

Liber rubeus magnus: Volumen XVII - Collectio Verborum Latinorum

April 2024

Introduction

Dearest Reader

Welcome to Norton Rose Fulbright South Africa's The Big Read Book Series. This is volume 17 of the series – A collection of Latin terms. An online version of this publication is available through our Financial Institutions Legal Snapshot blog at <https://www.financialinstitutionslegalsnapshot.com/> with links to the judgments.

You can also keep up with developments in insurance law including South African judgments and instructive judgments from other countries by subscribing to our blog through that link. You can access the other volumes [here](#).

Norton Rose Fulbright South Africa Inc
April 2024

Latin is an efficient language but very few people now learn Latin in school or at university. Because of the Roman-Dutch heritage of our legal system, the use of Latin has persisted in court, in textbooks, in academic articles and in some old legislation. Roman-Dutch jurists in South Africa who had a mastery of Latin and Dutch were able to cleanse our common law from some unnecessary English law influences.

We have collected a number of Latin expressions and words that you are likely to come across in legal and other writing. This book is not intended to encourage the use of Latin. It is often a sign of legalese rather than giving clarity. There is usually a good English translation for a Latin phrase and our list will help.

The explanations are light and sometimes light-hearted and we hope you will find this list both helpful and entertaining.

Latin terms

A

ad hoc

Means '**for this particular purpose**!' The more casual use as 'impromptu' or 'without forethought' is not strictly correct but is common.

ad idem

Can be simply translated as in **agreement**.

a fortiori

The Cambridge Guide to English Usage defines this phrase perfectly: "*This elliptical phrase means roughly **by way of something stronger**. Far from being an oblique reference to fetching the whisky, it's used in formal discussion to mean 'with yet stronger reason' and to introduce a second point which the speaker or writer feels will clinch the argument.*"

a priori

This phrase is usually used regarding reasoning and it means **from what went before** to suggest cause and effect. As the cause relied on is often an assumption, it can have negative connotations.

amicus curiae

The literal translation is exact, namely **friend of the court**. With the growing number of human rights cases, a friend of the court is often an important contributor to give the courts a broader picture than the immediate, adversarial litigants might do.

animus

Though literally this means **intention**, in the legal context it normally implies a hostile intent to injure or insult.

audi alteram partem

Espoused by Augustine, the requirement to **hear the other side** is an important principle of natural justice in dispute resolution and administrative law. It does not mean "*if you damage my Audi, I will break you in pieces*".

B

blandae mendacia linguae

Which is the **lies of a flattering tongue** as a warning against silver-tongued advocacy.

bona vacantia

Goods without an owner which then belong to the state. The assets of a corporation wrongly deregistered may revert to the state till the company is re-registered.

brutum fulmen

An **innocuous thunderbolt** used in the sense of an empty threat.

bona fide(s)

Despite the persistence of the Latin, **good faith** will do. Both forms are singular and *bona fide* is sometimes translated as 'in good faith' (an offer in good faith).

C

cadit quaestio

Literally **the question falls** meaning that the argument has reached a point where there is nothing more to be said. The question is answered.

caveat emptor

Let the buyer beware, a phrase which is less immediate in this age of consumer protection legislation.

coitus interruptus

A discreet Latin description of an unreliable form of contraception. Edward Gibbon used Latin phrases to keep his text chaste by using what he called "decent obscurity".

compos mentis

Of sound mind. Over-devotion to television viewing is more likely to produce *compost mentis*.

contra bonos mores

Harmful to the moral welfare of society and therefore unenforceable in a court, such as an agreement to commit a crime.

cuius est solum, ejus est usque ad caelum et usque ad infero

Whoever owns the land owns it up to the heavens and down to the core of the earth. In an age where the mineral rights are often owned by the state and airspace is controlled by the state, the maxim has become an over-simplification.

contra proferentem

Literally, **against the proffering party** where ambiguity or uncertainty in a document is construed against the party responsible for drafting it.

D

damnum sine injuria esse potest

Physical injury without legal liability is possible – which is why players cannot sue for ordinary rugby injuries (other than a defence of insanity).

doli incapax

Legally incapable of committing a wrong. There is an extraordinary presumption that children under a certain age (seven in some parts of the world, ten in others) cannot act maliciously which most parents will tell you is an unjustifiable assumption.

dona clandestina sunt semper suspiciosa

Secret gifts are always suspicious. The reason for bribery laws.

E

ejusdem generis

Of the same type. Where particular words describe a particular category of thing or person, general words that follow may be interpreted to include only things of the same class. It's the 'birds-of-a-feather' principle. So 'oranges, apples, peaches, etc' means all fruit but "oranges, lemons, grapefruit etc' probably means all citrus fruit.

e pluribus unum

Out of many one, or, simply, **united**, which explains why it is the motto on the USA seal. Clear light from the full spectrum of colours is a more poetic example.

ex abundantia cautela

From an abundance of care. This is the Latin belt-and-braces principle.

ex contractu

Arising from contract. It is usually a judicial policy decision whether someone who breaches a contract can also be sued in delict (tort) for any harm done (which is, for instance, usually the case in medical negligence actions).

ex gratia

As an act of grace or as a favour. Remember if you pay a claim *ex gratia* your goodness may not be rewarded because in the absence of a legal liability to pay, you may not be able to recover your outlay from a third party responsible for your loss.

ex officio

By virtue of the office or status held - to be consequently given some position or privilege eg the MD is *ex officio* chairman of the board.

ex parte

In relation to a court application, **by one party only without notice to any other party**. It is not a hangover.

ex tempore

On the spur of the moment. It can be described as an off the cuff speech, which often proves the rule that an unprepared speech is not worth the paper it is written on.

ex turpi causa non oritur actio

A claim will not be countenanced by a court if the party bringing the claim is **equally guilty of moral turpitude** or illegal conduct. It is similar to the requirement of having to come to court with clean hands.

F**fac simile**

Literally **make the like**. A facsimile. But 'fax' in Latin is a burning torch.

ferae naturae

Of an animal, **wild**. The opposite of domesticated and related to liability in delict.

fiat justiti

Let justice be done. Sometimes the words *ruat caelum*, 'though the heavens fall' are added.

forum conveniens

More correctly, the **appropriate forum** rather than the convenient forum; the jurisdiction where the interests of justice will best be served.

flagrante delicto

Caught **in the act of committing the crime** from *flagro* 'to burn with passion' giving some clue to its common use.

functus officio

Having performed his or her office. With the official job done a person is no longer vested with the powers of office. For instance a judge is *functus officio* after delivering a judgment and cannot change the decision.

G**generalia**

General words or principles. Often used in *generalia specialibus non derogant*, a guide to interpretation of contracts & statutes that general provisions don't prevail over special provisions.

gradus

A step. Often seen in *gradus ad Parnassum*. Parnassum was the highest part of the mountain range near Delphi and the phrase refers to a step-by-step (*gradatim*) guide, generally in the arts.

grammatica falsa non vitiat chartam

False grammar does not vitiate a deed which is a good thing for many lawyers but it may change the rights of the parties.

gravitas

A serious or solemn demeanour, once prized in judges.

H**habeas corpus**

Have [produce] the body. A long-standing human rights law requiring arrested persons to be brought before a court straight away to determine if the detention is lawful.

habendum et tenendum

To have and to hold. The opposite of having your cake and eating it.

hostis humani generis

Enemy of mankind subject to capture by all states (e.g. a pirate). Nowadays, sought by Interpol.

I

ignorantia juris non excusat

This well-known phrase needs little introduction: **ignorance of the law is no excuse** (except in rare circumstances).

imperitia culpa adnumeratur

Lack of skill is blameworthy. If an activity needs particular skills (eg of a surgeon), it is negligent to act without applying that level of skill.

in aeternum

For eternity. You could also say, 'For ever.' 'To the ends of time.' 'To infinity and beyond!'

in camera or in curia

For court proceedings, in private, or in open court.

in extenso

Stated at full length. The sign of a bore.

in extremis

At the point of death. Voltaire in extremis, invited to renounce the devil, said "This is no time to make new enemies".

in forma pauperis

Destitute and therefore not required to pay the costs in a law suit. Most of us after buying our first property.

in gremio legis

In the lap of the law. In open and democratic societies everyone should be under the protection of the law.

in iudicando esto pupillis misericors

In judging be merciful to minors. A worthy sentiment.

in limine

On the threshold. Usually a preliminary point taken in court proceedings in the hope of defeating the whole action.

in loco parentis

A person in the place of a parent and therefore having similar obligations to care for the child eg a playschool.

in specie

In tangible form. Repayment of a debt paid in gold coins is repaid in specie in gold coins.

in terrorem

By way of a threat. As in an excessive penalty for breach.

intra vires

Validly done within one's powers to act.

in vacuo

In a vacuum. Without any context.

in vino veritas

In wine there is truth. Alcohol being a later-to-be-regretted truth serum.

in finitum jure reprobatur

The law abhors endless litigation (i.e. wishful thinking).

injuria

Injury usually used in relation to reputation rather than bodily injury.

ipse dixit

In their own words. An uncorroborated statement not to be confused with *ipsissima verba* meaning the exact words used.

ipso facto

By the very fact itself. "Therefore" will usually do.

ipso jure

By the operation of law.

in pari delicto

Equally corrupt. When two parties to a deal are equally villainous the court will not come to either party's aid.

in pari materia

Of like material or substance, or materially similar showing nicely the origin of the word 'material' in both senses.

in private

See if you can guess.

in promptus

In readiness. The Latin origin of impromptu, unrehearsed.

ius

A right, or a legal system. Better not spelt using a "j" to avoid confusion with juice.

ius civile

The civil law. In Roman times this was the law of Rome as opposed to the *jus gentium* which were laws of universal application.

J

The letter “j” is a latecomer to the alphabet and was not used in Roman Latin where an “i” was invariably used (and still is by the purists).

jacta alea est

The die is cast. Attributed to Julius Caesar when he crossed the Rubicon to challenge the Roman authorities and started the civil war.

judex a quo

The judge or court appealed from. Usually the called the court *a quo*.

justa causa

A just cause or lawful ground. Used in Roman law instead of the need for a consideration as the basis for an agreement.

justus error

A reasonable or excusable error. Sometimes excusing liability.

K

Although there was a “k” in Latin the ‘c’ was preferred and “k” is hardly ever used.

L*laesa majestas*

Injured majesty. The crime of *laesae majestatis* is the crime of high treason.

legem brevem esse oportet

A law should be brief. A rare achievement.

legum baccalaureus and legum majister

LLB and LL.M. Well-known law degrees. LL.M.’s now the AI large language model.

lex fori

Law of the forum. The law of the court in which the action is heard.

lex loci

The law of the place. The law where the act occurred.

lex non cogit ad impossibilia

The law does not compel the impossible.

lis alibi pendens

The lawsuit is pending elsewhere. You cannot sue for the same cause in two different courts at once.

lis sub judice

The lawsuit is before a judge. Often used as an excuse for ‘no comment’.

locus classicus

A classic place or source. It refers to the leading authority on a point.

locus standi

Legal standing. The right to bring a case before a court.

M*magna carta*

Great charter of liberty and political rights of 1215, much written about in 2015.

mala fide

In bad faith. Done fraudulently or dishonestly.

Mandamus

We command. Usually a court order obliging the respondent to do something.

mea culpa

My fault! Your insurers won’t thank you for saying so.

mendacem memorem esse oportet

A liar should have a good memory. The first thing a witness being cross-examined should remember.

mirabile dictu

Amazingly. Or ‘wonderful to relate.’ Often used ironically.

modus operandi

Manner of working. Sometimes used as evidence of a pattern of criminal behaviour to prove a crime.

modus vivendi

Way of living. ‘Lifestyle’ being the modern equivalent.

moratorium

From the Latin *mora* for **delay**. A temporary suspension of an obligation to do something or pay a debt.

mortis causa

In contemplation of approaching death—for instance, the forgiveness of debt on one’s deathbed

mutatis mutandis

With necessary changes. As when you incorporate the terms of another document into a contract and minor changes are needed.

N

necessitas non habet leges

Necessity has no law. Acting from necessity can be a defence to allegations of wrongful conduct.

nemine contradicente (usually written *nem.con*)

Nobody dissenting. As in the tacit unanimous approval at a meeting.

nemo iudex in causa sua

Nobody should judge in their own cause. No-one should sit in judgment in a matter in which they have a personal involvement or interest, which may be a ground for asking for recusal.

ne sutor ultra crepidam

Let the cobbler not venture beyond the sandal. Stick to what you know.

nolle prosequi

No wish to proceed. It indicates that the prosecution authority will not be proceeding with a criminal matter. I knew of a deputy attorney general years ago who when he got too busy, threw all the files up in the air and those that landed on the floor were stamped *nolle prosequi*.

non compos mentis

No control of one's mind. An unsound mind is a defence to an accusation of wrongfulness.

non sequitur

It does not follow. Usually used as a noun about something that does not logically follow from what was said immediately before.

noscitur a sociis

Known from fellow travellers. People or words are understood by the company they keep.

nota bene

Note well. A warning to take care with what follows. Now the clichéd phrase 'it is important to note.'

novus actus interveniens

A new intervening act or cause. A subsequent act that breaks the chain of causation so that the original wrongdoer is not responsible for the final adverse outcome.

noxiae poena par esto

Let the punishment fit the crime (Cicero).
A principle of sentencing.

nulla poena sine lege

No punishment without law. You can only have criminal law consequences for a clearly stated crime which is in force when the event occurs.

O

obiter dictum

Something said by the way. In court judgments, a non-binding statement of the law not essential to the outcome.

obscurum per obscurius

Explaining something obscure by what is more obscure. Often the case when lawyers attempt to argue by analogy.

omnia praesumuntur rite esse acta

All things are presumed to have been correctly done.
An odd presumption in a world where life happens.

onus probandi

Usually referred to as the onus, namely the burden of proof. Who bears the onus is important in court proceedings.

opere citato

In the work cited. Usually seen as the abbreviation op cit in footnotes.

P

pacta sunt servanda

Agreements must be honoured. An important principle of law and commerce.

pari passu

With equal pace or force. Particularly when balancing the ranking of two or more parties or assets in a transaction.

paterfamilias

Male head of the family. The unfortunate Roman law concept that has preserved patriarchy.

paucis verbis

With few words. The Latin phrase least remembered by lawyers who write in legalese.

pendente lite

While a lawsuit is pending. Not a chandelier.

per annum

Annually. The extra 'n' distinguishes it from the medical term.

per incuriam

Through lack of care. Usually used regarding an unreliable judicial pronouncement made carelessly.

per procurationem

Through the agency of. Abbreviated to p.p. when signing for another.

persona non grata

An unwelcome person. In international affairs, the reason for the sudden homesickness of diplomatic personnel.

post scriptum

Written afterwards. A PS; a lost device in this easy-correct electronic age.

pro bono publico

For the public good. Usually 'pro-bono', referring to unpaid legal work for a good cause.

Q

quae fuerant vitia mores sunt

What were vices are now the fashion. Increasingly the case in this fast-moving world, as with marijuana.

quantum meruit

As much as is deserved. Used to reduce a contract price to what is reasonable for the job done.

quicquid plantatur solo, solo cedit

Whatever is attached to the soil belongs to the soil. A building on land cannot be separately owned.

quid faciat leges, ubi sola pecunia regnat

What will laws do where only money rules. A cry for anti-corruption laws.

quid pro quo

Something for something. The basis of every contract.

qui prior est tempore potior est jure

Earlier in time is stronger in law. An earlier right beats a later competing interest.

quis custodiet ipsos custodes

Who guards the guardians? (Juvenal) The reason for eunuchs to guard women in ancient times.

qui tacet consentit

Silence gives assent. In constitutional democracies the right to silence is usually protected.

quod erat demonstrandum (QED)

What was to be demonstrated (has been proved). Usually used for self-congratulation.

quod vide (q.v)

Which see. A way of cross-referencing in a text.

R

ratio decidendi

The reasons for the decision. The core reasons for the finding in a court judgment.

re

In the matter of. Probably the most commonly used Latin word.

reductio ad absurdum

Reduced to absurdity. A line of argument used to show that the opposition's proposed reasoning leads to a nonsensical conclusion. The argument itself is often as nonsensical.

res inter alios acta

A transaction between persons which cannot be relied on by a third party. Car insurance eg cannot benefit a third party causing the damage.

res ipsa loquitur

The thing speaks for itself. The Latin equivalent of 'duh'. Not a telephone.

res nullius

A thing belonging to no-one. Throw something away, other than a boomerang, and you lose ownership which the possessor can acquire.

S

sic

Thus. To indicate a misspelling or other error. Don't use it unless you have to. It looks self-righteous.

sine die

Without a day. An adjournment of court case or meeting, etc to an unspecified date, which often leads to delays.

stare decisis

Stand by decided matters. Past judgments are binding unless clearly wrong or overridden. The recent UK Supreme Court Brexit decision relied on case law going back to 1611.

sub rosa

Under the rose. A Roman symbol of secrecy. The annual government budget speech is kept *sub rosa* until the minister introduces it in parliament.

sub judice

Before a judge. Formerly pending cases were *sub judice* and kept confidential. In this age of media freedom, it seldom applies without a gagging order.

subpoena

Under penalty. A summons to appear in court to give evidence or produce documents, ignored at the risk of a fine or imprisonment.

sui generis

Of its own kind. In a contract often something unique and not part of a group of things or words.

T

tabula rasa

A scraped tablet. Uninfluenced by preconceptions. In a person, an open but not a vacant mind.

terra nullius

Nobody's land. Land allegedly subject to nobody's ownership, the fiction of colonialism.

testis unus, testis nullius

One witness is a witness of nothing. Take care with unsupported testimony. Not a Second World War song.

U

uberrimae fidei

Utmost good faith. Lawyers have questioned whether there can be degrees of good faith.

ultra vires

Outside of powers. Such as where a government functionary acts beyond the powers delegated to them.

V

vade-mecum

Go with me. Used to describe a portable book of general information. Now a mobile phone.

vice versa

The other way round. Not bad poetry.

videlicet

One can see. Referring one to a passage in another book, usually abbreviated to *viz.*

vigilantibus non dormientibus serviunt leges

The law assists those who are vigilant and not those who sleep. The Latin equivalent of "you snooze, you lose".

vincet veritas

Truth will win. Sadly not always realised in life.

vinculum matrimonii

The chain or bond of marriage. Decide for yourself which it is.

viva voce

Literally with the living voice, orally. Such as evidence given in court.

volenti non fit injuria

No wrong can be done to a willing person. Someone who consents to injury, for example in playing a contact sport, cannot recover damages caused by the ordinary risks of the game; or if you willingly travel in a car with a drunken driver.

vocis contentio et remissio

Raising and lowering the voice. Cicero's advice to orators.

vulgus

The people or the rabble. Depending whether they are for you or against you.

valere iubere

To bid farewell. As I must do, having reached the end of the alphabet.

W, X, Y

These letters were hardly or never used in Latin.

Z

zephyrus

A warm west wind or zephyr. One of the rare Latin words beginning in 'z'.



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