

a cloud exists; if proof would be unnecessary, no cloud is cast by the adverse party's claim.

EXAMPLE James Wiley has a document that he says is the deed to a piece of land George Less owns. The document appears to be genuine and George will have to produce evidence to disprove James's claim to ownership (say, by showing the signatures on James's deed are clever forgeries). Therefore there is a cloud on George's title to the land.

But if the deed that James flourishes as evidence of his ownership of George's property describes the land so vaguely that the deed is obviously void, then George does not have to produce evidence to disprove James's claim and there is no cloud on his title.

It does not matter whether the apparent defect in the title is great or small. If the claim is sufficient to cause a reasonable fear that at some time it may be asserted against the owner to his injury, then a court of equity will step in.

quit Leave; surrender possession of, as when a tenant quits the premises or receives a notice to quit his apartment.

quitclaim deed A DEED intended to pass any title, interest, or claim that the grantor may have in the property without professing that the title is valid and without containing any warranty or COVENANTS for title. The purpose of a quitclaim deed is to convey title without guaranteeing that no one else has an interest in the property. It is obviously not advisable to accept a quitclaim deed because your ownership might be doubtful.

quo animo (Latin) "With what intention." The term is sometimes used instead of the single word ANIMUS to mean design or motive. For example, the *quo animo* was the real subject of the investigation.

quorum The number of members who must be present to make valid the actions of a body, such as a court, legislature, or board of directors. The number is frequently a majority (more than half), but a larger or smaller number may be required.

quo warranto (Latin) "With what right"; a legal proceeding that tests someone's right to an office or a governmental privilege. An *information in the nature of a quo warranto*—the full name of the proceeding—is an extraordinary remedy by which a prosecuting attorney, who is a representative of the people, challenges someone who

has usurped a public office or has forfeited an office which he was entitled by neglecting or abusing it. Although the remedy of *quo warranto* is, in most cases, pursued by a prosecuting attorney, it is generally considered a civil rather than a criminal action. *Quo warranto* is usually the only proper legal remedy for testing someone's right to an office or privilege, unless the legislature has passed a law to provide other forms of relief.

Statutes describing *quo warranto* frequently list the situations in which it is the appropriate form of legal proceeding. In some of these situations, the charge is the position claimed by the defendant does not exist for

EXAMPLE In one case, a county prosecutor had the power to appoint an assistant prosecutor, but instead he hired a special prosecutor whose investigations were independent of his office. A *quo warranto* proceeding determined that the special prosecutor had no authority because his appointment was not valid.

Other situations that call for *quo warranto* proceedings include the unauthorized practice of law, medicine, dentistry or operating a liquor store, tow truck business, collection agency without a necessary license.

Quo warranto proceedings have also questioned the authority of a county commissioner, county treasurer, school board member, district attorney, judge, or tax commissioner to hold or exercise the authority of his office. In some states, *quo warranto* is the proper proceeding for challenging persons acting as officers or directors of business corporations.

Quo warranto cases sometimes question the qualifications of a person holding an office. A proceeding may be brought against an officeholder for accepting another office that is incompatible with the one he already holds, for failing to take an oath, file a required bond, or live within the district. A proceeding may also be brought to require forfeiture of the office for misconduct or because of conviction of a crime.

Generally a prosecuting attorney must institute *quo warranto* proceedings, but a statute may authorize a private person to do so. Unless a statute provides otherwise, a court must give permission to file an *information in the nature of a quo warranto*. The court must exercise discretion in making this decision because *quo warranto* is justified only as an extraordinary exercise of power. It is not a right available just because the proper legal papers are filed. Good reason must be shown why the government—through the courts and the prosecutor—should interfere with the person holding the challenged office, privilege, or license.

