

Linda Sue Avants

Former Titles:

Marriage: Void Where Prohibited
The Freedom to Marry

by

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caveat lector

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Introduction

This memoir tells a story of love and marriage, of intolerance, and of a failed church. It begins with my marriage to my second wife, Linda Sue Avants. I won't write more about her in this memoir than is necessary for the telling of the tale.

Linda was a tormented woman. Of course, a man doesn't discover those sorts of things about a woman until after he's married to her. During our short time together, I discovered those sorts of things about Linda. Her emotional torment was the result of her inability to resolve the harm that had been done to her, and to others, by events and situations in her past. I don't need to elaborate here upon those events and situations. It's sufficient to note that they had occurred, that she hadn't been able to resolve the harm that they had caused, and that she was tormented by them.

When I met Linda, she was a recently converted born-again Christian. I suspect that her conversion had been another of her efforts to relieve the pain that she suffered. It didn't work. The so-called Christians with whom she associated were more interested in sin, guilt, and punishment than they were in love, healing, or forgiveness. So, Linda remained a tormented woman. Her torment was a burden for her, an unsolvable problem for me, and an irresistible tool of control for her so-called Christian colleagues. Linda's situation wasn't the first time that I've seen so-called Christians behave that way. I've seen them do that sort of thing before.

And the Lord said, "If I find at Sodom fifty righteous in the city, I will spare the whole place for their sake."

—Genesis 18:26

Holy Bible, Revised Standard Version

I'll comment briefly here on my usage of the term *so-called Christians*. I've referred to the thugs and tyrants at Linda's church as so-called Christians because I want to distinguish them from the real thing. I know that real Christians exist because there was at least one real Christian in the congregation of which Linda was a member. That real Christian was Bob, the man who introduced me to Linda. In all of the years that I've known him, almost 40 years as of this writing, I've never observed in him anything other than legitimate Christian attitudes. It's mostly out of respect for him that I've bothered to make the distinction at all. Most people who presume to call themselves Christians are a sorry lot. They don't deserve anything better than to be truthfully and accurately described and revealed for all the world to see. Maybe this memoir will be, among other things, a useful step in that direction.

It's interesting to note that, according to the Biblical legend, God Himself couldn't find 50 righteous people in the entire city of Sodom. Not much has changed since then.

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A Marriage Made in Heaven



Me and Linda, at home after our marriage in 1989

I met Linda at the Church of the Nazarene. What I was doing there is part of a different story. I'll tell that story elsewhere, if at all. Nevertheless, that's where I met her. Later, there was a difference of opinion regarding which church it was. My first memory of Linda is an encounter at the church in Santa Clara, California. Some time later, she claimed to have met me at a previous event at the church in east San Jose, on Alum Rock Avenue. I don't remember meeting her there. I don't remember even going to that church. It's one of those bits of the story that, in my mind at least, will never be resolved. The story of my courtship of Linda begins at the church in Santa Clara. Maybe that's why I remember that encounter. That courtship is a part of the other story that I'll tell elsewhere, if at all. In this memoir, I'll tell the story of our marriage. However, there's one small bit of that other story that must be told here because it was instrumental in propelling Linda into our marriage.

On Friday evening, March 10, 1989, Linda came to visit me at my home in San Jose, California. There isn't any reason to elaborate here regarding the events that preceded her visit and motivated her to make it. The thing that must be mentioned is that, on Saturday morning, she was still there. That circumstance is important for several reasons, foremost among them being Linda's recent conversion to Christianity. As I deduced later, she regarded our night together as something that was permissible only within a marriage. Otherwise, it represented the awful stigma of Christian sin. Because of her Christian beliefs, as she understood them at the time, she found herself confronted with a choice between eternal damnation and marriage. At the time, I wasn't aware of her dilemma. She seemed to be completely happy. I

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learned later that she was very good at hiding her feelings. She could turn the appearance of her mood on or off like a switch.

On that Saturday morning, March 11, 1989, after our first night together, Linda drove Catherine¹ and me to Scott's Valley, California. Linda's children lived in a house that she rented for them there. We spent Saturday in Scott's Valley, visiting her daughters. It was late in the evening when she drove us back to San Jose. On the way down the hill, Catherine was asleep in the back seat. Linda and I were riding along silently when Linda announced, without preamble, that she was my wife. She didn't say that we could be married and that she would then become my wife. She said that she was my wife. It was already an established fact. She said that she wouldn't expect any particular promise out of me but that she would spend the rest of her life as my wife.

It's possible that Linda's announcement was a ploy. Maybe she expected me to refuse the marriage. Then, she could tell herself that she'd tried to do the right thing and that I'd refused. She could secretly enjoy the memory of a night of fun and still go to Heaven. In that regard, I can only speculate. All that I can know for sure is what she actually said. What she said was that she was my wife and that she would be my wife for life. Most of the statement that I've attributed to her is a paraphrase, but she distinctly said, "...the rest of my life..." That part is an exact quote.

In retrospect, I can see that as a born-again Christian Linda needed to expunge what she saw as the sinful nature of our frolic of the previous night. I think that we can all understand how common it has been, throughout human history, for a marriage to follow after some such adventure. I have nothing but sympathy for her plight.² Regardless of her motivation, however, Linda made the statement without any prompting from me. It was her own solution to her problem. She voluntarily committed herself to me as my wife for life, without placing any conditions or obligations at all onto me in consequence. At the time, I was startled by her announcement. Marriage had been the farthest thing from my mind. I said that I'd have to think about it for a while. She said O.K. and that was the end of the conversation. She let us off at my house in San Jose and drove away.

Early Sunday morning, Linda arrived back at my house, as previously arranged, and took Catherine to church. I stayed at home and continued to think about it. When Linda and Catherine got back from church, I was waiting for them at the front door. I took Linda firmly by the hand, told her that I had something to say to her, and pulled

1 The older of my two daughters

2 Isn't it a lovely and revealing language?

plight¹.... *n.* A situation, especially a bad or unfortunate one....

—*The American Heritage Dictionary of the English Language*, 1992

plight².... *tr.v.*.... **1.** To promise or bind by a solemn pledge, especially to betroth.... —**idiom**
plight (one's) troth. **1.** To become engaged to marry....

—*The American Heritage Dictionary of the English Language*, 1992

her through the house toward the back door. Catherine wisely retreated to her bedroom. Catherine was always wise beyond her years.

I led Linda outside. I was heading for a particular location near some trees in my yard. It was the only somewhat romantic location that was available to me. Linda started dragging her heels and skidded to a stop by the garbage cans. It wasn't the romantic location that I'd envisioned but I couldn't pull her any further. I took her into my arms and said, "O.K. I'll accept you as my wife and I'll be your husband. I'll love you, and cherish you, and protect you, and support you, and be faithful to you, for as long as we're both alive." That's an exact and accurate quote. I wrote it down later so that I could remember it. Linda cried and hugged me. So, on Sunday morning, March 12, 1989, Linda Sue Avants and I became husband and wife.

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Let No One Put Asunder

Because of the sorry situation that followed, I'll go to the trouble of proving here the validity of our marriage. First, it was based on mutual promises and mutual consent.

Marriage *Informal marriage*. A marriage in which promises are exchanged between the parties without an official ecclesiastical representative present. In most cases, the law requires consummation of the marriage to consider such valid. See **Consensual marriage**....
—*Black's Law Dictionary*, 1979

Consensual marriage Marriage resting simply on consent per verba de præsenti, between competent parties. See also **Common-law marriage**.
—*Black's Law Dictionary*, 1979

Common-law marriage. One not solemnized in the ordinary way (*i.e.* non-ceremonial) but created by an agreement to marry, followed by cohabitation. A consummated agreement to marry, between persons legally capable of making marriage contract, per verba de præsenti, followed by cohabitation....
—*Black's Law Dictionary*, 1979

Linda made her promise to me on Saturday night. I made my promise to her on Sunday morning. Although we made our promises at different times, we both framed them as lifelong commitments. With that completed, we were husband and wife. Linda spent our wedding day with Catherine and me at my house in San Jose. That evening, my former first wife came to get Catherine and took her back to their home on the south side of town. On Sunday night, Linda and I consummated our marriage.

Consummation the completion of a marriage by cohabitation (*i.e.* sexual intercourse) between spouses.
—*Black's Law Dictionary*, 1979

Over the next few days, Linda moved her personal possessions from the house in Scott's Valley into my house. She parked her car in my driveway. We lived together, in the same house, as husband and wife.

Cohabitation. To live together as husband and wife. The mutual assumption of those marital rights, duties and obligations which are usually manifested by married people, including but not necessarily dependent on sexual relations....
—*Black's Law Dictionary*, 1979

My marriage to Linda was an actual, valid, and legitimate marriage. Regardless of the hateful criticisms and spiteful condemnation of the so-called Christians, the marriage satisfied all of the fundamental requirements of a marriage. It was based on love and mutual commitment. Neither of us was coerced into it, in any way, by the other. Indeed, if there was any coercion involved at all, it had come from the hellish doctrine of sin and eternal damnation so beloved by the so-called Christians.

Those whom God hath joined together let no one put asunder.
—*The Book of Common Prayer*

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A Marriage Consigned to Hell

Linda and I didn't feel any need for public formalities or ceremonies. However, shortly after we were married Linda was given a wedding shower by some of her acquaintances. It was a shower of criticism and of condemnation. It came almost entirely from some of the so-called Christians at the Santa Clara Church of the Nazarene, in Santa Clara, California. Linda was a member of that congregation. So far as I'm aware, the only other source of criticism was from Linda's daughters.

The behavior of Linda's daughters can probably be disregarded as childish jealousy. In fact, in November of 2013, more than 20 years after the events described in this memoir, I was contacted by one of the daughters and offered an apology for anything that she might have done at the time that might call for an apology. It was courageous and honorable of her to contact me and offer such an apology. In retrospect, maybe I was too critical of the daughters. They were young, they were having difficulties of their own, and they probably saw me as a threat. Their interference in the relationship wasn't anything like that of the so-called Christians. Indeed, it was more in the nature of pranks than anything else. For example, I recall one time when Linda and I were visiting the house in Scott's Valley and the daughters decided to shower while I was there. After their showers, they traipsed around in the living room in front of me wearing only scanty towels for the next half hour or so. After that, they complained to Linda that I was staring at them. Well, of course I was staring at them. If they didn't like it, then all they had to do was either get dressed or leave the room. It was a minor thing but it did contribute to the stress that had already begun to accumulate for Linda.

After I was contacted in November of 2013, I considered removing all mention of Linda's daughters from this document. However, I like to keep all of the facts in place and they did, after all, add to the confusion. So, I suppose that the best that I can do now, regarding the daughters, is to try to keep the record straight for the sake of accuracy, and to get on to the real purveyors of evil, the so-called Christians.

The behavior of the so-called Christians at the Santa Clara Church of the Nazarene was entirely evil. Since they were adults, I hold them entirely responsible for their evil behavior. If Hell existed, which it doesn't, then I'd wish them all there, without hesitation, as the consequence of their behavior. That behavior embodied the kind of intolerance that, in the past, has caused witch hunts and executions and, in the present, perpetuates the never-ending hatred and persecution of people who are different. It displayed the arrogance and the self-righteousness that are the hallmark of the so-called Christians in their dealings with those of whom they disapprove.

Instead of accepting our marriage as the behavior of consenting adults, the so-called Christians at the Santa Clara Church of the Nazarene condemned it. They unilater-

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ally took upon themselves the authority to declare the marriage to be invalid. I particularly despise them for the harm that they did to Linda. She was already a tormented woman. She went to them for help and they punished her. I was strong enough to endure it. Linda wasn't.

Because we hadn't made a formal announcement, Linda was accused of hiding our marriage in shame. Our marriage was criticized as illegal because of the lack of a ceremony and because we didn't have a government license. The preacher of the Church of the Nazarene, Pastor Tate, the leader of the mob, even drove across town one night to verify that Linda's car was at my house and then drove across town again the next morning to verify that it was still there. He called her on the telephone late the next night, after we were in bed, and attacked her and condemned her. I remember watching her as she listened to him. Her facial expressions and body language gave the impression of someone who was ducking and dodging punches. So far as I'm aware, our only supporter in the entire congregation was Bob, the man who had introduced us. So far as I'm concerned, he was the only real Christian in the bunch. Linda, as a recently converted and devoutly sincere born-again Christian, was profoundly hurt by the criticisms, attacks, and condemnations of Pastor Tate and his unholy flock of predatory thugs.

The critics of our marriage used every possible tactic for the purpose of destroying the marriage. During the six short months of our time together, Linda was driven away from me four times. Each departure was the same. She gradually became increasingly stressed, under the criticism that she was receiving, until she couldn't take any more. Then she'd become completely uncommunicative, and leave. She didn't say how long she would be gone or if she would ever return.. She just packed her stuff and left. After each of her first three departures, she returned within a week or two. Each time that she returned, she seemed to be happy again. Then, the whole thing would start over. Every time that she returned to me, the filthy, stinking so-called Christians would get their teeth in her and kept shaking until she left.

While Linda was packing her things to leave for the fourth time, she was completely uncommunicative, as was the case in each of the three previous departures. I tried to give her a hug and she turned around in my arms, facing away from me. She didn't say anything, she just turned around. The point is that there wasn't any communication at all. It's important to note, in particular, that we didn't discuss getting a divorce. She just left, as she had done three times before.

After Linda left for the fourth time, I tried to get into contact with her through Pastor Tate, through one of her friends named Sheri, through our mutual friend named Bob, and through Linda's mother. It became clear to me that Linda wouldn't permit any contact between us. It seemed that she had instructed everybody that she knew to

refuse to give me any information about her. I believe that the poison of the so-called Christians was having its effect. Other evidence of that exists.

The only aspect of our marriage that might ever have been open to question was the nature of Linda's participation. Did she really consider herself to be my wife? After she was finally beaten into submission by the so-called Christians, and was preparing to leave me for the fourth time, she did the only dishonorable thing that I ever knew her to do. It was proof, I suppose, of her complete conversion to so-called Christianity. They turned her into a thief. While she was packing her stuff for her fourth departure, she waited until I was out of the house, went into my file cabinet, and took all of the letters that she'd written to me. She left the letters that I'd written to her (I'd kept copies) and took only the letters that she'd written to me. She wasn't trying to hide the fact that there were letters. She wasn't concerned about anything that we had discussed in the letters. If she'd been concerned about such things then she'd have taken my letters as well as hers. The reason that she took only her letters, and not mine, was because she had signed all of her letters as my wife. She was trying to remove anything that would prove that she, herself, had actually acknowledged that we were married. She did it because the so-called Christians had convinced her that we weren't really married but were, instead, living in sin. I believe that her plan was to remove the evidence and then to pretend that the marriage had never happened.

Sadly for the so-called Christians, there was one note to me, from Linda, that wasn't in the file cabinet. I'd previously mentioned to her that I wanted a white photo album. She bought a photo album for me, wrote a note to me, and attached the note to the photo album. It was still attached to the photo album when she took the letters from my file cabinet, so she missed the note. I still have that note. Here's an image of it.

April 9, 1989

Sam-

I love you. I know this isn't white but it's the best I could do.
Be happy.

Your wife,
Linda

So, QED to the so-called Christians. Not only did Linda love me, she considered herself to be my wife. Given her voluntary participation in the relationship and the other

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aspects of it that I've already mentioned, our marriage contained every necessary ingredient to be conclusively regarded as a valid and legitimate marriage.

When I was contacted by Linda's daughter, in November of 2013, I learned, among other things, that Linda is married again, this time to a preacher. I can only cringe. I suppose that her conversion to the dark precepts of the so-called Christians is complete and irreversible. However, that marriage to the preacher might not be so irreversible as Linda's tragic conversion to so-called Christianity.

It's a fact that my marriage to Linda, although unlicensed by the state, was a legitimate marriage. Linda never declared to me that we were divorced. She made it impossible for me to contact her, later, to clarify the matter. We each made life-long vows. I don't know if there's a statute of limitations on a marriage after abandonment but, unless there is, we're still married. That, of course, would invalidate her current marriage to the preacher. Even if there is a statute of limitations, and Linda and I are no longer married, then her current marriage could still be invalid if it began prior to the hypothetical limit set by the statute of limitations. Who knows? There might be a little justice in the world after all. I might actually have contributed to the corruption of a preacher's marriage.

The Search for Linda

After Linda left me for the fourth time, it became obvious that she didn't want me to find her. She moved to another town and, apparently, told everybody that we both knew to deny any knowledge of her. At least, that's what they all did, even Bob. The insidious fingers of the filthy so-called Christians reach everywhere.

I don't like to be intrusive so I didn't try too hard to find her. However, I loved her and, after all, she was my wife. So, I made occasional efforts to obtain information about her. There's also the matter of a small loan that I made to Albert and Sheri, Linda's oldest daughter and the daughter's boyfriend. They never paid back the loan and I needed the cash. I still do. The amount of the loan presently stands at \$170. That isn't much to most people but to me it's a lot. Just because I'm ornery, I've included a copy of that account in Appendix 1.

Also in Appendix 1 are copies of most of my written attempts to locate Linda. Part of my effort was oral and doesn't appear in this document. Also, I think that I might have lost a few letters or notes. However, what I've been able to locate in my files and include in this memoir demonstrates that I made an attempt to locate my wife or, at least, to get into contact with her through an intermediary. As a matter of fact, this memoir might reasonably be regarded as a continuation of that effort.

You might wonder why I bother. There are several reasons. I loved her. Our promises were permanent. There isn't a statute of limitations on a lifelong commitment. Therefore, unless abandonment can be considered as a divorce, Linda remains my wife. There have been times in the past when I regarded us as divorced and other times when I regarded us as still married. The truth of the matter isn't clear to me. She left me four times and returned after every one but the fourth one. The pattern of leaving and returning is significant. We didn't discuss a divorce. She didn't say how long she would be gone or if she would return. She simply packed her stuff and left, as she had done three previous times. From my point of view, one difference between her fourth absence and her first three absences is that she's been gone longer. Will she return? I don't know. It's possible. She did it three times before. She might do it again.

I still have the high school ring that Linda gave me as a wedding ring. I'm not wearing it but I still have it. I know exactly where it is. If Linda wants to resolve the matter, then I'm willing to return the ring to her in exchange for a satisfactory resolution of my various grievances against her, not all of which are mentioned in this memoir. She can contact me by whatever means she prefers, at her convenience. I've made myself easy to locate. The choice is hers to make.



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License

No one can serve two masters; for either he will hate the one and love the other, or he will be devoted to the one and despise the other. You cannot serve God and mammon.

—Matthew 6:24

Holy Bible, Revised Standard Version

That's the end of the story, for now, of my marriage to Linda. However, I have a few more things to say about the so-called Christians. If you don't want to read them, then don't.

Although it might come as a surprise to many so-called Christians, marriage wasn't invented by Christians. It's been practiced in countless ways since long before the beginning of recorded human history. Its traditions and customs have varied widely in the past and continue to vary widely throughout the world today. No single body of belief can legitimately lay claim to an exclusive jurisdiction over marriage. Nevertheless, the so-called Christians try to do exactly that. Worse yet, they demand a government license for every marriage, even though, so far as I'm aware, their *Holy Bible* doesn't impose any such requirement. That brings into question the thinking of the so-called Christians with regard to the proper status of marriage. Do they consider it to be sacred or secular?

On the one hand, the so-called Christians insist that marriage without a government license is invalid. That implies a belief that even God's approval cannot sanctify an unlicensed marriage. It suggests that marriage and sexual intercourse within marriage are entirely within the jurisdiction of government. On the other hand, they consign to Hell those of us who engage in the awful sin of sex or marriage without a government license. Yet, if sex and marriage are within the jurisdiction of government, as previously noted, then why is sin even an issue? If we're dealing with a jurisdiction of government, then crime is the issue. Sin is in God's domain. The inconsistency of the so-called Christians is laughable. They're a bunch of buffoons. Sadly, they're very powerful buffoons.

If the so-called Christians are going to invoke the authority of secular government in the administration of their sacred observances, then they ought to at least read a few legal definitions first. *Black's Law Dictionary* provides this definition of a marriage license:

Marriage license. A license or permission granted by public authority to persons who intend to intermarry, usually addressed to the minister or magistrate who is to perform the ceremony, or, in general terms, to any one authorized to solemnize marriages. By statute in most jurisdictions, it is made an essential prerequisite to the lawful solemnization of the marriage. —*Black's Law Dictionary*, 1979

You have to pay attention because there's something unexpected in that definition. The surprise is that a marriage license is granted to people who want to intermarry. It doesn't say *marry*. It says *intermarry*. Be careful.

Here are some more definitions, again from *Black's Law Dictionary*.

Intermarriage. See **Miscegenation.** —*Black's Law Dictionary*, 1979

Miscegenation Mixture of races; marriage between persons of different races, as between a white person and a Negro. —*Black's Law Dictionary*, 1979

Marriage. Legal union of one man and one woman as husband and wife.... —*Black's Law Dictionary*, 1979

So, according to *Black's Law Dictionary*, *marriage* is any legal union by which a man and a woman become husband and wife. *Intermarriage* is the special case of a marriage between people of different races. The startling revelation of the definitions is that, according to *Black's Law Dictionary*, a marriage license is required for intermarriage. There isn't any mention of marriage in the definition of a marriage license, only mention of intermarriage. There isn't any mention of a marriage license in the definition of marriage, only mention of legal union. That seems to disable the requirement by so-called Christians of a marriage license for marriage generally.

The so-called Christians also have another problem with their insistence upon a government license. The secular definitions, the ones in *Blacks Law Dictionary*, actually appear to be based on the Old Testament doctrine so much beloved by the fundamentalist variety of the so-called Christians.

And now, O our God, what shall we say after this? For we have forsaken thy commandments, which thou didst command by thy servants the prophets, saying, "The land which you are entering, to take possession of it, is a land unclean with the pollutions of the peoples of the lands, with their abominations which have filled it from end to end with their uncleanness. Therefore give not your daughters to their sons, neither take their daughters for your sons, and never seek their peace or prosperity, that you may be strong, and eat the good of the land, and leave it for an inheritance to your children for ever." And after all that has come upon us for our evil deeds and for our great guilt, seeing that thou, our God, has punished us less than our iniquities deserved and has given us such a remnant as this, shall we break thy commandments again and intermarry with the peoples who practice these abominations? Wouldst thou not be angry with us till thou wouldst consume us, so that there should be no remnant, nor any to escape? O Lord the God of Israel, thou art just, for we are left a remnant that has escaped, as at this day. Behold, we are before thee in our guilt, for none can stand before thee because of this.

—Ezra 8:10-15

Holy Bible, Revised Standard Version

Sadly for the so-called Christians, Congress and the state legislatures are constitutionally forbidden from regulating religious observances.

Congress shall make no law respecting an establishment of religion....

—*Constitution for the United States of America*, Amendment 1

The Legislature shall make no law respecting an establishment of religion.

—*Constitution of the State of California*
Article I, Section 4

I can't help but to digress briefly. Here's another meaning of *license*.

license.... *n*.... **4.b.** Heedlessness for the precepts of proper behavior; licentiousness....
—*The American Heritage Dictionary of the English Language*, 1992

Isn't it a delightful language? License also means licentiousness. If a marriage license accommodates miscegenation (*Black's Law Dictionary*) and a violation of God's commandments regarding the precepts of proper behavior (*Ezra* and *The American Heritage Dictionary of the English Language*), then *marriage license* takes on a whole new meaning. It means permission to engage heedlessly in licentious, improper behavior. You just have to laugh at the so-called Christians.

Anyway, if secular marriage licenses are actually an implementation of religious requirements, then marriage licenses are unconstitutional.

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Jurisdiction

One day, as he was teaching the people in the temple and preaching the gospel, the chief priests and the scribes with the elders came up and said to him, “Tell us by what authority you do these things, or who it is that gave you this authority.”

—Luke 20:1-2

Holy Bible, Revised Standard Version

I believe that the reason for the demand by so-called Christians for a government license for every marriage doesn't have anything at all to do with God. I believe that it's based entirely on their desire for power and control. They want to use force to impose their beliefs onto everybody else. They want to use force to punish anybody who doesn't cooperate. From time to time in the past, religion has been a handy weapon by which to do such things. For now, however, government is a more powerful weapon than religion. Therefore, the so-called Christians presently use government as their weapon of choice for exerting power and control over others in the name of God. That's why they demand a government license for marriages. It enables them to use the government to punish people.

Government, however, is a dangerous weapon. The so-called Christians have invoked it as their weapon of choice for power and control. They, in turn, have come under its jurisdiction. Today, the marriage license requirement is only a specific instance of a general jurisdiction of government over religion. Not just marriage, but the entire establishment of religion is licensed and regulated by government.

Most churches today, including the Santa Clara Church of the Nazarene, are incorporated under the authority of government. They exist not by the authority of God but by the authority of a charter of incorporation. That charter of incorporation, not the *Holy Bible*, governs them.

Religious radio and television broadcasts are regulated by the FCC. Churches must comply with zoning and building codes. They must pay taxes. They must comply with fire codes. There are occupancy limits in their buildings. Every aspect of every religious activity is regulated by government.

The corruption of the Christian's understanding of marriage is a small part of the larger malady, the overall and long-term transfer of jurisdiction from God to government. It's been happening for centuries. It's been a long and haphazard process, with reverses and rearrangements, but the trend seems to be in the direction of government. The devastating power of the Vatican in past centuries might seem to be an argument against that idea but, it seems to me, that the Vatican has become more of a government than a church.

The most peculiar aspect of the transfer of power from God to government has been the relative lack of objection from Christians, so-called or otherwise. They preach the separation of church and state but universally submit to government. In principle,

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their proper behavior was simple and straightforward. All that they had to do was to follow the example of the Nazarene. He set that example, a long, long time ago.

And Jesus said to them, “Neither will I tell you by what authority I do these things.”

—Luke 20:8

Holy Bible, Revised Standard Version

A **real** Christian doesn't submit to the jurisdiction of government.

The fact is that Christians, at least the so-called variety, don't want salvation in the hereafter. They want power and control now.

Suggested Topics for Additional Study

Pogroms

The Bloody Verdict of Verden

The Crusades

The Inquisition

The Knights Templar

Witch Hunts

Appendix 1: Documents

Record of loan by Sam to Albert and Sheri.

Amount loaned is \$300, at no interest.

Minimum monthly payment is \$10, renegotiable, payable by the end of each month.

First payment is due in June, 1989.

<u>Amount</u>	<u>transaction</u>	<u>date</u>
\$300.00 owed	original loan	May 19, 1989
-100.00	payment for June, 1989-March, 1990	July 6, 1989
200.00 owed		
-20.00	payment for April, 1990-May, 1990	July 6, 1989
180.00 owed		
-10.00	payment for June, 1990	August 2, 1989

170.00 owed

The payment for July, 1990, is overdue.

The payment for August, 1990, is overdue.

The payment for September, 1990, is overdue.

The payment for October, 1990, is overdue.

The payment for November, 1990, is overdue.

The payment for December, 1990, is overdue.

The payment for January, 1991, is overdue.

The payment for February, 1991, is overdue.

The payment for March, 1991, is overdue.

The payment for April, 1991, is overdue.

The payment for May, 1991, is overdue.

The payment for June, 1991, is overdue.

The payment for July, 1991, is overdue.

The payment for August, 1991, is overdue.

The payment for September, 1991, is overdue.

The payment for October, 1991, is overdue.

The payment for November, 1991, is overdue.

At this point, the loan should have been paid in full. No payment has been made since August 1989.

Date of this printing: Friday, December 3, 1993

Linda Sue Avants

Saturday, February 9, 1991

Dear Mrs. Avants

I received your note today, and realized that a couple of apologies are in order. First I'm sorry for the confusion I created. I neglected to clearly identify myself, not realizing that you wouldn't recognize who I am. I'm Linda's most recent (so far as I know) ex-husband. You met me for an hour or so one afternoon shortly after Linda and I were married, when she brought me over to introduce me to you. Second, I must confess to (and apologize for) a certain confusion with regard to the name and address I used when I sent my recent letters to you. Linda left very little information here when she moved out, and I had your address, and apparently your mother's name. I'm sorry that I erroneously believed she lives at that address.

I'd only intended to ask you to forward some letters to Linda, but since this has gotten so complicated anyway, I may as well explain why. Shortly after Linda and I were married, and she was moving out of the house in Scott's Valley, Albert and Sheri were also looking for a place to live. I loaned them \$300, to help cover the costs of moving in somewhere. They agreed to pay me \$10 per month until the loan was repaid.

Shortly before the divorce, they stopped making payments. When Linda moved out, she refused to provide a forwarding address, and I also had no way of contacting Albert and Sheri. I started sending notices to Linda's P.O. box in Felton, but she closed the box. Eventually, I decided to try the address that I had in my files, which turned out to be yours.

I'd like to continue trying to get my money, which I rather need. If you would be willing to give me a mailing address for Albert and Sheri, I'd appreciate it. If you can't do that, I'd appreciate it if you'd forward my letters to them. I'll pay the postage, of course.

Please let me know what you can do.

Sincerely,

Sam

Friday, March 22, 1991

Dear Mrs Avants

Thanks for the note. I'm still trying to find a mailing address for Linda, as she owes me approximately \$200, which I need rather badly. If you can give me the address, I'd really appreciate it. If you hear from Linda, please tell her I'm trying to get in touch with her.

Thank you,

Sam

Dear Sam with no last name.
My mom sent this back to me & told me to give you Linda's address. My mom is getting forgetful. When she brought you over was the first time I'd seen her in over 5 years. The phone number she gave me at that time was no longer in service when I tried to reach her when Mom suffered her stroke. Sorry I can't help you. We

July 9, 1991

Sam,

Returning letter for Linda.
I don't have any idea where
she is. When she came by &
introduced you to me was first
time I'd seen her in 5 years. I
haven't heard or seen her since.

Sorry I can't help you.

Sincerely,
Dee Avants

Note: Only the final paragraph of this letter has anything to do with Linda.

Wednesday, January 22, 1992

Well hello there, Bob!

I'm sending you several things with this letter. Indeed, the letter is mostly so I can send the things. Therefore, I might ramble a little in the letter, just so it'll be long enough that I won't be embarrassed to call it a letter. I won't ramble too much. Just a little. Of course, everybody will have a different opinion about what is a little and what is a lot. For example, many people might think I've already rambled too much while I, of course, could keep it up for several pages more. In case you aren't convinced of my ability, I'll just ramble on for a few more words to convince you. Again, as with *too much*, *few* is a flexible concept. How many more words can I write and still have it fit the definition *few*? Ah, well, I suppose you're convinced now, so I'll get on with the remainder of the letter. However if you're not convinced, be sure to let me know and I'll do this again.

With this letter, I'm sending you a copy of my new Will. You may dispose of the previous one, send it back to me, or whatever. Please keep the new one in a safe place.

I'm also sending you a copy of one of my recent essays, *In Search of the Supreme Flaw of the Land: The Bill of Rights*. I hope you find it to be persuasive.

Finally, I'm sending copies of the two (count 'em, two) lists of stuff that's now available from me. Maybe there'll be something listed that you'd like to read.

I still haven't heard from Pastor Tate, from Sheri Martin, or from Linda. If you have any information, please give it to me. I'm tired of stories where the names are changed to protect the guilty.

Sincerely,

Sam

Linda Sue Avants

Friday, April 24, 1992

Pastor Tate
Santa Clara Church of the Nazarene
2445 Cabrillo Avenue
Santa Clara, California 95051

Dear Pastor Tate

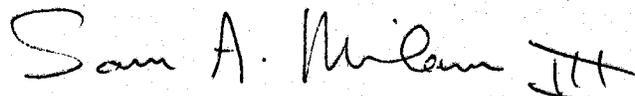
Many months ago, you agreed to determine for me whether or not Shery Martin would be willing to forward mail to Linda for me. Since then, I've heard nothing from you and received no answer to the messages that I left on your phone machine.

Perhaps I should mention some things which you might not have considered. You may be unaware that it was Linda who, without preliminary discussion, made the astonishing announcement that she was my wife. Believe me, it was news to me at the time. While we were subsequently together, she "moved out" about four times, but she never discussed a divorce. She simply established a pattern of moving out for a while and then returning. Her most recent departure differs from the previous ones primarily in that she's been gone longer. Also, when she last moved out, she stole some of my letters which verify, in her own handwriting, her conviction that we were married. Maybe she's trying to avoid the embarrassment of a divorce by pretending that we weren't married after all. Nevertheless, if she intends that we're divorced, then some affirmative statement from her is necessary. Otherwise, the matter is unresolved.

There are other unresolved issues. Prominent among them is the money that I loaned to Albert and Sheri. As you can see from the enclosed record, they haven't repaid the loan. The terms and conditions of repayment are clear and are not conditional upon my relationship with Linda. My patience has eroded such that I no longer care about their plight. I want my money. Linda was a silent party to the loan on behalf of Albert and Sheri, and accepted a responsibility for the debt.

There are other grievances which I would like to resolve. However, everyone who might have helped me resolve them has instead conspired to obstruct my legitimate access to Linda. I asked you in good faith, over a year ago, to make a simple inquiry for me. You agreed to make the inquiry and I believed you (do you see a pattern here?). If you don't intend to perform according to your promise, at least have the courtesy let me know as much so I can pursue some other tactic.

Sincerely,



Sam A. Milam III
Box 21633
San Jose, California 95151

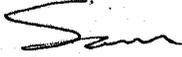
Copy to: Bob, who introduced us.
(No good deed ever goes unpunished.)
-Clare Boothe Luce

Sunday, May 24, 1992

Dear Pastor Tate

Please complete the following form as appropriate, put it in the postage paid return envelope, and send it to me.

Thank you


Sam

Dear Sam

<input type="checkbox"/>	I contacted Shery Martin. She'll forward mail to Linda for you. Send mail to her at: _____
<input type="checkbox"/>	I contacted Shery Martin. She doesn't want to forward mail to Linda.
<input type="checkbox"/>	I contacted Shery Martin. She said she doesn't know where Linda is.
<input type="checkbox"/>	<input type="checkbox"/> I believe her.
<input type="checkbox"/>	<input type="checkbox"/> I think she's lying.
<input type="checkbox"/>	I contacted Shery Martin. She says you're a buttface and you should leave her alone.
<input type="checkbox"/>	I haven't contacted Shery Martin but I will soon.
<input type="checkbox"/>	I haven't contacted Shery Martin and I don't plan to.
<input type="checkbox"/>	Instead of Shery Martin, you should contact _____.
<input type="checkbox"/>	I spoke personally to Linda. She wants to know if you'll take her back.
<input type="checkbox"/>	I spoke personally to Linda and she said she'll return the letters and the money.
<input type="checkbox"/>	I spoke personally to Linda and she said she won't return anything.
<input type="checkbox"/>	I spoke personally to Linda. She said you're a buttface and you should leave her alone.
<input type="checkbox"/>	I spoke personally to Linda and she doesn't remember who you are.
<input type="checkbox"/>	I spoke personally to Linda and her 6' 7", 350 #, solid muscle karate black belt husband said you're a buttface and you should leave her alone.
<input type="checkbox"/>	Linda has left the country and nobody can find her.
<input type="checkbox"/>	Linda has entered a convent and gone into seclusion forever.
<input type="checkbox"/>	Linda died. Sorry.
<input type="checkbox"/>	I think you're a buttface and I wish you'd leave me alone.
<input type="checkbox"/>	Other:

Sincerely,

Pastor Tate

Linda Sue Avants

Monday, February 9, 2004

Bob [REDACTED]
[REDACTED]
[REDACTED]

To Bob, Greetings

In my opinion, there isn't any statute of limitations on a marriage. Once a marriage exists, it endures for life or until specifically terminated by a divorce. Linda and I declared ourselves to be married and lived together as a married couple. During the time that we were married, she wrote many notes and letters to me which she signed, "Your wife, Linda", thus proving her concurrence in the belief that we were married. So far as I'm concerned, it was a legitimate marriage.

So far as I can recall, we never discussed or even mentioned the idea of getting a divorce. She left me about four times, as I recall, but voluntarily returned each time but the last one. There are only two differences between her last departure and the previous ones. The first difference is the length of time that she has been gone. The second difference is that the last time she left, she took all of the notes and letters that she had written to me and signed as my wife. Presumably, she was trying to remove evidence of her agreement with the belief that we were married. However, she neglected to take a gift card which was filed in a different location and which she had also signed as my wife. So, I still have proof of her conviction in that regard. It appears to me that, lacking either a statute of limitations or a divorce, we're still married.

Over ten years ago, I asked Pastor Tate to help me resolve this matter. He promised to do so but subsequently refused to keep his promise. You are the only remaining person that I know who might still be able to contact Linda. If you still have some way to contact her, I'd appreciate it if you would give her this letter, or a copy of it, or communicate the information to her in whatever way you choose. I want to resolve the matter of the marriage, as well as a couple of other unresolved issues. When those matters are resolved to my satisfaction, I will return the wedding ring that she gave me and which I still have.

Sincerely,

Sam Aurelius Milam III
1510 N. 22nd Drive
Show Low, Arizona 85901

Appendix 2: A Comment

I received the following comment from James Majeski as a part of his review of this memoir. I haven't, so far, thought of any way to incorporate the information into the memoir except to put it in this Appendix. Maybe in some future revision of the memoir I'll think of something better.

I think that some of the domination [of the church] by the government may be attributed, in part, to the organization imposed by Emperor Constantine I on all Christians. He organized the "Holy Roman Catholic Apostolic Church". It started in 313 AD with the Edict of Milan when the Christians were passed from persecution directly into imperial control (caesaropapism). This control by the government was later enshrined in Justinian's Laws. The rank and file accepted this as it meant the end of persecution. At or about 320 AD, Licinius (the other Roman Emperor at that time and supposedly a party to the Edict of Milan) started persecutions of Christians again, but I believe that was politically motivated to get Constantine to attack. More importantly, The Justinian Code included a section called Natural Law.

"The law of nature is that law which nature teaches to all animals. For this law does not belong exclusively to the human race, but belongs to all animals, whether of the earth, the air, or the water. Hence comes the union of the male and female, which we term matrimony; hence the procreation and bringing up of children. We see, indeed, that all the other animals besides men are considered as having knowledge of this law."

You may find a way to incorporate this into your essay.

The quote provided by James Majeski is from the Justinian Code, Book I, Of Persons, II, Natural, Common, and Civil Law.

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Glossary

COHABIT To live together in the same house, claiming to be married.

The word does not include in its signification, necessarily, the occupying the same bed; 1, Hagg. Cons. 144; 4 Paige, Ch. 425; though the word is popularly, and sometimes in statutes, used in this latter sense; 20 Mo. 210; Bishop, Marr. & Div. § 506, n.

To live together in the same house.

Used without reference to the relation of the parties to each other as husband and wife, or otherwise. Used of sisters or other members of the same family, or of persons not members of the same family, occupying the same house; 2 Vern. 323; Bishop, Marr. & Div. 506, n.

—*Bouvier's Law Dictionary*, 1889

cohabit *intr.v.*... **1.** To live together as spouses. **2.** To live together in a sexual relationship when not legally married....

—*The American Heritage Dictionary of the English Language*, 1992

Cohabitation. To live together as husband and wife. The mutual assumption of those marital rights, duties and obligations which are usually manifested by married people, including but not necessarily dependent on sexual relations. Boyd v. Boyd, 228 Cal.App. 374, 39 Cal. Rptr. 400, 404. See also **Notorious cohabitation; Palimony.**

—*Black's Law Dictionary*, 1979

COMMON-LAW MARRIAGE. No entry.

—*Bouvier's Law Dictionary*, 1889

Common-law marriage. One not solemnized in the ordinary way (*i.e.* non-ceremonial) but created by an agreement to marry, followed by cohabitation. A consummated agreement to marry, between persons legally capable of making marriage contract, per verba de præsenti, followed by cohabitation. Such marriage requires a positive mutual agreement, permanent and exclusive of all others, to enter into a marriage relationship, cohabitation sufficient to warrant a fulfillment of necessary relationship of man and wife, and an assumption of marital duties and obligations. Marshall v. State, Okl.Cr., 537 P.2d 423, 429. Such marriages are invalid in many states; *e.g.* Missouri (after 1921), Indiana (after 1958), Maryland, Massachusetts, Nebraska (after 1939), Nevada, New Hampshire, New Jersey, New Mexico, New York (after 1933,) North Dakota, Oregon, South Dakota (after 1959), Virginia, Washington, W. Virginia, Wisconsin, Wyoming.

—*Black's Law Dictionary*, 1979

common-law marriage *n.* A marriage existing by agreement between a man and a woman or the fact of their cohabitation, without a civil or religious ceremony.

—*The American Heritage Dictionary of the English Language*, 1992

consensual *adj.* **1.** Of or expressing a consensus: *a consensual decision.* **2.a. Law.** Existing or entered into by mutual consent without formalization by document or ceremony: *a consensual marriage; a consensual contract.* **b.** Involving the willing participation of both or all parties, especially in an illegal transaction or practice: *the consensual crimes of prostitution, drug abuse, and illegal gambling.* **3. Physiology.** **a.** Of or relating to a reflexive response of one body structure following stimulation of another, such as the concurrent constriction of one pupil in response to light shined in the other. **b.** Of or relating to involuntary movement of a body part accompanying voluntary movement of another....

—*The American Heritage Dictionary of the English Language*, 1992

CONSENSUAL MARRIAGE. No entry.

—*Bouvier's Law Dictionary*, 1889

Consensual marriage Marriage resting simply on consent per verba de præsenti, between competent parties. See also **Common-law marriage.** —*Black's Law Dictionary*, 1979

CONSUMMATE. Complete; finished; entire.

A marriage is said to be consummate. A right of dower is *inchoate* when coverture and seisin concur, *consummate* upon the husband's death. 1 Washb. R. P. 250, 251. A tenancy by the curtesy is *initiate* upon the birth of issue, and consummate upon the death of the wife. 1 Washb. R. P. 140; 13 Conn. 83; 2 Me. 400; 2 Bla. Com. 128.

A contract is said to be consummated when every thing to be done in relation to it has been accomplished. It is frequently of great importance to know when a contract has been consummated, in order to ascertain the rights of the parties, particularly in the contract of sale. See DELIVERY, where the subject is more fully examined. It is also sometimes of consequence to ascertain where the consummation of the contract took place, in order to decide by what law it is to be governed. See CONFLICT OF LAWS; LEX LOCI.

—*Bouvier's Law Dictionary*, 1889

Consummate *adj.* Completed; as distinguished from *initiate*, or that which is merely begun. The husband of a woman seised of an estate of inheritance becomes, by the birth of a

child, tenant by the curtesy *initiate*, and may do many acts to charge the lands, but his estate is not *consummate* till the death of the wife. 2 Bl.Comm. 126, 128.

—*Black's Law Dictionary*, 1979

Consummate *v.* To finish by completing what was intended; bring or carry to utmost point or degree; carry or bring to completion; finish; perfect; fulfill; achieve. See also **Consummation**. —*Black's Law Dictionary*, 1979

consummate *tr.v.*.... **1.a.** to bring to completion or fruition; conclude: *consummate a business transaction*. **b.** To realize or achieve; fulfill: *a dream that was finally consummated with the publication of her first book*. **2.a.** To complete (a marriage) with the first act of sexual intercourse after the ceremony. **b.** To fulfill (a sexual desire or attraction) especially by intercourse.... *adj.* **1.** Complete or perfect in every respect: *consummate happiness*. See Synonyms at **perfect**. **2.** Supremely accomplished or skilled: *"Sargent was now a consummate master of brushwork"* (Roberta Smith). **3.** Complete; utter; *a consummate bore*....

—*The American Heritage Dictionary of the English Language*, 1992

Consummation The completion of a thing; the completion of a marriage by cohabitation (*i.e.* sexual intercourse) between spouses.

—*Black's Law Dictionary*, 1979

consummation *n.* **1.** The act of consummating; a fulfillment. **2.** An ultimate goal or end.

—*The American Heritage Dictionary of the English Language*, 1992

debase.... To lower in character, quality, or value; degrade. See Synonyms at adulterate, corrupt, degrade.

—*The American Heritage Dictionary of the English Language*, 1992

DEBASEMENT. No Entry.

—*Bouvier's Law Dictionary*, 1889

Debasement. Reducing the weight of gold and silver in coins of standard value or of increasing the amount of alloy in such coins. Such has the effect of reducing the intrinsic value.

—*Black's Law Dictionary*, 1979

INTERMARRIAGE. No entry.

—*Bouvier's Law Dictionary*, 1889

Intermarriage. See **Miscegenation**.

—*Black's Law Dictionary*, 1979

intermarry *intr.v.* **1.** To marry a member of another group. **2.** To be bound together by the marriages of members. **3.** To marry

within one's family, tribe, or clan....

—*The American Heritage Dictionary of the English Language*, 1992

LICENSE **In Contracts**. A permission. A right given by some competent authority to do an act which without such authority would be illegal.

An authority to do a particular act or series of acts on another's land without possessing any estate therein. 11 Mass. 533; 4 Sandf. Ch. 72; 1 Washb. R. P. *398.

The written evidence of the grant of such right.

An *executed license* exists when the licensed act has been done.

An *executory license* exists where the licensed act has not been performed.

An *express license* is one which is granted in direct terms.

An *implied license* is one which is presumed to have been given from the acts of the party authorized to give it.

It is distinguished from an *easement*, which implies an interest in the land to be affected, and a *lease*, or right to take the profits of land. It may be, however, and often is, coupled with a grant of some interest in the land itself, or right to take the profits; 1 Washb. R. P. *398.

A license may be by specialty; 2 Pars. Contr. 22; by parol; 13 M. & W. 838; 4 Maule & S. 562; 7 Barb. 4; 1 Washb. R. P. 148; or by implication from circumstances, as opening a door in response to a knock; Hob. 62; 2 Greenl. Ev. § 427.

It may be granted by the owner, or, in many cases, by a servant; Cro. Eliz. 246; 2 Greenl. Ev. § 427.

An executory license may be revoked at the pleasure of the grantor; 1 Washb. R. P. *398. In general, a mere license may be revoked at the grantor's pleasure; 11 Mass. 433; 15 Wend. 380; although the licensee has incurred expense; 10 Conn. 378; 23 *id.* 223; 3 Du. N. Y. 355; 11 Metc. 251; 2 Gray, 302; 24 N. H. 364; 13 *id.* 264; 4 Johns. 418; 3 Wisc. 117; 1 Dev. & B. 492; 13 M. & W. 838; 37 E. L. & Eq. 489; 5 B. & Ad. 1. But see 14 S. & R. 267. Not so a license closely coupled with a transfer of title to personal property; 8 Metc. 34; 11 Conn. 525; 13 M. & W. 856; 11 Ad. & E. 34.

An executed license which destroys an easement enjoyed by the licensor in the licensee's land, cannot be revoked; 9 Metc. 395; 2 Gray, 302; 2 Gill, 221; 3 Wisc. 124; 3 Du. N. Y. 255; 7 Bingh. 682; 3 B. & C. 332; 5 *id.* 221.

The effect of an executed license, though revoked, is to relieve or excuse the licensee from liability for acts done properly in pursuance thereof, and their consequences; 22 Barb. 336; 2 Gray, 302; 10 Conn. 378; 13 N. H. 264; 7 Taunt. 374; 5 B. & C. 221.

It has been held that a license, to the enjoyment of which it was necessary to expend money upon the licensor's land, could not be revoked, without reimbursing the licensee for the expenditures; 33 Ala. 600; 7 N. H. 237; and in Pennsylvania and some other states such a license is treated as irrevocable upon the ground of estoppel; 33 Penn. 169; 59 Ill. 337; 45 Ga. 33; but the current of authority is against this doctrine; 13 M. & W. 838; 38 Mo. 599; 12 Gray, 213. Courts of equity, however, will interfere to restrain the exercise of a legal right to revoke a license on the ground of preventing fraud, and construe the license as an agreement to give the right, and compel specific performance by deed; 4 C. E. Green, 153; 66 N. C. 546; 1 Washb. R. P. *400.

In International Law. Permission granted by a belligerent state to its own subjects, or to the subjects of the enemy, to carry on a trade interdicted by war. Wheat. Int. Law, 475.

Licenses operate as a dispensation of the rules of war, so far as its provisions extend. They are *stricti juris*, but are not to be construed with pedantic accuracy. Wheat. Int. Law, 476; 1 Kent, 163, N.; 4 C. Rob. 8. They can be granted only by the sovereign authority, or by those delegated for the purpose by special commission; 1 Dods. 226; Stew. Adm. 367. They constitute a ground of capture and confiscation *per se* by the adverse belligerent party; Wheat. Int. Law, 475.

In Patent Law. See PATENTS.

In Pleading. A plea of justification to an action of trespass, that the defendant was authorized by the owner of the freehold to commit the trespass complained of.

A license must be specially pleaded to an action of trespass; 2 Term, 166; but may be given in evidence in an action on the case; 2 Mod. 6; 8 East, 308. —*Bouvier's Law Dictionary*, 1889

License. The permission by competent authority to do an act which, without such permission, would be illegal, a trespass, or a tort. *People v. Henderson*, 391 Mich. 612, 218 N.W.2d 2, 4. Certificate or the document itself which gives permission. Leave to do thing which licensor could prevent. *Western Electric Co. v. Pacent*

Reproducer Corporation, C.C.A.N.Y., 42 F.2d 116, 118. Permission to do a particular thing, to exercise a certain privilege or to carry on a particular business or to pursue a certain occupation. *Blatz Brewing Co. v. Collins*, 88 Cal.App.2d 438, 160 P.2d 37, 39, 40. Permission to do something which without the license would not be allowable. *Great Atlantic & Pacific Tea Co. v. City of Lexington*, 256 Ky. 595, 76 S.W.2d 894, 896. Privilege from state or sovereign. *M. Itzkowitz & Sons v. Geraghty*, 139 Misc. 163, 247 N.Y.S. 703, 704; *Alabama Power Co. v. Federal Power Commission*, 75 U.S. App.D.C. 315, 128 F.2d 280, 289.

A permit, granted by an appropriate governmental body, generally for a consideration, to a person, firm, or corporation to pursue some occupation or to carry on some business subject to regulation under the police power. A license is not a contract between the state and the licensee, but is a mere personal permit. *Rosenblatt v. California State Board of Pharmacy*, 69 Cal.App.2d 69, 158 P.2d 199, 203. Neither is it property or a property right. *American States Water Service Co. of California v. Johnson*, 31 Cal.App.2d 606, 88 P.2d 770, 774; *Asbury Hospital v. Cass County*, 72 N.D. 359, 7 N.W.2d 438, 452.

License with respect to real property is a privilege to go on premises for a certain purpose, but does not operate to confer on, or vest in, licensee any title, interest, or estate in such property. *Timmons v. Cropper*, 40 Del.Ch. 29, 172 A.2d 757, 759

See also Certificate; Exclusive license; Letter of license; Licensee; Marriage license; Permit.

Executed License. That which exists when the licensed act has been done.

Executory license. That which exists where the licensed act has not been performed.

Express license. One which is granted in direct terms.

Implied license. One which is presumed to have been given from the acts of the party authorized to give it.

License bond. See **Bond**.

Patents. A written authority granted by the owner of a patent to another person empowering the latter to make or use the patented article for a limited period or in a limited territory. A permission to make, use or sell articles embodying invention. *De Forest Radio Telephone & Telegraph Co. v. Radio Corporation of America*, D.C.Del., 9 F.2d 150, 151. A transfer which does not affect the monopoly, except by estopping

Linda Sue Avants

licensor for exercising his prohibitory powers in derogation of privileges conferred upon licensee. *L. L. Brown Paper Co. v. Hydroiloid, Inc.*, D.C.N.Y., 32 F.Supp. 857, 867, 868; *De Forest Radio Telephone & Telegraph Co. v. Radio Corporation of America*, D.C.Del., 9 F.2d 150, 151. An assignment by the patentee to another of rights less in degree than the patent itself. Any right to make, use, or sell the patented invention, which is less than an undivided part interest in the patent itself. Any transfer of patent right short of assignment. Language used by owner of patent, or any conduct on his part exhibited to another, from which that other may properly infer that owner consents to his use of patent, on which the other acts, constitutes a license. *General Motors Corporation v. Dailey*, C.C.A.Mich., 93 F.2d 938, 941; *Finley v. Asphalt Paving Co. of St. Louis*, C.C.A.Mo., 69 F.2d 498, 504. Transfer of exclusive right to do merely two of the three rights under patent to make, use, and vend invention. *Overman Cushion Tire Co. v. Goodyear Tire & Rubber Co.*, C.C.A.N.Y., 59 F.2d 998, 1000.

Pleading. The defense of justification to an action of trespass that the defendant was authorized by the owner of the land to commit the trespass complained of. License is an affirmative defense which must be pleaded by defendant. Fed.R.Civil P. 8(c).

Real property. A license is ordinarily considered to be a mere personal or revocable privilege to perform an act or series of acts on the land of another. *Hennebont Co. v. Kroger Co.*, 221 Pa.Super. 65, 289 A.2d 229, 231. A privilege to go on premises for a certain purpose, but does not operate to confer on, or vest in, licensee any title interest, or estate in such property. *Timmons v. Cropper*, 40 Del.Ch. 29, 172 A.2d 757, 759. Such privilege is unassignable.

A license is distinguished from an "easement," which implies an interest in the land, and a "lease," or right to take the profits of land. It may be, however, and often, is, coupled with a grant of some interest in the land itself, or right to take the profits. *National Memorial Park v. C. I. R.*, C.C.A.4, 145 F.2d 1008, 1015.

Simple license. One revocable at the will of the grantor; *i.e.*, one not coupled with a grant.

Streets and highways. A permit to use street is a mere license revocable at pleasure. *City of Boston v. A. W. Perry, Inc.*, 304 Mass. 18, 22 N.E.2d 627, 630; *Lanham v. Forney*, 196 Wash. 62, 81 P.2d 777, 779. The privilege of using the streets and highways by the operation thereon of motor

carriers for hire can be acquired only by permission or license from the state or its political subdivisions.

Trade, business or calling. Authority or permission to do or carry on some trade or business which would otherwise be unlawful. *Standard Oil Co. (Indiana) v. State Board of Equalization*, 110 Mont. 5, 99 P.2d 229, 234. Permission conferred by proper authority to pursue certain trade, profession, or calling. *Lloyds of Texas v. Bobbitt*, Tex.Civ.App., 40 S.W.2d 897, 901. A license confers upon licensee neither contractual nor vested rights. *Rosenblatt v. California State Board of Pharmacy*, 69 Cal.App.2d 69, 158 P.2d 199, 203; *Asbury Hospital v. Cass County*, 72 N.D. 359, 7 N.W.2d 438, 452. Nor does it create a property right.

Trade-mark. Permission to use a trade-mark in an area where the purported owner's goods have not become known and identified by his use of mark is a naked "license". *E. F. Prichard Co. v. Consumers Brewing Co.*, C.C.A.Ky., 136 F.2d 512, 521. —*Black's Law Dictionary*, 1979

license.... n. 1.a. Official or legal permission to do or own a specified thing. See Synonyms at **permission**. **b.** Proof of permission granted, usually in the form of a document, card, plate, or tag: *a driver's license*. **2.** Deviation from normal rules, practices, or methods in order to achieve a certain end or effect: *Poetic license*. **3.** Latitude of action, especially in behavior or speech. See Synonyms at **freedom**. **4.a.** Lack of due restraint; excessive freedom: "*When liberty becomes license, dictatorship is near*" (Will Durant). **b.** Heedlessness for the precepts of proper behavior; licentiousness. —**license tr.v. -censed, -cens•ing, -cens•es. 1.** To give or yield permission to or for. **2.** To grant a license to or for; **authorize.** See Synonyms at authorize. [Middle English *licenece*, from Old French, from Medieval Latin *licentia*, authorization, from Latin, freedom, from *licens, licent-*, present participle of *licere*, to be permitted.]...

—*The American Heritage Dictionary of the English Language*, 1992

MARRIAGE. A contract, made in due form of law, by which a man and woman reciprocally engage to live with each other during their joint lives, and to discharge towards each other the duties imposed by law on the relation of husband and wife.

Marriage, as distinguished from the agreement to marry and from the act of becoming married, is the civil status of one man and one woman united in law for life, for the discharge to each

other and the community, of the duties legally incumbent on those whose association is founded on the distinction of sex. 1 Bish. Mar. & D. § 3.

The better opinion appears to be that marriage is something more than a mere civil contract. It has been variously said by different writers, to be a status, or a relation, or an institution. This view is supported by the following: Story, Confl. Laws, § 108 n.; 4 R. I. 85; 9 Ind. 37; 3 P. D. 1; s. c. 19 Am. L. Reg. N. S. 80; 4 P. D. 1; 5 *id.* 94; 5 Law Mag & Rev. 4 Ser. 26. In New York, however, it has been held to be merely a civil contract; 19 Am. L. Reg. N. S. 219.

All persons are able to contract marriage unless they are under the legal age, or unless there be other disability. The age of consent at common law is fourteen in males, and twelve in females; Reeve, Dom. Rel. 236; 2 Kent, 78; 1 N. Chipm. 254; 10 Humphr. 61; 1 Gray, 119. See 20 Ohio, 1. This is still the rule in the older states; but in Ohio, Indiana, and other western states, the age of consent is raised to eighteen for males, and fourteen for females; Schoul, Husb. & W. § 24. When a person under this age marries, such person can, when he or she arrives at the age above specified, avoid the marriage, or such person or both may, if the other is of legal age, confirm it. It has been held that the one who is of legal age may also disaffirm the marriage; Co. Litt. 79; East, P. C. 468; but see 15 Mich. 193. The disaffirmance may be either with or without a judicial sentence; 1 Bish. Marr. & D. § 150. If either of the parties is under seven, the marriage is void; 1 Sharsw. Bla. Com. 436, note 9; 5 Ired. Eq. 487.

If either party is *non compos mentis*, or *insane*, the marriage is void; 21 N. H. 52; 22 *id.* 533; 4 Johns. Ch. 343.

If either party has a husband or wife living, the marriage is void; 4 Johns. 53; 22 Ala. N. S. 86; 1 Salk. 120; 1 Bla. Com. 438. See NULLITY OF MARRIAGE.

Consanguinity and affinity within the rules prescribed by law in this country render a marriage void. In England they render the marriage liable to be annulled by the ecclesiastical courts; 10 Metc. 451; 2 Bla. Com. 434. See CONFLICT OF LAWS.

The parties must each be willing to marry the other.

If either party acts under compulsion, or is under duress, the marriage is voidable; 2 Hagg. Cons. 104, 246.

Where one of the parties is mistaken in the per-

son of the other, this requisite is wanting. But a mistake in the qualities or character of the other party will not avoid the marriage; Poynt. Marr. & D. c. 9. If a man marries the woman he intends to marry, the marriage is valid, though she passes under an assumed name; 1 Bish. Mar. & D. § 204; 3 Curt. Ec. 185; see Burke's Trials, 63.

If the apparent willingness is produced by fraud, the marriage will be valid till set aside by a court of chancery or by a degree of divorce; 5 Paige, Ch. 43. Fraud is sometimes said to render a marriage void; but this is incorrect, as it is competent for the party injured to waive the tort and affirm the marriage. Impotency in one of the parties is sometimes laid down as rendering the marriage void, as being a species of fraud on the other party; but it is only a ground for annulling the contract by a court, or for a divorce.

Dr. Wharton (Confl. Laws) gives three distinct theories as to the law which is to determine the question of matrimonial capacity.

It is determined by the law of the place of solemnization of the marriage. This view is supported by Judge Story (Confl. Laws, §§ 110, 112), and Mr. Bishop (Mar. & D. § 390); 19 Am. L. Reg. N. S. 219; but it is objected to this theory that it is subject to exceptions which destroy its applicability to the majority of litigated cases. Thus marriages which by our law are incestuous, are not validated by being performed in another land, where they would be lawful, and so the converse is true, that the marriage, in England, of an American with his deceased wife's sister, would be recognized as valid in such of our states as hold such a marriage to be legal, nor is it believed that an American court will ever hold a marriage of American citizens, solemnized abroad, to be illegal, simply because the consent of parents was withheld or because one of the parties, though of age at home, was a minor at the place of celebration. Further, to make the *lex loci celebrationis* supreme enables parties to acquire for themselves any kind of marital capacity they want, by having the marriage solemnized in a state where this kind of marital capacity is sanctioned by law.

A second theory of matrimonial capacity is that it is determined by the *lex domicilii*; Wheat. Int. Law (Lawr.), 172; 4 Phill. Int. Law, 284; 2 Cl. & F. 488; 9 H. L. C. 193. There are two serious objections to this theory. First, it would make the validity of the marriages in the United States of natives of other countries, depend upon the question whether such persons had acquired a

domicil in the United States; for if they had not, they would be governed by the laws of their foreign domicil. Few aliens, who marry in this country, could be sure they were legally married. Second, it would be necessary upon this theory to sustain the polygamous marriages of Chinese; see, as sustaining this theory, L. R. 2 P. & M. 440; 4 P. D. 13; 3 P. D. 1; 29 L. J. P. & M. 97; Westl. 56; but see 125 Mass. 374. According to Savigny, all questions of capacity are to be determined by the husband's domicil, which, as the true seat of the marriage, absorbs that of the wife. It has been conceded that the law of domicil does not extend to the direction of the ceremonial part of the marriage rite, and that the *lex domicilii* is the law of the country in which the parties are domiciled at the time of the marriage, and in which their matrimonial residence is contemplated; Lord Campbell in 9 H. L. C. 193.

The third theory is that matrimonial capacity is a distinctive national policy, as to which judges are obliged to enforce the rules of the state of which they are the officers. So far as concerns the United States, our national policy in this respect is to sustain the matrimonial capacity in all classes of persons arrived at puberty, and free from the impediments of prior ties. This view is approved by Dr. Wharton, *Confl. Laws*, §§ 160-165. See 19 Am. L. Reg. N. S. 76, 219.

At common law, no particular form of words or ceremony was necessary. Mutual assent to the relation of husband and wife was sufficient. Any words importing a present assent to being married to each other were sufficient evidence of the contract. If the words imported an assent to a future marriage, if followed by consummation, this established a valid marriage by the canon law, but not by the common law; 10 Cl. & F. 534; 15 N. Y. 345; 2 Rop. *Husb. & W.* 445-475; 1 How. 219; 2 N. H. 268. But a betrothal followed by copulation does not make the common law marriage *per verba de futuro cum copula* when the parties looked forward to a formal ceremony, and did not agree to become husband and wife without it; 12 R. 1. 485.

At common law the consent might be given in the presence of a magistrate or of any other person as a witness, or it might be found by a court or jury from the subsequent acknowledgment of the parties, or from the proof of cohabitation, or of general reputation resulting from the conduct of the parties. In the original United States the common-law rule prevails, except where it has been changed by legislation; 6 Binn. 405; 4 Johns. 52. See 10 N. H. 388; 4 Burr. 2058; 1 How. 219, 234; 1 Gray, 119; 2 Me. 102.

In civil cases a marriage can generally be proved by showing that the parties have held themselves out as husband and wife, and by general reputation founded on their conduct. This is sufficient, too, for purposes of administration; 2 Redf. 456. There is an exception, however, in the case of such civil suits as are founded on the marriage relation, such as actions for the seduction of the wife, where general reputation and cohabitation will not be sufficient; 4 N. Y. 230; 3 Bradf. *Surr.* 369, 373; 6 Conn. 446; 29 Me. 323; 14 N. H. 450.

In most of the states, the degrees of relationship within which marriages may not be contracted are prescribed by statute. This limit in cases of consanguinity is generally, though not always, that of first cousins. In some of the states, a violation of the rule renders, by statute, the marriage absolutely void. In others, no provision of this kind is made. Various statutes have been passed to guard against abuse of the marriage ceremony. Such of them as require license, or the publication of bans, or the consent of parents or guardians, are regarded as directory, and, unless explicitly declaring the marriage to be void, if not complied with, do not render it void. See 4 Iowa, 449; 26 Mo. 260; 2 Watts, 9; 1 How. 219; 2 Halst. 138; 2 N. H. 268. As to rights of married women, see HUSBAND AND WIFE; WIFE.

—*Bouvier's Law Dictionary*, 1889

Marriage. Legal union of one man and one woman as husband and wife. *Singer v. Hara*, 11 Wash.App. 247, 522 P.2d 1187, 1193. Marriage, as distinguished from the agreement to marry and from the act of becoming married, is the legal status, condition, or relation of one man and one woman united in law for life, or until divorced, for the discharge to each other and the community of the duties legally incumbent on those whose association is founded on the distinction of sex. A contract, according to the form prescribed by law, by which a man and woman capable of entering into such contract, mutually engage with each other to live their whole lives (or until divorced) together in state of union which ought to exist between a husband and wife. The word also signifies the act, ceremony, or formal proceeding by which persons take each other for husband and wife.

In old English law, marriage is used in the sense of "*maritagium*" (*q.v.*), or the feudal right enjoyed by the lord or guardian in chivalry of disposing of his ward in marriage.

See also Avail of marriage; Banns of matrimony; Common-law marriage; Consensual marriage;

Restraint of marriage; Voidable marriage; Void marriage.

Ceremonial marriage. Marriage which follows all the statutory requirements of blood tests, license, waiting period, and which has been solemnized before an official (religious or civil) capable of presiding at the marriage.

Informal marriage. A marriage in which promises are exchanged between the parties without an official ecclesiastical representative present. In most cases, the law requires consummation of the marriage to consider such valid. See **Consensual marriage.**

Jactitation of marriage. See **Jactitation.**

Manus marriage. A form of marriage in early Rome; it formed a relation called *manus* (hand) and brought the wife into the husband's power, placing her as to legal rights in the position of a daughter.

Marriage in jest. A marriage in jest is subject to annulment for lack of requisite consent and intention to marry.

Mixed marriage. A marriage between persons of different nationalities or religions; or, more particularly, between persons of different racial origin; as between a white person and a negro or an Indian. See **Miscegenation.**

Morganatic marriage. The lawful, and inseparable conjunction of a man, of noble or illustrious birth, with a woman of inferior station, upon condition that neither the wife nor her children shall partake of the titles, arms, or dignity of the husband, or succeed to his inheritance, but be contented with a certain allowed rank assigned to them by the morganatic contract. But since these restrictions relate only to the rank of the parties and succession to property, without affecting the nature of a matrimonial engagement, it must be considered as a just marriage. The marriage ceremony is regularly performed; the union is indissoluble; the children legitimate.

Plural marriage. In general, any bigamous or polygamous union, but particularly, a second or subsequent marriage of a man who already has one wife living under system of polygamy. Such marriages are prohibited.

Proxy marriage. Marriage contracted or celebrated by one or more agents rather than by the parties themselves.

Putative marriage. One contracted in good faith and in ignorance of some existing impediment on the part of at least one of the contracting parties. *U. S. Fidelity & Guaranty Co. v. Henderson,*

Tex.Civ.App., 53 S.W.2d 811. Such marriages are recognized in very few jurisdictions.

—*Black's Law Dictionary, 1979*

marriage *n.* **1.a.** The legal union of a man and woman as husband and wife. **b.** Wedlock. **2.** A wedding. **3.** A close union: "*the most successful marriage of beauty and blood in mainstream comics*" (Lloyd Rose). **4.** Games. The combination of the king and queen of the same suit, as in pinochle....

—*The American Heritage Dictionary of the English Language, 1992*

MARRIAGE LICENSE. No entry

—*Bowvier's Law Dictionary, 1889*

Marriage license. A license or permission granted by public authority to persons who intend to intermarry, usually addressed to the minister or magistrate who is to perform the ceremony, or, in general terms, to any one authorized to solemnize marriages. By statute in most jurisdictions, it is made an essential prerequisite to the lawful solemnization of the marriage.

—*Black's Law Dictionary, 1979*

marriage license. No entry

—*The American Heritage Dictionary of the English Language, 1992*

MISCEGENATION a mixture of races. The intermarriage of persons belonging to the white and black races. In many of the states this is prohibited by statute. The constitutionality of such statutes has been repeatedly affirmed; 3 Tex. Ct. App. 263; s. c. 30 Am. Rep. 131; 30 Gratt. 658; 3 Heisk. 287. It has been further held that a statute denouncing a severer penalty on persons of the two races living together in adultery, than that prescribed for a like offence between persons of the same race, is constitutional; 58 Ala. 190; s. c. 29 Am. Rep. 739; 2 Whart. Cr. L. § 1754.

—*Bowvier's Law Dictionary, 1889*

Miscegenation Mixture of races; marriage between persons of different races, as between a white person and a Negro.

—*Black's Law Dictionary, 1979*

miscegenation *n.* **1.** A mixture of different races. **2.** Cohabitation, sexual relations, or marriage involving persons of different races....

—*The American Heritage Dictionary of the English Language, 1992*

PER VERBA DE PRÆSENTI. No entry.

—*Bowvier's Law Dictionary, 1889*

Linda Sue Avants

Per verba de praesenti Lat. By words of the present [tense]. A phrase applied to contracts of marriage.

—*Black's Law Dictionary*, 1979

per verba de praesenti. No entry.

—*The American Heritage Dictionary of the English Language*, 1992

PUBLIC AUTHORITY. No entry.

—*Bouvier's Law Dictionary*, 1889

Public authority. An agency established by government though not a department thereof but subject to some governmental control, *e.g.* Mass. Port Authority. Opinion of the Justices, 334 Mass. 721, 136 N.E.2d 223, 235.

—*Black's Law Dictionary*, 1979

public authority No entry.

—*The American Heritage Dictionary of the English Language*, 1992

STATUTE. A law established by the act of the legislative power. An act of the legislature. The written will of the legislature, solemnly expressed according to the forms necessary to constitute it the law of the state.

This word is used to designate the written law in contradistinction to the unwritten law. See COMMON LAW.

Among the civilians, the term statute is generally applied to laws and regulations of every sort; every provision of law which ordains, permits, or prohibits anything is designated a statute, without considering from what source it arises. Sometimes the word is used in contradistinction from the Imperial Roman law, which, by way of eminence, civilians call the common law.

A *negative statute* is one expressed in negative terms, and so controls the common law that it has no force in opposition to the statute. Bacon, *Abr. Statute* (G).

An *affirmative statute* is one which is enacted in affirmative terms.

Such a statute does not necessarily take away the common law; Co. 2d Inst. 200. If, for example, a statute without negative words declares that when certain requisites shall have been complied with, deeds shall have a certain effect as evidence, this does not prevent their being used in evidence, though the requisites have not been complied with, in the same manner they might have been before the statute was passed; 2 Caines, 169. Or a custom; 6 Cl. & F. 41. Nor does such an affirmative statute repeal a precedent statute if the two can both be given effect: Dwarris, Stat. 474. The distinction between

negative and affirmative statutes has been considered inaccurate; 13 Q. B. 33.

A *declaratory statute* is one which is passed in order to put an end to a doubt as to what is the common law or the meaning of another statute, and which declares what it is and ever has been.

Penal statutes are those which command or prohibit a thing under a certain penalty. Bacon, *Abr.* A statute affixing a penalty to an act, though it does not in words prohibit it, thereby makes it illegal; 14 Johns. 273; 1 Binn. 110; 37 E. L. & E. 475; 14 N. H. 294; 4 Iowa, 490; 7 Ind. 77. See, as to the construction of penal statutes, 2 Cr. L. Mag. Jan. 81.

A *perpetual statute* is one for the continuance of which there is no limited time, although it be not expressly declared to be so.

If a statute which did not itself contain any limitation is to be governed by another which is temporary only, the former will also be temporary and dependent upon the existence of the latter. Bacon, *Abr. Statute* (D).

Private statutes or *acts* are those of which the judges will not take notice without pleading; such as concern only a particular species or person.

Private Statutes may be rendered public by being so declared by the legislature; 1 Bla. Com. 85; 4 Co. 76. And see 1 Kent, 459. Private statutes will not bind *strangers*; though they should contain any saving of their rights. A general saving clause used to be inserted in all private bills; but it is settled that, even if such saving clause be omitted, the act will bind none but the parties.

Public statutes are those of which the courts will take judicial notice without pleading or proof.

They are either general or local, — that is, have operation throughout the state at large, or within a particular locality. It is not easy to say what degree of limitation will render an act local. Thus, it has been held that a public act relating to one county only is not local within the meaning of a constitutional provision which forbids enactments of local bills embracing more than one subject; 5 N. Y. 285; 2 Sandf. 355,

A *remedial statute* is one made to supply such defects and abridge such superfluities in the common law as may have been discovered. 1 Bla. Com. 86.

These remedial statutes are themselves divided into *enlarging* statutes, by which the common law is made more comprehensive and extended

than it was before, and into *restraining* statutes, by which it is narrowed down to that which is just and proper. The term *remedial statute* is also applied to those acts which give the party injured a remedy; and in some cases such statutes are penal; Esp. Pen. Act. 1.

A *temporary statute* is one which is limited in its duration at the time of its enactment.

It continues in force until the time of its limitation has expired, unless sooner repealed. A statute which by reason of its nature has only a single and temporary operation — e.g. an appropriation bill — is also called a temporary statute.

The most ancient English statute extant is Magna Charta. Formerly the statutes enacted after the beginning of the reign of Edw. III. were called *Nova Statuta*, or new statutes, to distinguish them from the ancient statutes.

There is also a distinction in England between *general* and *special* statutes. The former affect the whole community, or large and important sections, the interest of which may be identical with those of the whole body. *Special* statutes relate to private interests, and deal with the affairs of persons, places, classes, etc., which are not of a public character. Wilb. Stat. 218.

As to *mandatory* and *directory* statutes, see 2 Ky. L. Rep. 166.

It is a general rule that when the provision of a statute is general, everything which is necessary to make such provision effectual is supplied by the common law; Co. Litt. 235; Co. 2d Inst. 222; and when a power is given by statute, everything necessary for making it effectual is given by implication: *quando lex aliquid concedit, concedere videtur et id sine quo res ipsa esse non potest*; 12 Co. 130.

The provisions of a statute cannot be evaded by any shift or contrivance; 2 B. & C. 655. Whatever is prohibited by law to be done directly cannot legally be effected by an indirect and circuitous contrivance; 7 Cl. & F. 540.

As to the doctrine of the interpretation of Statutes, See CONSTRUCTION; 2 Cr. L. Mag. 1.

The mode of enacting laws in the United States is regulated by the constitution of the Union and of the several states respectively. The advantage of having a law officer, or board of officers, to revise bills and amendments of bills during their progress through the legislature, has been somewhat discussed. It is urged that legislators often have no general knowledge of law, are ignorant or careless of the extent to which a proposed

law may affect previous statutes on the same or collateral subjects; amendments, too, are affixed without carefully harmonizing them with the bill amended; and special provisions are resorted to when a more general and simple remedy should be applied. Reports of Eng. Stat. Law Com. 1856, 1857; Street, Council of Revision; 5 Rep. Am. Bar Asso.

Much interesting discussion has arisen on the question whether a statute which appears to be contrary to the laws of God and nature, and to right reason, is void. Earlier dicta in the affirmative (see 8 Co. *118 a; 12 Mod. 687) are not now considered to be law; L. R. 6 C. P. 582. See Dwarris, Stat. 482.

In the United States, a statute which contravenes a provision of the constitution of the state by whose legislature it was enacted, or of the constitution of the United States, is in so far void. See CONSTITUTIONAL. The presumption, however, is that every state statute the object and provision of which are among the acknowledged powers of legislation is valid and constitutional; and such presumption is not to be overcome unless the contrary is clearly demonstrated; 6 Cra. 87; 1 Cow. 564; 7 N. Y. 109. Where a part only of a statute is unconstitutional, the rest is not void if it can stand by itself; 1 Gray, 1.

By the common law, statutes took effect by relation back to the first day of the session at which they were enacted; 4 Term, 660. The injustice which this rule often worked led to the statute of 33 Geo. III. c. 13, which declared that, except when otherwise provided, statutes should take effect from the day of obtaining the royal assent, unless otherwise ordered therein. This rule, however, does not obviate the hardship of sometimes holding men responsible under a law before its promulgation. By the Code Napoleon, a law takes effect in each department of the empire as many days after its promulgation in that department as there are distances of twenty leagues between the seat of government and the place of promulgation. The general rule in America is, that an act takes effect from the time when the formalities of enactment are actually complete, unless it is ordered otherwise or there is some constitutional or statutory rule on the subject; Cooley, Const. Lim. 190; 7 Wheat. 164. As to retroactive statutes, see Ex POST FACTO.

A statute is not to be deemed repealed merely by the enactment of another statute on the same subject. There must be a positive repugnancy between the provisions of the new law and the

old, to work it repeal by implication; and even then the old law is repealed only to the extent of such repugnancy; 16 Pet. 342. This rule is supported by a vast variety of cases. There is, however, a qualification to be observed in the case of a revised law. When the new statute is in effect a revision of the old, it may be treated as superseding the former, though not expressly so declared; 7 Mass. 140; 12 *id.* 537, 545; 1 Pick. 43, 154; 9 *id.* 97; 31 Me. 34; 42 *id.* 53; 16 Barb. 15; 5 E. L. & E. 588; 37 N. H. 295; 30 Vt. 344; 8 Tex. 62; 14 Ill. 334; 6 B. Monr. 146. But compare 9 Ind. 337; 10 *id.* 566. A mere change of phraseology in the revision does not, however, necessarily imply a change in the law; 21 Wend. 316; 7 Barb. 191; 33 N. H. 246; 6 Tex. 34.

Where a new statute expressly repeals the former statute, and the new and the repeal of the old are to take effect at the same time, a provision in the old statute which is embodied in the new is deemed to have continued in force without suspension; 3 Wisc. 667; 15 Ill. 595. But it has been held that where the new law does not go into effect until a time subsequent to that at which the repeal takes effect, such a provision is to be deemed repealed meantime; 12 La. An. 593. But see 1 Pick. 33.

When one statute is repealed by another, the unqualified repeal of the repealing statute revives the original; 21 Pick. 492; 1 Gray, 163; 7 W. & S. 263; 1 Ga. 32. This is the common-law rule; but the contrary is provided by statute in some of the United States. Where a repealing act is unconstitutional, the repeal clause is nevertheless operative; 11 Ind. 489; *contra*, 26 Ala. 165; 3 Gray, 476; 14 Mich. 276.

It is not to be presumed in the courts of any state that statutes which have been enacted in that state have also been enacted in other states. The courts assume that the common law still prevails, unless it is shown to have been modified. 22 Barb. 118; *contra*, where the law of the forum has been changed; 70 Penn. 252. See FOREIGN LAWS.

Some laws, such as charters, or other statutes granting franchises, if accepted or acted upon by the persons concerned, acquire some of the qualities of a contract between them and the state; 4 Wheat. 518; 6 Cra. 87; 10 How. 190, 218, 224, 511.

As to the titles of statutes, see TITLES.

—*Bouvier's Law Dictionary*, 1889

Statute. *n.* An act of the legislature declaring, commanding, or prohibiting something; a par-

ticular law enacted and established by the will of the legislative department of government; the written will of the legislature, solemnly expressed according to the forms necessary to constitute it the law of the state. Such may be public or private, declaratory, mandatory, directory, or enabling, in nature. For mandatory and directory statutes, see **Directory** and **Mandatory statutes**.

Depending upon its context in usage, a statute may mean a single act of a legislature or a body of acts which are collected and arranged according to a scheme or for a session of a legislature or parliament.

This word is used to designate the legislatively created laws in contradistinction to court decided or unwritten laws. See **Common law**.

See also Codification; Mandatory statutes; Revised statutes; Slip law; Slip law print; Special law.

Affirmative statute. See **Affirmative**.

Criminal statute. An act of the Legislature as an organized body relating to crime or its punishment. See **Crime**; **Criminal law**; **Penal code**; **Penal laws**.

Declaratory statute. See **Declaratory**.

Enabling statute. See that title.

Expository statute. See that title.

General statute. A statute relating to the whole community, or concerning all persons generally, as distinguished from a private or special statute.

Local statute. See **Local law**.

Negative statute. A statute expressed in negative terms; a statute which prohibits a thing from being done, or declares what shall *not* be done.

Penal statute. See **Crime**; **Criminal law**; **Penal code**; **Penal laws**; **Punitive statute**.

Perpetual statute. One which is to remain in force without limitation as to time; one which contains no provision for its repeal, abrogation, or expiration at any future time.

Personal statutes. In foreign and modern civil law, those statutes which have principally for their object the *person*, and treat of property only incidentally. A personal statute, in this sense of the term, is a law, ordinance, regulation, or custom, the disposition of which affects the person and clothes him with a capacity or incapacity, which he does not change with every change of abode, but which, upon principles of justice and policy, he is assumed to carry with him wherever

he goes. The term is also applied to statutes which, instead of being general, are confined in their operation to one person or group of persons.

Private statute. A statute which operates only upon particular persons, and private concerns. An act which relates to certain individuals, or to particular classes of men. See **Special law**.

Public statute. A statute enacting a universal rule which regards the whole community, as distinguished from one which concerns only particular individuals and affects only their private rights. See also *General statute*, *supra*.

Punitive statute. See that title.

Real statutes. In the civil law, statutes which have principally for their object property, and which do not speak of persons, except in relation to property.

Reference statutes. See that title.

Remedial statute. See **Remedial**.

Revised statutes. See that title.

Special statute. One which operates only upon particular persons and private concerns. A private statute. Distinguished from a general or public statute. See **Special law**.

Statute fair. In old English law, a fair at which laborers of both sexes stood and offered themselves for hire; sometimes called also "Mop."

Statute-merchant. In old English law, a security for a debt acknowledged to be due, entered into before the chief magistrate of some trading town, pursuant to the statute 13 Edw. I, *De Mercatoribus*, by which not only the body of the debtor might be imprisoned, and his goods seized in satisfaction of the debt, but also his lands might be delivered to the creditor till out of the rents and profits of them the debt be satisfied. Now fallen into disuse.

Statute of accumulations. In old English law, the statute 39 & 40 Geo. III, c. 98, forbidding the accumulation, beyond a certain period, of property settled by deed or will.

Statute of allegiance de facto. An act of 11 Hen. VII, c. 1, requiring subjects to give their allegiance to the actual king for the time being, and protecting them in so doing.

Statute of distributions. See **Distribution**.

Statute of Elizabeth. In old English law, the statute 13 Eliz., c. 5, against conveyances made in fraud of creditors.

Statute of frauds. See **Frauds, Statute of**.

Statute of Gloucester. In old English law, the

statute 6 Edw. I, c. 1, A.D. 1278. It takes its name from the place of its enactment, and was the first statute giving costs in actions. 3 Bl.Comm. 399.

Statute of laborers. See **Laborer**.

Statute of limitations. See **Limitation**.

Statute of uses. See **Use**.

Statute of wills. In old English law, the statute 32 Hen. VIII, c., 1, which enacted that all persons being seised in fee-simple (except *femes covert*, infants, idiots, and persons of non-sane memory) might, by will and testament in writing, devise to any other person, except to bodies corporate, two-thirds of their lands, tenements, and hereditaments, held in chivalry, and the whole of those held in socage. 2 Bl.Comm. 375.

Statute roll. A roll upon which an English statute, after receiving the royal assent, was formerly entered.

Statutes at large. An official compilation of the acts and resolutions of each session of Congress published by the Office of the Federal Register in the National Archives and Records Service. It consists of two parts, the first comprising public acts and joint resolutions, the second, private acts and joint resolutions, concurrent resolutions, treatises, proposed and ratified amendments to Constitution, and Presidential proclamations. The arrangement is currently by Public Law number, and by chapter number in pre-1951 volumes. This is the official print of the law for citation purposes where titles of the United States Code have not been enacted into positive law.

Statutes of amendments and jeofailes. Formerly, statutes whereby a pleader who perceived any slip in the form of his proceedings, and acknowledged the error (jeofaile), was permitted to amend.

Statute staple. See **Staple**.

Temporary statute. One which is limited in its duration at the time of its enactment. It continues in force until the time of its limitation has expired, unless sooner repealed. A statute which by reason of its nature has only a single and temporary operation — *e.g.* an appropriation bill — is also called a temporary statute.

Validating statute. See that title.

—*Black's Law Dictionary*, 1979

statute *n*.... **1.** *Law.* A law enacted by a legislature. **2.** A decree or an edict, as of a ruler. **3.** An established law or rule, as of a corporation....

—*The American Heritage Dictionary of the English Language*, 1992

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statute law *n.* A law established by legislative enactment. —*The American Heritage Dictionary of the English Language*, 1992

VOW. No entry.

—*Bouvier's Law Dictionary*, 1889

Vow. No entry. —*Black's Law Dictionary*, 1979

vow *n.* **1.** An earnest promise to perform a specified act or behave in a certain manner, especially a solemn promise to live and act in ac-

cordance with the rules of a religious order: *take the vows of a nun.* **2.** A declaration or an assertion. —**vow** *v.* **vowed, vow•ing, vows.** —*tr.* **1.** To promise solemnly; pledge. See Synonyms at **promise.** **2.** To make a pledge or threat to undertake: *vowing revenge on their persecutors.* —*intr.* To make a vow; promise....

—*The American Heritage Dictionary of the English Language*, 1992

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