Maine Municipal Association
60 Community Drive, Augusta, ME 04330
1-800-452-8786 (in state)
207-623-8428
FAX 207-624-0187
legal@memun.org

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From: Charles Rankie [mailto:crankie@eliotme.org]
Sent: Thursday, July 10, 2014 12:18 PM
To: Legal Services Department
Subject: Eliot - Moral Turpitude

Amanda

Good Day.

At last nights Charter Commission meeting we worked on a section that would govern the Select Board. Something that came up during our discussion on reasons for forfeiture of office was "moral turpitude". Will you please provide us with a definition of moral turpitude?

Thank you for your past help. An emailed reply will work quite well for this.

clr

RE: Eliot - Moral Turpitude

Legal Services Department [Legal_Services_Department@memun.org]

Sent: Tuesday, July 15, 2014 2:52 PM
To: Charles Rankie
Attachments: moral_turpitude__and__define.doc (27 KB)

Hello, Charlie.

I am responding to your inquiry because I was the 'on call" attorney when it came in, and it is not a follow-up to something Amanda Meader has dealt with previously.

Our Law Court has stated that " It is well recognized that moral turpitude cannot be exactly defined by a rule to fit all cases. It may or may not be said to exist, depending on the facts, conditions and circumstances." See *State of Maine v. Peter B. Jenness*, 143 Me. 380; 62 A.2d 867 (1948). In that case, the term is further described as follows:

> The two words "moral turpitude" have been defined as "inherent baseness or [**869] vileness of principle"; "the quality of a crime involving grave infringement of the moral sentiment as distinguished from *mala prohibita*." Webster's New International Dictionary. Generally speaking, crimes *malum in se* involve moral turpitude, while most offenses that are unlawful only because made so by statute, do not. "Moral turpitude" implies something immoral in itself, regardless of its being punishable by the law. It is an act of baseness, vileness, or depravity in the private or social duties which man owes to his fellowmen or to society [***6] in general, contrary to the customary rule of right and duty between man and man. It is something done contrary to justice, honesty, modesty and good morals. The word "moral," in the phrase "moral turpitude," seems to be nothing more than emphasis on the word "turpitude." See Words and Phrases, Permanent Edition (1940), "moral turpitude"; 41 *Corpus Juris*, 212; 14 Am. Jur. 761, Secs. 1114; 27 Cyc. 912; 2 Bouvier's Law Dictionary (Third Revision).

By way of example, the Court offered that "Driving an automobile while intoxicated involves moral turpitude, but not the driving when merely under the influence of liquor. 'Intoxication in the public streets was always an evil thing.'" *State v. Budge, 126 Me. 223, 228; 137 A. 244, 247*; 53 A. L. R. 241.

I have attached a copy of the *Jenness* decision in case you wish to read further, but I believe it is apparent that the application of this term may vary, not only according to the circumstances, but also according to the moral view of those who are applying it and the prevailing view of society at the time it is being applied. Although it is not uncommon to see this term used in municipal charters as the basis for a forfeiture of office, my opinion is that it introduces considerable ambiguity into the forfeiture process, and that a more concrete term, such as "conviction of an offense punishable by one year or more in prison" is certainly clearer and easier to apply.

I hope this is helpful.

Bill

William W. Livengood, Director
Legal Services Department

STATE OF MAINE vs. PETER B. JENNESS

[NO NUMBER IN ORIGINAL]

SUPREME JUDICIAL COURT OF MAINE, KENNEBEC

143 Me. 380; 62 A.2d 867; 1948 Me. LEXIS 33

December 14, 1948, Decided

PRIOR HISTORY: [***1] ON APPEAL AND EXCEPTIONS.

Upon indictment for assault and battery and unlawfully concealing a deadly weapon. For the purpose of affecting respondent's credibility, respondent was asked, subject to objections and exceptions, questions relating to conviction of illegal sales and possession of intoxicating liquor. Verdict of the jury was guilty on both counts. Respondent appealed from denial of motion to set aside the verdict and excepted. Exception sustained. Case fully appears in opinion.

DISPOSITION: Exceptions sustained.

HEADNOTES

Witnesses. Criminal Law. Moral Turpitude. Intoxicating Liquor.

Where statute provides that evidence of commission "of a felony, any larceny or any other crime involving moral turpitude" may be shown to affect the credibility of a witness, convictions for offenses which are not larcenies felonies nor involve moral turpitude cannot be shown. R. S. 1944, Chap. 100, Sec. 128 as amended by P. L. of 1947, Chap. 265.

Illegal sales and possession for illegal sales of intoxicating liquor do not involve moral turpitude.

Moral turpitude implies something immoral in itself regardless of its being punishable by law.

COUNSEL: James L. Reid, County Attorney for Kennebec County, for State of Maine.

McLean, Southard and Hunt, for respondent.

JUDGES: SITTING: STURGIS, C. J., THAXTER, MURCHIE, TOMPKINS, FELLOWS, MERRILL, JJ.

OPINION BY: FELLOWS

OPINION

[*381] [**867] FELLOWS, J. This is an indictment in two counts, one count for assault and battery and the second for unlawfully concealing a deadly weapon. The verdict of the jury was guilty on both counts.

The case comes before the Law Court from the Superior Court in Kennebec County, on appeal from denial of motion to set aside the verdict, and on bill of seven exceptions.

The evidence in this affair is complex and conflicting in its details, [***2] but, briefly stated, the jury probably found: that the [**868] respondent, Peter B. Jenness, and his wife, Katherine M. Jenness, had been having some marital difficulties. They lived in Augusta, but on August 15, 1947, the wife, Katherine Jenness, was visiting at the cottage on Lake Cobbosseecontee belonging to her mother and stepfather, Mr. and Mrs. Ralph T. Park. The respondent went to the Park's cottage to talk with his wife, carrying, as the state claims, binoculars in his hand and a homemade "black jack" in a pocket of his pants. He went into the kitchen and asked for an opportunity to speak to his wife. He was told that he must speak to her outside. When Mrs. Jenness came out of doors the respondent seized his wife's hand and attempted to take a ring, or rings, from her fingers. Mrs. Jenness shouted "Mother -- Dad," and Mr. Park came out of the cottage and attempted to stop the quarrel between them by pulling Mrs. Jenness away. The respondent Jenness then grabbed Mr. Park by his shirt. Park testified, con-

cerning this, that "he let go of her and grabbed hold of my shirt with one hand and reached for his hip pocket with the other. I grabbed for his hand and before I did he [***3] had hold of the club, and I grabbed it away and hit him and it turned him around. He made a lunge for me and I hit him again, and I saw his head was cut, and I threw the club down." The respondent denied that he was the assailant, and denied that he had the weapon with him. The respondent insisted that he was first to be struck, and by someone from behind. What actually was said, what actually happened, and in what order were the happenings, depends upon [*382] whether two witnesses for the state or the testimony of the respondent, are to be believed. There was apparently much ill will between the various members of this family, and the guilt or innocence depends on the true facts. It is evident that the jury did not believe the respondent in any particular. No injury was suffered by Mr. Park beyond the torn shirt. The injuries to the respondent, however, were more or less severe.

FIRST EXCEPTIONS

For the purpose of affecting the credibility of respondent, the respondent was asked, subject to objections and exceptions, the following questions:

> "Were you convicted on September 30, 1930 of illegal possession of intoxicating liquor?"
>
> A. "I was."
>
> "On February 23, 1933 were [***4] you convicted of the crime of conspiracy in the possession and sale of intoxicating liquor?"
>
> A. "Yes."
>
> "On March 2, 1935 were you convicted of the crime of illegal sale of intoxicating liquor?"
>
> A. "I was."
>
> "On June 18, 1935 were you convicted of the crime of sale of intoxicating liquor?"
>
> A. "I was."

The objections of the respondent are based on the ground that the foregoing questions and answers are in violation of Chap. 265 of the P. L. of 1947 (amending R. S. 1944, Chap. 100, Sec. 128) which statute, as amended, provides as follows:

> "No person is incompetent to testify in any court or legal proceedings in consequence of having been convicted of an offence but such commission *of a felony, any larceny, or any other crime involving moral turpitude* may be shown to affect his credibility." (The line through "such," and the italics, [*383] illustrate the changes in the statute made by the 1947 revision).

By this amendment the Legislature plainly intended that only convictions for a felony, or for any larceny, or for a crime involving "moral turpitude," can be shown to affect credibility. Convictions for offenses which are not larcenies [***5] or felonies or do not involve "moral turpitude," cannot be shown.

This brings directly before the court the question of whether these sales and the illegal possession of intoxicating liquor are crimes involving moral turpitude. The second question relating to conspiracy, involves a felony, and was admissible. *State v. Pooler, 141 Me. 274, 280; 43 A.2d 353*. His conviction of a felony may be shown by his own cross-examination. *State v. Knowles, 98 Me. 429; 57 A. 588*; P. L. 1947, Chap. 265.

The two words "moral turpitude" have been defined as "inherent baseness or [**869] vileness of principle"; "the quality of a crime involving grave infringement of the moral sentiment as distinguished from *mala prohibita*." Webster's New International Dictionary. Generally speaking, crimes *malum in se* involve moral turpitude, while most offenses that are unlawful only because made so by statute, do not. "Moral turpitude" implies something immoral in itself, regardless of its being punishable by the law. It is an act of baseness, vileness, or depravity in the private or social duties which man owes to his fellowmen or to society [***6] in general, contrary to the customary rule of right and duty between man and man. It is something done contrary to justice, honesty, modesty and good morals. The word "moral," in the phrase "moral turpitude," seems to be nothing more than emphasis on the word "turpitude." See Words and Phrases, Permanent Edition (1940), "moral turpitude"; 41 *Corpus Juris*, 212; 14 Am. Jur. 761, Secs. 1114; 27 Cyc. 912; 2 Bouvier's Law Dictionary (Third Revision).

[*384] Driving an automobile while intoxicated involves moral turpitude, but not the driving when merely under the influence of liquor. "Intoxication in the public streets was always an evil thing." *State v. Budge, 126 Me. 223, 228; 137 A. 244, 247*; 53 A. L. R. 241.

Under ancient common law one who had been convicted of any criminal offense was not permitted to testify in court, upon the theory that such a person was prob-

ably incapable of telling the truth. That idea was early recognized in Maine as incorrect and unjust, and such an individual was permitted to testify, but his conviction might be shown to affect his credibility.

With the growth of the number of laws and regulations found [***7] necessary to protect the public under modern civilization, many of our citizens voluntarily or unintentionally have become offenders against the law. It is, therefore, the mature consideration of the Legislature that the commission of one or many of the minor statutory offenses, or the breaking of police regulations, do not necessarily show a tendency to testify falsely. It is the "evil" mind that may do so, and it may also be the person who commits a larceny or a felony.

It is well recognized that moral turpitude cannot be exactly defined by a rule to fit all cases. It may or may not be said to exist, depending on the facts, conditions and circumstances. The record of a conviction does not show moral turpitude when the offense is such that a majority of good citizens would not so consider it, even though other good citizens, with minority ideas of reform, might positively affirm its existence. As stated by Judge Hand in *United States v. Day, 34 F.2d 920 (C. C. A. 1929)*:

> "* * * * All crimes violate some law; all deliberate crimes involve the intent to do so. Congress could not have meant to make the willfulness of the act a test; it added as a condition that [***8] it must itself be shamefully immoral. There are probably many persons in the United States who would so regard either the possession or sale of liquor; but [*385] the question is whether it is so by common conscience, a nebulous matter at best. While we must not, indeed, substitute our personal notions as the standard, it is impossible to decide at all without some estimate, necessarily based on conjecture, as to what people generally feel. We cannot say that among the commonly accepted mores the sale or possession of liquor as yet occupies so grave a place; nor can we close our eyes to the fact that large numbers of persons, otherwise reputable, do not think it so, rightly or wrongly."

We hold that illegal sales, and possession for illegal sales of intoxicating liquors, do not involve moral turpitude. Sales, and possession for sale, of intoxicating liquors were considered entirely proper at common law. *Hamilton v. Goding, 55 Me. 419*; 30 American Jurisprudence, 259, Par. 14. Intoxicating liquor was freely sold, and it was not considered morally wrong, by our Colonial ancestors. When Maine became a State its citizens had the right under a state revenue license [***9] to possess and sell. *Lunt's Case, 6 Me. 412*. The State of Maine is now engaged in possession and sale of intoxicating liquors with the ballot approval and direction of a majority of the voters.

The state claims, in its brief, that even if the evidence of these three records of [**870] convictions of illegal possession and illegal sales of intoxicating liquors was not admissible evidence, it should not be considered prejudicial, and the respondent should "take nothing by his exceptions." These errors however, were not mere "technical" errors, nor was the admission of this illegal evidence so unimportant that it clearly would not, under all the circumstances, affect the jury decision. The question presented was a question of credibility. There was the word of a man and his stepdaughter against the word of the stepdaughter's husband on vital facts, and there was much ill will on both sides.

The attorney for the state intended to totally discredit the respondent. He may have improperly done so by this series of inadmissible questions. One question he asked [*386] relating to conspiracy was admissible, because a felony. That question relating to one conviction [***10] might or might not indicate to the jury's mind that the witness was unworthy of belief. It was a matter for the jury, and depended on the attitude of the individual jurors. Several inadmissible questions, however, of convictions from which the attorney would argue moral turpitude, might show to the jury's mind a total depravity. If, as the state claims, all these additional and inadmissible questions are not to be considered prejudicial, why did the attorney ask more than the one relating to conspiracy? With an intended prejudice, improperly aroused in the jury's mind by many law violations, logic usually meets with a cool reception. The Legislature has said that such questions should not be admitted, and the court cannot say, as a matter of law, that if several such questions are asked and improperly admitted that they are not to be considered prejudicial under circumstances as here shown. It is not for the court to determine on this record whether there is guilt or innocence. The jury has the right and duty to find a verdict, but they must not find a verdict which may have been influenced by a mass of evidence admitted contrary to legislative order and direction.

Because of our [***11] decision that this evidence was inadmissible, as contained in the first exceptions, and because the jury may have been improperly influenced by its admission, it is unnecessary to consider other claimed errors.

Exceptions sustained.

Attachment 1-23-14

From Black's Law Dictionary

human hands). Delphey v. Savage, 227 Md. 373, 177 A.2d 249, 251. *See also* Natural monument.

Monumenta quæ nos recorda vocamus sunt veritatis et vetustatis vestigia /mónyəmentə kwìy nówz rəkórdə vowkéyməs sənt vèhrətéytəs èt vèdəstéytəs vəstíj(iy)ə/. Monuments, which we call "records," are the vestiges of truth and antiquity.

Monung. *See* Manung.

Moonlighting. Working at another job after hours of regular job. Bealmer v. Texaco, Inc., C.A.Cal., 427 F.2d 885, 886.

Moonshine. Intoxicating liquor illicitly produced or smuggled into community for beverage purposes, or spirituous liquor, illegally distilled or manufactured. State v. King, 331 Mo. 268, 53 S.W.2d 252, 254.

Moorage. A sum charged for use of mooring facilities. Act of mooring vessel.

Mooring. Anchoring or making fast to the shore or dock. The securing or confining a vessel in a particular station, as by cables and anchors or by a line or chain run to the wharf.

Moot. A subject for argument; unsettled; undecided. A moot point is one not settled by judicial decisions.

Moot case. A case is "moot" when a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing controversy. Leonhart v. McCormick, D.C.Pa., 395 F.Supp. 1073, 1076. Question is "moot" when it presents no actual controversy or where the issues have ceased to exist. Matter of Lawson's Estate, 41 Ill.App.3d 37, 353 N.E.2d 345, 347.

Generally, an action is considered "moot" when it no longer presents a justiciable controversy because issues involved have become academic or dead. Sigma Chi Fraternity v. Regents of University of Colo., D.C.Colo., 258 F.Supp. 515, 523. Case in which the matter in dispute has already been resolved and hence, one not entitled to judicial intervention unless the issue is a recurring one and likely to be raised again between the parties. Super Tire Engineering Co. v. McCorkle, 416 U.S. 115, 94 S.Ct. 1694, 40 L.Ed.2d 1. A case becomes "moot" when the issues presented are no longer "live" or the parties lack a legally cognizable interest in the outcome. Murphy v. Hunt, U.S.Neb., 455 U.S. 478, 102 S.Ct. 1181, 1182, 71 L.Ed.2d 353.

Moot court. A court held (normally in law schools) for the arguing of moot or hypothetical cases.

Moot hill. Hill of meeting *(gemot)*, on which the Britons used to hold their courts, the judge sitting on the eminence; the parties, etc., on an elevated platform below.

Mooting. The exercise of arguing questions of law or equity, raised for the purpose. *See* Moot court.

Moot man. One of those who used to argue the reader's cases in the inns of court.

Mora /mórə/. Lat. In the civil law, delay; default; neglect; culpable delay or default.

Moral. Pertains to character, conduct, intention, social relations, etc.

1. Pertaining or relating to the conscience or moral sense or to the general principles of right conduct.

2. Cognizable or enforceable only by the conscience or by the principles of right conduct, as distinguished from positive law.

3. Depending upon or resulting from probability; raising a belief or conviction in the mind independent of strict or logical proof.

4. Involving or affecting the moral sense; as in the phrase "moral insanity."

Moral actions. Those only in which men have knowledge to guide them, and a will to choose for themselves.

Moral certainty. That degree of assurance which induces a man of sound mind to act, without doubt, upon the conclusions to which it leads. A high degree of impression of the truth of a fact, falling short of absolute certainty, but sufficient to justify a verdict of guilty, even in a capital case. Such signifies a probability sufficiently strong to justify action on it; a very high degree of probability, although not demonstrable, as a certainty. It has also been used as indicating a conclusion of the mind established beyond a reasonable doubt. Gray v. State, 56 Okl.Cr. 208, 38 P.2d 967.

Moral consideration. *See* Consideration.

Moral duress. Consists in imposition, oppression, undue influence, or the taking of undue advantage of the business or financial stress or extreme necessity or weakness of another. Lafayette Dramatic Productions v. Ferentz, 305 Mich. 193, 9 N.W.2d 57, 66. *See also* Coercion; Duress.

Moral evidence. As opposed to "mathematical" or "demonstrative" evidence, this term denotes that kind of evidence which, without developing an absolute and necessary certainty, generates a high degree of probability or persuasive force. It is founded upon analogy or induction, experience of the ordinary course of nature or the sequence of events, and the testimony of men.

Moral fraud. This phrase is one of the less usual designations of "actual" or "positive" fraud or "fraud in fact," as distinguished from "constructive fraud" or "fraud in law." It means fraud which involves actual guilt, a wrongful purpose, or moral obliquity.

Moral hazard. *See* Hazard.

Moral law. The law of conscience; the aggregate of those rules and principles of ethics which relate to right and wrong conduct and prescribe the standards to which the actions of men should conform in their dealings with each other. *See also* Natural law.

Moral obligation. *See* Obligation.

Moral turpitude. The act of baseness, vileness, or the depravity in private and social duties which man owes to his fellow man, or to society in general, contrary to accepted and customary rule of right and duty between man and man. State v. Adkins, 40 Ohio App.2d 473, 320

N.E.2d 308, 311, 69 O.O.2d 416. Act or behavior that gravely violates moral sentiment or accepted moral standards of community and is a morally culpable quality held to be present in some criminal offenses as distinguished from others. Lee v. Wisconsin State Bd. of Dental Examiners, 29 Wis.2d 330, 139 N.W.2d 61, 65. The quality of a crime involving grave infringement of the moral sentiment of the community as distinguished from statutory mala prohibita. People v. Ferguson, 55 Misc.2d 711, 286 N.Y.S.2d 976, 981. *See also* Turpitude.

Morandæ solutionis causa /mərǽndiy sal(y)úwshiyównəs kózə/. Lat. For the purpose of delaying or postponing payment or performance.

Mora reprobatur in lege /mórə rèprəbéytər in liyjiy/. Delay is reprobated in law.

Moratorium /mòhrətór(i)yəm/. A term designating suspension of all or of certain legal remedies against debtors, sometimes authorized by law during financial distress. A period of permissive or obligatory delay; specifically, a period during which an obligor has a legal right to delay meeting an obligation. State ex rel. Jensen Livestock Co. v. Hyslop, 111 Mont. 122, 107 P.2d 1088, 1092. Delay or postponement of a legal obligation or an action or proceeding. *See* Injunction; Restraining order.

More favorable terms clause. A provision in a labor-management contract by which the union agrees not to make more favorable agreements with other and competing employers.

More or less. About; substantially; or approximately; implying that both parties assume the risk of any ordinary discrepancy. The words are intended to cover slight or unimportant inaccuracies in quantity, Carter v. Finch, 186 Ark. 954, 57 S.W.2d 408; and are ordinarily to be interpreted as taking care of unsubstantial differences or differences of small importance compared to the whole number of items transferred.

Moreover. In addition thereto, also, furthermore, likewise, beyond this, besides this.

Morganatic-marriage. *See* Marriage.

Morgangina, *or* **morgangiva** /morgǽnjənə/°jəvə/. A gift on the morning after the wedding; dowry; the husband's gift to his wife on the day after the wedding.

Morgue /mórg/. A place where the bodies of persons found dead are kept for a limited time and exposed to view, to the end that their relatives or friends may identify them.

Mormon. A member of the Church of Jesus Christ of Latter-day Saints. The Church was organized in 1830 at Seneca, New York, by Joseph Smith, and today its headquarters are in Salt Lake City, Utah.

Morning loan. An unsecured loan to permit the borrower, generally a stockbroker, to carry on his business for the day.

Morphinomania, *or* **morphinism** /mórfənəméyn(i)yə /mórfənizəm/. The opium habit. An excessive desire for morphia.

Mors /mórz/. Lat. Death. State v. Logan, 344 Mo. 351, 126 S.W.2d 256, 259.

Mors dicitur ultimum supplicium /mórz dísətər últəməm səplísh(iy)əm/. Death is called the "last punishment," the "extremity of punishment."

Morsellum, or **morsellus, terræ** /morséləm téhriy /°morséləs°/. In old English law, a small parcel or bit of land.

Mors omnia solvit /mórz ómniyə sólvət/. Death dissolves all things. Applied to the case of the death of a party to an action.

Mortal. Destructive to life; causing or occasioning death; exposing to or deserving death, especially spiritual death; deadly; fatal, as, a mortal wound, or mortal sin; of or pertaining to time of death.

Mortality. The relative incidence of death.

Mortality tables. A means of ascertaining the probable number of years any man or woman of a given age and of ordinary health will live. A mortality table expresses, on the basis of the group studied, the probability that, of a number of persons of equal expectations of life who are living at the beginning of any year, a certain number of deaths will occur within that year. National Life & Acc. Ins. Co. v. U. S., D.C.Tenn., 381 F.Supp. 1034, 1037.

Such tables are used by insurance companies to determine the premium to be charged for those in the respective age groups.

Mort civile /mór(t) səvíyl/. In French law, civil death, as upon conviction for felony. It was nominally abolished in 1854, but something very similar to it, in effect at least, still remains. Thus, the property of the condemned, possessed by him at the date of his conviction, goes and belongs to his successors *(héritiers)*, as in case of an intestacy; and his future acquired property goes to the state by right of its prerogative *(par droit de déshérence)*, but the state may, as a matter of grace, make it over in whole or in part to the widow and children.

Mort d'ancestor /mórt dǽnsəstər/. An ancient and now almost obsolete remedy in the English law. An assize of *mort d'ancestor* was a writ which lay for a person whose ancestor died seised of lands in fee-simple, and after his death a stranger abated; and this writ directed the sheriff to summon a jury or assize, who should view the land in question and recognize whether such ancestor were seised thereof on the day of his death, and whether the demandant were the next heir.

Mortgage /mórgəj/. A mortgage is an interest in land created by a written instrument providing security for the performance of a duty or the payment of a debt.

At common law, an estate created by a conveyance absolute in its form, but intended to secure the performance of some act, such as the payment of money, and the like, by the grantor or some other person, and to become void if the act is performed agreeably to the terms prescribed at the time of making such conveyance.

received by a child so enticed the entry is not regarded as unlawful, and does not necessarily preclude a recovery of damages; the attractiveness of the machine or structure amounting to an implied invitation to enter. It imposes a liability on a property owner for injuries to a child of tender years, resulting from something on his premises that can be operated by such a child and made dangerous by him, and which is attractive to him and calculated to induce him to use it, where he fails to protect the thing so that a child of tender years cannot be hurt by it.

Doctrine is that who maintains or creates upon his premises or upon the premises of another in any public place an instrumentality or condition which may reasonably be expected to attract children of tender years and to constitute a danger to them is under duty to take the precautions that a reasonably prudent person would take under similar circumstance, to prevent injury to such children. Schock v. Ringling Bros. and Barnum & Bailey Combined Shows, 5 Wash.2d 599, 105 P.2d 838, 843.

The dangerous and alluring qualities of a railroad turntable gave the "attractive nuisance rule" the name of "Turntable Doctrine." Louisville & N. R. Co. v. Vaughn, 292 Ky. 120, 166 S.W.2d 43, 46.

See also Attractive nuisance doctrine.

Turpis /tárpəs/. Lat. In the civil law, base; mean; vile; disgraceful; infamous; unlawful. Applied both to things and persons.

Turpis causa /tárpəs kózə/. A base cause; a vile or immoral consideration; a consideration which, on account of its immorality, is not allowed by law to be sufficient either to support a contract or found an action; *e.g.*, future illicit intercourse.

Turpis contractus /tárpəs kəntrǽktəs/. An immoral or iniquitous contract.

Turpis est pars quæ non convenit cum suo toto /tárpəs èst párz kwíy nón kənvíynət kòm s(y)úwow tówtow/. The part which does not agree with its whole is of mean account [entitled to small or no consideration].

Turpitude /tərpət(y)úwd/. In its ordinary sense, inherent baseness or vileness of principle or action; shameful wickedness; depravity. In its legal sense, everything done contrary to justice, honesty, modesty, or good morals. An action showing gross depravity. Traders & General Ins. Co. v. Russell, Tex.Civ.App., 99 S.W.2d 1079, 1084.

Moral turpitude. A term of frequent occurrence in statutes, especially those providing that a witness' conviction of a crime involving moral turpitude may be shown as tending to impeach his credibility. In general, it means neither more nor less than "turpitude," *i.e.*, anything done contrary to justice, honesty, modesty, or good morals. It is also commonly defined as an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man or to society in general, contrary to the accepted and customary rule of right and duty between man and man. Although a vague term, it implies something immoral in itself, regardless of its being punishable by law. Thus excluding unintentional wrong, or an improper act done without unlawful or improper intent. It is also said to be restricted to the gravest offenses, consisting of felonies, infamous crimes, and those that are *malum in se* and disclose a depraved mind. Bartos v. United States District Court for District of Nebraska, C.C.A.Neb., 19 F.2d 722, 724. *See also* Moral turpitude.

Turpitudo /tərpət(y)úwdow/. Lat. Baseness; infamy; immorality; turpitude.

Tuta est custodia quæ sibimet creditur /t(y)úwtə èst kəstówd(i)yə kwíy síbaymet krédətər/. That guardianship is secure which is intrusted to itself alone.

Tutela /t(y)uwtíylə/. Lat. In the civil law, tutelage; that species of guardianship which continued to the age of puberty; the guardian being called *"tutor,"* and the ward, *"pupillus."* A power given by the civil law over a free person to defend him when by reason of his age he is unable to defend himself. A child under the power of his father was not subject to tutelage, because not a free person, *caput liberum.*

Tutelæ actio /t(y)uwtíyliy ǽkshi(y)ow/. Lat. In the civil law, an action of tutelage; an action which lay for a ward or pupil, on the termination of tutelage, against the *tutor* or guardian, to compel an account.

Tutelage /t(y)úwtəlaj/. Guardianship; state of being under a guardian. *See* Tutela.

Tutela legitima /t(y)uwtíylə lajítəmə/. Legal tutelage; tutelage created by act of law, as where none had been created by testament.

Tutelam reddere /t(y)uwtíyləm rédəriy/. Lat. In the civil law, to render an account of tutelage. *Tutelam reposcere*, to demand an account of tutelage.

Tutela testamentaria /t(y)utíylə tèstəmentér(i)yə/. Testamentary tutelage or guardianship; that kind of tutelage which was created by will.

Tuteur. In French law, a kind of guardian.

Tuteur officieux. A person over fifty years of age may be appointed a tutor of this sort to a child over fifteen years of age, with the consent of the parents of such child, or, in their default, the *conseil de famille.* The duties which such a tutor becomes subject to are analogous to those in English law of a person who puts himself *in loco parentis* to any one.

Tuteur subrogé. The title of a second guardian appointed for an infant under guardianship. His functions are exercised in case the interests of the infant and his principal guardian conflict.

Tutius erratur ex parte mitiore /t(y)úwsh(iy)əs ehréytər èks pártiy mishiyóriy/. It is safer to err on the gentler side [or on the side of mercy].

Tutius semper est errare acquietando, quam in puniendo, ex parte misericordiæ quam ex parte justitiæ /t(y)úwsh(iy)əs sémpər èst ehrériy əkwàyətǽndow, kwǽm in pyuwniyéndow, èks pártiy mizərəkórdiyiy kwǽm èks