does not precede, but follows the principal. *Co. Litt.* 152. C.L.M.

26y. In high treason no one can be an accessory but only principal. 3 *Inst.* 138.

26z. The instigator of a crime is worse that he who perpetrates it. 5 *Coke,* 99.

26aa. All crimes that are committed openly are lighter, [or have a less odious appearance than those committed secretly.] 8 *Coke,* 127*a*.

26bb. *False in one thing, false in everything.* Where a party is clearly shown to have embezzled one article of property, it is a ground of presumption that he may have embezzled others also. *The Boston,* 1 Sumn. 328, 356, Fed. Cas. No. 1,673; *The Santissima Trinidad,* 7 Wheat. 339; *White v. Disher,* 67 Cal. 402, 7 Pac. 826.

26cc. An outlaw is, as it were, put out of the protection of the law. 7 *Coke,* 14.

26dd. It is not just and proper that he who speaks ill of a bad man should be condemned on that account; for it is fitting and expedient that the crimes of bad men should be known. *Dig.* 47, 10, 17; 1 *Bl. Comm.* 125.

27. CUSTOM

See Also: COMMON LAW -:- LAW)

27a. In those things which by common right are conceded to all, the custom of a particular district or place is not to be alleged. 11 *Coke,* 85.

27b. A custom introduced against reason ought rather to be called a "usurpation" than a "custom." *Co. Litt.* 113.

27c. A custom should be certain; for an uncertain custom is considered null. *Dav.* 33; *Black's,* 255; *Bouv.* 121.

27d. Custom is another law. 4 *Coke,* 21. Custom is observed for law. *Co. Litt.* 113.

27e. Custom is the best expounder (or interpreter) of the laws. 2 *Inst.* 18; 4 *Inst.* 75; *McKeen v. Delancy,* 5 Cranch (9 U.S.) 32; *Dig.* 1, 3, 37; *McFerran v. Powers,* 1 Serg. & R.(Pa.) 106; Broom, *Max.* 931; *Lofft,* 237; *Jenk. Cent.* 273.

27f. Custom is more powerful than grant. *Black's,* 907.

27g. Reason is the formal cause of custom. *Black's,* 992. Reason is the source and mold of custom. *Bouv.* 155.

27h. A custom, grounded on a certain and reasonable cause, supersedes the common laws. *Litt.* s. 169; *Co. Litt.* 113; Broom, *Max.* 919.

27i. A custom, though it be of great authority, should never prejudice manifest truth. 4 *Coke,* 18.

27j. Things which are done contrary to the custom and usage of our ancestors neither please nor appear right. 4 *Coke,* 78.

27k. The custom of a manor and place is to be observed. *Litt.* s. 169; 6 *Coke,* 67; 4 *Coke,* 28*b*.

27l. A reasonable custom is to be obeyed as a law. 4 *Coke,* 38.

27m. Custom can neither arise from nor be taken away by a wrong or injury. *Lofft,* 340.

27n. Custom is not drawn into consequence. *Black's,* 256.

27o. The custom of the place where the action is brought is to be observed. *Decouche v. Savetier,* 3 Johns. Ch. (N.Y.) 190, 219, 8 Am. Dec. 478.

27p. The antiquity of a custom is to be less regarded that its reasonableness. *Co. Litt.* 141*a*.

27q. General customs are such as prevail throughout a country and become the law of that country. *Bodfish v. Fox,* 23 Me. 95.

27r. A prescriptive and lawful custom overcomes the law. *Co. Litt.* 113; 4 *Coke,* 21.

27s. A custom once disallowed cannot be again brought forward, [or relied on.] *Dav.* 33; *Black's,* 256.

27t. Custom leads the willing, law compels [draws] the unwilling. *Jenk. Cent.* 274.

27u. Custom shall be taken [is to be construed] strictly. *Jenk. Cent.* 83.

27v. A custom of the truest antiquity is to be retained. 4 *Coke,* 78.

28. DEBT, DEBTOR, CREDITOR

28a. An evidence of debt found in the debtor's possession is presumed to be paid. *Halk. Max.* 20; *Black's,* 198; *Bouv.* 120.

28b. An evidence of debt not existing is presumed to have been discharged. *Tray. Leg. Max.* 73.

28c. Under the head of "creditors" are included, not only those who have lent money, but all to whom from any cause a debt is owing. *Dig.* 50, 16, 11.

28d. Nothing can be demanded before the time when, by the nature of things, it can be paid. *Dig.* 50, 17, 186.

28e. A delegated debtor is hateful in law. 3 *Bulstr.* 148.

28f. No one is considered to be solvent unless he can pay all that he owes. *Dig.* 50, 16, 114.

28g. Let him who has nothing in his purse pay in his person, lest he who offends should go unpunished. C.L.M.; 2 *Inst.* 173; 4 *Bl. Comm.* 20.

28h. That which is due unconditionally is due now. *Tray. Leg. Max.* 519.

28i. That which is paid by the order of another is the same as though it were paid by him who ordered it. *Dig.* 50, 17, 180.

28j. In alternatives, the debtor has the election. *Black's,* 599.

28k. Debts follow the person of the debtor; that is, they have no locality, and may be collected wherever the debtor can be found. 2 Kent, *Comm.* 429; Story, *Confl. Laws,* s. 362.

28l. The principal should always be exhausted before coming upon the sureties. 2 *Inst.* 19.

28m. Novation (the substitution of a new debt or obligation for an existing one) is not presumed in law. *Halk. Lat. Max.* 109.

28n. When two persons are liable concerning one and the same thing, if one makes default the other must bear the whole. 2 *Inst.* 277.

28o. If anything be owing to an entire body, it is not owing to the individual members; nor do the individuals owe that which is owing by the entire body. *Dig.* 3, 4, 7, 1.

28p. In all obligations, in which no time or date is fixed for the payment, the debt is due on the present day; the liability accrues immediately. *Dig.* 50, 17, 14.

28q. Naked reason and naked promise do not bind any debtor. *Fleta,* 1, 2, c. 60, s. 25.

28r. The thing passes with its burden [or debt.] Where a thing has been encumbered by mortgage, the encumbrance follows it wherever it goes. *Bract.* fols. 47*b*, 48.

28s. Whatever is paid is to be applied according to the intention of the payer. 2 *Vern.* 606; *Bouv.* 152.

28t. He does not pay who pays too late; for, from the delay, he is judged not to pay. *Dig.* 50, 16, 12, 1; *Bouv.* 139.

28u. The refusal of money tendered releases him who tenders it. 9 *Coke,* 79*a*.

28v. A debt is a legal relation between two parties. *Safe Dep. & Tr. Co. v. Virginia,* 280 U.S. 83, 97.

28w. What one has paid knowing it not to be due, with the intention of recovering it back, he cannot recover back. *Dig.* 2,6, 50.

28x. A fire does not release a debtor from his debt. *Code.* 4, 2, 11.

28y. A debtor is not presumed to make a gift. 1 Kames, *Eq.* 212; *Dig.* 50, 16, 10s. Where the debtor gives money or goods to his creditor, the natural presumption is that he means to get free from his obligation, and not to make a present, unless donation be expressed. *Ersk. Inst.* 3, 3, 93.

28z. The right of the creditors (to sue) can neither be taken away nor diminished by agreements among the debtors. Broom, *Max.* 697.

28aa. No one can owe to himself. *Cycl. Dict.* 689.

29. DECEIT, FRAUD

29a. The laws help persons who are deceived, not those deceiving. *Tray. Lat. Max.* 149.

29b. It is safer to be deceived than to deceive. *Lofft,* 396.

29c. A person deceiving deals in general terms. *Wing. Max.* 636; 2 *Coke,* 34*a*; Broom, *Max.* 289; 2 *Bulstr.* 226; *Lofft.* 782.

29d. Fraud should be proved by clear tokens. 1 Story, *Cont. s.* 625; *Code.* 2, 21, 6.

29e. The fraud of a predecessor does not prejudice his successor. *Black's,* 2d. 387; *Bouv.* 124.

29f. A deception practiced upon one person does not give a cause of action to another. *Dig.* 50, 17, 49.

29g. Out of fraud no action arises; A right of action cannot arise out of fraud. *Phelps v. Decker,* 10 Mass. 276. Broom, *Max.* 349.

29h. Gross negligence is equivalent to fraud. *Black's,* 2d. 698; *Dig.* 11, 6, 1; 1 *Bouv. Inst.* n. 646; *McCracken v. Hare,* 2 Spears (S.C.) 256.

29i. Once a fraud, always a fraud. 13 *Vin. Abr.* 539.

29j. What otherwise is good and just, if it be sought by force and fraud, becomes bad and unjust. 3 *Coke,* 78.

29k. He is not deceived who knows himself to be deceived. 5 *Coke,* 60.

29l. Deceit and fraud shall not defend, excuse or benefit any man. *Best, Evid.* p. 469, s. 428; 1 Story, *Eq. Jur. s* 395; 3 *Coke,* 78; *Fleta,* lib. 1, c. 13, s. 15.

29m. Deceit is an artifice, since it pretends one thing and does another. *Black's,* 387.

29n. A new road, not an old one, often deceives the traveler. 4 *Inst.* 34.

29o. Fraud lurks in generalities. *Tray. Lat. Max.* 162. Fraud deals in generalities. 2 *Coke,* 34*a*; 3 *Coke,* 81*a*.

29p. Fraud is not purged by circuitry. *Bac. Max.* reg. 4; Broom, *Max.* 228; Noy, *Max.* 9, 12.

29q. He acts in fraud of the law who, though the letter of the law being inviolate, uses the law contrary to its intention. *Dig.* 1, 3, 29.

29r. It is a fraud to conceal a fraud. 1 Story, *Eq. Jur.* s. 389, 390.

29s. Fraud is odious, and not to be presumed. *Cro. Car.* 550; *Bouv.* 127.

29t. Fraud and justice never dwell together. *Wing. Max.* 680. Right and fraud never live together. *Cycl. Dict.* 571.

29u. Let him who wishes to be deceived, be deceived. Broom, *Max.* 782, note; *Shep. Touch.* 56.

29v. Fraud is always positive or intentional and distinguished from negligence. *Alexander v. Church,* 53 Conn. 561; 4 Atl. 103.

29w. No one is considered as deceiving those who know and consent to his acts. *Dig.* 50, 17, 145; *Bouv.* 141.

29x. Let no one be relieved or gain an advantage by his own fraud. C.L.M.

29y. He who acts fraudulently acts in vain. 2 *Rolle,* 17.

30. DEEDS (Writings)

30a. Deeds are more powerful than words. *Black's,* 476.

30b. Deeds contain many things which are prohibited to be done. 12 *Coke,* 124.

30c. That is not called a "deed" which does not continue operative. 5 *Coke,* 96.

30d. In the delivery of writings (*i.e.,* deeds), not what is said but what is done is to be considered. 9 *Coke,* 137*a*.

30e. Authority to execute a deed must be given by deed. 4 *Term,* 313; *Cooper v. Rankin,* 5 Binn. (Penn.) 613.

30f. It is the tenor of the deed which gives validity to the fee. C.L.M.

30g. The deed of one should not hurt another. *Co. Litt.* 152.

30h. When a deed contains a general clause, and afterwards descends to special words, consistent with the general clause, the deed is to be construed according to the special words. 8 *Coke,* 154.

30i. Bad or false grammar does not vitiate a deed or grant. C.L.M.; *Shep. Touch.* 55, 87; 9 *Coke,* 48*a*; *Wing. Max.* 19.

30j. A deed is nothing else than the vestment of a gift. *Co. Litt.* 36.

30k. The intention is to be taken for the deed. 3 *Inst.* 69; Broom, *Max.* 311.

30l. No man can contravene or contradict his own deed. 2 *Inst.* 66.

30m. Delivery makes a deed speak. 5 *Coke,* 1*a*. Delivery gives effect to the words of a deed. *Id.*

30n. The law arises from the deed. 2 *Inst.* 49.

31. DESCRIBE, DEFINE, DECERN

31a. False description does not injure or vitiate, provided the thing or person intended has once been sufficiently described. Mere false description does not make an instrument inoperative. Broom, *Max.* 629; 6 *Term,* 676; *Cleveland v. Smith,* 2 Story, 291, Fed. Cas. No. 2,874.

31b. He who describes and distinguishes well teaches well. 2 *Inst.* 470.

31c. Every definition in law is perilous, for it is on the verge of being subverted. *Dig.* 50, 17, 202; 2 *Wood. Lect.* 196.

31d. A false description does not vitiate. 6 *Term.* 676; 1 *Greenl. Ev.* s. 301; Broom, *Max.* 3d Lond. ed. 562.

31e. Whatever is added to the description of a thing already sufficiently described is of no effect. *Dig.* 33, 4, 1, 8; Broom, *Max.* 562.

31f. The undefined supplies the place of the whole. 4 *Coke,* 77.

31g. Discretion is to discern through law what is just. 5 *Coke,* 99, 100; 4 *Inst.* 41; 1 *Bl. Comm.* 152; 3 *Bulstr.* 128.

31h. To define is to determine with precision or to exhibit clearly the boundaries thereof. *Deal v. Enon Sanitary Dist.,* 95 S.E.2d 362, 366, 245 N.C. 74.

31i. The purpose of a description is to afford the means to identify the subject matter. *Mitchell v. Moore,* 13 So.2d 314, 317, 152 Fla. 843.

31j A description which distinguishes it from any other, although a better or still more certain description might be given, is all that is required. *Matson v. Hord,* 1 Wheat. (14 U.S.) 130, 138.

32. DOUBT, DOUBTFUL

(See Also: AMBIGUITY -:- CERTAINTY)

32a. In doubtful cases, the more worthy or favorable are to be taken. Branch, *Princ.*; *Dig.* 50, 17, 56; 2 Kent, *Comm.* 557.

32b. In doubtful cases, there is no presumption in favor of the will. *Cro. Car.* 51.

32c. Inquire into doubtful points if you wish to understand the law well; because by reasoning we arrive at legal reason. *Litt.* s. 443.

32d. In a doubtful case, that is the construction of the law which the words indicate. *Bouv.* 130.

32e. In a doubtful matter, the negative is to be understood [or regarded] rather than the affirmative. *Godb.* 37; *Cycl. Dict.* 518.

32f. In doubt, the gentler or safer course is to be followed. *Bouv.* 130.

32g. When you doubt about a thing, do not do it. 1 *Hale P.C.* 310.

33. DOWER

(See Also: INHERITANCE -:- MARRIAGE)

33a. The law favors dower; it is the reward of chastity; therefore let it be preserved. *Co. Litt.* 31; *Jenk. Cent.* 50; Branch, *Princ.*

33b. Where there is no marriage, there is no dower. *2 Bl. Comm.* 130; *Wait v. Wait,* 4 Barb. (N.Y.) 192, 194; *Co. Litt.* 35*a*.

33c. A legitimate dower belongs to every woman of all lands and tenements of which her husband possessed in his own right, as of fee, etc. *Co. Litt.* 336; C.L.M.

33d. A woman leaving her husband of her own accord, and committing adultery, loses her dower, unless her husband takes her back of his own accord. *Co. Litt.* 37.

33e. In law, a dower is a provision for a widow; upon her husband's death, out of his lands or tenements for her support and the nurture of her children. *Co. Litt.* 30*a*; 2 *Bl. Comm.* 130; 4 Kent, *Comm.* 35; *Chaplin v. Hill,* 1 R.I. 452; *Hoy v. Varner,* 100 Va. 600, 42 S.E. 690.

33f. Dower ought not to be sought from dower. 4 *Coke,* 122*b*.

34. DUTY (Of Individuals)

34a. It is safe not to obey him who has no right. *Hob.* 146.

34b. A man may obey the law and yet be neither honest nor a good neighbor. C.L.M.

34c. He who becomes a soldier of Christ has ceased to be a soldier of the world; nor is he entitled to any reward who acknowledges no duty. C.L.M.

34d. Those who do not preserve the law of the land, they justly incur the awesome and indelible brand of infamy. 3 *Inst.* 221.

34e. That which touches or concerns all ought to be supported by all. C.L.M.

34f. He who betrays his country is like the insane sailor who bores a hole in the ship which carries him. 3 *Inst.* 36.

34g. No one is bound to do what is impossible. *Black's* 2.

34h. A neglected duty often works as much against the interests as a duty wrongfully performed. *Keim v. U. S.*, 177 U.S. 290, 295.

34i. Right and obligation are considered by all ethical writers as correlative terms. *Ogden v. Saunders,* 25 U.S. 213, 281.

35. ECONOMICS, BUSINESS

(See also: BUYING & SELLING -:- PROPERTY)

35a. Commerce ought to be common, and not to be converted into a monopoly and the private gain of a few. 3 *Inst.* 181, in marg.

35b. Let every one employ himself in what he knows. 11 *Coke,* 10.

35c. An insane person who knows not what he does cannot make a bargain, nor transact any business. 4 *Coke,* 126.

35d. Whatever money is paid, is paid according to the direction or intention of the payer; whatever money is received, is received according to that of the recipient. 2 *Vern.* 606; Broom, *Max.* 810.

35e. Money is the just medium and measure of commutable things, for by the medium of money a convenient and just estimation of all things is made. *Dav. Ir. K.B.* 18; 1 *Bouv. Inst.* n. 922.

35f. It is said to be monopoly when one person alone buys up the whole of one kind of commodity, fixing a price at his own pleasure. 11 *Coke,* 86.

35g. Goods are worth as much as they can be sold for. *Shep. Touch.* 142; 3 *Inst.* 305.

35h. The term 'merchandise' belongs to movable things only. *Dig.* 50, 16, 66.

35i. Merchandise is whatever can be sold. *Baldwin v. Williams,* 3 Metc. (Mass.) 365.

35j. A workman for hire promises the skill of his art; he engages to do the work in a skillful or workmanlike manner. 2 Kent, *Comm.* 588; Story, *Bailm.* s. 428.

35k. Cause and origin is the material of business. 1 *Coke,* 99; *Wing. Max.* max. 41, 21.

35l. Those things which rarely happen are not to be taken into account in the transaction of business, without sufficient reason. *Dig.* 50, 17, 64.

35m. The words "current money" designate current at the time of payment. *Dav.* 20; *Black's,* 2d. 1200.

35n. A sacred thing does not admit of valuation. *Dig.* 1, 8, 9, 5.

35o. It is inequitable to permit some to trade and to prohibit others. 3 *Inst.* 181.

35p. For concerning anything which occurs without deceit or wrong on the part of the vendor, the vendor is secure. *Brown v. Bellows,* 4 Pick. (Mass.) 198.

35q. He at whose risk a thing is done, should receive the profits arising from it. *Black's,* 2d. 1182.

35r. The value of a thing is estimated according to its worth in money, but the value of money is not estimated by reference to a thing. 9 *Coke,* 76.

35s. Usury is odious in law. *Bouv.* 161.

35t. Services which are incapable of division are to be performed in whole by each individual. 6 *Coke,* 1.

35u. It is natural that he who bears the charge of a thing should receive the profits. *Dig.* 50, 17, 10.

35v. No one is prohibited from following several kinds of businesses or several arts. 11 *Coke,* 54*a*.

35w. Money (*pecunia*) is so called from cattle, (*pecus,*) because all the wealth of our ancestors consisted in cattle. *Co. Litt.* 207.

35x. What one has paid knowing it not to be due, with intention of recovering it back, he cannot recover back. *Dig.* 2, 6, 50.

36. EQUITY & CIVIL PRACTICES

36a. A court of equity ought to do justice completely and not by halves. *Rice & Adams Corp. v. Lathrop,* 278 U.S. 509, 515.

36b. He who prefers a charge against another, however just it may be, will himself be unjust unless the accused be heard in his own defense. C.L.M.

36c. Equity acts upon the person. 4 *Bouv. Inst.* n. 3733.

36d. Equity does not make law, but assists law. *Lofft,* 379.

36e. Equity is the correction of that wherein the law, by reason of its generality, is deficient. *Plowd.* 375, 467.

36f. In the court of chancery (equity) a man shall not be prejudiced by his mispleading, or defect of form, but according to the truth of the matter; for the decision should be made according to conscience and not according to the rigor of law. C.L.M.

36g. Nothing is more unjust than to extend equity too far. *Halk.* 103.

36h. The civil law is what a people establishes for itself. *Inst.* 1, 2, 1; *Jackson v. Jackson,* 1 Johns. (N.Y.) 424, 426.

36i. Law regards equity. *Co. Litt.* 24*b*; Broom, *Max.* 3d Lond. ed. 143.

36j. Equity is a certain perfect reason, which interprets and amends the written law, comprehended in no writing, but consisting in right reason alone. *Co. Litt.* 24*b*.

36k. Equity is as it were equality; equity is a species of equality or equalization. *Co. Litt.* 24; *Bouv. Inst.* 3725; 1 Story, *Eq. Jur.* s. 64.

36l. The court of chancery is the workshop of justice. 2 *Inst.* 552.

36m. In all things, but especially in law, equity is to be regarded. *Dig.* 50, 17, 90; Story, *Bailm.* s. 257.

36n . Equity looks upon that as done, which ought to be done. 4 *Bouv. Inst.* n. 3729; *Craig v. Leslie,* 3 Wheat. (16 U.S.) 563, 578.

36o. Equity never counteracts the laws. *Black's,* 2d. 45.

36p. Equity suffers not a wrong without a remedy 4 *Bouv. Inst.* no. 3726.

36q. He who is placed out of the law is civilly dead. *Co. Litt.* 130.

36r. Equity follows the law. *Talb.* 52; Story, *Eq. Jur.* s .64. *Co. Litt.* 24*b*; Broom, *Max.* 151; *Wood. Lect.* 479.

36s. Laws derived from the pure source of equity and justice must be founded on the consent of those whose obedience they require. C.L.M.

37. ERROR, MISTAKE

(See also: FAULT -:- FICTION)

37a. Error artfully disguised [or colored] is, in many instances, more probable than naked truth; and frequently error overwhelms truth by its show of reason. 2 *Coke,* 73.

37b. Error of law injures. A mistake of the law has an injurious effect; that is, the party committing it must suffer the consequences. *Mackeld. Rom. Law,* s. 178; 1 Story, *Eq. Jur.* s. 139, note; 4 *Bouv. Inst.* n. 3828.

37c. Every consent removes error. Consent always removes the effect error. 2 *Inst.* 123.

37d. An error which is not resisted or opposed is approved. *Bouv.* 125.

37e. It is safer to err on the gentler side or the side of mercy. 3 *Inst.* 220.

37f. False in one thing, false in every thing. *The Santissima Trinidad,* 7 Wheat. (20 U.S.) 283, 339.

37g. An error made by a clerk should not injure or prejudice; a clerical error may be corrected. *Jenk. Cent.* 23, 324; Dig. 34, 5, 3.

37h. The people is the greatest master of error. *Bacon*; *Black's,* 767; *Cycl. Dict.* 649.

37i. A man is presumed to be simple [minded] who makes a mistake in his own name. *Code.* 6, 24, 14; *Van Alst v. Hunter,* 5 Johns. Ch. (N.Y.) 148, 161.

37j. To refer errors to their sources is to refute them. 3 *Inst.* 15.

37k. The denial of a conclusion is error in law. *Wing. Max.* 268.

37l. The mistakes of the writer ought not to harm. *Jenk. Cent.* 324.

37m. Error dwells in general expressions. *Pitman v. Hooper,* 3 Sumn. 290, Fed. Cas. No. 11,186; *Underwood v. Carney,* 1 Cush. (Mass.) 292.

37n. The multitude of those who err is no protection (or excuse) for error. 11 *Coke,* 75.

38. EVENT

38a. An event is that which follows from the cause, and is called an "event" because it eventuates from cause. 9 *Coke,* 81.

38b. A new matter always produces various events. *Co. Litt.* 379.

38c. An event is vainly expected from which no effect follows. *Black's,* 2d. 527.

38d. The progress of events shows many things which, at the beginning, could not be guarded against or foreseen. 6 *Coke,* 40.

39. EVIDENCE, PROOF & WITNESSES

39a. Things done in one action cannot be taken as evidence in another, unless it be between the same parties. *Tray. Leg. Max.* 11.

39b. A confession made in court is of greater effect than any proof. *Jenk. Cent.* 102; 11 *Coke,* 30.

39c. No one ought to be a witness in his own cause. 3 *Bl. Comm.* 371. No person is understood to be a competent witness in his own cause. *Dig.* 22, 5, 10.

39d. Proof is the effect of evidence; the establishment of a fact by evidence. *Tift v. Jones,* 77 Ga. 181; 3 S.E. 399.

39e. In criminal cases, the proofs should be clearer than the light. 3 *Inst.* 210.

39f. Nothing can be treated as evidence which is not introduced as such. *Harvey v. Waitt,* 44 N.E.2d 629, 633, 312 Mass. 333.

39g. The law arises out of the fact. 2 *Inst.* 479; 2 *Bl. Comm.* 329.

39h. What is clearly apparent need not be proved. 10 *Mod.* 150. The law does not require that to be proved which is apparent to the court. 9 *Coke,* 54.

39i. That which appears to the court needs not the aid of witnesses. 2 *Inst.* 662.

39j. It is in the nature of things that a negative is no proof. *Black's,* 2d. 890; *Bouv.* 147; *Code.* 4, 19, 23.

39k. He who affirms must prove. *Porter v. Stevens,* 9 Cush. (Mass.) 535.

39l. The answer of one witness shall not be heard at all; the testimony of a single witness shall not be admitted under any circumstances (for civil cases). 1 *Greenl. Ev.* s. 260; *Code.* 4, 20, 9; 3 *Bl. Comm.* 370; Best, *Ev.* p. 426, s. 390, and note.

39m. Witnesses cannot testify to a negative; they must testify to an affirmative. 4 *Inst.* 279.

39n. The burden of proof lies on him who asserts the fact, not on him who denies it; as from the nature of things, he who denies a fact cannot produce any proof. *Steph. Pl.* 84; *Dig.* 22, 3, 2; 1 *Greenl. Ev.* s. 74; *Dranguet v. Prudhomme,* 3 La. 83; 4 *Bouv. Inst.* n. 4411.

39o. What is proved by record ought not to be denied. *Black's,* 986.

39p. A witness alleging contrary or contradictory things (whose statements contradict each other) is not to be heard. 4 *Inst.* 279.

39q. Things manifest and plain truths do not require proof. 7 *Coke,* 40*b*; *Co. Litt.* 16.

39r. Proofs ought to be evident, *to-wit,* clear and easily understood. *Co. Litt.* 283.

39s. The extremes being proved, intermediate things are presumed. *Tray. Leg. Max.* 207; 1 *Greenl. Ev.* s. 20.

39t. All things are presumed against a despoiler or wrong-doer. (A leading maxim in the law of evidence.) Best, *Ev.* p. 340, s. 303; Broom, *Max.* 938.

39u. It is vain to prove that which if proved would not aid the matter in question. Broom, *Max.* 3d. Lond. ed. 255; *Halk. Max.* 50. That cannot be proved which proved is irrelevant. 1 *Exch.* 91, 92, 102.

39v. All things are presumed to be lawfully done and duly performed until the contrary is proved. *Co. Litt.* 232*b*; *Id.* 6; Best, *Ev.* p. 337, s. 300; *Bank of U.S. v. Dandridge,* 12 Wheat. 64, 69-70.

39w. One eye-witness is of more weight than ten ear-witnesses, [or those who speak from hearsay.] 4 *Inst.* 279; 3 *Bouv. Inst.* n. 3154.

39x. Witnesses are weighed, not counted. That is, the more worthy or credible are to be believed. 1 Starkie, *Ev.* 554; Best, *Ev.* p. 426, s. 389; *Bakeman v. Rose,* 14 Wend. (N.Y.) 105, 109.

39y. Principles prove, they are not proved. 3 *Coke,* 40. Fundamental principles require no proof; or, in Lord Coke's words, "they ought to be approved, because they cannot be proved." 3 *Coke,* 50*a*.

39z. What is not proved and what does not exist are the same; it is not a defect of the law, but of proof. *Black's,* 587; Jenk. Cent. 207.

39aa. Any person skilled in his peculiar art or profession is to be believed, [*i.e.,* when he speaks of matters connected with such art.] *Co. Litt.* 125*a*; 1 *Bl. Comm.* 75. Credence should be given to one skilled in his peculiar profession. Broom, *Max.* 932; *Dickinson v. Barber,* 9 Mass. 227; 6 Am. Dec. 58.

39bb. When the proofs of facts are present, what need is there of words? 2 *Bulst.* 53; *Bouv.* 122.

39cc. Report, which induces suspicion, ought to arise from good and grave men; not, indeed, from malevolent and malicious men, but from cautious and credible persons; not only once, but frequently; for clamor diminishes, and defamation manifests. 2 *Inst.* 52; *Black's,* 2d. 482.

39dd. The power of proofs [or the right of offering proof or giving testimony] is not to be narrowed. 4 *Inst.* 279.

39ee. A witness is a person who is present at and observes a transaction. *State v. Desforges,* 47 La. Ann. 1167; 17 So. 811.

39ff. Evidence does not consist of vague, uncertain, irrelevant matter not carrying the quality of proof to induce conviction. *McDonald v. Robertson,* 104 F.2d 945, 948.

39gg. Judicial notice is a form of evidence. *Mann v. Mann,* 172 P.2d 369, 375, 76 Cal.App.2d 32.

39hh. The rules of evidence are of great importance, and cannot be departed without endangering private as well as public rights. *Nicholls v. Webb,* 8 Wheat. (21 U.S.) 326, 332.

39ii. No one alleging his own turpitude, or who wishes to perish, is to be heard as a witness. 4 Inst. 279; Best. Ex. s. 385.

40. EXCEPTION

40a. The exception affirms the rule to be the other way. Bacon, *Aph.*

40b. An exception proves the rule concerning things not excepted. 11 *Coke,* 41; Bacon, *Aph.* 17.

40c. Every exception is itself also a rule. Every rule is liable to its own exceptions. *Black's,* 852.

40d. An exception should always be put last. 9 *Coke,* 53.

40e. The exception proves the rule. 11 *Coke,* 41; 3 *Term,* 722.

40f. An exception which confirms the law, expounds the law. 2 *Bulstr.* 189.

40g. It is proper that laws be greater than any exception. *Halk. Max.* 74.

41. EXCESS

41a. Excess in law is reprehended. Excess in anything is reprehended at common law. *Co. Litt.* 44.

41b. What ever is done in excess is prohibited by law. 2 *Inst.* 107.

41c. Surplusage does no harm. 3 *Bouv. Inst.* no. 2949; Broom, *Max.* 627; *Jenk. Cent.* 184.

41d. Surplusage does not spoil the remaining part if that is good in itself. *Dyer,* 392; Broom, *Max.* 627.

41e. Surplusage does not usually vitiate writings. *Dig.* 50, 17, 94.

42. EXECUTION (Of Law)

42a. Execution is the execution of the law according to the judgment. 3 *Inst.* 212.

42b. Execution is the end and the fruit of the law, and is very aptly called the life of the law. *Co. Litt.* 289; *Bank of U.S. v. Halstead,* 10 Wheat. (23U.S.) 51, 64.

42c. The effect of a law consists in the execution. *Co. Litt.* 289*b.*

42d. Executions [of law] are preferred to all other processes whatever. *Co. Litt.* 287, 289.

42e. The execution of law does no injury. 2 *Rolle.* 301.

42f. Failure to enforce the law does not change it. *Louisville & N. R.R. v. U. S.,* 282 U.S. 740, 759.

43. EXPRESS, EXPRESSION, IMPLY

(See also: SPECIFIC -:- WORDS)

43a. Those things which cannot be given, or which are not in existence, are held as not expressed. *Dig.* 50, 17, 135.

43b. The expression of one thing is the exclusion of another. *Co. Litt.* 210*a*; Broom, *Max.* 3d ed. 596; *Pearson v. Lord,* 6 Mass. 81, 84.

43c. A general expression is to be interpreted generally. 8 *Coke,* 116*a*.

43d. That which is expressed puts an end to (renders ineffective) that which is implied. 4 *Coke,* 80; Broom, *Max.* 651; *Weston v. Davis,* 24 Me. 374.

43e. Things expressed may be prejudicial; things not expressed are not. *Dig.* 50, 17, 19, 5; *Dig.* 35, 1, 52.

43f. A general expression implies nothing certain. *Wing. Max.* 164.

43g. Many things can be implied from a few expressions. *Litt.* s. 384.

43h. The expression of things of which, if unexpressed, one would have the benefit, is useless. 4 *Coke,* 73.

43i. The expression or express mention of those things which are tacitly implied avails nothing. 2 *Inst.* 365; *Dig.* 50, 15, 5.

44. FAULT, BLAME, GUILT

(See also: ERROR -:- WRONG)

44a. He is clear of blame who knows, but cannot prevent. *Dig.* 50, 15, 50.

44b. It is a fault for any one to meddle in a matter not pertaining to him, or with a thing not belonging to him. 2 *Inst.* 208; *Dig.* 50, 17, 36.

44c. No guilt attaches to him who is compelled to obey. *Dig.* 50, 17, 169, pr.; *Bouv.* 124.

44d. Obedience to existing laws is a sufficient extenuation of guilt before a civil tribunal. Broom, *Max.* 12, note.

44e. Gross negligence is held equivalent to intentional wrong. *Black's,* 2d. 304.

44f. He adds fault to fault who sets up a defense of a wrong committed by him. 5 *Coke,* 49.

44g. A frivolous fear is not a legal excuse. *Dig.* 50, 17, 184; 2 *Inst.* 483.

44h. He who does not blame, approves. 3 *Inst.* 27.

44i. The rule is, that ignorance of the law does not excuse, but that ignorance of a fact may excuse a party from the legal consequences of his conduct. *Dig.* 22, 6, 9; Broom, *Max.* 3d Lond. ed. 232.

44j. Where the fault is mutual, the law will leave the case as it finds it. Story, *Ag.* s. 195.

44k. Simplicity is favorable to the law, and too much subtlety is blameworthy in law. 4 *Coke,* 8.

44l. Misconduct binds [should bind] its own authors. It is a never-failing axiom that everyone is accountable only for his own offense or wrong. *Ersk. Inst.* 4, 1, 14.

44m. The law holds him excused who chose that his blood should be redeemed on any terms. *Dig.* 48, 21, 1; 1 *Bl. Comm.* 131.

44n. To commit [an act,] and not to prohibit one when in your power, is the same thing; and he who does not prohibit or forbid when he can prevent it is in fault, or does the same as ordering it to be done. 2 *Inst.* 146, 308; 3 *Inst.* 158.

44o. Impossibility is an excuse in the law. *Co. Litt.* 29; Broom, *Max.* 223.

44p. When both parties are in fault the plaintiff must fail, or the cause of the person in possession be preferred. *Dig.* 50, 17, 154; 11 Wheat (24 U.S.) 258; Broom, *Max.* 325; 4 *Bouv. Inst.* note 3724.

44q. Want of skill is reckoned as *culpa*; that is, as blamable conduct or neglect. *Dig.* 50, 15, 132.

44r. In a criminal matter, the act does not make a person guilty unless intention be guilty also. Broom, *Max.* 270, 275; 7 *Term.* 514; 4 N.Y. 159, 163; 2 *Bouv. Inst.* note 2211.

45. FICTION

(See also: EQUITY -:- TRUTH -:- ERROR)

45a. Where truth is, fiction of law does not exist. *Black's* 494; *Bouv.* 127.

45b. A fiction is a rule of law that assumes something which is or may be false as true. *Hibberd v. Smith,* 67 Cal. 547; 4 Pac. 473.

45c. A fiction of law injures no one. 3 *Coke,* 36; 3 *Bl. Comm.* 43.

45d. In the fiction of law there is always equity; a legal fiction is always consistent with equity. 11 *Coke,* 51*a*; Broom, *Max.* 127, 130.

45e. The law makes use of a fiction where equity subsists. 11 *Coke,* 90.

45f. Fictions arise from the law, and not law from fictions. *Bouv.* 136.

45g. Fiction of law is wrongful if it works loss or injury to any one. 2 *Coke,* 35; Broom, *Max.* 3d Lond. ed. 122.

45h. Fiction is a poor ground for changing substantial rights. C.L.M.

46. FORM OF LAW

46a. Form gives being. Called "the old physical maxim." *Black's,* 514.

46b. Legal form is essential form. 10 *Coke,* 100.

46c. Where form is not observed, a nullity of the act is inferred or follows. 12 *Coke,* 7.

46d. Where the law prescribes a form, the nonobservance of it is fatal to the proceeding, and the whole becomes a nullity. Best, *Ev.* Introd. s. 59.

47. FREEDOM, LIBERTY

(See also: PERSONAL RIGHTS -:- NATURAL RIGHTS)

47a. Whenever the interpretation of liberty is doubtful, the answer should be on the side of liberty. *Dig.* 50, 17, 20; *Co. Litt.* 116.

47b. Liberty is that natural power of doing whatever one pleases, except that which is restrained by law or force. *Co. Litt.* 116.

47c. Liberty is an inestimable thing; a thing above price. *Dig.* 50, 17, 106.

47d. Freedom does not admit of valuation. *Bract.* fol. 14. The body of a freeman does not admit of valuation. *Dig.* 9, 3, 7; *Hob.* 59.

47e. Liberty is more favored than all things [anything.] *Dig.* 50, 17, 122.

47f. He is to be judged impious and cruel who does not favor liberty. *Co. Litt.* 124.

47g. All men are freemen or slaves. *Inst.* 1, 3, pr.; *Fleta,* 1. 1, c. 1, s. 2; *Bouv.* 145.

47h. Natural liberty is the power of acting as one thinks fit, without any restraint or control, unless by the law of nature. 1 *Bl. Comm.* 125.

47i. It is a wretched state of slavery which subsists where the law is vague or uncertain. 4 *Inst.* 245, 246; Broom, *Max.* 150; *Yates v. Lansing,* 9 Johns. (N.Y.) 427.

48. GIFT

48a. He who gives a thing by mistake has a right to recover it back; but, if he gives designedly (with knowledge of the facts), it is a gift. *Dig.* 50, 17, 53.

48b. One who gives and yet retains does not give effectually. Or, one who gives, yet retains, gives nothing. *Tray. Leg. Max.* 129.

48c. Clandestine gifts are always suspicious. 3 *Coke,* 81; Noy, *Max.* 152.

48d. No man can give that which he has not. *Fleta,* lib. 3, c. 15, s. 8; *Jenk. Cent.* 250; Broom, *Max.* 499n; *Jackson v. Bradford,* 4 Wend. (N.Y.) 619; *Shep. Touch.* 243;

48e. That is considered to be given which is granted when no law compels. *Dig.* 50, 17, 82.

48f. The manner gives law to a gift. *Co. Litt.* 19*a*.

48g. A bequest is not rendered void by an erroneous description. *Inst.* 2, 20, 30; Broom, *Max.* 645.

48h. The will of the donor manifestly expressed in his deed of giving a gift is to be observed. *Co. Litt.* 21.

48i. A gift is said to be pure and simple when no condition or qualification is annexed. *Bract.* 1; *Bouv.* 158.

48j. Whatever is received is received according to the intention of the recipient. Broom, *Max.* 3d Lond. ed. 727; *Halk. Max.* 149.

48k. Custom gives law to the gift. *Co Litt.* 19; Broom, *Max.* 459.

48l. A thing is said to be given when it is yielded otherwise than by virtue of right (*i.e.*, when the receiving party has no right to the thing). *Dig.* 50, 17, 82.

48m. He gives nothing who has nothing. *Cycl. Dict.* 693.

48n. That which one has given, knowing it not to be due, with the intention of redemanding it, he cannot recover back. *Dig.* 12, 6, 50.

48o. One who knowingly pays what is not due is supposed to have done it with the intention of making a gift. *Walker v. Hill,* 17 Mass. 388.

48p. To present is no more than to give or offer on the spot. *Co. Litt.* 120.

48q. A gift is not presumed. *Jenk. Cent.* 109. No one is presumed to give. *Haren v. Foster,* 9 Pick. (Mass.) 128, 19 Am. Dec. 353.

48r. Among other methods of acquiring property, a great, much-used, and celebrated method is that of gift. *Bract.* fol. 11.

48s. A gift is perfected [made complete] by the possession of the receiver. *Jenk. Cent.* 109, case 9. A gift is incomplete until possession is delivered. 2 Kent, *Comm.* 438; *Ewing v. Ewing,* 2 Leigh. (Va.) 337

48t. He who has a right to give has the right to dispose of the gift. *Wing. Max.* 53; 2 *Coke,* 71; Broom, *Max.* 459, 461.

48u. The donor never ceases to possess, until the donee begins to possess. *Bract.* fol. 41*b*; *Dyer,* 281.

48v. It is necessary that a certain thing be brought into the gift, or made the subject of the conveyance. *Bract.* fol. 15*b*.

49. GOD, DIVINITY, RELIGION

49a. Where the Divinity is insulted the case is unpardonable. *Jenk. Cent.* 167.

49b. Human things never prosper where Divine things are neglected. *Co. Litt.* 15; *Wing. Max.* 2.

49c. No one is obliged to accuse himself, unless before God. *Hardr.* 139.

49d. Reason is a ray of the Divine light. *Co. Litt.* 232.

49e. It is more serious to hurt Divine than temporal majesty. 11 *Coke,* 29.

49f. That is the highest law which favors religion. 10 *Mod.* 117, 119; Broom, *Max.* 19.

49g. That consideration is strongest which determines in favor of religion. *Co. Litt.* 341*a*; 5 *Coke,* 14*b*; *Dig.* 11, 7, 43.

49h. No one was ever a great man without some Divine inspiration. *Cicero*; *Bouv.* 141.

49i. The Christian religion is a part of the common law. *Lofft.* 327.

49j. No man warring for God should be troubled by secular business. *Co. Litt.* 70.

49k. What is given to the church is given to God. 2 *Inst.* 590.

49l. That which is against Divine Law is repugnant to society and is void. C.L.M.

50. GOOD FAITH

50a. Good faith does not suffer the same thing to be demanded twice; and in making satisfaction [for a debt or demand] it is not allowed to be done more than once. 9 *Coke,* 53; *Dig.* 50, 17, 57.

50b. By good faith a possessor makes the fruits consumed his own. *Tray. Max.* 57.

50c. Good faith demands that what is agreed upon shall be done. *Dig.* 19, 20, 21; *Id.* 19, 1, 50; *Id.* 50, 8, 2, 13.

50d. Good faith must be observed. *Coolidge v. Brigham,* 1 Metc. (Mass.) 547, 551.

50e. Good faith does not allow us to demand twice the payment of the same thing. *Dig.* 50, 17, 57; *Perline v. Dunn,* 4 Johns Ch. (NY) 143.

50f. A possessor in good faith is only liable for that which he himself has obtained. 2 *Inst.* 285.

51. GOVERNMENT

51a. The government cannot load a citizen with imposition against his will or consent. 2 *Coke,* 61.

51b. The government is to be subject to the law, for the law makes the government. C.L.M.

51c. Obedience makes government, not the name by which it is called. C.L.M.

51d. The laws themselves desire that they should be governed by right. *Co. Litt.* 174*b*.

51e. No one should hold two offices at the same time. 4 *Inst.* 100.

51f. An ambassador fills the place of the king or nation by whom he is sent, and is to be honored as he whose place he fills. 12 *Coke,* 17.

51g. The absence of him who is employed in the service of the state, should not be prejudicial to him nor to others. *Dig.* 50, 17, 140.

51h. The minister of the law is not bound, in the execution of his office, either to fly or retreat. 6 *Coke,* 68.

51i. Individual liberties are antecedent to all government. C.L.M.

51j. Were the executive power not to have a right of restraining the encroachments of the legislative body, the latter would become despotic. Montesquieu, *The Spirit of Laws.*

51k. The law is not to be violated by those in government. *Jenk. Cent.* 7.

51l. Lapse of time does not bar the commonwealth. 2 *Inst.* 273; 1 *Bl. Comm.* 247; *Hob.* 347; 10 Barb. (N.Y.) 139; 16 Tex. 305.

51m. Men must turn square corners when they deal with the government. *Rock Island R.R. v. U.S.,* 254 U.S. 141, 143.

51n. Favors from government often carry with them an enhanced measure of regulation. *U.S. v. Morton Salt Co.,* 338 U.S. 632, 652.

51o. All political power is inherent in the people by decree of God, thus none can exist except it be derived from them. *American Maxim.*

51p. The main object of government is the protection and preservation of personal rights, private property, and public liberties, and upholding the law of God. *American Maxim.*

51q. A frequent recurrence to fundamental principles, and a firm adherence to justice, virtue, and original law, are indispensably necessary to preserve the blessings of liberty and good government. *American Maxim.*

51r. As usurpation is the exercise of power, which another has a right to; so tyranny is the exercise of power beyond right, which no body can have a right to. Locke, *Treat.* 2, 18, 199.

52. GRANTS, PERMISSION

(See also: GIFT -:- PROPERTY -:- PROHIBIT)

52a. Measure gives validity to the grant. C.L.M.

52b. When anything is granted to another, that also is granted without which the thing granted would be of no effect, or cannot exist. 11 *Coke,* 52; *Shep. Touch.* 89; *Hob.* 234; 3 Kent, *Comm.* 421; *Jenk. Cent.* 32 case 63; *Co. Litt.* 56*a*; *People v. Hicks,* 15 Barb. (N.Y.) 153, 160.

52c. Every grant is to be interpreted most strongly against the grantor. *Co. Litt.* 183*a*; *Chelsea v. Malden,* 4 Mass. 134.

52d. Permission is a license to do a thing or an authority to do an act, without such authority, would have been unlawful. *Black's,* 893.

52e. It is not every thing which is permitted that is honorable. *Dig.* 50, 17, 144.

52f. He who is permitted to do the greater may with greater reason do the less. *Dig.* 50, 17, 21; Broom, *Max.* 3d Lond. ed. 165; *Shep. Touch.* 429.

52g. The right of the grantor being extinguished, the right granted is extinguished. Broom, *Max.* 467.

52h. He who gives an end gives the means to that end. 3 Mass. 129.

52i. That which is granted or reserved in a certain specified form must be taken as it is granted, and will not be permitted to be made the subject of any adjustment or compensation on the part of the grantee. *Ex. parte Miller,* 2 Hill (NY) 423; Bacon, *Max.* 26, reg. 4.

52j. That which is permitted only at a loss is not permitted to be done. *Co. Litt.* 127.

52k. To permit is to allow by passive consent or not hindering; or to grant leave to by express consent or authorization. *Hill v. Montgomery,* 176 S.W.2d 284, 287, 352 Mo. 147.

52l. If a man grant that which is not his, the grant is void. *Shep. Touch.* 243; *Walk. Conv.* 191.

53. GUARDIAN

(See also: INHERITANCE -:- MINOR -:- LEGAL CAPACITY)

53a. A guardian can make the estate of an existing heir under his guardianship better, not worse. 7 *Coke,* 7.

53b. A guardian ought not to make money out of the guardianship of his ward. *Manning v. Manning's Ex'rs,* 1 Johns. Ch. (N.Y.) 527, 535.

53c. If a guardian do fraud to his ward, he shall be removed from his guardianship. *Jenk. Cent.* 39.

53d. That guardianship is secure which is intrusted to itself alone. *Hob.* 340.

54. HOMES, HOUSE, RESIDENCE

54a. Residence creates domicile. *Arnold v. United Ins. Co.,* 1 Johns. Cas. (N.Y.) 363, 366.

54b. It is settled that that is to be considered the home of each one of us where he may have his habitation and account-books, and where he has made an establishment of his business. *Dig.* 50, 16, 203.

54c. There is nothing more sacred, more inviolate, than the house of every citizen. C.L.M.

54d. Every man's house is his castle; and even though the winds of heaven may blow through it, government officials cannot enter it. C.L.M.; 5 *Coke,* 91, 92.

54e. A citizen cannot be taken by force from his house to be conducted before a judge or to prison. *Dig.* 50, 17, 103.

54f. Every man's house should be a perfectly safe refuge. 3 *Inst.* 162. *Clason v. Shotwell,* 12 Johns. (N.Y.) 31, 54; 5 *Coke,* 91*b*; 11 *Id.* 82

54g. A man's dwelling-house is his castle and fortress, not merely for his own personal protection, but also for the protection of his family and his property therein. 5 *Coke,* 91*b*; Broom, *Max.* 432; *Curtis v. Hubbard,* 4 Hill (N.Y.) 437.

54h. A home is a social unit formed by a family living together in one dwelling. *Anaya v. Foundation Res. Ins. Co.,* 414 P.2d 848, 849.

55. HUMAN NATURE & FAULTS

55a. Human nature does not change with time or environment. C.L.M.

55b. To him to whom nothing is enough, nothing is base. 4 *Inst.* 53.

55c. He is insane who, reason being thrown away, does everything with violence and rage. 4 *Coke,* 128.

55d. Anger is a short insanity. *Beardsley v. Maynard,* 4 Wend. (N.Y.) 336, 355.

55e. If you be moved to anger by insults, you publish them; if despised, they are forgotten. 3 *Inst.* 198.

55f. He acts with guile who demands that which he will have to return. Broom, *Max.* 346.

55g. To cover reproach with reproach is to lay mud upon mud. *Bulst.* 86.

56. IDENTITY, IDENTIFY

56a. From a great number of signs or marks, true identity is ascertained Bacon, *Max.* 103, in reg. 25, 29; Broom, *Max.* 3d Lond. ed. 569.

56b. He who cannot be known from himself, may be known from his associate. *Moore,* 817.

56c. Identity of a thing means the sameness in all that constitutes the objective reality of a thing. *State v. Evjue,* 33 N.W.2d 305, 309.

56d. Identity ordinarily connotes exactness. *Gordon v. Gordon,* 59 So.2d 40, 44.

57. IGNORANCE

(See also: KNOWLEDGE -:- ERROR)

57a. Ignorance of those things which one is bound to know excuses not. Hale, *P.C.* 42; Broom, *Max.* 267; 4 *Bl. Comm.* 27.

57b. It is a rule, that every one is prejudiced by his ignorance of law, but not by his ignorance of fact. *Code.* 1, 18, 10.

57c. Ignorance of law excuses no one (for all are bound to know the law). 4 *Bouv. Inst.* no. 3828; 1 Story, *Eq. Jur.* s. 111; 2 *Coke,* 36; *Rankin v. Mortimere,* 7 Watts (Penn.) 374; 2 Kent, *Comm.* 491.

57d. Ignorance of fact excuses or is ground of relief. 2 *Coke,* 3*b*. Acts done and contracts made under mistake or ignorance of a material fact are voidable and relievable in law and equity. 2 Kent, *Comm.* 491, & notes.

57e. It is ignorance of the law when we do not know our own rights. *Haven v. Foster,* 9 Pick. (Mass.) 130, 19 Am. Dec. 353.

57f. Ignorance of the fact excuses; ignorance of the law excuses not. Every man must be taken to be cognizant of the law; otherwise there is no saying to what extent the excuse of ignorance may not be carried. 1 *Coke,* 177; Broom, *Max.* 253; 4 *Bouv. Inst.* n. 3828.

57g. A mistake in point of law is, in criminal cases, no sort of defense. 4 *Bl. Comm.* 27; 4 *Steph. Comm.* 81; Broom, *Max.* 253; 7 *Car. P.* 456. And, in civil cases, ignorance of the law, with a full knowledge of the facts, furnishes no ground, either in law or equity, to rescind agreements, or reclaim money paid, or set aside solemn acts of the parties. 2 Kent, *Comm.* 491, and note.

57h. The law assists the ignorant. *Jenk. Cent.* 15.

57i. Ignorance, or want of skill, is considered a fault, *i.e.,* a negligence, for which one who professes the skill is responsible. *Dig.* 50, 17, 132; 1 *Bouv. Inst.* n. 1004; 2 Kent, *Comm.* 588; *McDonald v. Simpson,* 4 Ark. 523.

57j. Ignorance of one's right does not prejudice the right. *Lofft.* 552.

58. INHERITANCE, HEIR, & DESCENT

(See also: PROPERTY RIGHTS -:- MARRIAGE -:- WILLS)

58a. It is not just to make an elder born a bastard after his death, who during his lifetime was accounted legitimate. 12 *Coke,* 44.

58b. Inheritance is the succession to every right which the deceased had. *Co. Litt.* 237; *Dig.* 50, 17, 62.

58c. He who is in the womb is considered as born, whenever his benefit is concerned. *Bouv.* 151; *Black's,* 979.

58d. Not right, but seisin (legal possession), makes a stock from which the inheritance must descend. *Fleta,* 1.6, cc. 14, 2, s. 2; Noy, *Max.* 9th ed. 72, n. (b); Broom, *Max.* 466; 2 *Bl. Comm.* 388, 389.

58e. Not to be born, and to be dead-born, are the same thing. C.L.M.

58f. A *fee-simple,* so called because fee is the same as inheritance, and simple is the same as lawful or pure; and thus *fee-simple* is the same as a lawful inheritance, or pure inheritance. *Litt.* s. 1; *Black's,* 2d. 490.

58g. *Fee-tail,* — an inheritance limited in a definite descent. *Litt.* s. 13; *Black's,* 2d. 491.

58h. The law favors the inheritance of a man. C.L.M.

58i. Children born under a legitimate marriage shall always follow the condition of the father, never that of the mother. *Co. Litt.* 123; *Black's,* 2d. 305; *Lynch v. Clarke,* 1 Sandf. Ch. (N.Y.) 583, 660. However, in the case of slaves and animals, the offspring follows the condition of the mother. *Inst.* 2, 1, 9; 1 *Bouv. Inst.* n. 167, 502.

58j. By the title of heirs, come the heirs of heirs to infinity. *Co. Litt.* 9.

58k. Co-heirs are deemed as one body or person, by reason of the unity of right which they possess. *Co. Litt.* 163.

58l. A right growing to a possessor accrues to a successor. Halk. *Max.* 76.

58m. An inheritance is either corporeal or incorporeal. Corporeal is that which can be touched and seen; incorporeal, that which can neither be touched nor seen. *Co. Litt.* 9.

58n. No one leaves a greater benefit to his heir than he had himself. *Dig.* 50, 17, 120.

58o. God alone makes the heir, not man. *Co. Litt.* 5, 7b; Broom, *Max.* 516.

58p. One may relinquish for himself and his heirs a right which was introduced for his own benefit. *Bract.* 20.

58q. No one can at the same time be the heir and the owner of the same tenement. Hale, *Com. Law,* c. 7; *Bouv.* 141.

58r. The right of survivorship, for the benefit of commerce, holds no place among merchants. C.L.M.

58s. Children are of the blood of their parents, but the father and mother are not of the blood of the children. *3 Coke,* 40.

58t. A penal action is not given against an heir, unless such heir is benefited by the wrong. *Black's,* 2d. 25. Penal actions arising from any thing of a criminal nature do not pass to heirs. 2 *Inst.* 442.

58u. He who provides for himself provides for his heirs. *Black's,* 2d. 980.

58v. The heir is not to be bound in a penalty arising out of the wrongful act of the ancestor. 2 *Inst.* 198.

58w. He is the lawful heir whom the marriage demonstrates. *Fleta,* 1, 6, c. 1; *Dig.* 2, 4, 5; *Co. Litt.* 7*b.*

58x. An heir minor, under twenty-one years of age, is not answerable, except in the matter of dower. *Moore,* 348.

58y. The heir succeeds to the restitution, not the penalty. 2 *Inst.* 198.

58z. He who would have been heir to the father of the deceased shall also be heir of the son. 2 *Bl. Comm.* 239, 250; Broom, *Max.* 517.

58aa. All sisters are, as it were, one heir to the inheritance. *Co. Litt.* 67.

58bb. The presumption is in favor of legitimacy. 1 *Bl. Comm.* 457; 5 *Coke,* 98*b*; *Co. Litt.* 126*a*.

58cc. Possession of the brother in fee-simple makes the sister to be heir. 3 *Coke,* 42; 2 *Bl. Comm.* 227.

58dd. An heir is either by right of property, or right of representation. 3 *Coke,* 40*b*.

58ee. An heir is a part of his ancestor. *Co. Litt.* 22; Branch, *Princ; Schoonmaker v. Sheely,* 3 Hill. (N.Y.) 165, 167.

58ff. The offspring of an illicit cohabitation are not reckoned among the children. C.L.M; *Co. Litt.* 8*a*; Broom, *Max.* 519.

58gg. He who is born outside of lawful matrimony, or of an unlawful one, follows the condition of the mother. C.L.M.; *Cycl. Dict.* 840.

58hh. A yearly increase goes to enhance the inheritance. *Dig.* 5, 3, 20, 3.

58ii. "Heir" is a name or term of law; "son" is a name of nature. Bacon, *Max.* 52, in reg. 11.

58jj. A son in the mother's womb is part of the mother's vitals. 7 *Coke,* 8.

58kk. The greater inheritance comes to every one of us from right and the laws than from parents. 2 *Inst.* 56.

58ll. No one is heir to the living. *Co. Litt.* 8*a*, 22*b*; 2 *Bl. Comm.* 70; 2 *Bouv. Inst.* n. 1694; *Jackson v. Kniffen,* 2 Johns. (N.Y.) 36. No one can be heir during the life of his ancestor. Broom, *Max.* 522.

58mm. No one is presumed to have preferred another's posterity to his own. *Wing. Max.* 285.

59. INJURY, DAMAGE, HARM

(See also: FAULT -:- REMEDY)

59a. There may be damage or injury inflicted without any act of injustice. *Lofft,* 112.

59b. Not every loss produces an injury, *i.e.,* gives a right of action. 3 *Bl. Comm.* 219; 1 Smith, *Lead. Cas.* 131; Broom, *Max.* 93; 2 *Bouv., Inst.* n. 2211.

59c. Injury is not presumed. *Co. Litt.* 232.

59d. The Act of God injures no one. 2 *Inst.* 287; C.L.M.; 2 *Bl. Comm.* 122; 1 *Coke,* 97*b*; *Co. Litt.* 206*a*.

59e. Extreme law (rigor of law) is the greatest injury; strict law is great punishment. *Hob.* 125.

59f. He who does not repel an injury when he can, induces it. *Jenk. Cent.* 271.

59g. The government cannot confer a favor which occasions injury and loss to others. 3 *Coke,* 236; Broom, *Max.* 3d Lond. ed. 60.

59h. A personal injury does not receive satisfaction from a future course of proceeding, [is not left for its satisfaction to a future course of proceeding.] Bacon, *Max.* reg. 6; Broom, *Max.* 278.

59i. No man can change his purpose to another's injury. *Dig.* 50, 17, 75; Broom, *Max.* 34.

59j. No one is considered as doing damage, unless he is doing what he has no right to do. *Dig.* 50, 17, 151.

59k. He who suffers a damage by his own fault is not held to suffer damage. *Dig.* 50, 17, 203.

59l. An injury is done to him of whom a reproachful thing is said, or concerning whom an infamous song is made. 9 *Coke,* 60.

59m. An injury is extinguished by the forgiveness or reconcilement of the party injured. *Ersk. Inst.* 4, 4, 108.

59n. According to the laws of nature, it is just that no one should be enriched through detriment and injury to another, *i.e.,* at another's expense. *Dig.* 50, 17, 200.

59o. Law is a rule of right; and whatever is contrary to the rule of right is an injury. 3 *Bulst.* 313.

59p. It is for the interest of the state that a man should not enjoy his own property improperly, to the injury of others. *Inst.* 1, 8, 2.

59q. The act of the law does injury to no one. 2 *Inst.* 287; 5 *Coke,* 116.

59r. Use your own property in such a manner so as not to injure that of another. 9 *Coke,* 59; 1 *Bl. Comm.* 306; Broom, *Max.* 365; 2 Bouv. Inst. n. 2379; *Marcy v. Clark,* 17 Mass. 334; *McInerney v. Ervin,* (Fla.) 46 So.2d 458, 463.

59s. Damage derived by consent is not a cause of action. Wing. *Max.* 482. An injury is not done to one who knows and wills it. *Bract.* fol. 20.

59t. What constitutes right, and what injury, it is the business of the law to declare. *Co. Litt.* 158*b*.

59u. No one should be injured by that which has taken place between other parties. *Dig.* 12, 2, 10.

59v. From things to which one is accustomed, or in which there has been long acquiescence, no injury or wrong arises. *Jenk. Cent.* Intro. viii.

59w. An action is not given to one who is not injured. *Jenk. Cent.* 69.

59x. Extreme caution does no harm. 11 *Coke,* 6*b*; *Fleta,* lib. 1, c. 28, s.1.

59y. Bodily injuries cannot be foreseen and guarded against by means of provisos. Bacon, *Max.* reg. 22.

60. INTENT, INTENTION

(See also: CONSTRUCTION -:- WORDS)

60a. The intention of the party is the soul of the instrument. 3 *Bulst.* 67.

60b. That which is first in intention is last in operation. Bacon, *Max.*

60c. The intention amounts to nothing unless some effect follows. 1 *Rolle,* 226; *Bouv.* 143.

60d. Words should be subordinate to the intention. C.L.M.

60e. It is to the intention that all law applies. Law always regards the intention. *Black's,* 2d, 70; *Bouv.* 118.

60f. Outward acts indicate the inward intent. Broom, *Max.* 3. 270; 1 Smith, *Lead. Cas.* 115; 8 *Coke,* 291.

60g. Language is the exponent of the intention. The language of a statute or instrument is the best guide to the intention. Broom, *Max.* 622.

60h. An action does not make one guilty, unless the intention be bad. *Lofft.* 37.

60i. Your intention (or disposition) gives name (or character) to your work or act. *Bract.* fol. 2*b*, 101*b*; *Hob.* 123.

60j. A hidden intention is bad and disfavored in law. 2 *Bulstr.* 179.

60k. Previous intentions are judged by subsequent acts. *Dumont v. Smith,* 4 Denio (N.Y.) 319, 320.

60l. Intentions ought to be subservient to [or in accordance with] the laws, not the laws to intentions. *Co. Litt.* 314*a*, 314*b*.

60m. Without the knowledge, the intent cannot exist. *Direct Sales Co. v. United States,* 319 U.S. 703, 711.

60n. An act does not make [the doer of it] guilty, unless the mind be guilty; that is, unless the intention be criminal. 3 *Inst.* 107. The intent and the act must both concur to constitute the crime. 7 *Term* 514; Broom, *Max.* 306; *Howard v. Sexton,* 4 N.Y. 157, 159.

60o. A reason cannot always be given for the intentions of our ancestors. 4 *Coke,* 79; Broom, *Max.* 3d Lond. ed. 149; Branch, *Princ.*

61. INTERPERSONAL RELATIONSHIP

(See also: HUMAN NATURE -:- SUITS)

61a. No one ought to be enriched by another's loss. *Dig.* 6, 1, 48, 65; 2 Kent, *Comm.* 336; 1 Kames, *Eq.* 331; *Jenk. Cent.* 4; *Taylor v. Baldwin,* 10 Barb. (N.Y.) 626, 633.

61b. It is difficult that one man should sustain the place of two. 4 *Coke,* 118.

61c. He who first offends causes the strife. *Bouv.* 152.

61d. No one should intermeddle with a thing that in no respect concerns him. *Jenk. Cent.* p. 18, case 32.

61e. No one can transfer more [or greater] right to another than he has himself. *Dig.* 50, 17, 54; Broom, *Max.* 467, 469; *Wing. Max.* 56.

61f. When suspicion between men is suggested, it is easily entertained. C.L.M.

61g. Impersonality neither concludes nor binds. *Co. Litt.* 352.

61h. The law favors mutual recompense. *Wing. Max.* 100.

61i. You ought to know with whom you deal. C.L.M.

61j. Transactions between strangers may benefit, but cannot injure those who are not parties to them. 6 *Coke,* 1; *Co. Litt.* 132; Broom, *Max.* 954, 967.

61k. He who condemns the precept condemns the party giving it. 12 *Coke,* 96.

61l. A person ought not to be prejudiced by what has been done between others. C.L.M.

61m. No man can forfeit another's right. *Fleta,* lib. 1, c. 28, s. 11.

61n. A personal connection is equivalent to one's own interest; nearness of blood is as good a consideration as one's own interest. Bacon, *Max.* 72, reg.

61o. Personal things cannot be done by another. Finch, *Law,* b. 1, c. 3, n. 14.

61p. Personal things follow the person. *Flanders v. Cross,* 10 Cush. (Mass.) 516.

61q. Personal things die with the person. Finch, *Law,* b. 1, c. 3, n. 16.

61r. Whose is the advantage, his also should be the disadvantage. *Black's,* 2d. 304.

61s. A burdensome condition ought not to be brought upon one man by the act of another. *Dig.* 50, 17, 74; 2 Kent, *Comm.* 646.

62. INVALID, VALID, VOID

(See also: ANNUL -:- LAWFUL)

62a. A conclusion as to the use of a thing from its abuse is invalid. Broom, *Max.* 17.

62b. A repugnant act cannot be brought into being, *i.e.,* cannot be made effectual. *Plowd.* 355.

62c. Things invalid from the beginning cannot be made valid by subsequent act. *Tray. Leg. Max.* 482.

62d. Void things are as no things. *People v. Shall,* 9 Cow. (N.Y.) 784.

62e. What ought not to be done, when done, is valid. 5 *Coke,* 38, 39; *Nichols v. Ketchan,* 19 Johns. (N.Y.) 84, 92.

62f. The mandate of an immoral or illegal thing is void. *Dig.* 17, 1, 6, 3.

62g. That which is valid in law has legal strength, force, and effect, or incapable of being rightfully overthrown or set aside. *Emerson v. Knapp,* 75 Mo.App. 92, 97.

62h. What is useful is not vitiated by the useless. 3 *Bouv. Inst.* n. 2949; *Iredell v. Barbee,* 9 Ired. (N.C.) 254; 2 Serg. & R. (Penn.) 298.

62i. A thing void *ab initio* is one that never went into effect. C.L.M.

62j. Voidable imports a valid act which may be avoided, rather than an invalid act which may be confirmed as such. *Rothberg v. Schmiedeskamp,* 134 N.E.2d 544, 546, 334 Mass. 172.

62k. Things shall not be void which may possibly be good. *Bouv.* 160.

62l. Time cannot render valid an act void in its origin. *Dig.* 50, 17, 29.

62m. Void in part, void in toto. C.L.M.

62n. He who concedes anything is considered as conceding that without which his concession would be void; or without which the thing itself could not exist. 11 *Coke,* 52.

62o. Things grounded upon an ill and void beginning cannot have a valid or good perfection. Finch, *Law,* b. 1, c. 3, n. 8.

62p. An unconstitutional Act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed. *Norton v. Shelby County,* 118 U.S. 425, 442.

63. JUDGE, JUDGES

(See also: JUDGMENT -:- JUDICIAL ACTS)

63a. Concerning the fidelity and official conduct of a judge, no question is [will be] entertained; but his decisions may be impugned for the error committed of law or fact. Bacon, *Max.* 68, reg. 17; 1 N.Y. 45; Broom, Max. 85.

63b. A judge's order is an order made by a judge at chambers, or out of court. *Black's,* 664.

63c. A good judge decides according to what is just and right, and prefers equity to strict law. *Co. Litt.* 24; *Jenk. Cent.* p. 45, case 85; Broom, *Max.* 3d Lond. ed. 77; 4 *Term* 344.

63d. No one can be a judge in his own cause. Branch, *Princ.*; 12 *Coke,* 13. A judge cannot be a witness in his own case. 4 *Inst.* 272.

63e. The practice of the judges is the interpreter of the laws. *Hob.* 96.

63f. A good judge should do nothing of his own arbitrary will, nor on the dictate of his personal inclination, but should decide according to law and justice. 7 *Coke,* 27*a*.

63g. The judge is condemned when a guilty person escapes punishment. *Black's,* 664: *Bouv.* 133.

63h. If you judge, understand. *Bouv.* 157.

63i. The law provides for the future, the judge for the past. *Black's,* 717.

63j. It is the duty of justices to administer justice to every one pleading before them. 2 *Inst.* 451.

63k. It is the duty of a good judge to remove causes of litigation. 2 *Inst.* 306.

63l. It is the duty of a good judge to cause judgment to be executed without delay. *Co. Litt.* 289.

63m. Whatever is subject to the authority of a judge is not subject to innovation. 4 *Inst.* 66.

63n. The judge must see that no order be made or judgment given or sentence passed either more harshly or more mildly than the case requires; he must not seek renown, either as a severe or as a tender-hearted judge. *Black's,* 1028.

63o. A Judge is the law speaking, [the mouth of the law.] 7 *Coke,* 4*a*.

63p. The ignorance of the judge is the misfortune of the innocent. 2 *Inst.* 591.

63q. That law is best which leaves least to the discretion of the judge; that judge is best who leaves least to his own opinion. Broom, *Max.* 84; 1 Kent, *Comm.* 478; Bacon, *Aph.* 8, 46.

63r. A judge should keep his jurisdiction within the limits of his commission. 4 *Inst.* 163; *Black's,* 2d. 1056.

63s. A judge ought always to have equity before his eyes. *Jenk. Cent.* 45, 58; *Halk. Max.* 71.

63t. A judge should have two salts: the salt of wisdom, lest he be insipid; and the salt of conscience, lest he be devilish. *Black's,* 2d. 664; 3 *Inst.* 147.

63u. A judge cannot punish a wrong done to himself. 12 *Coke,* 114; *Bouv.* 133.

63v. It is punishment enough for a judge that he has God as his avenger [*i.e.,* he is responsible to God]. *Bouv.* 133.

63w. It is the duty of a judge to decide according to the facts alleged and proved. *Dyer,* 12; *Halk. Max.* 73.

63x. Judges are by no means favorable to things raised recently and subtly against the common law. *Halk. Max.* 73.

63y. It is the duty of a judge to declare [enunciate] the law, not to enact the law or make it. *Lofft,* 42; *Tray. Leg. Max.* 283; *Lofft. App.* 42.

63z. A judge who exceeds his office or jurisdiction is not to be obeyed. *Jenk. Cent.* p. 139, case 84; *Bouv.* 133.

63aa. Judges are not bound to explain the reason of their sentence. *Jenk. Cent.* 75.

63bb. It is the duty of a judge to inquire into the times of things, as well as into things themselves. *Co. Litt.* 171*a*.

64. JUDGMENT & DECISION

(See also: JUDGE -:- JUDICIAL ACTS)

64a. A judgment given by one who is not the proper judge is of no force and should not harm any one. 10 *Coke,* 70, 766; *Bouv.* 133; *Fleta,* 1. 6, c. 6, s. 7; Broom, *Max.* 92.

64b. A compromise is brought into affinity with judgments. *Strong v. Strong,* 9 Cush. (Mass.) 571.

64c. An award is a judgment. *Jenk. Cent.* 137; 3 *Bulst.* 64.

64d. In presumption of law, a judgment is given against inclination. *Co. Litt.* 248*b*, 314*b*.

64e. Judgments are, as it were, the dicta or sayings of the law, and are received as truth. 2 *Inst.* 537; *Co. Litt.* 39*a*, 168*a*.

64f. The judge in his decision ought to follow the rule, when the exception is not proved. *Black's,* 2d. 669; *Bouv.* 133.

64g. Where the opinions are equal, [where the court is equally divided,] the defendant is acquitted. 4 *Inst.* 64.

64h. Nothing in law is more intolerable than that the same case or matter should be subject (in different courts) to different views of the law. 4 *Coke,* 93.

64i. Judgment must be by the laws, not by examples. C.L.M.; 4 *Coke,* 33*b*; 4 *Bl. Comm.* 405; *Skinner v. Dayton*, 19 Johns. (N.Y.) 513.

64j. An interlocutory judgment may be recalled, but not a final one. Bacon, *Max.* reg. 20.

64k. Sentence is not given upon matters that are not clear. *Jenk. Cent.* p. 7, case 9.

64l. A judgment ought not to be illusory, it ought to have its proper effect. 2 *Inst.* 341.

64m. He who flees judgment confesses his guilt. 3 *Inst.* 14.

64n. The verdict is, as it were, the *dictum* of truth; as the judgment is the *dictum* of law. *Co. Litt.* 226.

64o. It is always safer to err in acquitting than punishing; or deciding on the side of mercy than on the side of justice. Branch, *Princ.*; 2 Hale, *P.C.* 290; Broom, *Max.* 326; *Com. v. York,* 9 Metc. (Mass.) 116, 43 Am. Dec. 373.

64p. The intention, count, foundation, and thing, brought to judgment, ought to be certain. *Co. Litt.* 303*a*; *Jenk. Cent.* 84.

64q. Realities must dominate the judgment by a court. *Appalachian Coals v. United States,* 288 U.S. 344, 360.

64r. Judgment *in error* is a judgment rendered by a court of error on a record sent up from an inferior court. *Black's,* 666.

64s. One of two opposite positions being affirmed, the other is denied. 3 *Rolle,* 422.

64t. That which appears not is not; and nothing appears judicially before judgment. 2 *Inst.* 479.

64u. Every act is to be judged by the intention of the doer. Branch, *Princ.*

64v. A new adjudication does not make a new law, but declares the old; because adjudication is the utterance of the law, and by adjudication the law is newly revealed which was for a long time hidden. 10 *Coke,* 42.

64w. The law judges those things which must necessarily be done as if actually done. Branch. *Princ.*

64x. Matters adjudged in a cause do not prejudice those who were not parties to it. *Dig.* 44, 2, 1.

64y. A matter decided or passed upon by a court of competent jurisdiction is received as evidence of truth. 2 Kent, *Comm.* 120. *Dig.* 50, 17, 207.

64z. A thing adjudged makes white, black; black, white; the crooked, straight; the straight, crooked. 1 *Bouv. Inst.* no. 840.

64aa. Judgment is, as it were, a declaration of law. *Black's,* 670.

64bb. He who determines any matter without hearing both sides, though he may have decided right, has not done justice. 6 *Coke,* 52*a*; 4 *Bl. Comm.* 283.

64cc. In things preceding judgment the plaintiff is favored. 2 *Inst.* 57

64dd. It is improper to give judgment or pass sentence without looking at the whole case. *Dig.* 1, 3, 24; *Hob.* 171*a*. It is unjust to decide or respond as to any particular part of a law without examining the whole of the law. 8 *Coke,* 117*b*.

64ee. Judgments frequently become matured by deliberations, never by hurried process or precipitation. 3 *Inst.* 210.

64ff. A court can only declare what the law is, and whether consistent with the law of God, and the fundamental or constitutional law of society. *The State v. Post,* 20 N.J.L. 368, 370 (1845).

64gg. Every conclusion of a good and true judgment follows from good and true premises, and the verdicts of jurors. *Co. Litt.* 226*b*.

64hh. Of [respecting] like things, [in like cases,] the judgment is to be the same. 7 *Coke,* 18.

64ii. The law does not define exactly, but trusts in the judgment of a good man. *Bissell v. Briggs,* 9 Mass. 475, 6 Am. Dec. 88.

64jj. 'The same reason, the same law.' *Charles River Bridge v. Warren Bridge,* 7 Pick. (Mass.) 493.

64kk. In nearly all penal judgments, immaturity of age and imbecility of mind are favored. *Dig.* 50, 17, 108; Broom, *Max.* 314.

65. JUDICIAL ACTS & PROCEDURES

(See also: JUDGES -:- LEGAL ACTION -:- SUITS)

65a. It matters not what is known to the judge, if it is not known to him judicially. 3 *Bulstr.* 115; Best, *Ev.* Introd. 31, s. 38.

65b. The decree (or act) of a court shall prejudice no man. *Jenk. Cent.* 118; C.L.M.

65c. An action of a judge which relates not to his office is of no force. *Dig.* 50, 17, 170; 10 *Coke,* 76. A judicial act before one not a judge is void. *Lofft.* 458.

65d. No one who may condemn is unable to acquit. *Dig.* 50, 17, 37.

65e. It is the duty of a good judge to prevent litigations, that suit may not grow out of suit, and it concerns the welfare of a state that an end be put to litigation. 4 *Coke,* 15*b*; 5 *Coke,* 31*a*.

65f. The court has nothing to do with what is not before it. Bacon, *Max*; *Bouv.* 141.

65g. A judicial writ fails not through defect of form. *Jenk. Cent.* 43

65h. No court which has not a record can impose a fine, or commit any person to prison; because those powers belong only to courts of record. 8 *Coke,* 60.

65i. Summonses or citations should not be granted before it is expressed on what ground they ought to be issued. 12 *Coke,* 47.

65j. The practice of the court is the law of the court. 3 *Bulst.* 53.

65k. The great number of ignorant and unskillful practitioners destroys a court. 2 *Inst.* 219.

65l. An act of the court shall prejudice no man. *Jenk. Cent.* 118; 1 Smith, *Lead. Cas.* 245-255; Broom, *Max.* 3d Lond. ed. 115.

65m. An example [in judicial proceedings] does no good which settles one question by another. *Hatch v. Mann,* 15 Wend. (N.Y.) 44, 49.

65n. Those things which are properly transacted in our courts ought to be committed to a due execution. *Co. Litt.* 289.

65o. That which is to be resolved once for all should be long deliberated upon. 12 *Coke,* 74.

65p. In courts or judicial proceedings, infancy is aided or favored. *Jenk. Cent.* 46, case 89.

65q. In a trial, credence is given only to those who are sworn. *Cro. Car.* 64.

65r. The condition of the defendant must be favored, rather than that of the plaintiff. *Dig.* 50, 17, 125; Broom, *Max.* 715.

65s. No man should be condemned unheard. Broom, *Max.* 113.

65t. Sunday is *dies non juridicus* —that is — it is not a court day, or a day for judicial proceedings, or legal purposes. *Co. Litt.* 135*a*; Noy, *Max.* 2; *Wing. Max.* 7, max. 5; Broom, *Max.* 21; *Plowd.* 265; *Pearce v. Atwood,* 13 Mass. 324, 327; *VanVechten v. Paddock,* 12 Johns. (N.Y.) 178, 180.

65u. Constitutions and laws precede the judiciary. *Luther v. Borden,* 7 How. (48 U.S.) 1, 52.

65v. That which is endless is reprobated in law. 12 *Coke,* 24.

65w. Judicial acts require the exercise of some judicial discretion, ministerial acts require none. *Ex parte Kellogg,* 6 Vt. 510.

65x. The judge is counsel for the prisoner. C.L.M.

65y. Everyone is presumed to be innocent until his guilt is established beyond a reasonable doubt. C.L.M. Every uncondemned person is held by the law as innocent. *Lofft,* 121.

65z. An adjournment is to appoint a day or give a day. 4 *Inst.* 27.

65aa. It is unbecoming to surrender men when no cause is shown. *In re Washburn,* 4 Johns. Ch. (N.Y.) 106, 114, 8 Am. Dec. 548.

65bb. An alternative petition or demand is not to be heard. 5 *Coke,* 40.

66. JURISDICTION

(See also: AUTHORITY -:- JUDGE -:- JUDGMENT)

66a. A judicial act by a judge without jurisdiction is void; but a ministerial act, from whomsoever proceeding, may be ratified. *Lofft.* 458.

66b. It is the part of a good judge to enlarge (or use liberally) his remedial authority or jurisdiction. *Bouv.* 119; *Dwight v. Pomeroy,* 17 Mass. 303, 310.

66c. Jurisdiction of the principal matter extends to the accessory matter as well. 2 *Inst.* 493; *Bract.* 481.

66d. Statutes are confined to their own territory, and have no extraterritorial effect. *Woodworth v. Spring,* 4 Allen (Mass.) 324.

66e. Jurisdiction is a power introduced for the public good, on account of the necessity of dispensing justice. 10 *Coke,* 73*a*.

66f. Jurisdiction is the power to declare the law; and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. *Bullington v. Angel,* 220 N.C. 18

66g. Every jurisdiction has its own bounds. *Jenk. Cent.* 137.

66h. The grant of jurisdiction implies the grant of all powers necessary to its exercise. 1 Kent, *Comm.* 339; Dig. 2, 1, 2;

66i. He who has jurisdiction to loosen has jurisdiction to bind. 12 *Coke,* 59.

66j. The order of things is confounded if every one preserves not his jurisdiction. 4 *Inst.* Proem.

66k. Whoever has an ordinary jurisdiction is ordinary of that place. *Co. Litt.* 344.

66l. One ought to be subject to the law [of the place] where he offends. 3 *Inst.* 24; *Bract.* fol. 154*b*.

66m. One who exercises jurisdiction out of his territory is not obeyed with impunity. *Dig.* 2, 1, 20; Branch, *Princ.*; 10 *Coke*, 77. He who exercises judicial authority beyond his proper limits cannot be obeyed with safety. Story, *Confl. Laws,* s. 539.

66n. Decisions are, as it were, jurisdictions. *Halk. Max.* 73.

66o. Jurisdiction is the power of a court to apply the law and to enter and enforce judgment. *Jones v. Brinson,* (N.C.) 78 S.E.2d 334, 337.

67. JURY, JURORS

67a. Jurors ought to be neighbors, of sufficient estate, and free from suspicion. *Jenk. Cent.* 141; *Bouv.* 134.

67b. Juries are the judges of fact and law in American jurisprudence. *State of Georgia v. Brailsford,* 3 Dall. 1, 4; *U.S. v. Dougherty,* 473 F.2d 1132-33.

67c. The decision of twelve good and upright men is thought by the common law to be the dictate of truth. *Halk. Max.* 73.

67d. A jury ought not to be harassed by labors and expenses. *Jenk. Cent.* 6.

67e. The administration of an oath is an indispensable requisite to the formation of a legal jury. *Lumsden v. City of Milwaukee,* 8 Wis. 485, 486.

67f. The verdict of a jury is a bar to equity. Branch, *Max.* 155.

67g. There can be no valid trial jury of less than 12 men, and a consent even by the defendant to a trial by a less number is absolutely void. *Hunt v. State,* 61 Miss. 577, 580, 581.

67h. The verdict of a jury is, as it were, the dictum of truth, even as the judgment of the court is the dictum of law. *Co. Litt.* 226.

68. JUSTICE

(See also: EQUITY -:- LAW -:- TRUTH)

68a. Every presumption of the law must be in aid of justice. C.L.M.

68b. What is just and right is the law of laws. Hob. 224.

68c. It is not just and right that he who exposes the faults of a guilty person should be condemned on that account; for it is proper and expedient that the offense of the guilty should be known. C.L.M.

68d. Hasty justice is the step-mother of misfortune. *Hob.* 97.

68e. Justice ought to be *free,* because nothing is more iniquitous than venal justice; *full,* because justice ought not to halt; and *speedy,* because delay is a kind of denial. 2 *Inst.* 56.

68f. Justice is neither to be denied nor delayed. *Jenk. Cent.* 76, 93.

68g. Justice is a steady and unceasing disposition to render to every man his due. *Inst.* 1, 1, pr.; *Dig.* 1, 1, 10.

68h. That justice which absolutely prevents [a crime] is better than that which severely punishes it. 3 *Inst.* Epil.

68i. The law favors justice and right. *Wing. Max.* 141.

68j. Justice is double; punishing severely, and truly preventing. 3 *Inst.* Epil.

68k. Favor ought not to be able to bend justice, power to break it, nor money to corrupt it; for not only if it be overborne, but if it be abandoned or negligently observed, no one can think that he holds any thing securely, or that he will inherit any thing from his father, or be able to leave any thing to his children. *Bouv.* 134; Cicero, *Fragmenta de Republica.*

68l. Justice is excellent virtue, and pleasing to the Most High. 4 *Inst.* 58.

68m. Justice knows not father nor mother; justice looks at truth alone. 1 *Bulst.* 199.

68n. The law does not fail in dispensing justice. *Jenk. Cent.* p. 31, case 61; *Co. Litt.* 197.

68o. Let right [or justice] be done, though the heavens should fall. *Black's,* 2d. 494.

68p. It is the duty of a good judge to enlarge or extend justice. 1 *Burr.* 304.

68q. Faith is the sister of justice. *Halk. Max.* 77.

68r. Justice is prior to liberty. *Halk. Max.* 77.

68s. It is the property of a Judge to administer justice, not to give it. *Lofft,* 42.

69. KNOWLEDGE, UNDERSTANDING

(See also: COMMON KNOWLEDGE -:- IGNORANCE)

69a. Discretion is to know through law what is just. 10 *Coke,* 140.

69b. By reasoning we come to true reason. *Litt.* s. 386.

69c. That which is necessarily understood is not wanting. 1 *Bulst.* 71. That which is tacitly understood is not considered to be wanting. 4 *Coke,* 22*a*.

69d. No one can properly understand one part before he has read through the whole again and again. Broom, *Max.* 593; 3 *Coke,* 52.

69e. You will perceive many things much more easily by practice than by rules. 4 *Inst.* 50.

69f. The knowledge of smatterers is mixed ignorance. 8 *Coke,* 159.

69g. Jurisprudence is the knowledge of things Divine and human; the science of the just and the unjust. *Dig.* 1, 1, 10, 2; *Inst.* 1, 1, 1; *Bract.* 3; *People v. Ruggles,* 8 Johns. (N.Y.) 290, 295.

69h. He who questions well learns well. 3 *Bulst.* 227.

69i. To know properly is to know a thing in its reason, and by its cause. We are truly said to know anything, where we know the true cause thereof. *Co. Litt.* 183*b*.

69j. We are ignorant of many things which would not be hidden from us if the reading of old authors was familiar to us. 10 *Coke,* 73.

69k. Things universal are better known than things particular. 2 *Rolle,* 294.

69l. To know a thing, and to be bound to know it, are regarded in law as equivalent. *Tray. Leg. Max.* 551; *Bouv.* 129.

69m. To know the laws is not to observe their mere words, but their force and power; [that is, the essential meaning in which their efficacy resides.] *Dig.* 1, 3, 17; 1 Kent, *Comm.* 462.

69n. The law forces no one to make known what he is presumed not to know. *Lofft,* 569.

69o. Let every one employ himself in what he knows. 11 *Coke,* 10.

69p. Inquire into doubtful points if you wish to understand the law well [because by reasoning we arrive at legal reason.] *Litt.* s. 337, 443;

69q. No one is bound to give information about things he is ignorant of, but every one is bound to know that which he gives information about. Branch. *Princ.*; *Black's,* 2d. 815.

69r. Not to believe rashly is the nerve of wisdom. 5 *Coke,* 114.

69s. Many men have known many things; no one has known everything. 4 *Inst.* 348.

69t. What is not read is not believed. 4 *Coke,* 304.

69u. No man is bound to have foreknowledge of a Divine or a future event. 10 *Coke,* 55*a*.

69v. It is sometimes expedient to forget what you know. C.L.M.

69w. It is necessary that given persons, lands and estates should be comprehended in a declaration of uses. 9 *Coke,* 9.

69x. It profits little to know what ought to be done, if you do not know how it is to be done. 2 *Inst.* 503.

69y. Notice is named from a knowledge being had; and notice ought not to halt, [*i.e.,* be imperfect.] 6 *Coke,* 29.

70. LAND, REAL ESTATE

(See also: HOMES -:- PROPERTY -:- INHERITANCE)

70a. An estate in free and pure *allodium,* and an estate in *fee simple* absolute, refer to essentilly the same thing. 4 Kent, *Comm.* 2.

70b. What the original estate determines, the derivative estate determines also. 8 *Coke,* 34; Broom, *Max.* 495.

70c. Every entry on lands without the owner's leave, or authority of law, is a trespass. C.L.M.

70d. A right descends, not the land. *Co. Litt.* 345.

70e. Land lying unoccupied is given to the first occupant. C.L.M.

70f. He who owns the soil has it even to the sky. C.L.M.; *Co. Litt.* 4*a*.

70g. An alien holds no lands. *Tray. Lat. Max.* 203.

70h. The shore is where the highest wave from the sea has reached. *Dig.* 50, 16, 96.

70i. In no tenement[1] which is held for a term of years is there an avail of homage; but there is the oath of fealty (loyalty) *Co. Litt.* 67*b*.

70j. Every person has exclusive dominion over the soil which he absolutely owns; hence such an owner of land has the exclusive right of hunting and fishing on his land, and the waters covering it. *L. Realty Co. v. Johnson,* 92 Minn. 363, 365.

70k. Water follows the land. A sale of land will pass the water which covers it. 2 *Bl. Comm.* 18; *Co. Litt.* 4.

70l. Water runs and ought to run as it has used to run. *Bouv.* 118; *Kauffman v. Griesemer,* 26 Penn. St. 407, 413; 3 Kent, *Comm.* 439.

70m. The situation and productiveness of the soil constitutes the value of the land. *West River Bridge v. Dix,* 6 Howard (47 U.S.) 507, 537.

70n. The owner of a piece of land owns everything above and below it to an indefinite extent. *Co. Litt.* 4; 9 *Coke,* 54; *Shep. Touch.* 90; 2 *Bl. Comm.* 18; Broom, *Max.* 395; 2 *Bouv. Inst.* nn. 15, 70.

70o. Buildings pass by a grant of the land. *Fleta,* lib. 3, c. 2, s. 12.

70p. *Allodial* land is that possessed by a man in his own right, free and absolute, without owing any rent or service to any superior. *Barker v. Dayton,* 28 Wis. 367, 377; 2 *Bl. Comm.* 104; 3 Kent, *Comm.* 495.

70q. The law of God and the law of the land are all one; and both preserve and favor the private rights to the land. *Keilw.* 191.

70r. Whatever is affixed to or built on the soil belongs to the soil, whether attached by nature or by the hand of man. Broom, *Max.* 401-431; *Inst.* 2, 1, 29; *Washburn v. Sproat,* 16 Mass. 449; 2 *Bouv. Inst.* n. 1571; *Dig.* 41, 1, 7, 10; *Nessler v. Neher,* 26 N.W. 471; *Co. Litt.* 4*a*; *Fleta,* lib. 3, c. 2, s. 12.

70s. Whichever of two parties has the division of an estate, the choice of the shares is the other's. *Co. Litt.* 166*b*.

70t. Hanging fruits make part of the land. *Dig.* 6, 1, 44; 2 *Bouv. Inst.* no. 1578.

70u. Gathered fruits do not make a part of the farm or realty. *Dig.* 19, 1, 17, 1; *Bouv. Inst.* no. 1578.

1 Tenement—Land, buildings, offices, franchises, etc., held by another by tenure.

70v. Grain which is sown is understood to form a part of the soil. *Inst.* 2, 1, 32. What ever is planted in the soil belongs to the soil. 2 *Bouv. Inst.* n. 1572.

70w. Land comprehends any ground, soil, or earth whatsoever; as meadows, pastures, woods, moors, waters, and marshes. *Co. Litt.* 4*a*.

71. LAW, LAWS

(See also: COMMON LAW -:- LAW OF NATURE -:- RULES)

71a. The laws consist not in being read, but in being understood. 8 *Coke,* 167*a*.

71b. A thing which has no effect in law is not an impediment. *Jenk. Cent. Cas.* 162; *Wing. Max.* 727.

71c. Things favorably considered in law are life, liberty, dower, and treasury. *Jenk. Cent.* 94; *Co. Litt.* 341.

71d. Law is from everlasting. *Jenk. Cent.* p. 34, case 66; Branch, *Princ.*

71e. Law is the science of what is good and just. *Dig.* 1, 1, 1, 1; *Bract.* fol. 2*b*.

71f. Law is a rule of right. *Bouv.* 136.

71g. Many things have been introduced into the common law, with a view to the public good, which are inconsistent with sound reason. *Co. Litt.* 70*b*; Broom, *Max.* 158; 2 *Coke,* 75.

71h. Delays in law are odious. Branch, *Princ.* The law always abhors delays. 2 *Inst.* 240.

71i. Law is established for the benefit of man. *Black's,* 2d. 577.

71j. The welfare of the people is the supreme law. *McInerney v. Ervin,* (Fla.) 46 So.2d 458, 463; Bacon, *Max.* reg. 12; 13 *Coke,* 139.

71k. The wisdom of the law cannot be valued by money. *Jenk. Cent.* 168.

71l. Law is made to prevent the stronger from having the power to do everything. *Dav. Ir. K.B.* 36.

71m. The law is the same respecting things which do not appear and those which do not exist. *Bennehan v. Webb,* 6 Ired. (N.C.) 57, 61; *U.S. v. Wilkinson,* 12 How. (53 U.S.) 246, 253; 5 *Coke,* 6.

71n. Laws are imposed, not upon words, but upon things. 10 *Coke,* 101; Branch, *Princ.*; *Code.* 6, 43, 2.

71o. The practice of fixing and refixing [making and remaking] the laws is a most dangerous one. 4 *Coke,* pref.

71p. Human laws are born, live, and die. 7 *Coke,* 25; 1 *Bl. Comm.* 89.

71q. The law arises out of the fact. Broom, *Max.* 102.

71r. An act of law shall prejudice no man. 2 *Inst.* 287; *Hob.* 216; 5 *Term,* 381, 385; *Van Brunt v. Schenck,* 11 Johns. (N.Y.) 380.

71s. Laws ought to be made with a view to those cases which happen most frequently, and not to those which are of rare or accidental occurrence. *Dig.* 1, 3, 3. Broom, *Max.* 43.

71t. Law disfavors improbabilities or impossibilities. *Wing. Max.* p. 620, max. 161; p. 606, max. 155.

71u. The law does nothing in vain. *Jenk. Cent.* p. 12, case 19; Broom, *Max.* 252.

71v. Law favors diligence, and therefore hates folly and negligence. *Wing. Max.* p. 665, max. 172; Finch, *Law,* b. 1, c. 3, no. 70.

71w. Law favors honor and order. *Wing. Max.* p. 739, max. 199.

71x. Law favors life, liberty, and dower. 4 *Bacon's Works,* 345.

71y. Law favors speeding of men's causes. *Wing. Max.* max. 175.

71z. Law favors truth, faith, and certainty. *Wing. Max.* max. 154.

71aa. Law respects matter of substance more than matter of circumstance. *Wing. Max.* p. 382, max. 101; *Finch,* Law, b. 1, c. 3, no. 39.

71bb. The law will sooner suffer a mischief than an inconvenience. *Litt.* s. 231; *Bouv.* 135.

71cc. Simplicity is favorable to the laws; and too much subtlety in law is to be reprobated. 4 *Coke,* 8.

71dd. These are the precepts of the law: To live honorably; to hurt nobody; to render to every one his due. *Inst.* 1, 1, 3; 1 *Bl. Comm.* 40.

71ee. The laws themselves require that they should be governed by right. *Co. Litt.* 174.

71ff. The law dispenses what use has approved. C.L.M..

71gg. All law has either been derived from the consent of the people, established by necessity, confirmed by custom, or of Divine Providence. *Dig.* 1, 3, 40; Broom, *Max.* 3d Lond. ed. 616, n.

71hh. Extremities, or mere subtleties of law, are not rules of law, [are not law.] *Co. Litt.* 304*b*; 10 *Coke,* 126; *Wing. Max.* 19, max. 14; Broom, *Max.* 188.

71ii. The torture or wresting of laws is the worst kind of torture. 4 *Bacon's Works,* 434.

71jj. The law always intends what is agreeable to reason. *Co. Litt.* 78*b*.

71kk. The law does not care for, or recognize, very small or trifling matters. Thus, error in calculation of a fractional part of a penny will not be regarded. *Hob.* 88; C.L.M.

71ll. *Things which are inserted for the purpose of removing doubt hurt* not the common law. *Co. Litt.* 205.

71mm. The law is the more praised when it is approved by reason. Broom, *Max.* 159.

71nn. Law is the dictate of reason, which commands what is right, useful and necessary, and forbids the contrary. *Co. Litt.* 319*b*; *Jenk. Cent.* p. 117, case 33; 2 *Inst.* 587.

71oo. Experience by various acts makes law. Experience is the mistress of things. *Co. Litt.* 60; Branch, *Princ.*

71pp. The law looks forward, not backward (*i.e.*, is not *ex post facto*). *Jenk. Cent.* 284. The law provides for the future, the judge for the past. *Bouv.* 136.

71qq. Things which are found within the reason of a law are supposed to be within the law itself. 2 *Inst.* 689.

71rr. The law rejects superfluous, contradictory, and incongruous things. *Jenk. Cent.* 133.

71ss. The effect of the law consists in the execution. *Co. Litt.* 289*b*.

71tt. The disposition of the law is more equitable than that of man. 8 *Coke,* 152.

71uu. Reason is the soul of law; and when the reason of any law ceases, the law ceases also. *Co. Litt.* 70*b*, 122*a*; 2 *Bl. Comm.* 390, 391; Broom, *Max.* 159; C.L.M.; 4 *Coke,* 38.

71vv. The reason of law changed, the law is also changed. 7 *Coke,* 7.

71ww. The law aids the vigilant, not the slothful or negligent. C.L.M. *Smith v. Carll,* 5 Johns. Ch. (N.Y.) 122, 145; *Toole v. Cook,* 16 How. Prac. (N.Y.) 142, 144; 1 Story, *Cont.* s. 529.

72. LAW (Adherence to)

(See also: DUTY -:- JURISDICTION)

72a. He does contrary to the law who does what the law prohibits; he acts in fraud of the law who, the letter of the law being inviolate, uses the law contrary to its intention. *Dig.* 1, 3, 29.

72b. A law is not obligatory unless it be promulgated. *Black's,* 2d. 826; *Bouv.* 143.

72c. The law compels no one to do anything which is useless or impossible. C.L.M.; *Hob.* 96; *Co. Litt.* 231*b*; 1 *Bouv. Inst.* n. 851. No one is bound to an impossibility. *Jenk. Cent.* 7.

72d. There is something more perfect in things allowed. *Hob.* 159.

72e. Where there is no authority to establish, there is no necessity to obey. *Dav.* 69; *Bouv.* 160.

72f. Laws should bind their own maker. *Fleta,* lib. 1, c. 17, s. 11.

72g. Law is a general rule of adherence to external acts. *Black's,* 700.

72h. Where there is no law, there is no transgression. 4 *Coke,* 16*b*.

72i. Obedience is the essence of the law. 11 *Coke,* 100.

72j. He who adheres to the letter of the law adheres to its bark. *Co. Litt.* 289; 5 *Coke,* 4*b*; 11 Coke, 34*b*; 12 East, 372.

72k. The law compels no one to do vain or useless things. *Co. Litt.* 197*b*, 319; Broom, *Max.* 252; 5 *Coke,* 21*a*; *Wing. Max.* 600; 3 *Bl. Comm.* 144; *Watmough v. Francis,* 7 Penn. St. 206, 214.

72l. The law compels no one to show that which he is presumed not to know. *Lofft,* 569.

72m. Laws are made to no purpose, except for those that are subject and obedient. Branch, *Princ.*; 7 *Coke,* 13.

72n. He vainly invokes the aid of the law who transgresses the law. *Fleta,* lib. 4, c. 2, s. 3; 2 Hale, *P.C.* 386; Broom, *Max.* 279, 297.

73. LAWFUL, UNLAWFUL

(See also: ANNUL -:- INVALID)

73a. Under pretext of legality, what is illegal ought not to be admitted. *Wing. Max.* p. 728, max. 196.

73b. To investigate [inquire into] is the way to know what things are truly lawful. *Litt.* s. 443; *Bouv.* 150.

73c. We are able to do that which we can do lawfully. *Bouv.* 129.

73d. It is lawful to repel force by force, provided it be done with the moderation of blameless defense, not for the purpose of taking revenge, but to ward off injury. *Co. Litt.* 162*a*.

73e. Nothing that is against reason is lawful. *Co. Litt.* 97*b*.

73f. There are some things which are not proper though lawful; but certainly those things are not proper which are not lawful. *Hob.* 159.

73g. Nothing that is inconvenient is lawful. *Co. Litt.* 66*a*, 97*b*.

73h. That which is or lawful in the less shall be lawful in the greater; and that which is not lawful in the greater shall neither be lawful in the less. *Co. Litt.* 260*a*; 8 *Coke,* 48.

73i. It has been said, with much truth, "Where the law ends, tyranny begins." *Merritt v. Welsh,* 14 Otto (104 U.S.) 694, 702.

73j. That which is lawful is constituted or authorized by law; rightful; conformable to law; allowed by law; legitimate; competent. *Ohio Auto. Spr. Co. v. Fender,* 141 N.E. 269, 275.

73k. The principle distinction between the terms 'lawful' and 'legal' is that the former contemplates the substance of law, the latter the form of law. *Black's,* 703.

74. LAW OF NATURE

74a. When laws imposed by the state fail, we must act by the law of nature. 2 *Rolle,* 298; *Bouv.* 136.

74b. The Law respects the bonds of nature. *Wing. Max.* p. 268, max. 78; Finch, *Law,* b. 1, c. 3, no. 29.

74c. The laws of nature are unchangeable. *Cycl. Dict.* 566; Branch, *Princ.*

74d. The laws of nature are most perfect and immutable; but in the condition of human laws there is nothing which can continue perpetually. 7 *Coke,* 25.

74e. No one is presumed to do anything against nature. 22 *Vin. Abr.* 154; *Bouv.* 142

74f. *Jus naturale,* or natural law, has its foundation in the will of God. 1 *Bl. Comm.* 39; 1 Kent, Comm. 2, note; *Id.* 4 note.

74g. Nature takes little heed. *Vandenheuvel v. United Ins. Co.,* 2 Johns. Cas. (N.Y.) 127, 166.

74h. The force of nature is greatest. 2 *Inst.* 564.

74i. Nature makes no leap, nor does the law. *Co. Litt.* 238.

74j. Things which are forbidden by the nature of things are confirmed by no law. Branch, *Princ.* Positive laws are framed after the laws of nature and reason. Finch, *Law.* 74.

74k. Crimes against nature are the most heinous. 3 *Inst.* 20.

74l. That which natural reason has established among all men, is call the law of nations. *Dig.* 1, 1, 9; *Inst.* 1, 2, 1; 1 *Bl. Comm.* 43.

74m. The law regards the order of nature. *Co. Litt.* 197*b*.

74n. Nature covets perfection; so does law also. *Hob.* 144.

75. LEGAL ACTION & PROCEEDINGS,

(See also: JUDICIAL ACTS -:- PLEAS -:- SUITS)

75a. When an action is brought to annul a proceeding, the defendant cannot plead such proceeding in bar. Broom, *Max.* 3d Lond. ed. 154; *Wing. Max.* 647.

75b. The action *in rem* is that by which we seek our property which is possessed by another, and is always against him who possesses the property. *Dig.* 44, 7, 25; *Bract.* fol. 102.

75c. No one goes to law without an action, and no one can bring an action without a writ or bill. *Bract.* fol. 112; *Fleta,* 1.2, c. 13, s. 4.

75d. Not guilty unless the intent be guilty. 1 Story, *Cont.* 4th ed. 87.

75e. An action is not given to one who is not injured. *Jenk. Cent.* 69.

75f. Every action proceeds in its own course. *Jenk. Cent.* 77.

75g. No one is prohibited from making use of several defenses. *Co. Litt.* 304*a*; *Wing. Max.* 479.

75h. A fine puts an end to litigation. 3 *Inst.* 78.

75i. No one maintains an action arising out of his own wrong. Broom, *Max.* 297.

75j. He who has once relinquished or renounced his action cannot bring it again. 8 *Coke,* 59*a*.

75k. Every action is a plaint or complaint. *Co. Litt.* 292*a*.

75l. Every plaint and every action for injuries is limited within certain times. *Co. Litt.* 114*b*.

75m. No action arises out of an immoral consideration. 2 Peters (27 U.S.) 539, *Cycl. Dict.* 375.

75n. The action *in personam* is that by which we sue him who is under obligation to us to do something or give something. *Dig.* 44, 7, 25; *Bract.* 101*b*.

75o. That which is not permitted to the defendant should not be to the plaintiff. *Dig.* 50, 17, 41.

75p. When an action is merely criminal, it can be instituted from the beginning either criminally or civilly. *Bract.* 102.

75q. In every action where two distresses concur, that is, *in rem* and *in personam,* that is to be chosen which is most dreaded, and which binds most firmly. *Bract.* fol. 372; *Fleta,* 1. 6, c. 14, s. 28.

75r. No one is bound to accuse himself. *Wing. Max.* 486; 1 *Bl. Comm.* 443.

75s. Every man is liable to be sued wrongfully or without cause. *Dow v. Johnson,* 10 Otto (100 U.S.) 158, 193.

75t. In civil matters agency (or service) excuses, but not so in criminal matters. *Lofft.* 228; *Tray. Leg. Max.* 243.

75u. A matter, the validity of which is at issue in legal proceedings, cannot be set up as a bar [impediment] thereto. Bac. *Max.* reg. 2.

75v. Death dissolves all things [in legal actions.] *Jenk. Cent.* p. 160, case 2. A personal action dies with the person. Noy, *Max.* 14.

75w. When the foundation fails, all goes to the ground; as, where the cause of action fails, the action itself must of necessity fail. *Wing. Max.,* 113, 114, max. 40; Broom, *Max.* 180; Noy, *Max.* 5, max. 12.

75x. No one is bound to arm his adversary. *Wing. Max.* 665.

75y. The end of litigation is justice. *U. P. Ry. v. Botsford,* 141 US 258.

75z. No prescription runs against one who is unable to bring an action. C.L.M.

75aa. A right of action can not arise out of fraud. *Cowp.* 343; Broom, *Max.* 729.

76. LEGAL CAPACITY & STATUS

(See also: MINOR -:- GUARDIAN)

76a. A speech relating to the person is to be understood as relating to his condition or status. 4 *Coke,* 16.

76b. The status of a person is his legal position or condition. *Black's,* 2d 1107; *Barney v. Tourtellotte,* 138 Mass. 108.

76c. Legal status is a condition of a person, such as being an infant, a slave, a married man or woman, a ward, or a prisoner. *Redmon v. Leach,* 130 S.W.2d 873, 876.

76d. Legal capacity is the attribute of a person's ability, qualification, or legal power or right to perform civil acts, assume duties, and to hold lands. *Sargent v. Burdett,* 96 Ga. 111, 22 S.E. 667.

76e. An infant does not differ much from a lunatic [in legal capacity.] *Bract.* 1. 3, c. 2, s. 8; *Dig.* 50, 17, 5, 40; 1 Story, *Eq. Jur.* ss. 223, 224, 242.

76f. A status, once established, is presumed by the law to remain until the contrary appears or is expressed. *Kidder v. Stevens,* 60 Cal. 414, 419.

76g. No one can make his condition better by his own misdeed. *Dig.* 50, 17, 134, 1.

76h. A person is a man considered with reference to a certain *status. Bouv.* 147.

76i. No one is bound to incapacitate himself. *Jenk. Cent.* 40.

76j. Towns and boroughs [municipal corporations] act as if persons. *Warner v. Beers,* 23 Wend. (N.Y.) 103, 144.

76k. No one can claim another's status as his own merely because he wishes it. C.L.M.

76l. Women are not admissible to public offices. *Jenk. Cent.* 237. Women are excluded from all civil and public charges or offices. *Dig.* 50, 17, 2; 1 *Exch.* 645; 6 Mees. & W. 216.

76m. Capacity relates to soundness of mind or a mind that has full and intelligent knowledge of an act engaged in. *In re Null's Estate,* 153 A. 137, 139, 302 Pa. 64.

77. LEGAL RIGHTS

(See also: PERSONAL RIGHTS)

77a. No one should be twice harassed for the same offense. C.L.M.; *The People v. Mercein,* 3 Hill (N.Y.) 420; 30 U.S. 61.

77b. It is allowable to kill a thief if he cannot otherwise be taken. C.L.M.

77c. He who uses his legal rights harms no one. *Carson v. Western R. Co.,* 8 Gray (Mass.) 424; Broom, *Max.* 379.

77d. Every one may renounce or relinquish a right introduced for his own benefit. 2 *Inst.* 183; *Wing. Max.* p. 483, max. 123; 4 *Bl. Comm.* 317; *The People v. Van Rensselaer,* 9 N.Y. 291, 333.

77e. Whose right it is to institute, his right it is to abrogate. Broom, *Max.* 878, note.

77f. No freeman shall be deprived of life, liberty or property but by the lawful judgment of his peers, or by the law of the land—that is by the common law. C.L.M.

77g. Right cannot die. *Jenk. Cent.* 100, case 95.

77h. A right cannot arise from a wrong. 4 *Bingh.* 639; *Bouv.* 134.

77i. He who has the legal right to do the greater or more important act shall not be debarred from the lesser act. 4 *Coke,* 23; *Dig.* 50, 17, 21; Broom, *Max.* 176; *Co. Litt.* 355*b*; 2 *Inst.* 307; Noy, *Max.* 26.

77j. No man is bound to produce writings against himself. *Black's,* 815.

77k. No one is bound to swear to the fact of his own criminality; no one can be forced to give his own oath in evidence of his guilt, or testify to his own baseness. *Halk. Max.* 100; *Cycl. Dict.* 690.

77l. No one is bound to expose himself to misfortune and dangers. *Co. Litt.* 253.

77m. Mistaken notions about one's legal rights are not sufficient to bar prosecution for crime. *Williams v. North Carolina,* 325 U.S. 238.

77n. A continual usage is of great effect to establish a right. 4 *Coke,* 78; *Wing. Max.* p. 719, max. 192.

77o. It is the right of the accused to be tried by a legally constituted court, not by a kangaroo court. *Williams v. U.S.,* 341 US 97, 101.

77p. Any one may waive or renounce the benefit of a principle or rule of law that exists only for his protection. *Black's,* 304.

77q. No one can be made to testify against himself or betray himself. C.L.M. Broom, *Max.* 968. No one is bound to accuse himself, except before God. *Wing. Max.* 486; *Hardr.* 139; 1 *Bl. Comm.* 443.

77r. He who has the right to elect to do a thing has also the right to refuse it. C.L.M.

77s. He will not be considered as using force who exercises his rights and proceeds by forms of law. *Dig.* 50, 17, 155, 1.

77t. A fact does not necessarily constitute a right. Branch, *Max.* 15.

77u. The right ascends collaterally. *Bract.* 20.

78. MALICE, EVIL, BAD

(See also: CORRUPT ACTS -:- WRONG)

78a. Evil deeds ought not to remain unpunished, and impunity affords continual incitement to the delinquent. 4 *Coke,* 45.

78b. Malice is sour, it is the quality of a bad mind. 2 *Bulst.* 49.

78c. Evil is not presumed. 4 *Coke,* 72; Branch, *Princ.* Nothing wicked is to be presumed. *Cycl. Dict.* 693

78d. The more common the evil, the worse it is. Branch, *Princ.*

78e. He who is once bad is presumed to be always so in the same degree. *Cro. Car.* 317; Best, *Ev.* 345.

78f. Good laws arise from evil manners, *i.e.,* are necessitated by the evil behavior of men. 2 *Inst.* 161.

78g. That part is bad which accords not with its whole. *Plowd.* 161.

78h. An evil custom is to be abolished. *Co. Litt.* 141.

78i. When any thing by itself is not evil, and yet may be an example for evil, it is not to be done. 2 *Inst.* 564.

78j. Malice supplies age. 1 *Bl. Comm.* 464.

78k. The malicious plans of men must be avoided. 4 *Coke,* 15.

78l. Evil has not an efficient, but a deficient cause. 3 *Inst.* Proeme.

78m. Evil deeds are distinguished from evil purposes. *Jenk. Cent.* 290.

78n. It is not lawful to do evil that good may come of it. 11 *Coke,* 74*a*; *Ex parte Curtis,* 106 U.S. 371, 378.

79. MARRIAGE

(See also: INHERITANCE -:- DOWER)

79a. It is not lawful to have two wives at the same time. *Inst.* 1, 10, 6; 1 *Bl. Comm.* 436.

79b. Divorce is called from *divertendo,* because a man is diverted from his wife. *Co. Litt.* 234.

79c. The male sex always includes the female. *Dig.* 32, 62.

79d. Marriages ought to be free. 2 Kent, *Comm.* 102; *Halk. Max.* 86.

79e. A sentence against marriage never becomes a matter finally adjudged (never conclusive upon the parties). 7 *Coke,* 43.

79f. The union of male and female is founded on the law of nature. 7 *Coke,* 13; *Black's,* 246.

79g. Insanity prevents marriage from being contracted, because consent is needed. 1 *Bl. Comm.* 439.

79h. A wife follows the domicile of her husband. *Tray. Lat. Max.* 606.

79i. Husband and wife are considered one person (as one flesh and blood) in law. *Co. Litt.* 112; *Jenk. Cent.* 27.

79j. A wife is not her own mistress, but is under the power of her husband. 5 *Inst.* 108.

79k. Wife and son are names of nature. 4 *Bacon's Works,* 350.

79l. The presumption is always in favor of the validity of a marriage. *Black's,* 1070.

79m. Legitimacy is the lawful consequence of lawful marriage. *Gaines v. Relf,* 53 U.S. 472, 595.

79n. The father is he whom the marriage points out. 1 *Bl. Comm.* 446; *Tate v. Penne,* 7 Mart. (N.S. La.) 48, 553; *Dig.* 2, 4, 5; Broom, *Max.* 516; 1 *Bouv. Inst.* n. 273, 304.

79o. All things which are the wife's are the husband's. *Bract.* fol. 32; 2 Kent, *Comm.* 130-143. Although the property may be the wife's, the husband is the keeper of it, since he is the head of the wife. *Co. Litt.* 112.

79p. Subsequent marriage cures preceding criminality. *Black's,* 2d. 766.

79q. Consent, and not cohabitation, makes the marriage; and persons cannot consent to marriage before marriageable years. 5 *Coke,* 80; 6 *Coke,* 22; 1 *Bl. Comm* 434; *Co. Litt.* 33*a*; *Dig.* 50, 17, 30; 1 *Bouv. Inst.* 103.

80. MINOR, JUVENILE

80a. A minor can make his own condition better, but by no means worse. *Co. Litt.* 337.

80b. A minor cannot make an oath. *Co. Litt.* 172*b*. A minor cannot be sworn on a jury. *Litt.* 289.

80c. A minor ought not to be guardian to a minor. *Fleta,* lib. 1, c. 10; *Co. Litt.* 88*b*.

80d. A minor before majority cannot act in a case of property, nor even agree. 2 *Inst.* 291.

80e. A infant is not supposed to be able to suffer, *i.e.,* to do an act to his own prejudice. *Dig.* 50, 17, 110, 2.

80f. A minor who is under twelve years of age cannot be outlawed, nor placed without the law, because before such age he is not under any law, nor in decennary. *Co. Litt.* 128.

80g. The law aids minors. *Jenk. Cent.* case 97. A minor is to be aided as youth is liable to err. *Jenk. Cent.* case 47.

80h. A minor is not bound to reply during his minority, except as a matter of favor in a cause of dower. 3 *Bulst.* 143.

80i. A delinquent provoked by anger ought to be punished more mildly. 3 *Inst.* 55.

81. NAME

81a. A name is accepted if it errs not in substance. 6 *Coke,* 66.

81b. An error as to a name is nothing when there is certainty as to the person or thing. 11 *Coke,* 21; Broom, *Max.* 634; 2 Kent, *Comm.* 292.

81c. A name is not sufficient if a thing or subject for it does not exist by law or by fact. 4 *Coke,* 107*b*.

81d. Names are the notes of things. 11 *Coke,* 20. Names are the symbols of things. *Godb*; *Bouv.* 142.

81e. Initials are no legal part of a name, the authorities holding the full Christian name to be essential. *Monroe Cattle Co. v. Becker,* 147 U.S. 47, 58.

81f. The thing is named from its principal part. 5 *Coke,* 47.

81g. Names are mutable, but things are immutable. A name may be true or false, or may change, but the thing itself always maintains its identity. 6 *Coke,* 66.

81h. If you know not the names of things, the knowledge of things themselves perishes; and, if you lose the names, the distinction of the things is certainly lost. *Co. Litt.* 86.

81i. The names of things ought to be understood, not according to the opinion of individuals, but according to common usage. *Dig.* 33, 10, 7, 2.

81j. The presence of the body cures error in the name; the truth of the body cures error in the name; the truth of the name cures an error in the description. Broom, *Max.* 637, 639, 640; Bacon, *Max.* reg. 25; 6 *Term.* 675.

81k. Calling things by the same name does not obliterate the differences between them. *Cincinnati R.R. v. Kentucky,* 115 U.S. 321, 337.

82. NATURAL RIGHTS

(See also: FREEDOM -:- PERSONAL RIGHTS)

82a. Self-defense is the primary law of nature. C.L.M. Whatever one does in defense of his person, that he is considered to have done legally. 2 *Inst.* 590.

82b. Every right is either made by consent, or is constituted by necessity, or is established by custom, or created in us by the decrees of Providence. *Dig.* 1, 3, 40.

82c. A dispensation is a wound, because it wounds a common right. *Dav.* 69; Branch, *Princ.*

82d. He is justified who acts in pure defense of his own life or limb, for it is a natural right to do so. C.L.M.

82e. Natural right is that which has the same force among all men. 7 *Coke,* 12.

82f. The law favors common right. *Wing. Max.* p. 547, max. 144.

82g. By natural right, anyone is entitled to summon another into court. Branch, *Max.* 120.

82h. Natural rights are such as appertain to man, inherent in his nature or plainly assured by natural law, being distinguished from such as are created by law, and depend upon civilized society. *Borden v. State,* 11 Ark. 519, 527; 44 Am. Dec. 217.

83. NECESSITY, NECESSARY

83a. A good thing required by necessity is not good beyond the limits of the necessity. *Hob.* 144

83b. What is necessary is lawful. *Jenk. Cent.* p. 76, case 45. Thus, necessity knows no law. C.L.M.

83c. Necessity makes that lawful which otherwise is not lawful. 10 *Coke,* 61; 2 *Inst.* 326; *Fleta,* lib. 5, c. 23, s. 14.

83d. That which is otherwise not permitted, necessity permits; and necessity makes a privilege as to private rights. Bacon, *Max.*

83e. Nothing is more just than that which is necessary. *Dav. Ir. K.B.* 12; Branch, *Princ.*

83f. That which necessity compels, it justifies. Hale, *P.C.* 54.

83g. In cases of extreme necessity, everything is in common. Hale, *P.C.* 54.

83h. Necessity overrules the law. *Hob.* 144; Cooley, *Const, Lim.* (4th Ed.) 747. Necessity shall be a good excuse in our law, and in every other law. *Plowd.* 18*a*.

83i. The law of necessity is the law of the time and of place; that is, of the instant, or present moment. *Hob.* 159; 1 Hale, *P.C.* 54.

83j. The rights of necessity are a part of the law. C.L.M.; *Plowd.* 18.

83k. Things which are admitted on the ground of necessity ought not to be drawn into question. *Dig.* 50, 17, 162.

83l. What is introduced of necessity is never introduced except when necessary. 2 *Rolle,* 512.

84. OATHS

84a. There is no stronger link or bond between men than an oath. *Jenk. Cent.* Cas. 126; *Id.* p. 126, case 54.

84b. It is immaterial whether a man gives his assent by words or by acts and deeds. 10 *Coke,* 52.

84c. Punishment is due if the words of an oath be false. *Black's,* 840.

84d. An oath is indivisible; it is not to be held partly true and partly false. 4 *Inst.* 274; *Bouv.* 134.

84e. An oath has in it three component parts,—truth, justice, and judgment; truth in the party swearing; justice and judgment in the judge administering the oath. 3 *Inst.* 160.

84f. Every oath ought to be founded on certain knowledge. 4 *Inst.* 279.

84g. A foolish oath, though false, makes not perjury. 2 *Inst.* 167.

84h. In law, none is credited unless he is sworn. All facts must, when established by witnesses, be under oath or affirmation. *Cro. Car.* 64; *Bouv.* 130.

84i. An infamous person is repelled or prevented from taking an oath. *Co. Litt.* 158; *Bract.* fol. 185.

84j. To swear is to call God to witness, and is an act of religion. 3 *Inst.* 165; *Cycl. Dict.* 566.

84k. No one is believed in court but upon his oath. 3 *Inst.* 79; C.L.M.

84l. An oath made between others ought neither hurt nor profit. 4 *Inst.* 279.

84m. The form of taking oaths differs in language, yet the meaning of all is the same, for all oaths ought to have this sense: that the Deity is invoked. *Bouv.* 134.

85. PARTNERSHIP

85a. No one should be retained in a partnership against his will. *Selden v. Vermilya,* 2 Sandf. (N.Y.) 568, 593; *United Ins. Co. v. Scott,* 1 Johns. (N.Y.) 106, 114.

85b. When any partner renounces the partnership, the partnership is dissolved. *Tray. Leg. Max.* 118.

85c. When the subject is extinguished, the incident ceases. Thus, when the business for which a partnership has been formed is completed, or brought to an end, the partnership itself ceases. *Inst.* 3, 26, 6; Kent, *Comm.* 52, note; *Griswold v. Waddington,* 16 Johns. (N.Y.) 438, 489.

85d. One co-proprietor can exercise no authority over the common property against the will of the other. *Dig.* 10, 3, 28.

85e. The partner of my partner is not my partner. *Dig.* 50, 17, 47, 1.

85f. In a partnership the condition of one who forbids is the more favorable. *Black's,* 607.

85g. Several part-owners are as one body, by reason of the unity of their rights. *Co. Litt.* 164.

85h. A partnership is moreover dissolved by the death of a partner. *Inst.* 3, 26, 5; *Dig.* 17, 2.

85i. Where a thing is owned in common or shared equally, it is agreed that the cause of him prohibiting its use is the better. *Dig.* 10, 3, 28; 3 Kent, *Comm.* 45; 16 Johns. (N.Y.) 438, 491.

86. PERSONAL RIGHTS

(See also: LEGAL RIGHTS -:- PROPERTY RIGHTS)

86a. It would be idle and trite to say that no right is absolute. *Orient Ins. Co. v. Draggs,* 172 U.S. 557, 566.

86b. No man can forfeit another's right. *Fleta,* lib. 1, c. 28, s. 11.

86c. If a person neglect to insist on his right, he is deemed to have abandoned it. C.L.M.

86d. Rights never die. *Bouv.* 156.

86e. A thing is private which is not common. *Le Breton v. Miles,* 8 Paige, Ch. (N.Y.) 261, 270.

86f. Right is threefold,—of property, of possession, and of possibility. *Black's,* 681.

86g. There is no doubt that the rights of others [third parties] cannot be prejudiced by private agreements. *Dig.* 2, 15, 3, pr.; Broom, *Max.* 697.

86h. A right not vested in a person living, but merely exists in the consideration and contemplation of law, is said to be in abeyance. *Co. Litt.* 342.

86i. He is not deemed to use force who exercises his own right, and proceeds by ordinary action. *Dig.* 50, 17, 155, 1.

86j. The right of blood and kindred cannot be destroyed by any civil law. *Dig.* 50, 17, 9; Bacon, *Max.* reg. 11; Broom, *Max.* 533; *Jackson v. Phillips,* 14 Allen (Mass.) 562.

86k. No one is considered to act with guile, or to be a wrong-doer, who uses his own right. Dig. 50, 17, 55; Broom, *Max.* 130; *Amer. Ins. Co. v. Griswold,* 14 Wend. (N.Y.) 399, 492.

86l. No one can transfer to another a greater right than he himself has. *Co. Litt.* 309; *Wing. Max.* 56; 2 Kent, *Comm.* 324; 35 U.S. 161, 175.

86m. No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear or unquestionable authority of law. *Union Pac. Ry. v. Botsford,* 141 U.S. 250, 251.

86n. Rivers and ports are public. Therefore the right of fishing there is common to all. *Dav. Ir. K.B.* 55; Branch, *Princ.*

86o. When two rights meet in one person, it is the same as if they were in two persons. *Black's,* 2d. 305.

86p. A chase[2] is by common law. *2 Bl. Comm.* 414-416.

86q. A personal right of action dies with the person. Noy, *Max.* 14.

87. PLEA, PLEADING

(See also: LEGAL ACTION -:- SUITS)

87a. A plea of a matter of which a dissolution is sought by the action is null. *Jenk. Cent.* 37, case 71; Bacon, *Max.* reg. 2.

87b. A plea denying a fact is the last of all. *Black's,* 2d. 457.

87c. A false plea is the basest of all things. *Bouv.* 126.

87d. There can be no plea against an action which destroys the matter of the plea. *Jenk. Cent.* 106, case 2.

87e. Words make the plea. 5 *Mod.* 458.

87f. An alternative petition is not to be heard. 5 *Coke,* 40.

87g. He is defeated by the plea that the action have been assigned. *Cheesebrough v. Millard,* 1 Johns. Ch. (N.Y.) 409, 414.

87h. He who does not deny, admits. (A well-known rule of pleading.) *Tray. Leg. Max.* 503.

87i. Two negative pleas do not form an issue. *Lofft,* 415.

2 Chase—The liberty of hunting, one's self, and keeping protected against all other persons, deer and beasts of the forest, without regard to the ownership of land.

87j. Whatever is offered by the defendant as sufficient to defeat the cause of action stated in the plaintiff's declaration, either by way of denial, justification, or confession, is a plea. *Jewett Car Co. v. Kirkpatrick,* 107 Fed. 622, 624.

87k. The defendant by a plea becomes plaintiff. Best, *Ev.* 294, s. 252.

87l. Pleas [*i.e.,* actions] are personal, real, and mixed. *Co. Litt.* 284.

87m. It sometimes happens that a plea which seems *prima facie* just, nevertheless is injurious and unequal. *Inst.* 4, 14, 1, 2.

87n. When the order of pleading is observed, the law also is observed. *Co. Litt.* 303*a*; Broom, *Max.* 188.

87o. An ambiguous plea ought to be interpreted against the party pleading it. *Co. Litt.* 303*b*; Bacon, *Max.* reg. 3.

88. PRECEDENT

(See also: JUDGMENT -:- TIME)

88a. It is not a new thing that prior statutes shall give place to later ones. *Dig.* 1. 3. 26; 1. 1. 4; Broom, *Max.* 3d Lond. ed 27.

88b. Precedents have as much law as justice. *Bouv.* 149.

88c. It is best not to unsettle things which are originally established. *Green v. Hudson River R. Co.,* 28 Barb. (N.Y.) 9, 22.

88d. A particular case, left unprovided for by statute, must be disposed of according to the law as it existed prior to such statute. Broom, *Max.* 46.

88e. Things introduced contrary to the reason of law ought not to be drawn into a precedent. 12 *Coke,* 75; *Dig.* 1,3, 14; *Dig.* 50, 17.

88f. Later laws prevail over those which preceded them. *Dig.* 1, 4, 4. Later laws abrogate prior laws that are contrary to them. Broom, *Max.* 27, 29.

88g. Things which are tolerated on account of necessity ought not to be drawn into precedent. *Dig.* 50, 17, 162.

88h. We are to adhere to precedents, and not to unsettled things which are not established. *Yates vs. Lansing,* 9 Johns. (N.Y.) 395, 428; *Moore vs. Lyons,* 25 Wend. (N.Y.) 119, 142.

88i. One absurdity being allowed [established as precedent], an infinity follow. 1 *Coke,* 102.

88j. The old way is the safe way. *Ex parte Crane,* 5 Peters (30 U.S.) 223. The beaten road is the safest. 10 *Coke,* 142.

88k. Precedents are principles of law which are also conclusions, or decision in a cause; and not a process of reasoning or illustration or analogy. *Rodwell v. Rowland,* (N.C.) 50 S.E. 319, 327.

88l. Antiquity did nothing without a good reason. *Co. Litt.* 65. Thus, nothing should be rashly changed. *Jenk. Cent.* 163.

88m. Let it be done as it has used to be done, (nothing must be rashly innovated.] *Jenk Cent.* 116, case 39; Branch, *Princ.*

88n. The doctrine of *stare decisis,* commonly called the 'doctrine of precedents,' means that we should adhere to decided cases and settled principles and not disturb matters which have been established by judicial determination. *Johnson v. Western Union Tele. Co.* (N.C.) 57 S.E. 122, 124.

88o. It is perilous to introduce new and untried things [laws]. *Co. Litt.* 379*a*.

88p. Subsequent laws repeal prior conflicting ones. 2 *Rolle,* 410; 11 *Coke,* 626, 630.

89. PRESUME, PRESUMPTION

89a. Presumptions arise from what generally happens. *Post v. Pearsall,* 22 Wend. (N.Y.) 425, 475.

89b. Strong presumption is full proof. *Co. Litt.* 6*b*.

89c. Strong presumption is of weight in law. *Jenk. Cent.* p. 56, case 3.

89d. In favor of life, liberty, and innocence, all things are to be presumed. *Lofft,* 125.

89e. A presumption will stand good until the contrary is proved. *Hob.* 297; 3 *Bl. Comm.* 371; *In re Blake's Will,* 120 A.2d 745, 749.

89f. All things are presumed to have been rightly and regularly done. *Co. Litt.* 232*b*; Broom, *Max.* 3d Lond. ed. 847.

89g. Odious and dishonest acts are not presumed in law. *Co. Litt.* 78; *Jackson v. Miller,* 6 Wend. (N.Y.) 228, 231, 21 Am. Dec. 316; *Nichols v. Pinner,* 18 N.Y. 295, 300.

89h. No thing unjust is to be presumed in law. 4 *Coke,* 72.

89i. That which ought to be done is easily presumed. *Halk. Max.* 153.

89j. The presumption is always in favor of the one who denies. 10 *Clark & F.* 534.

89k. No impossible or dishonorable things are to be presumed; but only things true, honorable, and possible. *Co. Litt.* 78.

89l. Presumptions are conjectures from probable proof, assumed for purposes of evidence. C.L.M.

89m. A quality which ought to form a part is easily presumed. *Black's,* 2d. 973.

90. PROHIBIT

(See also: GRANTS)

90a. When anything is prohibited directly, it is prohibited also indirectly. *Co. Litt.* 223.

90b. When anything is prohibited, everything by which it is reached is prohibited also. 2 *Inst.* 48; *Wing. Max.* 618; *Livingston v. Harris,* 11 Wend. (N.Y.) 329.

90c. What is prohibited in the nature of things can be confirmed by no law. Finch, *Law,* 74.

90d. If one has the power to prohibit or prevent a thing but does not, it is as though he did the thing himself. 2 *Inst.* 146; 3 *Inst.* 158.

90e. Law is a sacred sanction, commanding what is right, and prohibiting the contrary. 2 *Inst.* 587.

90f. If the object is to regulate a thing it cannot be prohibited, for the power to regulate is not the power to prohibit. C.L.M.

91. PROPERTY RIGHTS & POSSESSION

(See also: LAND -:- LEGAL RIGHTS -:- INHERITANCE)

91a. It is not incumbent on the possessor of property to prove his right to his possessions. *Code.* 4.9.2; Broom, *Max.* 3d Lond. ed. 639.

91b. He cannot be considered as having ceased to have a thing, who never had it. *Dig.* 50. 17. 208.

91c. The touching or removing of another's property, with an intention of stealing, is theft. *Jenk. Cent.* 132.

91d. When the question is as to the gain of two persons, the cause or title of the party in possession is the better one. *Dig.* 50, 17, 126.

91e. It is unjust that freemen should not have the free disposal of their own property. *Co. Litt.* 223*a*; 4 Kent, *Comm.* 131; *Hob.* 87.

91f. A deprivation presupposes a possession. 2 *Rolle,* 419.

91g. A destruction of the thing is the loss of its owner. 2 *Bouv. Inst.* nn. 1456, 1466; Story, *Bailm.* 426; 2 Kent, *Comm,* 591.

91h. Chattels justly possessed cannot be lost. *Jenk. Cent.* 28.

91i. Prescription is a title by authority of law, deriving its force from use and time. *Co. Litt.* 113.

91j. There is no prescription for that which is not possessed. *Cycl. Dict.* 693.

91k. When the parties are equally wrong or equal in right, the condition of the party in possession is the better. *Plowd.* 296; Broom, *Max.* 71; 4 *Bouv. Inst.* n. 3724.

91l. Things abandoned [or which belong to no one] become the property of the first occupant. *Taylor v. The Cato,* 1 Pet. Adm. 53, Fed. Case. No. 13,786; *Dig.* 41, 1, 3; 2 *Bl. Comm.* 258.

91m. That does not truly belong to one which can be taken from him upon occasion. *Dig.* 50, 17, 159, 1.

91n. One is not considered as acquiring property in a thing which he is bound to restore. *Dig.* 50, 17, 51; *Dig.* 50, 17, 139, 1.

91o. Nothing is so consonant to natural equity as to regard the will of the owner in transferring his own property to another. 1 *Coke,* 100; *Inst.* 2, 1, 40.

91p. Chattels are considered in law among the minor things. *Jenk. Cent.* 52.

91q. Neither disease, indigence, nor any evil of the same kind is more contrary to nature than appropriating or desiring to appropriate the property of another to our own use. C.L.M.

91r. Every one is the regulator and disposer of his own property. *Co. Litt.* 223*a*.

91s. No one should lose his property without his act or negligence. *Co. Litt.* 263.

91t. A title is the just right of possession that which is our own; it is so called from *"tuendo,"* defending. 8 *Coke,* 153.

91u. Long possession produces the right of possession, and takes away from the true owner his action. *Co. Litt.* 110*b*, 115*a*; *Fleta*, lib. 3, c. 15, s. 6; Branch, *Princ.*; *Co. Litt.* 6.

91v. A title is the just right of possessing that which is our own. C.L.M.

91w. Possession is a good title where no better title appears. 20 *Vin. Abr.* 278; *Bouv.* 148.

91x. When a man has the possession as well as the right of property, he is said to have *jus duplicatum*—a double right, forming a complete title. *Bract.* lib. 4, tr. 4, c. 4; 2 *Bl. Comm.* 199, 311.

91y. Rights of dominion are transferred without title or delivery, by prescription, *to-wit,* long and quiet possession. *Co. Litt.* 113.

91z. That which is mine cannot be lost, transferred to another, or taken away without my own act, consent, or forfeiture. Broom, *Max.* 465; *Jenk. Cent.* p. 251, case 41; 8 *Coke,* 92; *Dig.* 50, 17, 11.

91aa. No one can grant or convey what he does not own. *Seymour v. Canandaigua & N.F.R. Co.,* 25 Barb. (N.Y.) 284, 301. *Fassett v. Smith,* 23 N.Y. 252.

91bb. The right of property is that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual. 1 *Bl. Comm.* 138; 2 *Bl. Comm.* 2, 5.

91cc. A person in possession is not bound to prove that the possessions belong to him. Broom, *Max.* 714.

91dd. Two cannot possess or own one thing in entirety. *Co. Litt.* 368; *Dig.* 13, 6, 5, 15; *Bract.* fol. 28*b*.

91ee. No man is compelled to sell his own property, even for a just price. 4 *Inst.* 275.

91ff. The risk lies upon the owner of the subject. *Tray. Lat. Max.* 114.

91gg. Not right but seizin (possession) makes the stock. C.L.M.

91hh. The legal conception of property is of right. *Leroy Fibre Co. v. Chicago M. & St. P. Ry.,* 232 U.S. 340, 350.

91ii. Things taken or captured by pirates and robbers do not change their ownership. 1 Kent, *Comm.* 108, 184.

91jj. Things which are taken from enemies immediately become the property of the captors. C.L.M.

91kk. It is one thing to possess; it is another to be in possession. *Hob.* 163; *Bract.* 206.

91ll. He has better title who was first in point of time. *Co. Litt.* 14*a*.

92. PUNISHMENT

(See also: CRIME -:- JUSTICE)

92a. Agents and abettors are punished alike. C.L.M.

92b. Crimes are more effectually prevented by the certainty than by the severity of punishment. C.L.M.

92c. A prison is established not for the sake of punishment, but of detention and guarding. *Co. Litt.* 260*a*; *Lofft*, 119.

92d. Those sinning secretly are punished more severely than those sinning openly. 8 *Coke,* 127.

92e. No one is to be punished twice for the same offense. C.L.M.; 4 *Coke,* 43; 11 *Coke,* 59*b*.

92f. Punishment adheres to the offense. *Peoria Gas & Elec. Co. v. Peoria,* 200 U.S. 48, 56.

92g. Infamy arises from crime, not from its punishment. C.L.M.

92h. Death is called the "last punishment," the "extremity of punishment." 3 *Inst.* 212. The most extreme punishment we consider to be is death. *Dig.* 48, 19, 21.

92i. No one is punished for his thoughts. *Dig.* 48, 19, 18; Broom, *Max.* 3d Lond. ed. 279.

92j. The law punishes falsehood. *Jenk. Cent.* 15.

92k. Good men hate sin through love of virtue; bad men, through fear of punishment. *Black's,* 2d. 847.

92l. One confessing willingly should be dealt with more leniently. 4 *Inst.* 66; Branch, *Princ.*

92m. A fine does not impose a loss of reputation or character. *Code.* 1, 54.

92n. No one is punished unless for some wrong, act, or default. 2 *Inst.* 287.

92o. A delinquent provoked by anger ought to be punished more mildly. 3 *Inst.* 55.

92p. That the punishment may reach a few, but the fear of it affect all. 4 *Inst.* 6; 4 *Bl. Comm.* 11.

92q. He who spares the guilty punishes the innocent. *Jenk. Cent.* 133.

92r. He who sins when drunk shall be punished when sober. Broom, *Max.* 17.

92s. The intention is punished although the intended result does not follow. 9 *Coke,* 55.

92t. Where the crime is, there the punishment should be also. C.L.M.; 6 *Coke,* 47.

92u. Let not jailers torture or augment the punishment of those intrusted to their keeping; but let the sentence of the law be duly yet mercifully executed. C.L.M.

92v. Acting and consenting parties are liable to the same punishment. 5 *Coke,* 80.

92w. The punishment due to a crime of which one falsely accuses another should be inflicted upon the perjured informer. C.L.M.

92x. He threatens the innocent who spares the guilty. 4 *Coke,* 45.

92y. The smallest corporal (bodily) punishment is greater than any pecuniary one. 3 *Inst.* 220.

92z. It concerns the state that crimes remain not unpunished. *Jenk. Cent.* pp. 30, 31, case 59; *Wing. Max.* 501.

92aa. The deprivation of any rights may be punished. *Cummings v. Missouri,* 4 Wall. (71 U.S.) 277, 320.

92bb. As transgression is multiplied, the infliction of punishment should increase *(Punishment increases with increasing crime).* 2 *Inst.* 479.

92cc. Punishment ought not to precede a crime. *Halk. Max.* 126.

92dd. Let the punishment be proportioned to the crime. Punishment is to be measured by the extent of the offense. *Black's,* 2d. 305; Branch, *Princ.*

92ee. In whatever thing one offends, in that is he rightfully to be punished. [The punishment shall have relation to the nature of the offense.] *Co. Litt.* 233*b*; *Wing. Max.* 204, max. 58

92ff. Neither punishment nor remedy takes away from the increase which was before. *Halk. Max.* 126.

92gg. No wise man punishes in order that past things may be recalled, but that future wrongs may be prevented. 2 *Bulst.* 173.

92hh. No one is to be punished for crime or wrong of another. *Wing. Max.* 336.

92ii. A person may not be punished differently than according to what the sentence enjoins. 3 *Inst.* 217.

93. RELATION, INCIDENT

93a. Relation is a fiction of law, and intended for one thing. 3 *Coke,* 28.

93b. Relation never defeats collateral acts. 18 *Vin. Abr.* 292.

93c. Relation shall never make good a void grant or devise of the party. 18 *Vin. Abr.* 292.

93d. Of things relating to each other, one being known, the other is known. *Bouv.* 155.

93e. Things incident cannot be severed. Finch, *Law,* b. 3, c. 1, n. 12.

93f. Things incident pass by the grant of the principal. *Seymour v. C & N R.R. Co.,* 25 Barb. (N.Y.) 284, 310.

93g. That is incident which inseparably belongs to, connected with, or inherent in another thing, called the principal. *Black's,* 611.

94. REMEDY, RECOVERY

(See also: INJURY -:- EQUITY)

94a. Where there is a legal right there is also a legal remedy. 2 *Rolle,* 17. C.L.M.; Broom, *Max.* 191, 204; 1 *Term.* 512; *Co. Litt.* 197*b*; 3 *Bouv. Inst.* n. 2411..

94b. That which is without remedy avails of itself, if there be no fault in the party seeking to enforce it. Broom, *Max.* 212.

94c. When the law gives anything, it gives the means of obtaining it (all incidents are tacitly given). 2 *Inst.* 326; 5 *Coke,* 47; 3 Kent, *Comm.* 421; *Hob.* 234.

94d. If you can be relieved by accustomed remedies, new ones should not be tried. 10 *Coke,* 142*b*. If an old wall can be repaired, a new one should not be made. *Id.*

94e. To take away all remedy for the enforcement of a right is to take away the right itself. *Virginia Coupon Cases,* 114 U.S. 270, 303.

94f. Remedy signifies the judicial means for enforcing a right or redressing a wrong. *Walters v. City of Ottawa,* 88 N.E. 651, 654, 240 Ill. 259.

94g. Recovery, *i.e.,* restitution, is had by sentence of a judge of a thing wrongfully extorted or detained. *Co. Litt.* 154*a*.

94h. It is just that every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character. *American Maxim.*

94i. He who cannot pay with his purse must pay in his person, lest he who offends should go unpunished. 2 *Inst.* 173; 4 *Bl. Comm.* 20.

94j. It is better to restrain or meet a thing in time, than to seek a remedy after a wrong has been inflicted. 2 *Inst.* 299.

94k. The most favorable construction is to be made in restitutions. *Co. Litt.* 112.

94l. No one is considered entitled to recover that which he must give up to another. *Dig.* 50, 17, 51.

94m. We are never to resort to what is extraordinary as a remedy, until what is ordinary fails. 4 *Inst.* 84.

94n. Where the ordinary remedy fails, we must have recourse to what is extraordinary. *Black's,* 2d. 1002; *Bouv.* 155; 4 *Coke,* 92*b*, 93.

94o. Remedies for rights are ever favorably extended. 18 *Vin. Abr.* 521; *Bouv.* 155.

94p. In similar cases the remedy should be similar. *Hardr.* 65.

94q. If you can be relieved by accustomed remedies, new ones should not be tried. 10 *Coke,* 142.

94r. Money being restored does not set free the party offering. *Co. Litt.* 207.

94s. A new remedy is to be applied to a new case. 2 *Inst.* 3.

94t. The law forbids such recoveries whose ends are vain, chargeable, and unprofitable. *Co. Litt.* 127*b*.

94u. The law wills that, in every case where a man is wronged and endamaged, he shall always have a remedy. *Co. Litt.* 197*b*; Branch, *Princ.*; Broom, *Max.* 192; *Bouv. Inst.* 2411.

94v. The judge does not give more than the plaintiff demands. The law gives not more than is demanded. 2 *Inst.* 286, case 84.

94w. Remedies are the life of rights. *Campbell v. Holt,* 115 U.S. 620, 631.

94x. Extraordinary conditions may call for extraordinary remedies. *Schechter v. United States,* 295 U.S. 495, 528.

95. RULES & PRINCIPLES OF LAW

(See also: LAW)

95a. The word "thing" has a general signification, because it comprehends corporeal and incorporeal objects, of whatever nature, sort, or species. 3 *Inst.* 182.

95b. 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, *Princ.*; *Co. Litt.* 11.

95c. There is no rule but what may fail. C.L.M.

95d. From nothing nothing comes. *Jackson v. Waldron,* 13 Wend. (N.Y.) 178, 221; *Root v. Stuyvesant,* 18 Wend. (N.Y.) 257, 301.

95e. A general rule is to be understood generally. 6 *Coke,* 65.

95f. There is no reasoning of principles; no argument is required to prove fundamental rules. 2 *Bulst.* 239.

95g. The principle (or beginning) of anything is the most powerful part of a thing. 10 *Coke,* 49.

95h. As to things not apparent, and those not existing, the rule is the same. 5 *Coke,* 6.

95i. It is better to seek the source than to follow the streamlets. *Lofft,* 606.

95j. The foundation being removed, the superstructure fails. *Jenk. Cent.* 106. Where there is a weak foundation, the work falls. 2 *Bouv. Inst.* n. 2068; Broom, *Max.* 169.

95k. What avails in the less, will avail in the greater; and what will not avail in the greater, will not avail in the less. *Co. Litt.* 260.

95l. In conjunctives each part must be true. *Wing. Max.* 13.

95m. He who destroys the means destroys the end. 10 *Coke,* 51*b*; *Co. Litt.* 161*a*; *Shep. Touch.* 342. He who gives an end gives the means to that end. *Commonwealth v. Andrews,* 3 Mass. 129.

95n. The omission of those things which are tacitly implied is of no consequence. 2 *Bulst.* 131.

95o. That shall be preserved which is useful in the beginning. *Dig.* 50, 17, 23; *Bract.* 73*b*.

95p. That is perfect which consists of all its parts. 9 *Coke,* 9. In the whole the part also is contained. *Dig.* 50, 17, 113.

95q. Application is the life of a rule. 2 *Bulst.* 79.

95r. Everything contains the element of its own destruction. 2 *Inst.* 15.

95s. An integral part being taken away, the whole is taken away. 8 *Coke*, 41.

95t. Movables follow the law of the person. Story, *Confl. Law,* s. 638, 639; Broom, *Max.* 522. Immovable things are governed by the law of locality or place where they are fixed. 2 Kent, *Comm.* 67.

95u. Nothing is invented and perfected at the same moment. *Co. Litt.* 230; 2 *Bl. Comm.* 298, note.

95v. Multiplicity and indistinctness produce confusion; and questions, the more simple they are, the more lucid. *Hob.* 335.

95w. What is in suspense is considered as not existing during such suspense. *Dig.* 50, 17, 169, 1.

95x. A consequence should not be drawn from another consequence. *Bouv.* 121; Bacon, *Aph.*

95y. Not only what is permitted, but what is convenient, is to be considered, because what is inconvenient is illegal. *Co. Litt.* 66*a*.

95z. A negative destroys a negative, and both make an affirmative. *Co. Litt.* 146*b*.

95aa. It is better to retrace one's steps than to proceed improperly. 4 *Inst.* 176.

95bb. The law does not arise from the rule (or maxim,) but the rule from the law. *Tray. Lat. Max.* 384.

95cc. Precision and certainty are often of more importance to the rules of law than their abstract justice. 9 Wheat. (22 U.S.) 598, 602.

95dd. You will perceive many things much more easily by practice than by rules. 4 *Inst.* 50.

95ee. Many things pass with the whole which do not pass separately. *Co. Litt.* 12*a*.

95ff. Those are to be esteemed vain fears which do not affect a man of a firm mind. 7 *Coke,* 27.

95gg. The more worthy draws to itself the less worthy. *Co. Litt.* 43, 355*b*; *Bract.* fol. 175; Noy, *Max.* p. 6, max. 18

95hh. Frequent interruption does not take away a prescription once secured. 2 *Inst.* 654.

95ii. The greater number contains in itself the less also. *Bract.* fol. 16; *Dig.* 50, 17, 110. The greater always embraces in itself the less. Broom, *Max.* 174; 5 *Coke,* 115; *Jenk. Cent.* 208.

95jj. When there is concurrence of means, he who has chosen one cannot have recourse to another. *Bouv.* 124.

95kk. That which is more remote does not draw to itself that which is nearer, but the contrary in every case. *Co. Litt.* 164.

95ll. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others. 11 *Coke,* 58*b*.

95mm. The mind submits reluctantly to the rule of law. *Hannay v. Eve,* 3 Cranch (7 U.S.) 242, 247.

95nn. That which has not a beginning has not an end. *Wing. Max.* 79; *Co. Litt.* 345*a*.

95oo. Use is the master of things; experience is the mistress of things. *Co. Litt.* 69, 229; *Wing. Max.* 752.

95pp. Every principal thing draws to itself the accessory. *Parsons v. Welles,* 17 Mass. 425; *Green v. Hart,* 1 Johns. (N.Y.) 580. The accessory does not draw, but follows its principal. Brooms, *Max.* 491; *Co. Litt.* 152*a*, 389*a*.

95qq. There is no disputing against a man denying principles. *Co. Litt.* 343.

96. SERVANT, SERVICE

(See also: AGENT)

96a. The act of a servant in those things in which he is usually employed, is considered the act of his master. *Lofft,* 227.

96b. The master is liable for injury done by his servant. *Lofft,* 229.

96c. Free servants are in general all free persons who let, hire, or engage their services to another. *Black's,* 2d. 1075.

96d. He is not presumed to consent who obeys the orders of his father or his master. *Dig.* 50, 17, 4.

96e. The master or principal shall answer for the acts of his servant or accessory. 4 *Inst.* 114; 2 *Bouv. Inst.* n. 1337.

96f. Personal services follow the person. 2 *Inst.* 374; *Fleta,* 1, 3, c. 11.

96g. What ever is acquired by the servant is acquired for the master. C.L.M.

96h. One is a servant who is employed by a master to perform service in his affairs and whose physical conduct in performance of the service is controlled by the master. *Evans v. Board of Ed. of Hays,* 284 P. 2d 1068, 1071.

97. SIMILAR, DISSIMILAR

97a. Things dissimilar ought not to be joined. *Jenk. Cent.* 24, marg.

97b. That which is similar denotes a partial resemblance only, unless the context indicates otherwise. *Black's,* 2d. 1089

97c. "The same" is always referred to its next antecedent. *Co. Litt.* 685.

97d. Of dissimilars the rule is dissimilar. *Co. Litt.* 191.

97e. Legal similarity is a similar reason which governs various cases when compared with each other; for what avails in one similar case will avail in the other. Of things dissimilar, the reason is dissimilar. *Co. Litt.* 191.

97f. Similar things unite with similar. Bacon, *Max*; *Bouv.* 147.

97g. Where the same reason exists, there the same law prevails; and, of things similar the judgment is similar. 7 *Coke,* 18.

97h. What is like is not the same; for nothing which is like or similar to another is the same, ***i.e.*** no likeness is exact identity. 4 *Coke,* 18; *Co. Litt.* 3*a*; 2 *Bl. Comm.* 162.

97i. All which is dissimilar, is a difference of degree, the extent of which is ascertained by close and objective analysis. C.L.M.

97j. Things which agree in substance differ but little. 2 *Bulst.* 86.

97k. That which is effectual in one of two like things shall be effectual in the other. *Co. Litt.* 191*a*.

97l. Of things equal, the reason is the same, and the same is the law. *Black's,* 873.

97m. From similars to similars we are to proceed by the same rule. Branch, *Princ.*

97n. No example is the same for all purposes. *Co. Litt.* 212*a*.

98. SPECIFIC, SPECIAL, GENERAL

(See also: AMBIGUITY -:- PRESUME -:- RULES OF LAW)

98a. The specification of one thing is the exclusion of a different thing (or of the rest). *Black's,* 2d. 430; *Matter of Washburn,* 4 Johns. Ch. (N.Y.) 106, 113.

98b. When a law is special, but its reason [or object] general, the law is to be understood generally. 2 *Inst.* 43, 83; 10 *Coke,* 101.

98c. What is general prevails, or is worth as much, among things general, as what is particular among things particular. 11 *Coke,* 59.

98d. Things general do not derogate from things special. *Jenk. Cent.* 120. One special statute does not take away from another special statute. *Jenk. Cent.* 199.

98e. Things general precede, things special follow. Branch, *Princ.* General things are to be put before particular things. *Bouv.* 128.

98f. Things special take from things general. *Halk. Max.* 51.

98g. Where the law does not distinguish, neither ought we to distinguish. 7 *Coke,* 5*b*.

99. SUITS & TRIALS

(See also: EQUITY -:- JUDGMENT -:- LEGAL ACTION)

99a. A lawsuit signifies every action, whether it be *in rem* or *in personam*. *Co. Litt.* 292.

99b. The success of a defendant depends on a perfect case; his loss arises from some defect. 11 *Coke,* 68*a*.

99c. A plaintiff is not to be heard who has advanced anything against authority, (or against the rules of law). *Black's,* 2d. 28; *Bouv.* 116.

99d. No prescription runs against a person unable to bring an action. Broom, *Max.* 903.

99e. During a litigation nothing should be changed. *Co. Litt.* 344; 1 Story, *Eq. Jur.* s. 406. *Secombe v. Steele,* 20 How. (61 U.S.) 94, 106.

99f. No one can be at once suitor and judge. Broom, *Max.* 117.

99g. One making contradictory allegations is not to be heard. *Jenk. Cent.* 16; Broom, *Max.* 3d Lond. ed. 160; 4 *Inst.* 279; *Commonwealth v. Pejepscut Prop.* 10 Mass. 155, 163.

99h. A case omitted and forgotten is left to the disposal of the common law. 5 *Coke,* 37; Broom, *Max.* 3d Lond. ed. 45.

99i. The condition or cause of the defendant is better than that of the plaintiff. Broom, Max. 740; *Williams v. Ingell,* 21 Pick. (Mass.) 289; *White v. Franklin Bank,* 22 Pick. (Mass.) 186, 187; *Cranson v. Gross,* 107 Mass. 440, 9 Am. Rep. 45; 4 *Inst.* 180; *Hob.* 199.

99j. The burden of proof rests on the plaintiff, (or on the party who advances a proposition affirmatively.) *Hob.* 103; *Inst.* 2, 20, 4.

99k. A suit is a civil warfare; for as the plaintiffs are armed with actions, and, as it were, girded with swords, so the defendants are fortified with pleas, and are defended, as it were, by shields. *Hob.* 20; *Bract.* 339*b*.

99l. No one is bound to arm his adversary. *Wing. Max.* 665.

99m. A suit which is based upon a writing ought not to vary from the writing. *Jenk. Cent.* 65.

99n. No man can be sued a second time for the same cause of action, if once judgment has been rendered. Broom, *Max.* 327, 348.

99o. That which is not permitted to the defendant ought not to be to the plaintiff. *Dig.* 50, 17, 41.

99p. No one can sue without a writ. *Fleta,* lib. 2, c. 13, s. 4.

99q. Prescription was instituted that there might be an end to litigation. *Dig.* 41, 10, 5; Broom, *Max.* 3d Lond. ed. 801.

99r. No one can be held to bail a second time at the suit of the same plaintiff for the same cause of action. C.L.M.

99s. Where the death of a human being is concerned, [in a matter of life and death,] no delay is [considered] long. *Co. Litt.* 134.

99t. The plaintiff must follow the forum of the thing (property) in dispute, or the forum of the defendant's residence. Branch, *Max.* 4; Story, *Confl.* s. 325, k; 2 Kent, *Comm.* 462.

99u. Whichever of two parties has the division, the other has the choice. *Co. Litt.* 166.

99v. He in vain sues, who cannot prosecute his judgment with effect. *Fleta,* lib. 6, c. 37, s. 9.

99w. Where both parties are equally in fault, the claimant always is at a disadvantage (the condition of the defendant is preferred). *Dig.* 50, 17, 154; Broom, *Max.* 644; 1 Story, *Contr.* 591, 592; *Worcester v. Eaton,* 11 Mass. 368, 376.

99x. An accuser ought not to be heard after the expiration of a reasonable time, unless he can account satisfactorily for the delay. *Moore,* 817.

99y. It is for the advantage of the state that there be an end of suits; there should be some period put to litigation. It is for the public good that actions be brought to a close. *Jenk. Cent.* 61; *Co. Litt.* 303*b*; Broom, *Max.* 331, 343.

99z. A trial should always be had where the jurors can be the best informed. 7 *Coke,* 1*b*.

99aa. No one can sue in the name of another. *Dig.* 50, 17, 123.

99bb. An issue (or suit) requires terms of contradiction. To constitute an issue, there must be an affirmative on one side and a negative on the other. *Black's,* 258; *Jenk. Cent.* 117.

99cc. When the plaintiff does not prove his case the defendant is acquitted. *Hob.* 103.

99dd. He who loses the suit should be adjudged to pay the costs thereof to the successful party. C.L.M.; 2 *Inst.* 289; 3 *Bl. Comm.* 399; *Walton v. Walton,* 19 Mo. 668.

99ee. Alienation pending a suit is void. Branch, *Max.* 117.

100. TIME, DAY, Etc.

(See also: PRECEDENT)

100a. Time is a means of destroying obligations and actions; For time runs against the slothful and those who neglect their own rights. *Bract.* fols. 100*b*, 101; *Fleta,* 1, 4, c. 5, s. 12.

100b. The time is to be considered. 1 *Coke,* 16*a*; *Bloss v. Toby,* 2 Pick. (Mass.) 327; *Owens v. Missionary Society,* 14 N.Y. 380, 393, 67 Am. Dec. 160.

100c. A day begun is held as complete. *Black's,* 367. The end of one day is the beginning of another. 2 *Bulst.* 305.

100d. An uncertain day is held as a condition. *Black's,* 367.

100e. After lapse of time all things are presumed to have been done in due form. *Co. Litt. 6b;* Best, *Ev.* Introd. s. 43; 1 *Greenl. Ev.* s. 20.

100f. Lapse of time does not bar the commonwealth. *The State v. Purcell,* 16 Tex. 305.

100g. What is reasonable time the law does not define; it is left to the discretion of the judges. *Co. Litt.* 56; 11 *Coke,* 44; *Twin Lick Oil Co. v. Marbury,* 91 U.S. 591.

100h. Times are to be distinguished; distinguish times, and you will attune laws. 1 *Coke,* 24; Branch, *Princ.*

100i. A term of years ought to be certain and determinate. *Co. Litt.* 45.

100j. Time expresses both a precise point and an interval between two points. *Black's,* 1156.

100k. The law does not take notice of a portion of a day. *Lofft.* 572.

100l. He who is first in time is preferred in right. *Co. Litt.* 14*a*; Broom, *Max.* 353-362. Priority in time gives preference in law. 4 *Coke,* 90*a*; 1 Story, *Eq. Jur.* s. 64*d*; Story, *Bailm.* s. 312; *Co. Litt.* 347; 1 *Bouv. Inst.* n. 952.

101. TRUTH

(See also: ERROR -:- FICTION)

101a. Records are vestiges of antiquity and truth. 2 *Rolle,* 296.

101b. He who does not freely speak the truth is a betrayer of the truth. *Black's,* 2d. 979; 4 *Inst.* Epil.; *Bouv.* 152.

101c. The law never suffers anything contrary to truth. 2 *Inst.* 252.

101d. Facts are more powerful than words. *Bouv.* 126.

101e. Suppression of the truth is equivalent to the expression (or suggestion) of what is false. *Addington v. Allen,* 11 Wend. (N.Y.) 374, 417. *Paul v. Haddley,* 23 Barb. (N.Y.) 521, 525.

101f. Truth, by whomsoever pronounced, is from God. 4 *Inst.* 153.

101g. Truth fears nothing but concealment. 9 *Coke,* 20*b*.

101h. We can do nothing against truth. *Bouv.* 141.

101i. Fact in pleading is circumstance, act, event, or incident, while truth is legal principle which declares or governs facts in their operation and effect. *Gerrity v. Brady,* 44 Ill. App. 203.

101j. Truth in the name takes away error in the description. *Tray. Leg. Max.* 614.

101k. Truth is lost by excessive altercation. *Hob.* 344.

101l. Truth which is not sufficiently defended is overpowered; and he who does not disapprove, approves. 3 *Inst.* 27.

101m. Truth is the mother of justice. *Halk. Max.* 185.

102. WAR, LAW OF NATIONS

102a. Conditions are made by conquerors, to be observed by the conquered. —*A Maxim of the Law of Nations*

102b. Peace is to be secured by victory, not by negotiation. *Cicero's Writings.*

102c. The vanquished is to be condemned in costs to the victor. —*A Maxim of the Law of Nations.*

102d. One may destroy a man who makes war upon him, as he may kill a wolf or a lion, because such men are not under the ties of the Common-Law of Reason, and have no other rule, but that of force and violence. Locke, *Treat.* 2, 3, 16.

102e. International law or the law of nations is that law which regulates the intercourse of nations. 1 Kent, *Comm.* 1, 4.

102f. Enemies are those whom we declare war upon, or who declare it against us; all others are traitors or pirates. 7 *Coke,* 24.

102g. Fraud and deceit do not exist in international affairs or in a state of war as no remedy of law exists. C.L.M.

102h. International law originates in the law of nature and is based upon certain Divine decrees which have separated nations and men.

102i. International law is affected by positive (written) law, founded on usage, consent, and agreement. 1 Kent, *Comm.* 2.

102j. An aggressor, who puts himself into the state of War with another, and unjustly invades another's Right, can never, by such unjust War, come to have a right over the Conquered. Locke, *Treat.* 2, 16, 176.

102k. It is best and most prudent to have commercial intercourse with all nations, but political ties with none. *American Maxim.*

102l. The People have given to their Governors no Power to do an unjust thing, such as to make an unjust War, for they never had such a Power themselves. Locke, *Treat.* 2, 16, 179.

103. WILLS, TESTAMENT

(See also: INHERITANCE -:- DOWER)

103a. The last will of a testator is to be thoroughly fulfilled according to his real intention. *Co. Litt.* 322.

103b. Where two things repugnant to each other are found in a will, the last shall stand. *Co. Litt.* 112*b*; *Shep. Touch.* 451; Broom, *Max.* 583.

103c. Where an ambiguous, or even an erroneous, expression occurs in a will, it should be construed liberally, and in accordance with the testator's probable meaning. Broom, *Max.* 437, 568; *Dig.* 34, 5, 24.

103d. Wills ought to have the broadest interpretation. *Jenk. Cent.* 81.

103e. In wills the intention of the testators is more especially regarded. 3 *Bulst.* 103; Broom, *Max.* 555; *Jenk. Cent.* 277; *Co. Litt.* 322. Intention gives effect to the wording of a will. *Dig.* 30, 1, 12, 3.

103f. Give the things which are yours whilst they are yours; after death they are not yours. 3 *Bulst.* 18.

103g. In testaments, the will of the testator should be liberally construed. *Dig.* 50, 17, 12; Broom, *Max.* 3d Lond. ed. 507.

103h. Every will is completed by death. A will speaks from the time of death only. 3 *Coke,* 29; *Co. Litt.* 232; 4 *Inst.* 279.

103i. Old age does not alone and of itself vitiate a will or a gift. *Jackson v. VanDusen,* 5 Johns. Ch. (N.Y.) 148, 158.

103j. A testament is the witnessing of one's intention, made under no present fear of danger, but in expectancy of death. C.L.M.

103k. A person dies intestate who either has made no testament at all or has made one not legally valid; or if the testament he has made be revoked, or made useless; or if no one becomes heir under it. *Inst.* 3, 1, pr.; *Dig.* 38, 16, 1; *Dig.* 50, 16, 64.

103l. No man is presumed to be forgetful of his eternal welfare, and particularly at the point of death. 6 *Coke,* 76.

103m. No one is presumed to trifle at the point of death. *Cycl. Dict.* 689.

103n. The right of survivorship is preferred to encumbrances or to a last will. *Co. Litt.* 185.

103o. A testament is the legal declaration of a man's intentions which he wills to be performed after his death. 2 *Bl. Comm.* 499.

103p. It concerns the state that men's last wills be held valid, [or allowed to stand and have their effect.] *Co. Litt.* 236*b*; *Black's,* 1010.

103q. When two conflicting wills are found the last prevails; so it is when two conflicting clauses occur in the same will. *Co. Litt.* 112

103r. Things written in a will which cannot be understood, are the same as if they had not been written at all. *Dig.* 50, 17, 73, 3.

103s. A right growing to a possessor accrues to the successor. *Halk. Lat. Max.* 76.

103t. The right of testaments belongs to the ordinary. C.L.M.

103u. A madman has no will. *Dig.* 50, 17, 40; Broom, *Max.* 314.

103v. The will of a testator is ambulatory until the latest moment of life (that is, he may change it at any time). *Dig.* 34, 4, 4; 4 *Coke,* 61; 2 *Bl. Comm.* 502.

104. WORDS & MEANINGS

(See also: CONSTRUCTION -:- INTENT)

104a. Coupling of words together shows that they are to be understood in the same sense. Bacon, *Max.* reg. 3; Broom, *Max.* 588.

104b. It is the same thing to say nothing and not to say sufficiently. 2 *Inst.* 178.

104c. Where words are not conjoined [used disjunctively], it is enough if one or the other be complied with. *Dig.* 50, 17, 110.

104d. It matters not what becomes of equipollent[3] expressions. 5 *Coke,* 122.

104e. Relative words refer to the nearest antecedent, unless it be prevented by the context. *Jenk. Cent.* 180; Noy, *Max.* 4; *Wing. Max.* 19; Broom, *Max.* 606.

104f. Words ought not to be accepted to import a false description, which may have effect by way of true limitation. Bacon, *Max.* reg. 13; Broom, *Max.* 573; 4 *Exch.* 604.

104g. He who confines himself to the letter goes but halfway. C.L.M.

104h. Words are indicators of the mind or thought. C.L.M.

104i. What is never sufficiently said is never said too much. Co. *Litt.* 375.

104j. The spoken word flies; the written letter remains. Broom, *Max.* 666.

104k. Words are to be understood with reference to the subject-matter, that it may be preserved rather than destroyed. 6 *Coke,* 62; Bacon, *Max.* 17, in reg. 3; *Plowd.* 156; 2 *Bl. Comm.* 380; 2 Kent, *Comm.* 555.

104l. Whenever the same words express two meanings, that is to be taken which is the better fitted for carrying out the proposed end. *Dig.* 50, 17, 67.

104m. Words ought to have some operation; they ought to be interpreted in such a way as to have some operation. 8 *Coke,* 94*a.*

3 Equipollent: equal in force, weight, validity, etc. Equivalent in meaning or result.

104n. The proprieties of words [proper meanings of words] are to be preserved or adhered to. *Jenk. Cent.* p. 136, case 78.

104o. General words must be restricted to the nature of the subject-matter or the aptitude of the person. Bacon, *Max.* reg. 10.

104p. Words should be understood effectively. *Rickets v. Livingston,* 2 Johns. Cas. (N.Y.) 97, 101.

104q. The meaning of a word may be ascertained by reference to the meaning of words associated with it. Broom, Max. 523; *Corning v. McCullough,* 1 N.Y. 47, 69.

104r. Words should be taken most strongly against him who uses them. C.L.M.; Bacon, *Max.* 11, reg. 3; Noy, *Max.* 48.

104s. The meaning of the words is the spirit of the law. 5 *Coke,* 2.

104t. Equivocal words and those in a doubtful sense are to be taken in their best and most effective sense. 6 *Coke,* 20.

104u. Words are to be received with effect, so that they may produce some effect. Bacon, *Max.* reg. 3; 2 Smith, *Lead. Cas.* 530.

104v. From the words of the law there must be no departure. 5 *Coke,* 119; *Wing. Max.* 25.

104w. From a few words or hints the understanding conceives many things. *Litt.* s. 550.

104x. The full meaning of a word should be ascertained at the outset, in order that the sense may not be lost by defect of expression, and that the law be not without reason. *Co. Litt.* 68.

104y. There is no porlixity[4] where there is nothing that can be omitted. *Vaugh.* 138.

104z. *The sense of words is to be taken from the occasion of speaking* them; and discourses are always to be interpreted according to the subject-matter. 4 *Coke,* 13*b*.

104aa. The force of a word is to be first examined, least by the fault of diction the sentence be destroyed or the law be without arguments. *Co. Litt.* 68.

104bb. Terms of an art should be explained from the art. 2 Kent, *Comm.* 556, note.

104cc. In regarding words, it is not the words, but the thing and the meaning that is to be inquired after. *Jenk. Cent.* 132.

104dd. Those words which are spoken to one end ought not to be perverted to another. 4 *Coke,* 14.

104ee. The meaning of words is two-fold,—mild and harsh; and words are always to be received in their milder sense. 4 *Coke,* 13.

4 Prolixity: being wordy; using more words than are necessary.

104ff. Words ought to be made subservient to the intent, not the intent to the words. 8 *Coke,* 94; 2 *Bl. Comm.* 379.

104gg. General words do not derogate from special. *Jenk. Cent.* 120. General words are to be understood generally, or in a general sense. 3 *Inst.* 76; Broom, *Max.* 647.

104hh. If there be no inference which leads to a different result, words are to be understood according to their proper meaning, not in a grammatical, but in a popular and ordinary sense. 2 Kent, *Comm.* 555.

105. WRONG, WRONGFUL ACT

(See also: MALICE -:- CORRUPT -:- ERROR)

105a. One wrong does not justify another. Broom, *Max.* 395. A wrong does not excuse a wrong. 11 *Exch.* 822; Branch, *Princ.*

105b. No one shall take advantage of his own wrong. A man will not be allowed to derive a benefit from his own wrongful act. Branch, *Princ.*; *Jenk. Cent.* 161; *Co. Litt.* 148*b.*

105c. He who does not repel a wrong when he can, occasions it. *Jenk. Cent.* 271.

105d. Law hates wrong. *Wing. Max.* p. 563, max. 146; Finch, *Law,* b. 1, c. 3, no. 62.

105e. The rigor or height of law is the height of wrong. *Hob.* 125.

105f. Wherever there is a wrong, there damage follows. 10 *Coke,* 116.

105g. Wrong is wiped out by reconciliation. *Bouv.* 124.

105h. Whatever is against the rule of right is a wrong. 3 *Bulst.* 313.

105i. A right does not (or cannot) rise out of a wrong. Broom, *Max.* 738, note; 4 *Bing.* 639.

105j. All things are presumed against a wrong-doer. Broom, *Max.* 843.

105k. The greatest enemies to peace are force and wrong. *Co. Litt.* 161.

105l. The idea of *rights* naturally suggests the correlative one of *wrongs;* for every right is capable of being violated. *Black's,* 1235.

105m. It is better to recede than to proceed wrongly. 4 *Inst.* 176.

105n. A wrong is not presumed. *Co. Litt.* 232.

105o. It is better to suffer every wrong or ill, than to consent to it. 3 *Inst.* 23.

105p. Although a thing may not be bad [or wrong] in itself, yet, if it is of bad example, it is not to be done. 2 *Inst.* 564.

105q. The act of the law does no one wrong. 5 *Coke,* 116; 2 *Bl. Comm.* 123.

BACON APH. — Sir Francis Bacon's Aphorisms.

BACON, MAX. — Sir Francis Bacon's Maxims.

BEST, EV. — Best on Evidence.

BEST, PRES. — Best on Presumptions.

BINGH. — Binghams English Common Pleas Reports (1822-1834).

BLACK'S — Black's Law Dictionary (2nd Ed.), 1910.

BL. COMM. — Sir William Blackstone's *Commentaries on the Law* (in 4 volumes).

BOUV. — John Bouvier's Law Dictionary, Vol. II, (Maxims) 1880 Edition.

BOUV. INST. — John Bouvier's *Institutes of American Law.*

BRACT. — *Bracton, de Legibus et Consuetudinibus Angliae.*

BRANCH, MAX. — Branch's *Maxims of Law* (5th ed.).

BRANCH, PRINC. — Branch's *Principia Legis et Equitatis.*

BROOM, MAX. — Broom's *Legal Maxims.*

BULST. — Bulstrode's English King's Bench Reports.

CAMP. — Campbell's English Nisi Prius Reports.

CHIT. CONT. — Chitty on Contracts.

CLARK & F. — Clark & Finnelly's Reports, English House of Lords.

C.L.M. — Common Law Maxim.

CODE. — *Codex Justinianus.*

COKE — Sir Edward Coke's English King's Bench Reports (cited by parts and not by volume).

CO. LITT. — Coke on Littleton. (Same as Coke's 1st Institute).

COM. — Comyn's Reports, English King's Bench.

COWP. — Cowper's English King's Bench Reports.

CRO. CAR. — Croke's English King's Bench Reports *tempore* Charles I. (3 Cro.).

CUSH. — Cushing's Massachusetts Reports.

CYCL. DICT. — *The Cyclopedic Law Dictionary,* 2nd ed., by James C. Cahill, 1922.

DAV. IR. — Davies' Irish Reports.

DAV. IR. K.B. — Davies' Reports, Irish King's Bench.

DIG. — *Digest of Justinian.*

DYER — Dyer's English King's Bench Reports.

EAST — East's King's Bench Reports.

ERSK. INST. — Erskine's Institutes of the Law of Scotland

EXCH. — Exchequer Reports (Welsby, Huristone, &Gordon).

FINCH — English Chancery Reports *tempore* Finch.

FLETA. — Fleta, *Commentarius Juris Anglicani.*

GILB. — Gilbert's Reports, English Chancery.

GODB. — Godbolt's English King's Bench Reports.

GRAVIN. — Gravina, *Originum Juris Civilis.*

GREENL. EV. — Greenleaf on Evidence.

HALE P.C. — Hale's Pleas of the Crown.

HALE, COM. LAW. — Hale's History of the Common Law.

HALK. MAX. — Halkerston's Latin Maxims.

HARDR. — Hardre's *English Exchequer Reports.*

HOB. — Hobart's English King's Bench Reports.

INST. — Justinian's *Institutes* (cited by number of the book, title, and paragraph number).

#INST. — Coke's Institutes (Pub. 1628) listed as four Institutes:

1 INST. — Coke on Littleton.

2 INST. — Coke on Magna Charta and Old Acts.

3 INST. — Coke's Pleas of the Crown.

4 INST. — Coke on Courts.

JENK. CENT. — Jenkins' Eight Centuries of Reports, English Exchequer.

JOHNS. — Johnson's New York Reports (Ch=Chancery Reports).

KAMES, EQ. — Kames' *Principles of Equity.*

KEILW. — Keilway's English King's Bench Reports.

KENT, COMM. — James Kent's *Commentaries on American Law.*

LITT. — Littleton's English Common Pleas Reports.

LOCKE, TREAT. — John Locke, *Two Treatises of Government,* by book, chapter, paragraph.

LOFFT. — Lofft's English King's Bench Reports.

LOFFT APP. — Lofft's *Maxims,* appended to Lofft's Reports.

MACKELD. ROM. LAW — Mackeldey on Roman Law.

METC. — Metcalf's Massachusetts Reports.

MOD. — Modern Reports, English King's Bench.

MOORE. — Moore's English King's Bench Reports.

NOY, MAX. — Noy's Maxims.

PHIL. EV. —Phillips on Evidence.

PLOWD. — Plowden's English King's Bench Commentaries or Reports.

POTH. OBL. — Pothier, Traite des Obligations.

ROLLE. — Rolle's English King's Bench Reports.

SALK. — Salkeld's English King's Bench Reports.

SHEP. TOUCH. — Sheppard's Touchstone.

STEPH. COMM. — Stephen's *Commentaries on English Law.*

SMITH, CONT. — Smith on Contracts.

SMITH, LEAD. CAS. — Smith's Leading Cases.

STARKIE, EV. — Starkie on Evidence.

STEPH. PL. — Stephen on Pleading.

STORY, AG. — Joseph Story on Agency.

STORY, BAILM. — Story on Bailments.

STORY, BILLS — Story on Bills.

STORY CONFL. LAW — Story on Conflict of Laws.

STORY, CONST. — Story's *Commentaries on the Constitution,* 2 Vol., 4th ed., 1873.

STORY, CONT. — Story on Contracts.

STORY, EQ. JUR. — Story's *Equity Jurisprudence.*

TALB. — Cases *tempore* Talbot, English Chancery.

TAYL. CIVIL LAW — Taylor on Civil Law.

TERM — Term Reports, English King's Bench (Durnford & East's Reports).

TRAY. LEG. MAX. — Trayner, *Latin Legal Maxims and Phrases, etc.*

VAUGH. — Vaughan's English Common Pleas Reports

VERN. — Vernon's English Chancery Reports.

VIN. ABR. —Viner's Abridgment.

WATK. CONV. — Watkins' Conveyancing.

WATTS — Watts' Pennsylvania Supreme Court Reports.

WEND. — Wendell's New York Reports.

WING. MAX. — Wingate's Maxims of Law.

WOOD. LECT. — Wooddeson's Lectures on Laws of England.

NOTES: