

**H.**

H.abbr.1.HOUSE OF REPRESENTATIVES(3).2. House report. 3. See house bill under BILL(3).4. In the citation of English statutes, a king named Henry. 5. In the Year Books, the Hilary term. See YEAR BOOKS; HILARY SITTINGS. 6. In tax assessments and other such official reports, a house.

**HABE**

habe (hay-bee). [Law Latin] A form of the salutatory expression ave (“hail”). — Also termed have (hay-vee).

**HABEAS CORPORA JURATORUM**

habeas corpora juratorum (hay-bee-*<<schwa>>*s kor-p*<<schwa>>*r-*<<schwa>>* juur-*<<schwa>>*-tor-*<<schwa>>*m). [Law Latin “that you have the bodies of the jurors”] Hist. A writ commanding the sheriff to bring in jurors and, if necessary, to take their lands and goods as security to ensure their attendance in court for a trial setting. • This writ issued from the Court of Common Pleas and served the same purpose as a *distringas juratores* in the King's Bench. The writ was abolished in 1852.

**HABEAS CORPUS**

habeas corpus (hay-bee-*<<schwa>>*s kor-p*<<schwa>>*s). [Law Latin “that you have the body”] A writ employed to bring a person before a court, most frequently to ensure that the party's imprisonment or detention is not illegal (*habeas corpus ad subjiciendum*). • In addition to being used to test the legality of an arrest or commitment, the writ may be used to obtain review of (1) the regularity of the extradition process, (2) the right to or amount of bail, or (3) the jurisdiction of a court that has imposed a criminal sentence. — Abbr. H.C. — Sometimes shortened to *habeas*. — Also termed writ of *habeas corpus*; Great Writ. [Cases: Habeas Corpus 201.]

“The writ of *habeas corpus*, by which the legal authority under which a person may be detained can be challenged, is of immemorial antiquity. After a checkered career in which it was involved in the struggles between the common-law courts and the Courts of Chancery and the Star Chamber, as well as in the conflicts between Parliament and the crown, the protection of the writ was firmly written into English law by the Habeas Corpus Act of 1679. Today it is said to be ‘perhaps the most important writ known to the constitutional law of England ....’ ” Charles Alan Wright, *The Law of Federal Courts* § 53, at 350 (5th ed. 1994) (quoting *Secretary of State for Home Affairs v. O'Brien*, [1923] A.C. 603, 609).

*habeas corpus ad deliberandum et recipiendum* (hay-bee-*<<schwa>>*s kor-p*<<schwa>>*s ad di-lib-*<<schwa>>*-ran-d*<<schwa>>*m et ri-sip-ee-en-d*<<schwa>>*m). [Law Latin “that you have the body to consider and receive”] Hist. A writ used to remove a person for trial from one county to the county where the person allegedly committed the offense. Cf. EXTRADITION.

**habeas corpus ad faciendum et recipiendum** (hay-bee-⟨⟨schwa⟩⟩s kor-p⟨⟨schwa⟩⟩s ad fay-shee-en-d⟨⟨schwa⟩⟩m et ri-sip-ee-en-d⟨⟨schwa⟩⟩m). [Law Latin “that you have the body to do and receive”] Hist. A writ used in civil cases to remove the case, and also the body of the defendant, from an inferior court to a superior court. — Also termed *habeas corpus cum causa*. See **CERTIORARI**.

**habeas corpus ad prosequendum** (hay-bee-⟨⟨schwa⟩⟩s kor-p⟨⟨schwa⟩⟩s ad prahs-⟨⟨schwa⟩⟩-kwen-d⟨⟨schwa⟩⟩m). [Law Latin “that you have the body to prosecute”] Hist. A writ used in criminal cases to bring before a court a prisoner to be tried on charges other than those for which the prisoner is currently being confined.

**habeas corpus ad respondendum** (hay-bee-⟨⟨schwa⟩⟩s kor-p⟨⟨schwa⟩⟩s ad ree-spon-den-d⟨⟨schwa⟩⟩m). [Law Latin “that you have the body to respond”] Hist. A writ used in civil cases to remove a person from one court's custody into that of another court, in which the person may then be sued.

**habeas corpus ad satisfaciendum** (hay-bee-⟨⟨schwa⟩⟩s kor-p⟨⟨schwa⟩⟩s ad sat-is-fay-shee-en-d⟨⟨schwa⟩⟩m). [Law Latin “that you have the body to make amends”] In England, a writ used to bring a prisoner against whom a judgment has been entered to some superior court so that the plaintiff can proceed to execute that judgment.

**habeas corpus ad subjiciendum** (hay-bee-⟨⟨schwa⟩⟩s kor-p⟨⟨schwa⟩⟩s ad s⟨⟨schwa⟩⟩-b-jis-ee-en-d⟨⟨schwa⟩⟩m). [Law Latin “that you have the body to submit to”] A writ directed to someone detaining another person and commanding that the detainee be brought to court. — Usu. shortened to *habeas corpus*. [Cases: *Habeas Corpus* 201.]

**habeas corpus ad testificandum** (hay-bee-⟨⟨schwa⟩⟩s kor-p⟨⟨schwa⟩⟩s ad tes-ti-fi-kan-d⟨⟨schwa⟩⟩m). [Law Latin “that you have the body to testify”] Hist. A writ used in civil and criminal cases to bring a prisoner to court to testify. [Cases: *Witnesses* 18. *C.J.S. Witnesses* §§ 65–66.]

**habeas corpus cum causa.** See *habeas corpus ad faciendum et recipiendum*.

#### HABEAS CORPUS ACT

**Habeas Corpus Act.** 1. One of the four great charters of English liberty (31 Car. 2 (1679)), securing to English subjects speedy relief from all unlawful imprisonments. • The other three great charters are *Magna Carta*, the *Petition of Right* (3 Car. 1 (1628)), and the *Bill of Rights* (1 Wm. & M. (1689)). The *Habeas Corpus Act* does not apply in Scotland; the corresponding statute is the *Criminal Procedure Act* of 1701, ch. 6. 2. A statute deriving ultimately from the English statute and enacted in the United States as a constitutional guarantee of personal liberty. [Cases: *Habeas Corpus* 201–913.]

#### HABENDUM CLAUSE

**habendum clause** (h⟨⟨schwa⟩⟩-ben-d⟨⟨schwa⟩⟩m). 1. The part of an instrument, such as a deed or will, that defines the extent of the interest being granted and any conditions affecting the grant. • The introductory words to the clause are ordinarily to have and to hold. — Also termed

to-have-and-to-hold clause. [Cases: Deeds 120. C.J.S. Deeds §§ 36, 231–236, 253–260, 262, 268, 270–274, 276–278.] 2.Oil & gas. The provision in an oil-and-gas lease defining how long the interest granted to the lessee will extend. • Modern oil-and-gas leases typically provide for a primary term — a fixed number of years during which the lessee has no obligation to develop the premises — and a secondary term (for “so long thereafter as oil and gas produced”) once development takes place. Most jurisdictions require production of paying quantities to keep the lease in effect. — Also termed term clause. [Cases: Mines and Minerals 73.5. C.J.S. Mines and Minerals §§ 241, 247, 253–254.] — Often shortened to habendum.

“This part of the deed was originally used to determine the interest granted, or to lessen, enlarge, explain or qualify the premises. But it cannot perform the office of divesting the estate already vested by the deed; for it is void if it be repugnant to the estate granted. It has degenerated into a mere useless form; and the premises now contain the specification of the estate granted, and the deed becomes effectual without any habendum. If, however, the premises should be merely descriptive, and no estate mentioned, then the habendum becomes efficient to declare the intention; and it will rebut any implication arising from the silence of the premises.” 4 James Kent, Commentaries on American Law \*468 (George Comstock ed., 11th ed. 1866).

#### HABENDUM ET TENENDUM

habendum et tenendum (h<<schwa>>-ben-d<<schwa>>m et t<<schwa>>-nen-d<<schwa>>m). [Law Latin] Hist. To have and to hold. • This formal phrase appeared in land deeds and defined the estate or interest being transferred. See HABENDUM CLAUSE ; TENENDUM.

#### HABENTES HOMINES

habentes homines (h<<schwa>>-ben-teez hom-<<schwa>>-neeZ), n.[Law Latin “men who have”] Hist. Rich men. — Also termed foesting-men.

#### HABERE

habere (h<<schwa>>-beer-ee), vb.[Latin “to have”] Roman law. To have (the right to) something. • This term was sometimes distinguished from tenere (to hold) and possidere (to possess), with habere referring to the right, tenere to the fact, and possidere to both.

“ ‘Habere’ has two meanings; for we say that the owner of a thing ‘has’ it and also that a nonowner who holds the thing ‘has’ it. Lastly, we use the word in relation to property deposited with us.” Digest of Justinian 45.1.38.9 (Ulpian, Ad Sabinum 49).

#### HABERE FACIAS POSSESSIONEM

habere facias possessionem (h<<schwa>>-beer-ee fay-shee-<<schwa>>s p<<schwa>>-zes[h]-ee-oh-n<<schwa>>m), n.[Law Latin “that you cause to have possession”] Hist. A writ giving a successful ejectment-action plaintiff the possession of the recovered land. • If the sheriff delivered more than the person was entitled to, a writ of rehabere facias seisinam could compel the sheriff to return the excess. — Often shortened to habere facias or hab. fa.

## HABERE FACIAS SEISINAM

habere facias seisinam (h<<schwa>>-beer-ee fay-shee-<<schwa>>s see-zi-n<< schwa>>m), n.[Law Latin “that you cause to have seisin”] Hist. A writ of execution commanding the sheriff to give the applicant seisin of the recovered land. • This writ was the proper process for giving seisin of a freehold, as distinguished from giving only a chattel interest in land. See SEISIN.

## HABERE FACIAS VISUM

habere facias visum (h<<schwa>>-beer-ee fay-shee-<<schwa>>s vI-s<<schwa>>m or -z<<schwa>>m), n.[Law Latin “that you cause to have a view”] Hist. A writ allowing a litigant to inspect the lands in controversy.

## HABERE LICERE

habere licere (h<<schwa>>-beer-ee li-seer-ee), vb.[Latin “to allow to have”] Roman law. To stipulate to a purchaser's right to possess and enjoy property undisturbed. • The term denoted a seller's duty to indemnify the purchaser if the purchaser was evicted. An evicted purchaser could raise an action on the stipulation or, under Justinian, an actio ex empto against the seller.

## HAB. FA.

hab. fa. abbr.HABERE FACIAS POSSESSIONEM.

## HABILI ET COMPETENTE FORMA

habili et competente forma (hab-<<schwa>>-II et kom-p<<schwa>>-ten-tee for-m<<schwa>>). [Latin] Hist. In a fit and competent manner.

## HABILI MODO

habili modo (hab-<<schwa>>-II-moh-doh). [Latin] Hist. In a fit manner; sufficiently.

## HABILIS CAUSA TRANSFERENDI DOMINII

habilis causa transferendi dominii (hab-<<schwa>>-lis kaw-z<<schwa>> trans-f<<schwa>>-ren-dI d<<schwa>>-min-ee-I). [Law Latin] Hist. An adequate title for transferring the property. • The phrase appeared in reference to the grantor's power and intention to convey the property; the title had to be sufficient to support the conveyance of property. — Also spelled habilis causa transferendi dominii.

## HABITABILITY

habitability. The condition of a building in which inhabitants can live free of serious defects that might harm health and safety <lack of running water adversely affects the apartment's habitability>.

## HABITABILITY, IMPLIED WARRANTY OF

habitability, implied warranty of.See implied warranty of habitability under WARRANTY(2).

## HABITANCY

habitaney (hab-*<<schwa>>-t<<schwa>>n-see*).1.DOMICILE. 2.RESIDENCE.

#### HABIT AND REPUTE

habit and repute.[fr. Latin habitus et reputatus “held and reputed”] Scots law. A person's reputation. • Marriage could formerly be constituted if one was generally held and reputed to be married. And it was an aggravation of theft to be held and reputed a thief.

#### HABITANT

habitant (a-bee-ton), n.[French] 1.Hist. French law. A person holding land in feudal tenure from a seignior. 2. A native of Canada of French descent, esp. one from the farming class.

#### HABITATIO

habitatio (hab-*<<schwa>>-tay-shee-oh*), n.[Latin “dwelling”] Roman law. The right to dwell (in a place); the right of free residence in another's house; an urban servitude. • This right was usu. given by will and treated as a personal servitude. See urban servitude under SERVITUDE(2). Cf. USUFRUCT; USUS(1).

#### HABITATION

habitation. 1. The act of inhabiting; occupancy. 2. A dwelling place; a domicile. 3.Civil law. A nontransferable and nonheritable right to dwell in the house of another. La. Civ. Code art. 630. See RESIDENCE; DOMICILE. Cf. USUFRUCT.

#### HABIT EVIDENCE

habit evidence.See EVIDENCE.

#### HABITUAL

habitual,adj.1. Customary; usual <habitual late sleeper>.2. Recidivist < habitual offender>.

#### HABITUAL CRIMINAL

habitual criminal.See RECIDIVIST.

#### HABITUAL DRUNKARD

habitual drunkard.See DRUNKARD.

#### HABITUAL OFFENDER

habitual offender.1.RECIDIVIST. 2.OFFENDER.

#### HABITUAL RESIDENCE

habitual residence.See RESIDENCE.

#### HABLE

hable (ab-*<<schwa>>l*), n.[Law French] Hist. A port or harbor; a station for ships.

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**HACIENDA PARTICULAR**

hacienda particular (ah-syen-dah [or hah-see-en-d<<schwa>>] pahr-tee-koo-lahr), n. Spanish law. Private property.

**HACIENDA PÚBLICA**

hacienda pública (ah-syen-dah [or hah-see-en-d<<schwa>>] poo-blee-kah), n. Spanish law. 1. Public revenue or assets. 2. The public treasury; economic ministry.

**HACIENDA SOCIAL**

hacienda social (ah-syen-dah [or hah-see-en-d<<schwa>>] soh-syahl), n. Spanish law. Property belonging to a corporation or partnership.

**HACK**

hack,vb. To surreptitiously break into the computer, network, servers, or database of another person or organization. Cf. CRACK. — hacker,n.

**HAD**

had. Commenced or begun, as used in a statute providing that no legal proceeding may be had (usu. followed by the words or maintained) <no action for foreclosure may be had or maintained until the debtor has been given at least 30 days' notice>.

**HADBOTE**

hadbote. See BOTE(2).

**HADGONEL**

hadgonel (had-g<<schwa>>-nel), n. Hist. A tax or mulct.

**HADLEY V. BAXENDALE RULE**

Hadley v. Baxendale rule.Contracts. The principle that consequential damages will be awarded for breach of contract only if it was foreseeable at the time of contracting that this type of damage would result from the breach.Hadley v. Baxendale, 9 Exch. 341 (1854). • Hadley v. Baxendale is best known for its impact on a nonbreaching party's ability to recover consequential damages, but the case also confirmed the principle that the nonbreaching party may recover damages that arise naturally from the breach. See foreseeable damages under DAMAGES. [Cases: Damages 23. C.J.S. Damages §§ 28–33.]

“The rationale of the decision appears in Baron Alderson's noted statement of what came to be known as the two rules of Hadley v. Baxendale. The first rule was that the injured party may recover damages for loss that ‘may fairly and reasonably be considered [as] arising naturally, i.e., according to the usual course of things, from such breach of contract itself.’ ... The second and more significant rule went to recovery of damages for loss other than that ‘arising naturally’ — to recovery of what have come to be known as ‘consequential’ damages.... By introducing this requirement of ‘contemplation’ for the recovery of consequential damages, the court imposed an

important new limitation on the scope of recovery that juries could allow for breach of contract. The result was to impose a more severe limitation on the recovery of damages for breach of contract than that applicable to actions in tort or for breach of warranty, in which substantial or proximate cause is the test.” E. Allan Farnsworth, *Contracts* § 12.14, at 822–23 (3d ed. 1999).

#### HAD-NOT TEST

had-not test. See BUT-FOR TEST.

#### HAEC EST CONVENTIO

haec est conventio (heek est k<<schwa>>n-ven-shee-oh). [Law Latin] Hist. This is the agreement. • These formal words commonly prefaced written agreements.

#### HAEC EST FINALIS CONCORDIA

haec est finalis concordia (heek est fi-nay-lis k<<schwa>>n-kor-dee-<< schwa>>). [Law Latin] Hist. This is the final agreement. • These words began a fine, a fictitious judicial proceeding formerly in use as a mode of conveying land. See FOOT OF THE FINE; FINE(1).

#### HAEC VERBA

haec verba. See IN HAEC VERBA.

#### HAEREDIBUS ET ASSIGNATIS QUIBUSCUNQUE

haeredibus et assignatis quibuscunque (h<<schwa>>-red-i-b<<schwa>>s et as-ig-nay-tis kwib-<<schwa>>s-k<<schwa>>ng-kwee). [Law Latin] Scots law. To heirs and assignees whomsoever. • This was a simple destination phrase.

#### HAEREDITAS

haereditas. See HEREDITAS.

#### HAERES

haeres. See HERES.

#### HAERETICO COMBURENDO

haeretico comburendo. See DE HAERETICO COMBURENDO.

#### HAFNE

hafne (hay-v<<schwa>>n), n. [Old English] A haven or port.

#### HAFNE COURT

hafne court. Hist. Haven court; one of several courts anciently held in certain ports in England.

#### HAGUE ACADEMY OF INTERNATIONAL LAW

Hague Academy of International Law (hayg). A center for advanced studies in international

law, both public and private, aimed at facilitating the comprehensive and impartial examination of problems of international legal relations. • It was founded in the Netherlands in 1923 on the initiative of the Carnegie Endowment for International Peace and the Institut de Droit International. — Also termed Académie de Droit International de La Haye.

#### HAGUE CONVENTION

Hague Convention. The short name for any one of the many international conventions that address different legal issues and attempt to standardize procedures between nations. [Cases: Treaties 1. C.J.S. Treaties § 2.]

#### HAGUE CONVENTION ON PROTECTION OF CHILDREN AND COOPERATION IN RESPECT OF INTERCOUNTRY ADOPTION

Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. A 1993 international agreement to establish uniform procedures governing intercountry adoptions. • The Convention has not been widely accepted. The U.S. has signed but not ratified it.

#### HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Hague Convention on the Civil Aspects of International Child Abduction. An international convention (concluded in 1980) that seeks to counteract cross-border child-snatching by noncustodial parents. • This convention created a legal mechanism available to parents seeking the return of, or access to, their children. Its purposes are to secure the prompt return of children who have been wrongfully taken from one country to another and to enforce custody and visitation rights in the contracting countries. The procedure is summary in nature and does not contemplate continuing hearings on the merits of a dispute. More than 46 countries are parties to the Convention, including the United States. 42 USCA §§ 11601–11610. [Cases: Child Custody 802.]

#### HAGUE CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS

Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents. An international convention, concluded on November 15, 1965, governing procedures for effecting service of process in a foreign country. • More than 35 countries are parties to the convention, including the United States. [Cases: Federal Civil Procedure 462; Process 83; Treaties 1. C.J.S. Process §§ 50, 73–75; Treaties § 2.]

#### HAGUE CONVENTION ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS

Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. An international convention, concluded on October 26, 1968, that establishes procedures for obtaining evidence in a foreign country, such as taking a deposition abroad. • More than 27 countries are parties, including the United States. [Cases: Federal Civil Procedure 1261; Pretrial Procedure 91; Treaties 8. C.J.S. Pretrial Procedure §§ 4–6; Treaties § 6.]



## HAGUE RULES

Hague Rules. Maritime law. An international agreement adopted at the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading in 1924. • Under the Hague Rules, a carrier is not liable for losses.

## HAGUE TRIBUNAL

Hague Tribunal. Int'l law. A permanent court of arbitration established by the Hague Peace Conference of 1899 to facilitate immediate recourse to arbitration to settle international differences. • The court was given jurisdiction over all arbitration cases, unless the parties agreed to institute a special tribunal. An international bureau was likewise established to serve as a registry for the court and to issue communications about the court's meetings. The court is “permanent” only in the sense that there is a permanent list of members from whom arbitrators in a given case are selected. Apart from making minor changes in the court, the Second Hague Conference of 1907 provided that, of the two arbitrators appointed by each party, only one should be a national of the appointing state. [Cases: International Law 10.45. C.J.S. International Law §§ 59–65.]

## HAIRCUT

haircut. 1. Securities. The discount required by the National Association of Securities Dealers on the value of stock that a brokerage firm holds in its own account at the time of filing a monthly report about the firm's net capital condition. [Cases: Securities Regulation 40.13. C.J.S. Securities Regulation § 159.] 2. The difference between the amount of a loan and the market value of the collateral securing the loan.

## HAIRCUT REORGANIZATION

haircut reorganization. See REORGANIZATION(1).

## HAITIAN DIVORCE

Haitian divorce. See Mexican divorce under DIVORCE.

## HALAWA

halawa (h<<schwa>>-lah-w<<schwa>>), n. [Hindi] A system for transferring money, usu. across national borders, based on trust and operating through networks based on family relationships or on regional or ethnic affiliations rather than through banks and financial institutions. • The system originated in India before the introduction of western banking practices. It is commonly used in immigrant communities. In Indian and Pakistani usage, “white halawa” refers to legitimate transactions and “black halawa” refers to money-laundering. — Also termed hundi.

## HALAWADAR

halawadar (h<<schwa>>-lah-w<<schwa>>-d<<schwa>>r), n. [Hindi] A halawa operator.

## HALF

half,n. One of two equal parts into which a thing can be divided; MOIETY.

#### HALF BLOOD

half blood.See BLOOD.

#### HALF BROTHER

half brother.See BROTHER.

#### HALFENDEAL

halfendial (hahv-<<schwa>>n-deel), n.[fr. Law Latin halfendele] Archaic. Half a thing; a moiety. — Also spelled half enddeal; half-endeal.

#### HALF-MARK

half-mark. See DEMIMARK.

#### HALF NEPHEW

half nephew.See NEPHEW(1).

#### HALF NIECE

half niece.See NIECE.

#### HALF ORPHAN

half orphan.See ORPHAN(2).

#### HALF-PILOTAGE

half-pilotage. See PILOTAGE.

#### HALF PLUS ONE

half plus one.A common but inexact (and often inaccurate) approximation for a majority. • For a body with 100 members, a majority is indeed half plus one, or 51. But for a body with an odd number of members, “half plus one” would not be a whole number. So “a simple majority” is a better choice for designating majority rule. — Also termed 50 percent plus one. See MAJORITY (2).

#### HALF-PROOF

half-proof.Civil law.1. Proof established by one witness, or by a private instrument. See UNUS NULLUS RULE. 2. Prima facie proof that is nonetheless insufficient to support a sentence or decree.

#### HALF-SEAL

half-seal.Hist. A seal used in the Court of Chancery to mark commissions to the Court of Delegates on the appeal of an ecclesiastical or maritime case. • The use of the seal ended when the Court of Delegates was abolished in 1832. See COURT OF DELEGATES.

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**HALF SECTION**

half section. See SECTION.

**HALF SISTER**

half sister. See SISTER.

**HALF-TIMER**

half-timer. Hist. In England, a child excused from full-time attendance at school under the Factory and Workshop Act of 1908 so that the child could work part-time in a factory or workshop. • The Factory and Workshop Acts from 1901 to 1911 were repealed by the Factory and Workshop (Cotton Cloth Factories) Act of 1929 and the Factories Act of 1937.

**HALF-TONGUE**

half-tongue. Hist. In England, a jury empaneled to try an alien, and composed half of one nationality and half of another. • The use of this type of jury ended in 1914 with the passage of the Status of Aliens Act.

**HALFWAY HOUSE**

halfway house. A transitional housing facility designed to rehabilitate people who have recently left a prison or medical-care facility, or who otherwise need help in adjusting to a normal life. — Also termed residential community treatment center.

**HALF-YEAR**

half-year. See YEAR.

**HALIFAX LAW**

Halifax law. 1. LYNCH LAW; more broadly, an irrevocable punishment carried out after a summary trial. 2. The summary and unauthorized trial and execution (usu. by decapitation) of a person accused of a crime. • This term comes from the parish of Halifax, in England, where — according to custom in the forest of Hardwick — this form of private justice was anciently practiced by the free burghers against people accused of stealing. Thieves could be condemned to death by beheading on market day. The last such case is said to have occurred in 1650. — Also termed gibbet law; Halifax inquest.

**HALIGEMOT**

haligemot. See HALLMOTE.

**HALL**

hall. 1. A building or room of considerable size, used for meetings of bodies such as public assemblies, conventions, and courts. 2. Parliamentary law. The room or other space in which a deliberative assembly meets. 3. Hist. A manor house or chief mansion house. • It was called a hall because the magistrate's court was typically held there.

## HALLAGE

hallage (haw-l-ij), n. Hist. A fee or toll due for goods or merchandise sold in a hall used as a market; a toll payable to the lord of a fair or market for commodities sold in the common hall.

## HALLAZGO

hallazgo (ah-yahz-goh), n.[Spanish] Spanish law. 1. The finding and taking possession of ownerless property. 2. The first occupant recognized by law.

## HALLE-GEMOT

halle-gemot (haw-l-g<<schwa>>-moht), n. See HALLMOTE.

## HALLMARK

hallmark. 1. An official stamp affixed by goldsmiths and silversmiths on articles made of gold or silver to show genuineness. 2. A mark of genuineness.

## HALLMOTE

hallmote (hahl-moht), n.1.Hist. A court baron; specif., an annual court, presided over by the lord of the manor, to decide civil disputes between feudal tenants. • The court was usu. held in the manor's great hall. See COURT BARON. 2. A trade-guild's commercial court, in which guild members were tried for trade-related offenses against the guild. 3. A convention of citizens in their public hall. — Also termed folkmote. 4. (Erroneously) an ecclesiastical court. • Although this definition appears in many secular legal dictionaries, it is unheard of in canon law. — Often (erroneously) spelled (in sense 4) holymote. — Also spelled (in senses 1–3) hallmoot; halmote; halymote; halle-gemot; haligemote.

## HAM

ham (ham or am).1. A place of dwelling; a village. • This word now usu. appears in compound form at the end of place names, such as Buckingham. 2. A small (esp. enclosed) pasture; a piece of land. — Also spelled hamm. Cf. HAMLET.

## HAMEL

hamel. See HAMLET.

## HAMELETA

hameleta. See HAMLET.

## HAMESUCKEN

hamesucken (haym-s<<schwa>>k-<<schwa>>n), n. Scots law. 1. Assault on a householder within the house after breaking in to commit the assault or to commit theft. 2. The crime of housebreaking or burglary accompanied by violence. • This term derives from Anglo-Saxon law (h msoen), and literally meant “breaching the peace of another's home.” — Also spelled hamesecken; hamesoken. — Also termed hamfare.

“Burglary, or nocturnal housebreaking, *burgi latrocinium*, which by our ancient law was called *hamesecken*, as it is in Scotland to this day, has always been looked upon as a very heinous offence ....” 4 William Blackstone, *Commentaries on the Laws of England* 223 (1769).

## HAMFARE

hamfare. See HAMESUCKEN.

## HAMLET

hamlet. A small village; a part or member of a vill. • A hamlet in a rural community might consist of no more than a store, a church, and a few residences. — Also termed *hamel*; *hameleta*; *hamleta*. See VILL. Cf. HAM.

## HAMMER

hammer, n. Slang. A forced sale; a sale at public auction <her jewelry was brought to the hammer>. See forced sale under SALE.

## HAMMURABI, CODE OF

Hammurabi, Code of. See CODE OF HAMMURABI.

## HANAPER

hanaper (*han*-<<schwa>>-p<<schwa>>r), n. [Law Latin *hanaperium* “hamper”] Hist. 1. A basket or hamper used by the Chancery to store writs and returns. 2. The treasury of the Chancery, funded from the fees charged for writs. Cf. FISCUS.

## HANAPER OFFICE

Hanaper Office. Hist. An office formerly belonging to the common-law jurisdiction of the Chancery Court. • The term derives from the storage of writs in a hamper (in *hanaperio*). Crown writs, on the other hand, were stored in the Petty Bag Office. The Hanaper Office was abolished in 1842. See BAGA.

## HAND

hand, n. 1. A person's handwriting <a holographic will must be in the testator's hand>. 2. An instrumental part <he had a hand in the crime>. 3. One who performs some work or labor <Hickory was one of the Gales' hired hands>. 4. (usu. pl.) Possession <the cocaine was now in the hands of the police>. 5. Assistance <the carpenter lent a hand to the project>. 6. A measure of length equal to four inches, used in measuring the height of equines, esp. horses <the pony stood ten hands tall>. [Cases: Weights and Measures 3. C.J.S. Weights and Measures § 3.] 7. Hist. An oath <he gave his hand on the matter>. 8. One or two sides or aspects of an issue or argument <on the one hand we can argue for imprisonment, on the other for leniency>.

hand, vb. To give; to deliver <he handed over the documents>.

## HANDBILL

handbill. A written or printed notice displayed, handed out, or posted, usu. to inform interested people of an event or of something to be done. • Posting and distribution of handbills is regulated by ordinance or statute in most localities.

#### HAND DOWN

hand down,vb. To announce or file an opinion in a case. • The term was originally used in connection with an appellate-court opinion sent to the court below; it was later expanded to include any decision by a court on a case or point under consideration. [Cases: Appeal and Error 1181–1182; Federal Courts 921. C.J.S. Appeal and Error §§ 877, 962–963.]

#### HANDBASTING

handfasting.1. See handfast marriage (3) under MARRIAGE(1).2. See handfast marriage (4) under MARRIAGE(1).

#### HANDBAST MARRIAGE

handfast marriage.See MARRIAGE(1).

#### HAND FORMULA

Hand formula.A balancing test for determining whether conduct has created an unreasonable risk of harm, first formulated by Judge Learned Hand in *United States v. Carroll Towing Co.*, 159 F.2d 169 (2d Cir. 1947). • Under this test, an actor is negligent if the burden of taking adequate precautions against the harm is outweighed by the probable gravity of the harm multiplied by the probability that the harm will occur. [Cases: Negligence 215.C.J.S. Negligence §§ 32–33, 195–196.]

“The legal standard applicable to most unintentional tort cases is that of negligence, defined by Judge Learned Hand as follows: the defendant is guilty of negligence if the loss caused by the accident, multiplied by the probability of the accident's occurring, exceeds the burden of the precautions that the defendant might have taken to avert it. This is an economic test.... Although the Hand formula is of relatively recent origin, the method that it capsulizes has been the basic one used to determine negligence ever since negligence was first adopted as the standard to govern accident cases.” Richard A. Posner, *Economic Analysis of Law* § 6.2, at 122–23 (2d ed. 1977).

#### HANDHABEND

handhabend (hand-hab-*<<schwa>>*nd), adj. Hist. (Of a thief) caught in possession of a stolen item.

handhabend,n.[fr. Old English *aet haebbendre handa* “at or with a having hand”] Hist. 1.The bearing of stolen goods in hand or about the person. Cf. BACKBEREND. 2. A thief or another person caught carrying stolen goods. 3. Jurisdiction to try a person caught carrying stolen goods. — Also spelled hand-habende.

#### HANDICAPPED CHILD

handicapped child.See CHILD.

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**HAND MONEY**

hand money. Money paid in hand to bind a bargain; earnest money paid in cash. See EARNEST MONEY.

**HAND NOTE**

hand note. See NOTE(1).

**HANDBALE**

handsale. Hist. A sale memorialized by shaking hands. • Over time, handsale also came to refer to the earnest money given immediately after the handshake. In some northern European countries, shaking hands was necessary to bind a bargain. This custom sometimes persists for oral contracts. The Latin phrase for handsale was *venditio per mutuum manuum complexionem* (“a sale by the mutual joining of hands”). — Also spelled *handsel*.

**HANDS-OFF AGREEMENT**

hands-off agreement. A noncompete contractual provision between an employer and a former employee prohibiting the employee from using information learned during his or her employment to divert or to steal customers from the former employer. [Cases: Contracts 118. C.J.S. Contracts §§ 267–268.]

**HAND UP**

hand up, vb. (Of a grand jury) to deliver an indictment to a criminal court.

**HANDWRITING**

handwriting. Evidence. 1. A person's chirography; the cast or form of writing peculiar to a person, including the size, shape, and style of letters, and whatever gives individuality to one's writing. [Cases: Evidence 561. C.J.S. Evidence §§ 800–803.] 2. Something written by hand; a writing specimen. • Nonexpert opinion about the genuineness of handwriting, based on familiarity not acquired for litigation purposes, can authenticate a document. Fed. R. Evid. 901(b)(2). [Cases: Criminal Law 491; Evidence 480, 561.]

**HANG**

hang, vb. (Of a jury) to be unable to reach a verdict <the jury was hung after 12 hours of continuous deliberation>. See hung jury under JURY. [Cases: Criminal Law 867; Federal Civil Procedure 1974; Trial 316. C.J.S. Criminal Law §§ 1388–1390; Trial § 816.]

**HANGED, DRAWN, AND QUARTERED**

hanged, drawn, and quartered. Hist. An ancient sentence for high treason, consisting of the prisoner's being drawn on a hurdle to the place of execution, hanged by the neck (but not until dead), disemboweled, and beheaded, and the body then divided into four pieces for the king's disposal. • The sentence was abolished in England in 1870. See TREASON.

**HANGING**

hanging, n. The act of carrying out an execution by suspending the person above the ground by a rope around the person's neck. • Death is caused by asphyxiation (by being hoisted from the ground) or by a sudden breaking of the cervical vertebrae (by being dropped from a height).

#### HANGING CHAD

hanging chad. See CHAD.

#### HANGING IN CHAINS

hanging in chains. Hist. In England, in atrocious cases, the practice of suspending an executed murderer's body by chains near where the crime was committed. • Hanging in chains was abolished in 1834.

#### HANGING JUDGE

hanging judge. See JUDGE.

#### HANGMAN

hangman. Archaic. An executioner, esp. one who executes condemned criminals by hanging.

#### HANSARD

Hansard (han-s<<schwa>>rd). The official reports of debates in the British Parliament. • The name derives from Luke Hansard, printer of the Journal of the House of Commons from 1774 to 1828. The name has varied at different times. In 1892 it became the Authorised Edition; in 1909 the title was changed to the Official Report; and since 1943 the name Hansard has been added to Official Report. — Also termed Hansard Official Report; Hansard's Debates.

#### HANSE

hanse (hans), n. [German] Hist. 1. A merchant guild, esp. one engaging in trade abroad. 2. A fee for entrance to the guild; an impost levied on merchants not belonging to the guild.

#### HANSEATIC

Hanseatic (han-see-at-ik), adj. Hist. 1. Of or relating to the union of the Hanse Towns, usu. referred to as the Hanseatic League. 2. Of or relating to a hanse or commercial alliance.

#### HANSE TOWNS

Hanse Towns (hans). Hist. The collective name of certain German cities — including Lübeck, Hamburg, and Bremen — that allied in the 12th century to protect and further their mutual commercial interests. • This alliance was usu. called the Hanseatic League. The League framed and promulgated a code of maritime law known as the Laws of the Hanse Towns, or Jus Hanseaticum Maritimum. The League's power peaked in the 14th century, then gradually declined until 1669, when the last general assembly was held.

#### HANSE TOWNS, LAWS OF THE

Hanse Towns, laws of the. Hist. A uniform maritime code drawn from laws of the Hanseatic



towns, esp. that of Lübeck, published in German at Lübeck in 1597 and revised and enlarged in 1614.

#### HAPPINESS, RIGHT TO PURSUE

happiness, right to pursue. The constitutional right to pursue any lawful business or activity — in any manner not inconsistent with the equal rights of others — that might yield the highest enjoyment, increase one's prosperity, or allow the development of one's faculties. [Cases: Constitutional Law 86. C.J.S. Constitutional Law § 505.]

#### HARASSMENT

harassment (h<<schwa>>-ras-m<<schwa>>nt or har-<<schwa>>s-m<<schwa>>nt). Words, conduct, or action (usu. repeated or persistent) that, being directed at a specific person, annoys, alarms, or causes substantial emotional distress in that person and serves no legitimate purpose. • Harassment is actionable in some circumstances, as when a creditor uses threatening or abusive tactics to collect a debt. [Cases: Civil Rights 1046, 1143. C.J.S. Civil Rights §§ 23, 29, 144.] — harass (h<<schwa>>-ras or har-<<schwa>>s), vb.

same-sex harassment. Sexual harassment by a supervisor of an employee of the same sex. [Cases: Civil Rights 1187, 1194. C.J.S. Civil Rights §§ 11, 53–58.]

sexual harassment. See SEXUAL HARASSMENT.

#### HARBINGER

harbinger (hahr-bin-j<<schwa>>r), n. 1. Hist. In England, a royal officer who went ahead and was responsible for securing lodging for troops or for a traveling royal entourage. 2. A person or thing that predicts what is to come <a harbinger of bad news>.

#### HARBOR, SAFE

harbor, safe. See SAFE HARBOR.

#### HARBORING

harboring, n. The act of affording lodging, shelter, or refuge to a person, esp. a criminal or illegal alien. [Cases: Aliens 56; Compounding Offenses 3.5. C.J.S. Aliens §§ 249, 253–254, 260–261; Compounding Offenses § 5.]

#### HARBORING AN ILLEGAL ALIEN

harboring an illegal alien. The act of providing concealment from detection by law-enforcement authorities or shelter, employment, or transportation to help a noncitizen remain in the United States unlawfully, while knowing about or recklessly disregarding the noncitizen's illegal immigration status. • The crime of harboring an illegal alien does not require that the offender be involved in the smuggling of illegal aliens into the country. 8 USCA § 1324.

#### HARBOR LINE

harbor line. A line marking the boundary of a certain part of public water that is reserved for a

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harbor; esp., the line beyond which wharves and other structures may not extend. [Cases: Navigable Waters 14(1). C.J.S. Navigable Waters § 37.]

**HARD ASSET**

hard asset. See real asset under ASSET.

**HARD CASE**

hard case. A lawsuit involving equities that tempt a judge to stretch or even disregard a principle of law at issue — hence the expression, “Hard cases make bad law.”

**HARD CURRENCY**

hard currency. See CURRENCY.

**HARD DOLLARS**

hard dollars. 1. Cash proceeds given to a seller. 2. The part of an equity investment that is not deductible in the first year. Cf. SOFT DOLLARS.

**HARD GOODS**

hard goods. See durable goods under GOODS.

**HARD LABOR**

hard labor. Work imposed on prisoners as additional punishment, usu. for misconduct while in prison. • Several states (such as Louisiana, Maine, and New Jersey) impose hard labor as a sentence for a variety of crimes. Hard labor is also imposed in military sentencing. See PENAL SERVITUDE. [Cases: Sentencing and Punishment 1067, 1134, 1526. C.J.S. Criminal Law §§ 1458, 1467, 1471, 1504–1505, 1511, 1569.]

**HARD-LOOK DOCTRINE**

hard-look doctrine. Administrative law. The principle that a court should carefully review an administrative-agency decision to ensure that the decision did not result from expediency, pressure, or whim. [Cases: Administrative Law and Procedure 741. C.J.S. Public Administrative Law and Procedure § 213.]

**HARD MONEY**

hard money. See MONEY.

**HARD SELL**

hard sell. A sales practice characterized by slogans, aggressiveness, intimidation, and urgent decision-making. Cf. SOFT SELL.

**HARDSHIP**

hardship. 1. Privation; suffering or adversity. 2. The severity with which a proposed construction of law would bear on a particular case, sometimes forming a basis (also known as an

argument *ab inconvenienti*) against the construction. See AB INCONVENIENTI; HARD CASE. [Cases: Statutes 181(2). C.J.S. Statutes § 318.] 3.Family law. A condition that makes it onerous or impossible for a child-support obligor to make the required child-support payment. 4.Zoning. A ground for a variance under some zoning statutes if the zoning ordinance as applied to a particular property is unduly oppressive, arbitrary, or confiscatory; esp., a ground for granting a variance, based on the impossibility or prohibitive expense of conforming the property or its use to the zoning regulation. — Also termed unnecessary hardship. See VARIANCE(2). [Cases: Zoning and Planning 492. C.J.S. Zoning and Land Planning §§ 241–242.]

#### HARE–WARE VOTING

Hare–Ware voting. See instant-runoff voting under VOTING.

#### HARM

harm, n. Injury, loss, damage; material or tangible detriment.

accidental harm. Harm not caused by any tortious act.

bodily harm. Physical pain, illness, or impairment of the body.

grievous bodily harm. See serious bodily injury under INJURY.

physical harm. Any physical impairment of land, chattels, or the human body.

serious bodily harm. See serious bodily injury under INJURY.

social harm. An adverse effect on any social interest that is protected by the criminal law.

“If the phrase ‘social harm’ is used to include every invasion of any social interest which has been placed under the protection of a criminal sanction (whether by common law or by statute), every crime may be said to involve, in addition to other requirements, (1) the happening of social harm and (2) the fact that the act of some person was the cause of this harm.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 830 (3d ed. 1982).

#### HARMFUL BEHAVIOR

harmful behavior. Conduct that could injure another person, esp. a child.

cumulatively harmful behavior. Family law. Harmful parental (or caregiver) behavior that, if continued for a significant period, will over time cause serious harm to a child.

immediately harmful behavior. Family law. Harmful parental (or caregiver) behavior that could have caused serious injury to a child but that, because of the intervention of an outside force or a fortuitous event, did not result in any injury.

seriously harmful behavior. Family law. Parental (or caregiver) behavior that is capable of causing serious injury to a child in the person's care. • Some examples of seriously harmful behavior are physical battering, physical neglect, sexual abuse, and abandonment.

#### HARMFUL CHILD LABOR

harmful child labor. See oppressive child labor under CHILD LABOR.

#### HARMFUL ERROR

harmful error. See reversible error under ERROR(2).

#### HARMLESS ERROR

harmless error. See ERROR(2).

#### HARMONIC PLANE

harmonic plane. An arbitrarily selected zero chosen by the U.S. Coast and Geodetic Survey to serve as the base for its tidal tables, charts, and maps.

#### HARMONY

harmony. Agreement or accord; conformity <the decision in Jones is in harmony with earlier Supreme Court precedent>. — harmonize, vb.

#### HARROW

harrow (har-oh or h<<schwa>>-roh), n. [fr. Old French haro] Hist. In Norman and early English law, an outcry (or hue and cry) after felons and malefactors. — Also termed haro. See HUE AND CRY. Cf. CLAMEUR DE HARO.

#### HARTER ACT

Harter Act. Maritime law. An 1893 federal statute regulating a carrier's liability for the loss or damage of ocean cargo shipped under bills of lading. 46 USCA app. §§ 190–196. • The Act was the primary model for the Carriage of Goods by Sea Act, which has largely superseded it in practice. See CARRIAGE OF GOODS BY SEA ACT. [Cases: Shipping 103.C.J.S. Shipping §§ 232–242.]

“[T]he Harter Act [was] the world's first legislative attempt to allocate the risk of loss in ocean transportation between carrier and cargo interests.” Michael F. Sturley, *Changing Liability Rules and Marine Insurance*, 24 J. Mar. L. & Com. 119, 119 (1993).

#### HART–SCOTT–RODINO ANTITRUST IMPROVEMENT ACT

Hart–Scott–Rodino Antitrust Improvement Act. A federal statute, enacted in 1976, that generally strengthens the Justice Department's antitrust enforcement powers, esp. by requiring firms to give notice to the Federal Trade Commission and the Justice Department of an intent to merge if one of the firms has annual revenues or assets exceeding \$100 million, and the acquisition price or value of the acquired firm exceeds \$15 million. — Often shortened to Hart–Scott–Rodino Act (abbr. HSR Act).

#### HASH

hash, vb. To run (a document) through an encryption algorithm, usu. to secure the contents or to derive a number unique to the document. • The product of hashing is either run through the

encryption algorithm in reverse to verify that the transmitted message has not been altered or combined with the sender's private-encryption key to produce a digital signature for the document.

#### HASH NUMBER

hash number. A unique numerical code generated by encryption software for use in creating a digital signature. — Also termed hashed number. See digital signature under SIGNATURE; HASH; KEY ENCRYPTION.

#### HASPA

haspa (has-p<<schwa>>), n. [Law Latin] Hist. The hasp of a door. • Livery of seisin was often made in the doorway of a structure located on the property being transferred.

#### HASTA

hasta (has-t<<schwa>>), n. [Latin “spear”] 1. Roman law. A sale by auction, indicated by a spear placed into the ground. • The phrase hasta subicere (“to put under the spear”) meant to put up for sale at auction. 2. Hist. A symbol used to invest a fief.

#### HATCH ACT

Hatch Act. A federal statute, enacted in 1939, that restricts political-campaign activities by federal employees and limits contributions by individuals to political campaigns. 5 USCA §§ 1501–1508. • Senator Carl Hatch sponsored the Act following disclosures that Works Progress Administration officials were using their positions to campaign for the Democratic Party. [Cases: Elections 311.2. C.J.S. Elections §§ 334(1), 355(2).]

#### HATCH–WAXMAN ACT

Hatch–Waxman Act. The popular name of the 1984 federal law that provides incentives for the development of generic drugs and allows drug-patent owners to regain the time lost on a patent's term while awaiting approval of the drug from the Food and Drug Administration. — Also termed Drug Price Competition and Patent Term Restoration Act of 1984.

#### HATE CRIME

hate crime. See CRIME.

#### HATE SPEECH

hate speech. See SPEECH.

#### HAT MONEY

hat money. Maritime law. A small gratuity traditionally paid to the master (and sometimes the crew) of a ship for the care of the cargo. — Also termed pocket money; primage. [Cases: Shipping 69. C.J.S. Shipping § 158.]

“Primage and average, which are mentioned in bills of lading, mean a small compensation or duty paid to the master, over and above the freight, for his care and trouble as to the goods. It

belongs to him of right, and it is not understood to be covered by the policy of insurance. For these charges, as well as for freight, the master has a lien on the cargo.” 3 James Kent, Commentaries on American Law \*232 n.(b) (George Comstock ed., 11th ed. 1866).

#### HATSELL'S PRECEDENTS

Hatsell's Precedents. A compilation of points of order decided in the House of Commons, published by the House's clerk, John Hatsell, in two volumes, the first in 1776 and the second in 1781. • Hatsell's compilation was a primary source for the manual that Thomas Jefferson compiled while presiding over the United States Senate.

#### HAUBER

hauber ([h]aw-b<<schwa>>r), n.[Old French] Hist. A high lord; a great baron.

#### HAULAGE ROYALTY

haulage royalty. See ROYALTY(2).

#### HAUSTUS

haustus (haws-t<<schwa>>s), n.[Latin “a drawing”] Roman law. A species of rustic praedial servitude consisting in the right to draw water from a well or spring on another's property — the term being common esp. in the form aquaehaustus. • A right-of-way (iter) to the well was implied in the easement.

#### HAVE

have. See HABE.

#### HAVE AND HOLD

have and hold. See HABENDUM CLAUSE.

#### HAVE THE FLOOR

have the floor. Parliamentary law. To be entitled to speak after being recognized by the chair.

#### HAWKER

hawker. An itinerant or traveling salesperson who sells goods in a public street, esp. one who, in a loud voice, cries out the benefits of the items offered for sale; a peddler. • A hawker is usu. required to have a license. [Cases: Hawkers and Peddlers 3.]

#### HAWKING

hawking. The act of offering, by outcry, goods for sale from door to door or on a public street. [Cases: Hawkers and Peddlers 1–7.]

#### HAYBOTE

haybote (hay-boht), n.[fr. French haye “a hedge” + Saxon bote “an allowance”] Hist. The right or privilege of a tenant for life or years to have material to repair the hedges or fences, or to

make farming implements. — Also termed hedgebote. See BOTE.

#### HAYWARD

hayward.Hist. 1. An officer of a town or manor responsible for maintaining fences and hedges, esp. to prevent cattle from breaking through to an enclosed pasture. 2. A cattle herdsman.

#### HAZANTOWN AGREEMENT

Hazantown agreement (hay-z<<schwa>>n-town). A type of collective-bargaining agreement used in the garment industry, governing the relationship between a jobber and the contractors that produce the jobber's garments. • The agreement does not govern the relationship between the jobber and its own employees. It governs the relationship between the jobber and the contractors that manufacture the garments that the jobber sells, including agreements that the jobber will use only unionized contractors, will ensure that salaries and bonuses are appropriately paid, and will contribute to employee-benefit funds maintained on behalf of the contractor's employees. This term gets its name from Hazantown, Inc., the jobber involved in *Danielson v. Joint Bd. of Coat, Suit & Allied Garment Workers' Union*, 494 F.2d 1230 (2d Cir. 1974). — Also termed jobber's agreement.

#### HAZARD

hazard,n.1. Danger or peril; esp., a contributing factor to a peril. See PERIL.

extraordinary hazard.Workers' compensation. An unusual occupational danger that is increased by the acts of employees other than the injured worker. — Also termed extraordinary danger. [Cases: Workers' Compensation 511–520, 678. C.J.S. Workmen's Compensation §§ 288–304, 338, 409, 420, 424.]

imminent hazard.An immediate danger; esp., in environmental law, a situation in which the continued use of a pesticide will probably result in unreasonable adverse effects on the environment or will involve an unreasonable danger to the survival of an endangered species. 7 USCA § 136(1). [Cases: Environmental Law 423.]

occupational hazard.A danger or risk that is peculiar to a particular calling or occupation. • Occupational hazards include both accidental injuries and occupational diseases.

2.Insurance. The risk or probability of loss or injury, esp. a loss or injury covered by an insurance policy.

moral hazard.A hazard that has its inception in mental attitudes. • Examples include dishonesty, carelessness, and insanity. The risk that an insured will destroy property or allow it to be destroyed (usu. by burning) in order to collect the insurance proceeds is a moral hazard. Also, an insured's potential interest, if any, in the burning of the property is sometimes called a moral hazard. [Cases: Insurance 3055(2).]

physical hazard.A hazard that has its inception in the material world. • Examples include location, structure, occupancy, exposure, and the like.

3.Hist. An unlawful dice game in which the chances of winning are complicated by arbitrary rules.

**HAZARDER**

hazarder (haz-*<<schwa>>r-d<<schwa>>r*), n. Hist. A player in an unlawful game of dice. — Also spelled hazardor.

**HAZARDOUS**

hazardous,adj. Risky; dangerous.

**HAZARDOUS CARGO**

hazardous cargo.See CARGO.

**HAZARDOUS CONTRACT**

hazardous contract.See aleatory contract under CONTRACT.

**HAZARDOUS EMPLOYMENT**

hazardous employment.See EMPLOYMENT.

**HAZARDOUS NEGLIGENCE**

hazardous negligence.See gross negligence under NEGLIGENCE.

**HAZARDOUS SUBSTANCE**

hazardous substance. 1. A toxic pollutant; an imminently dangerous chemical or mixture. [Cases: Environmental Law 413.] 2. See hazardous waste under WASTE(2).

**HAZARDOUS WASTE**

hazardous waste.See WASTE(2).

**HAZARD PAY**

hazard pay.Special compensation for work done under unpleasant or unsafe conditions.

**HAZING**

hazing,n. The practice of physically or emotionally abusing newcomers to an organization as a means of initiation. • In the early 19th century, hazing referred to beating. Hazing was a well-established custom in fraternities at Ivy League universities by the mid-19th century. (One college magazine referred to “the absurd and barbarous custom of hazing, which has long prevailed in the college.” 1 Harvard Mag. 413 (1860).) The first death from hazing was reported at Yale in 1892 (N.Y. Daily News, June 28, 1892). In the late 20th century, many colleges and universities banned hazing and many states passed anti-hazing statutes establishing criminal penalties. See ANTIHAZING STATUTE.

**HAZING STATUTE**



hazing statute. See ANTIHAZING STATUTE.

H.B.

H.B. See house bill under BILL(3).

H.C.

H.C.abbr.1.HOUSE OF COMMONS. 2.HABEAS CORPUS.

HDC

HDC.abbr.HOLDER IN DUE COURSE.

HE

he. A pronoun of the masculine gender, traditionally used and construed in statutes to include both sexes, as well as corporations. • It may also be read as they. Because of the trend toward nonsexist language, careful drafters avoid using the generic pronouns he, him, and his unless the reference is only to a male person.

HEAD-AND-MASTER RULE

head-and-master rule.Hist. The doctrine that the husband alone is authorized to manage community property. • Some courts have held that the rule is unconstitutional gender-based discrimination. — Also termed lord-and-master rule. Cf. EQUAL-MANAGEMENT RULE.

HEADBOROUGH

headborough. See BORSHOLDER.

HEADING

heading. A brief title or caption of a section of a statute, contract, or other writing.

“The headings prefixed to sections or sets of sections in some modern statutes are regarded as preambles to those sections. They cannot control the plain words of the statute, but they may explain ambiguous words ....” P. St. J. Langan, *Maxwell on the Interpretation of Statutes* 11 (12th ed. 1969).

HEADLEASE

headlease. A primary lease under which a sublease has been granted. — Also spelled head lease. — Also termed primary lease; chief lease. [Cases: Landlord and Tenant 78(1).]

HEADLESSOR

headlessor. A lessor on a lease of property that has been subleased.

HEAD MONEY

head money. 1. A tax on people who fit within a designated class; a poll tax. See capitation tax, poll tax under TAX. [Cases: Taxation 106.C.J.S. Taxation §§ 1671–1672.] 2. A bounty

offered by a government for a prisoner taken at sea during a naval engagement. • This bounty is divided among the officers and crew in the same manner as prize money. See PRIZE MONEY . 3. A tax or duty on shipowners, imposed by an 1882 federal statute, for every immigrant brought into the United States. — Also termed head tax. 4.Hist. A bounty or reward paid to a person who killed a bandit or outlaw and produced the head as evidence. See BOUNTY(1); REWARD.

#### HEADNOTE

headnote. A case summary that appears before the printed judicial opinion in a law report, addresses a point of law, and usu. includes the relevant facts bearing on that point of law. — Also termed syllabus; synopsis; reporter's syllabus.

“The syllabus or headnote is a brief statement of the propositions of law decided in the case, being in the nature of a table of contents of the case. The modern method is to number each proposition in the syllabus, and to indicate, by corresponding figures, the exact place in the decision where the point mentioned in the syllabus can be found. Sometimes, especially in the older reports, the syllabus is inaccurate or misleading, and it is not safe to rely on it without first verifying it from the decision.” Frank Hall Childs, *Where and How to Find the Law* 22 (1922).

#### HEADNOTE LAWYER

headnote lawyer.See LAWYER.

#### HEAD OF FAMILY

head of family.A person who supports one or more people related by birth, adoption, or marriage and with whom those persons maintain their permanent domicile. • The phrase head of family appears most commonly in homestead law. For a person to have the status of head of family, there must, of necessity, be at least two people in the family. — Also termed head of a family. Cf. HEAD OF HOUSEHOLD.

#### HEAD OF HOUSEHOLD

head of household. 1. The primary income-provider within a family. 2. For income-tax purposes, an unmarried or separated person (other than a surviving spouse) who provides a home for dependents for more than one-half of the taxable year. • A head of household is taxed at a lower rate than a single person who is not head of a household. Cf. HEAD OF FAMILY; HOUSEHOLDER. [Cases: Internal Revenue 3549.]

#### HEADRIGHT

headright. In American Indian law, a tribe member's right to a pro rata portion of income from a tribal trust fund set up under the Allotment Act of 1906. • This type of trust fund is funded largely by mineral royalties arising from land held or once held by the tribe member's tribe. [Cases: Indians 10, 16.10. C.J.S. Indians §§ 30, 67, 69–70, 74–75, 77–80, 107–108.]

#### HEADRIGHT CERTIFICATE

headright certificate.Hist. A certificate issued under authority of a Republic of Texas law of

1839 providing that a person was entitled to a grant of 640 acres if the person (1) had immigrated to the Republic between 1 October 1837 and 1 January 1840, (2) was a head of household, and (3) actually resided within the Republic with his or her family. • The grant was to be held under the certificate for three years and then conveyed by absolute deed to the settler.

#### HEAD SHOP

head shop. A retail establishment that sells items intended for use with illegal drugs.

#### HEAD-SILVER

head-silver. See common fine under FINE(4).

#### HEAD-START INJUNCTION

head-start injunction. See INJUNCTION.

#### HEADSTREAM

headstream. The source of a river.

#### HEAD TAX

head tax. 1. See poll tax under TAX. 2. HEAD MONEY(3).

#### HEADWATER

headwater. 1. (usu. pl.) The part of a river or stream that is closest to its source. 2. HEADSTREAM.

#### HEALTH

health. 1. The state of being sound or whole in body, mind, or soul. 2. Freedom from pain or sickness.

public health. 1. The health of the community at large. 2. The healthful or sanitary condition of the general body of people or the community en masse; esp., the methods of maintaining the health of the community, as by preventive medicine and organized care for the sick. • Many cities have a “public health department” or other agency responsible for maintaining the public health; federal laws dealing with health are administered by the Department of Health and Human Services. [Cases: Health 350.]

sound health. Insurance. A policy applicant's good condition; a state of health characterized by a lack of grave impairment or disease, or of any ailment that seriously affects the applicant's health. [Cases: Insurance 1758, 3003(8). C.J.S. Insurance § 314.]

#### HEALTHCARE-INSURANCE RECEIVABLE

healthcare-insurance receivable. An interest in or claim under an insurance policy, being a right to payment of a monetary obligation for healthcare goods or services provided. UCC § 9-102(a)(46).

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**HEALTHCARE LIEN**

healthcare lien.See LIEN.

**HEALTHCARE PROXY**

healthcare proxy.See ADVANCE DIRECTIVE(1).

**HEALTH INSURANCE**

health insurance.See INSURANCE.

**HEALTH-INSURANCE ORDER**

health-insurance order.Family law. An order requiring a parent either to obtain health insurance for a child or to add a child to an existing health-insurance policy. • Health-insurance orders often include dental insurance.

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**

Health Insurance Portability and Accountability Act.A 1996 federal law that provides additional health-insurance protections to employees by limiting the effect of preexisting conditions on an employee's ability to obtain insurance; permitting an employee to enroll a new dependent acquired by birth, adoption, or marriage; making it easier for people to maintain insurance coverage while changing jobs; and helping businesses employing fewer than 50 workers to obtain group insurance plans. • The Act is codified in various sections of 18 USCA, 26USCA, 29 USCA, and 42 USCA. — Abbr. HIPAA.

**HEALTH LAW**

health law.A statute, ordinance, or code that prescribes sanitary standards and regulations for the purpose of promoting and preserving the community's health. [Cases: Health 351, 355.]

**HEALTH-MAINTENANCE ORGANIZATION**

health-maintenance organization.A group of participating healthcare providers that furnish medical services to enrolled members of a group health-insurance plan. — Abbr. HMO. Cf. PREFERRED-PROVIDER ORGANIZATION. [Cases: Health 294; Insurance 1252.]

**HEALTH OFFICER**

health officer.A government official charged with executing and enforcing health laws. • The powers of a health officer (such as the Surgeon General) are regulated by law. [Cases: Health 361.]

**HEARING**

hearing. 1. A judicial session, usu. open to the public, held for the purpose of deciding issues of fact or of law, sometimes with witnesses testifying < the court held a hearing on the admissibility of DNA evidence in the murder case>.2.Administrative law. Any setting in which an affected person presents arguments to an agency decision-maker <a hearing on zoning variations>.

[Cases: Administrative Law and Procedure 469. C.J.S. Public Administrative Law and Procedure §§ 134, 136, 138–139.] 3. In legislative practice, any proceeding in which legislators or their designees receive testimony about legislation that might be enacted <the shooting victim spoke at the Senate's hearing on gun control>. See PRELIMINARY HEARING . [Cases: States 34. C.J.S. States §§ 55–58.] 4.Equity practice. A trial. 5.English law. ORAL ARGUMENT.

adjudication hearing. 1.Administrative law. An agency proceeding in which a person's rights and duties are decided after notice and an opportunity to be heard. See procedural due process under DUE PROCESS. Cf. disposition hearing. [Cases: Administrative Law and Procedure 469. C.J.S. Public Administrative Law and Procedure §§ 134, 136, 138–139.] 2. In child-abuse and neglect proceedings, the trial stage at which the court hears the state's allegations and evidence and decides whether the state has the right to intervene on behalf of the child. [Cases: Infants 203. C.J.S. Infants §§ 51–52, 62, 64–67.] 3. In a juvenile-delinquency case, a hearing at which the court hears evidence of the charges and makes a finding of whether the charges are true or not true. — Also termed adjudicatory hearing; adjudicatory proceeding.

adjudicatory hearing (<<schwa>>-joo-di-k<<schwa>>-tor-ee). See adjudication hearing.

certification hearing.See transfer hearing.

conformity hearing.See CONFORMITY HEARING.

contested hearing.A hearing in which at least one of the parties has objections regarding one or more matters before the court.

continued-custody hearing.See shelter hearing.

custody hearing.Family law. A judicial examination of the facts relating to child custody, typically in a divorce or separation proceeding. • Child-neglect and dependency matters are also often dealt with in custody hearings. — Also termed custody proceeding. [Cases: Child Custody 500. C.J.S. Parent and Child § 122.]

Daubert hearing.See DAUBERT HEARING.

dependency hearing.See shelter hearing.

detention hearing. 1.Criminal law. A hearing to determine whether an accused should be released pending trial. See pretrial detention under DETENTION. 2.Family law. A hearing held by a juvenile court to determine whether a juvenile accused of delinquent conduct should be detained, continued in confinement, or released pending an adjudicatory hearing. Cf. adjudication hearing; disposition hearing. [Cases: Infants 203. C.J.S. Infants §§ 51–52, 62, 64–67.] 3. See shelter hearing.

discharge hearing.See DISCHARGE HEARING.

dispositional hearing.See disposition hearing.

disposition hearing.Family law. 1. In child-abuse and neglect proceedings, after an adjudication hearing at which the state proves its allegations, a hearing at which the court hears

evidence and enters orders for the child's care, custody, and control. • Typically, the judge determines a plan for services aimed at reunifying or rehabilitating the family. 2. In a juvenile-delinquency case, after an adjudication hearing at which the state proves its case against the juvenile or after a juvenile's pleading true to the charges against him, a hearing at which the court determines what sanctions, if any, will be imposed on the juvenile. • At a disposition hearing, the court balances the best interests of the child against the need to sanction the child for his or her actions. If the juvenile is adjudicated a delinquent, the probation staff prepares a social history of the youth and his family and recommends a disposition. After reviewing the social history and various recommendations, the court enters a disposition. Among the possible juvenile sanctions are a warning, probation, restitution, counseling, or placement in a juvenile-detention facility. Probation is the most common sanction. — Also termed dispositional hearing. Cf. adjudication hearing. 3. See permanency hearing. [Cases: Infants 203. C.J.S. Infants §§ 51–52, 62, 64–67.]

evidentiary hearing. 1. A hearing at which evidence is presented, as opposed to a hearing at which only legal argument is presented. 2. ADMINISTRATIVE PROCEEDING.

exclusionary hearing. A pretrial hearing conducted to review and determine the admissibility of alleged illegally obtained evidence. [Cases: Criminal Law 394.6. C.J.S. Criminal Law § 794.]

fair hearing. A judicial or administrative hearing conducted in accordance with due process. [Cases: Constitutional Law 251.6, 318(1). C.J.S. Constitutional Law §§ 968, 1165–1166, 1168–1169, 1176–1179.]

Fatico hearing. See FATICO HEARING.

fitness hearing. See transfer hearing.

Franks hearing. See FRANKS HEARING.

full adversary hearing. See adjudication hearing.

full hearing. 1. A hearing at which the parties are allowed notice of each other's claims and are given ample opportunity to present their positions with evidence and argument. 2. ADMINISTRATIVE PROCEEDING.

Garcia hearing. See GARCIA HEARING.

hearing de novo (dee or di noh-voh). 1. A reviewing court's decision of a matter anew, giving no deference to a lower court's findings. [Cases: Appeal and Error 892; Federal Courts 776. C.J.S. Appeal and Error § 756.] 2. A new hearing of a matter, conducted as if the original hearing had not taken place.

Jackson–Denno hearing. See JACKSON–DENNO HEARING.

Mapp hearing. See MAPP HEARING.

neglect hearing. Family law. A judicial hearing involving alleged child abuse or some other situation in which a child has not been properly cared for by a parent or person legally responsible for the child's care. • At issue is the civil culpability of the parent or responsible party and the

possible loss of children into foster care or — in extreme cases — the termination of parental rights. [Cases: Infants 203. C.J.S. Infants §§ 51–52, 62, 64–67.]

omnibus hearing.Criminal procedure. A hearing designed to bring judicial oversight over criminal cases at an early stage to make certain that the cases are being handled expeditiously and properly. • At an omnibus hearing, the court is primarily interested in ensuring that discovery is being conducted properly, that any necessary evidentiary hearings have been scheduled, and that all issues ripe for decision have been decided.

permanency hearing.Family law. Under the Adoption and Safe Families Act, a judicial proceeding to determine the future, permanent status of a child in foster care. • Under the Act, the term permanency hearing replaces the term disposition hearing. The permanency hearing must occur within 12 months of a child's being placed in foster care. The purpose of the hearing is to determine the final direction of the case, whether that means going forward with termination proceedings or continuing plans for family reunification. — Also termed permanency-planning hearing.

preliminary hearing.See PRELIMINARY HEARING.

preliminary protective hearing.See shelter hearing.

presentence hearing.See PRESENTENCE HEARING.

pretrial hearing.See PRETRIAL CONFERENCE.

probable-cause hearing.See shelter hearing.

public hearing.A hearing that, within reasonable limits, is open to anyone who wishes to observe. • Such a hearing is often characterized by the right to appear and present evidence in a case before an impartial tribunal. [Cases: Administrative Law and Procedure 473. C.J.S. Public Administrative Law and Procedure §§ 136, 138–139.]

reaffirmation hearing.See REAFFIRMATION HEARING.

review hearing.Family law. After a finding of child abuse or neglect, a hearing to assess the progress in the case plan. See CASE PLAN.

revocation hearing.Criminal procedure. A hearing held to determine whether a parolee should be returned to prison for violating the terms of parole. [Cases: Pardon and Parole 85. C.J.S. Pardon and Parole §§ 75, 79–80.]

sentencing hearing.See PRESENTENCE HEARING.

shelter hearing.Family law. A hearing shortly after the state's removal of a child for suspected abuse or neglect. • The hearing is generally held within 24 to 72 hours after the removal. The purpose of the hearing is to determine whether the state has adequate cause to maintain the children in protective care. — Also termed shelter-care hearing; continued-custody hearing; preliminary protective hearing; probable-cause hearing; detention hearing; dependency hearing.

suppression hearing.Criminal procedure. A pretrial hearing in which a criminal defendant

seeks to prevent the introduction of evidence alleged to have been seized illegally. [Cases: Criminal Law 394.6. C.J.S. Criminal Law § 794.]

termination-of-parental-rights hearing.Family law. A trial or court proceeding, usu. initiated by a state agency, that seeks to sever the legal ties between a parent and child, usu. so that the child can be adopted. • The standard of proof in a termination-of-parental-rights hearing is clear and convincing evidence. *Santosky v. Kramer*, 455 U.S. 745, 102 S.Ct. 1388 (1982). — Often shortened to termination hearing. [Cases: Infants 203. C.J.S. Infants §§ 51–52, 62, 64–67.]

transfer hearing.Criminal procedure. In a juvenile-court case, a hearing to determine whether the case should be transferred to adult criminal court where the juvenile will be tried as an adult. • Every state, as well as the District of Columbia, has a transfer statute. The United States Supreme Court defined the due-process requirements for transfer hearings in *Kent v. United States*, 383 U.S. 541, 86 S.Ct. 1045 (1966). — Also termed certification hearing; waiver hearing; fitness hearing. See TRANSFER STATUTE; MANDATORY WAIVER; STATUTORY EXCLUSION.

trial-type hearing.See ADMINISTRATIVE PROCEEDING.

uncontested hearing.A hearing in which either (1) the parties are in agreement as to all matters before the court, or (2) one of the parties has failed to answer the lawsuit.

unfair hearing.A hearing that is not conducted in accordance with due process, as when the defendant is denied the opportunity to prepare or consult with counsel. [Cases: Constitutional Law 251.6. C.J.S. Constitutional Law §§ 968, 1165–1166, 1168–1169.]

Wade hearing.See WADE HEARING.

waiver hearing.See transfer hearing.

#### HEARING EXAMINER

hearing examiner.See ADMINISTRATIVE-LAW JUDGE.

#### HEARING OFFICER

hearing officer. 1.ADMINISTRATIVE-LAW JUDGE. 2. See judicial officer (3) under OFFICER.

#### HEARSAY

hearsay. 1. Traditionally, testimony that is given by a witness who relates not what he or she knows personally, but what others have said, and that is therefore dependent on the credibility of someone other than the witness. • Such testimony is generally inadmissible under the rules of evidence. 2. In federal law, a statement (either a verbal assertion or nonverbal assertive conduct), other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.Fed. R. Evid. 801(c). — Also termed hearsay evidence; secondhand evidence. Cf. original evidence under EVIDENCE. [Cases: Criminal Law 419; Evidence 314–324. C.J.S. Criminal Law § 856; Evidence §§ 227–228, 234, 259–266, 268–284, 319, 505–506.]



double hearsay.A hearsay statement that contains further hearsay statements within it, none of which is admissible unless exceptions to the rule against hearsay can be applied to each level <the double hearsay was the investigation's report stating that Amy admitted to running the red light>.Fed. R. Evid. 805. — Also termed multiple hearsay; hearsay within hearsay. [Cases: Criminal Law 419(13); Evidence 314–324.]

#### HEARSAY EXCEPTION

hearsay exception.Any of several deviations from the hearsay rule, allowing the admission of otherwise inadmissible statements because the circumstances surrounding the statements provide a basis for considering the statements reliable.

tender-years hearsay exception.A hearsay exception for an out-of-court statement by a child ten years of age or younger, usu. describing an act of physical or sexual abuse, when the child is unavailable to testify and the court determines that the time, content, and circumstances of the statement make it reliable.

#### HEARSAY RULE

hearsay rule.The rule that no assertion offered as testimony can be received unless it is or has been open to test by cross-examination or an opportunity for cross-examination, except as provided otherwise by the rules of evidence, by court rules, or by statute. • The chief reasons for the rule are that out-of-court statements amounting to hearsay are not made under oath and are not subject to cross-examination. Fed. R. Evid. 802. Rule 803 provides 23 explicit exceptions to the hearsay rule, regardless of whether the out-of-court declarant is available to testify, and Rule 804 provides five more exceptions for situations in which the declarant is unavailable to testify. [Cases: Criminal Law 419; Evidence 314–324. C.J.S. Criminal Law § 856; Evidence §§ 227–228, 234, 259–266, 268–284, 319, 505–506.]

“[T]he great hearsay rule ... is a fundamental rule of safety, but one overenforced and abused, — the spoiled child of the family, — proudest scion of our jury-trial rules of evidence, but so petted and indulged that it has become a nuisance and an obstruction to speedy and efficient trials.” John H. Wigmore, *A Students' Textbook of the Law of Evidence* 238 (1935).

#### HEARSAY WITHIN HEARSAY

hearsay within hearsay.See double hearsay under HEARSAY.

#### HEARTBALM STATUTE

heartbalm statute.A state law that abolishes the rights of action for monetary damages as solace for the emotional trauma occasioned by a loss of love and relationship. • The abolished rights of action include alienation of affections, breach of promise to marry, criminal conversation, and seduction of a person over the legal age of consent. Many states today have enacted heartbalm statutes primarily because of the highly speculative nature of the injury and the potential for abusive prosecution, as well as the difficulties of determining the cause of a loss. The terminology in this field is somewhat confusing, since a heartbalm statute abolishes lawsuits that were known as heartbalm suits; some scholars therefore call the abolitionary statutes anti-heartbalm statutes.

But the prevailing term is heartbalm statute. — Also written heart-balm statute. — Also termed heartbalm act; anti-heartbalm statute; anti-heartbalm act. [Cases: Breach of Marriage Promise 14; Husband and Wife 323, 341; Seduction 3. C.J.S. Breach of Marriage Promise §§ 2, 12, 14.]

“Under the English common law, a broken engagement might be followed by a lawsuit for breach of promise to marry .... [T]he action came to look more like a tort action, in which damages might be given for the injury to the plaintiff's feelings, health and reputation and for expenses such as costs incurred in preparing for a wedding. Widespread criticism of the suit for breach of promise to marry (as well as related tort actions including seduction and alienation of affections) led to the passage of ‘heart balm’ statutes abolishing these claims in many jurisdictions in the United States beginning in the 1930's.” Homer H. Clark Jr. & Ann Laquer Estin, *Domestic Relations: Cases and Problems* 47 (6th ed. 2000).

#### HEARTH MONEY

hearth money.Hist.1.A tax of two shillings levied on every fireplace in England (14 Car. 2, ch. 10). • This extremely unpopular tax was enacted in 1662 during the reign of Charles II and abolished in 1688. — Also termed chimney money. 2.PETER-PENCE.

#### HEAT OF PASSION

heat of passion.Rage, terror, or furious hatred suddenly aroused by some immediate provocation, usu. another person's words or actions. • At common law, the heat of passion could serve as a mitigating circumstance that would reduce a murder charge to manslaughter. — Also termed sudden heat of passion; sudden heat; sudden passion; hot blood; sudden heat and passion; furor brevis. Cf. COLD BLOOD; COOL BLOOD. [Cases: Homicide 666, 828.]

“To constitute the heat of passion included in this requirement it is not necessary for the passion to be so extreme that the slayer does not know what he is doing at the time; but it must be so extreme that for the moment his action is being directed by passion rather than by reason.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 99 (3d ed. 1982).

#### HEAVY WORK

heavy work.See WORK(1).

#### HEBOTE

hebote. See HEREBOTE.

#### HEDAGIUM

hedagium (h<<schwa>>-day-jee-<<schwa>>m), n.[Law Latin] Hist. A toll or custom due at a wharf for landing goods. • The Crown exempted particular persons and societies from this toll.

#### HEDGE

hedge,vb. To use two compensating or offsetting transactions to ensure a position of breaking even; to make advance arrangements to safeguard oneself from loss on an investment, speculation, or bet, as when a buyer of commodities insures against unfavorable price changes by buying in

advance at a fixed rate for later delivery. [Cases: Commodity Futures Trading Regulation 10. C.J.S. Securities Regulation §§ 455, 470.] — hedging,n.

**HEDGEBOTE**

hedgebote. See HAYBOTE.

**HEDGE FUND**

hedge fund.A specialized investment group — usu. organized as a limited partnership or offshore investment company — that offers the possibility of high returns through risky techniques such as selling short or buying derivatives. • Most hedge funds are not registered with the SEC and are therefore restricted in marketing their services to the public.

**HEDONIC DAMAGES**

hedonic damages.See DAMAGES.

**HEDONISTIC DAMAGES**

hedonistic damages.See hedonic damages under DAMAGES.

**HEDONISTIC UTILITARIANISM**

hedonistic utilitarianism.See UTILITARIANISM.

**HEEDING PRESUMPTION**

heeding presumption.See PRESUMPTION.

**HEEDLESSNESS**

heedlessness,n. The quality of being thoughtless and inconsiderate; esp., conduct whereby the actor disregards the rights or safety of others. • Heedlessness is often construed to involve the same degree of fault as recklessness. See RECKLESSNESS. — heedless,adj.

**HEGEMONISM**

hegemonism (hi-jem-<<schwa>>-niz-<<schwa>>m).1. A philosophical position advocating hegemony. 2. All forms of political extension by means of hegemony.

**HEGEMONY**

hegemony (hi-jem-<<schwa>>-nee), n.1. Influence, authority, or supremacy over others <the hegemony of capitalism>.2. The striving for leadership or predominant authority of one state of a confederacy or union over the others; political domination <the former Soviet Union's hegemony over Eastern Europe>. — hegemonic (hej-<<schwa>>-mon-ik), adj.

**HEIGHTENED SCRUTINY**

heightened scrutiny.See INTERMEDIATE SCRUTINY.

**HEINOUS**

heinous (hay-n<<schwa>>s), adj. (Of a crime or its perpetrator) shockingly atrocious or odious. [Cases: Sentencing and Punishment 1684.] — heinousness, n.

### HEIR

heir (air).1. A person who, under the laws of intestacy, is entitled to receive an intestate decedent's property. Cf. ANCESTOR. — Also termed legal heir; heir at law; lawful heir; heir general; legitimate heir. [Cases: Descent and Distribution 20–43; Wills 505. C.J.S. Descent and Distribution §§ 23–49; Wills § 947.]

“Laymen — and sometimes first-year law students taking exams — wrongly assume that one who receives real property by will is an heir. Technically, the word ‘heir’ is reserved for one who receives real property by action of the laws of intestacy, which operate today only in the absence of a valid will.” Thomas F. Bergin & Paul G. Haskell, Preface to Estates in Land and Future Interests 14 n.32 (2d ed. 1984).

2. Loosely (in common-law jurisdictions), a person who inherits real or personal property, whether by will or by intestate succession. 3. Popularly, a person who has inherited or is in line to inherit great wealth. 4. Civil law. A person who succeeds to the rights and occupies the place of, or is entitled to succeed to the estate of, a decedent, whether by an act of the decedent or by operation of law. • The term heir under the civil law has a more expanded meaning than under the common law.

afterborn heir. One born after the death of an intestate from whom the heir is entitled to inherit. See afterborn child under CHILD. [Cases: Descent and Distribution 7.]

and his heirs. A term of art formerly required to transfer complete title (a fee simple absolute) to real estate <A conveys Blackacre to B and his heirs>. • This phrasing originated in the translation of a Law French phrase used in medieval grants (a lui et a ses heritiers pour toujours “to him and his heirs forever”). See FEE SIMPLE.

“The development reached its culmination when the words ‘and his heirs’ in a transfer were thought to give full durational ownership to the immediate transferee and no ownership whatever to his heirs. This notion was expressed in the statement that the words ‘and his heirs’ are words of limitation and not words of purchase. They indicate the durational character of an estate, not its taker.” Thomas F. Bergin & Paul G. Haskell, Preface to Estates in Land and Future Interests 93–94 (2d ed. 1984).

apparent heir. See heir apparent.

beneficiary heir (ben-<<schwa>>-fish-ee-er-ee). Civil law. An heir who accepts an inheritance but whose liability for estate debts is limited to the value of the inheritance. — Also termed heir beneficiary. See BENEFIT OF INVENTORY. Cf. unconditional heir. [Cases: Descent and Distribution 119(2). C.J.S. Descent and Distribution § 116.]

bodily heir. See heir of the body.

coheir (koh-air). One of two or more persons to whom an inheritance descends.

collateral heir. One who is neither a direct descendant nor an ancestor of the decedent, but whose kinship is through a collateral line, such as a brother, sister, uncle, aunt, nephew, niece, or cousin. Cf. lineal heir. [Cases: Descent and Distribution 32, 37. C.J.S. Descent and Distribution §§ 40–41, 44–49.]

expectant heir. An heir who has a reversionary or future interest in property, or a chance of succeeding to it. — Also termed heir expectant. See REVERSION(1); REMAINDER(1). Cf. prospective heir. [Cases: Descent and Distribution 68. C.J.S. Descent and Distribution § 68.]

“The reader should be aware that one never has an ‘heir’ until one is dead; one merely has an ‘heir expectant’ .... Thus, to say that an heir ‘owns’ anything is conceptually difficult. But ... some unborn heirs may be entitled to the protection of the courts, and thus be said to have estates.” Thomas F. Bergin & Paul G. Haskell, Preface to *Estates in Land and Future Interests* 26 n.13 (2d ed. 1984).

fideicommissary heir (fi-dee-I-kom-i-sair-ee). Roman & civil law. A beneficiary of property who succeeds the direct (original) heir. See FIDEICOMMISSUM.

fiduciary heir. Roman & civil law. An heir who takes property as a trustee on behalf of a person who is not eligible to receive the property immediately. See FIDEICOMMISSUM.

forced heir. Civil law. A person whom the testator or donor cannot disinherit because the law reserves part of the estate for that person. • In Louisiana, only descendants are forced heirs. La. Civ. Code art. 1493. See LEGITIME. [Cases: Descent and Distribution 23. C.J.S. Descent and Distribution §§ 30–31.]

heir apparent. An heir who is certain to inherit unless he or she dies first or is excluded by a valid will. — Also termed apparent heir. Cf. heir presumptive. [Cases: Descent and Distribution 68. C.J.S. Descent and Distribution § 68.]

“Heirs apparent are such, whose right of inheritance is indefeasible, provided they outlive the ancestor; as the eldest son or his issue, who must by the course of the common law be heirs to the father whenever he happens to die.” 2 William Blackstone, *Commentaries on the Laws of England* 208 (1766).

heir beneficiary. See beneficiary heir.

heir by adoption. A person who has been adopted by (and thus has become an heir to) the deceased. • By statute in most jurisdictions, an adopted child has the same right of succession to intestate property as a biological child unless the deceased clearly expresses a contrary intention. Jurisdictions differ on whether an adopted child may in addition inherit from his or her biological parents or family. The clear majority view, however, is that upon adoption, a complete severance of rights and obligations occurs and the child forfeits inheritance from all biological relatives.

heir by custom. Hist. In England, a person whose right of inheritance depends on a particular and local custom, such as gavelkind and borough English. See GAVELKIND; BOROUGH ENGLISH.

heir by devise. One to whom lands are given by will.

heir conventional. Civil law. One who takes a succession because of a contract or settlement entitling him or her to it.

heir expectant. See expectant heir.

heir in tail. See heir special.

heir male. Hist. The nearest male blood-relation of a decedent.

heir of the blood. An heir who succeeds to an estate because of consanguinity with the decedent, in either the ascending or descending line.

heir of the body. Archaic. A lineal descendant of the decedent, excluding a surviving spouse, adopted children, and collateral relations. • The term of art heirs of the body was formerly used to create a fee tail <A conveys Blackacre to B and the heirs of his body>. — Also termed bodily heir. [Cases: Descent and Distribution 25. C.J.S. Descent and Distribution § 32.]

heir presumptive. An heir who will inherit if the potential intestate dies immediately, but who may be excluded if another, more closely related heir is born. — Also termed presumptive heir. Cf. heir apparent. [Cases: Descent and Distribution 68. C.J.S. Descent and Distribution § 68.]

heirs and assigns. A term of art formerly required to create a fee simple <A conveys Blackacre to B and his heirs and assigns>.

heir special. Hist. An heir who receives property according to the nature of the estate held in fee tail. • Heirs special were said to receive property per formam doni (“by the form of the gift”). — Also termed heir in tail. [Cases: Descent and Distribution 29.]

joint heir. 1. A coheir. 2. A person who is or will be an heir to both of two designated persons at the death of the survivor of them, the word joint being here applied to the ancestors rather than the heirs.

known heir. An heir who is present to claim an inheritance, the extent of which depends on there being no closer relative.

laughing heir. Slang. An heir distant enough to feel no grief when a relative dies and leaves an inheritance (generally viewed as a windfall) to the heir.

lineal heir. A person who is either an ancestor or a descendant of the decedent, such as a parent or a child. Cf. collateral heir. [Cases: Descent and Distribution 25, 30. C.J.S. Descent and Distribution §§ 32, 37.]

natural heir. An heir by consanguinity as distinguished from an heir by adoption, or a statutory heir (such as a person's spouse). [Cases: Descent and Distribution 25. C.J.S. Descent and Distribution § 32.]

presumptive heir. See heir presumptive.

pretermitted heir (pree-t<<schwa>>r-mit-id). A child or spouse who has been omitted from a

will, as when a testator makes a will naming his or her two children and then, sometime later, has two more children who are not mentioned in the will. — Also termed (more specif.) pretermitted child; pretermitted spouse. See PRETERMITTED-HEIR STATUTE. [Cases: Descent and Distribution 47. C.J.S. Descent and Distribution §§ 51–54.]

prospective heir. An heir who may inherit but may be excluded; an heir apparent or an heir presumptive. Cf. expectant heir. [Cases: Descent and Distribution 68. C.J.S. Descent and Distribution § 68.]

right heir. 1. Hist. The preferred heir to an estate tail, as distinguished from a general heir. • An estate tail would pass to a general heir only on the failure of the preferred heir and his line. 2. HEIR(1).

testamentary heir (tes-t<<schwa>>-men-t<<schwa>>-ree or -tree). Civil law. A person who is appointed heir in the decedent's will.

unconditional heir. Civil law. A person who chooses — expressly or tacitly — to inherit without any reservation or without making an inventory. Cf. beneficiary heir.

#### HEIRDOM

heirdom. The state of being an heir; succession by inheritance. [Cases: Descent and Distribution 20–43. C.J.S. Descent and Distribution §§ 23–49.]

#### HEIRESS

heiress. 1. Archaic. A female heir. See HEIR. 2. A woman or girl who has inherited or is in line to inherit great wealth.

#### HEIR GENERAL

heir general. See HEIR(1).

#### HEIR-HUNTER

heir-hunter. A person whose business is to track down missing heirs.

#### HEIRLESS ESTATE

heirless estate. See ESTATE(3).

#### HEIRLOOM

heirloom. 1. An item of personal property that by local custom, contrary to the usual legal rule, descends to the heir along with the inheritance, instead of passing to the executor or administrator of the last owner. • Traditional examples are an ancestor's suit of armor, family portraits, title deeds, and keys. Blackstone gave a false etymology that many have copied: “The termination, loom, is of Saxon origin; in which language it signifies a limb or member; so that an heirloom is nothing else, but a limb or member of the inheritance.” 2 William Blackstone, Commentaries on the Law of England 427 (1766). In fact, loom derives from Old English *geloma* “utensil,” and loom meant “implement, tool.” 2. Popularly, a treasured possession of great

sentimental value passed down through generations within a family.

“Heir-looms, strictly so called, are now very seldom to be met with. They may be defined to be such personal chattels as go, by force of a special custom, to the heir, along with the inheritance, and not to the executor or administrator of the last owner. The owner of an heir-loom cannot by his will bequeath the heir-loom, if he leave the land to descend to his heir; for in such a case the force of custom will prevail over the bequest, which, not coming into operation until after the decease of the owner, is too late to supersede the custom.... In popular language the term ‘heir-loom’ is generally applied to plate, pictures or articles of property which have been assigned by deed of settlement or bequeathed by will to trustees, in trust to permit the same to be used and enjoyed by the persons for the time being in possession, under the settlement or will, of the mansion-house in which the articles may be placed.” Joshua Williams, *Principles of the Law of Personal Property* 13–14 (11th ed. 1881).

#### HEIR PORTIONER

heir portioner. See PORTIONER.

#### HEIRSHIP

heirship. 1. The quality or condition of being an heir. 2. The relation between an ancestor and an heir. [Cases: Descent and Distribution 20–41. C.J.S. Descent and Distribution §§ 23–26, 29–49.]

#### HELL-OR-HIGH-WATER CLAUSE

hell-or-high-water clause. A clause in a personal-property lease requiring the lessee to continue to make full rent payments to the lessor even if the thing leased is unsuitable, defective, or destroyed. [Cases: Bailment 20. C.J.S. Bailments §§ 76–78.]

#### HELL-OR-HIGH-WATER RULE

hell-or-high-water rule. 1. The principle that a personal-property lessee must pay the full rent due, regardless of any claim against the lessor, unless the lessee proves unequal bargaining power or unconscionability. [Cases: Bailment 20. C.J.S. Bailments §§ 76–78.] 2. Insurance. The principle that an insured's automobile-liability policy will cover the insured while using a vehicle owned by another if the insured uses the vehicle in a manner within the scope of the permission granted. [Cases: Insurance 2662. C.J.S. Insurance §§ 928, 1049, 1673.]

#### HENCEFORTH

henceforth, adv. From now on <the newly enacted rule will apply henceforth>.

#### HENFARE

henfare. Hist. A fine for flight from an accusation of murder.

#### HENRICUS VETUS

Henricus Vetus (hen-rĭ-k<<schwa>>s vee-t<<schwa>>s). [Law Latin] Henry the Old (or



Elder). • This term was used in early English charters to distinguish King Henry I from later kings of the same name.

#### HEORDPENNY

heordpenny (h<<schwa>>rd-pen-ee), n. See PETER-PENCE.

#### HEPBURN ACT

Hepburn Act. A 1906 federal statute that amended the Interstate Commerce Act to (1) increase the (now defunct) Interstate Commerce Commission's jurisdiction to include pipelines, (2) prohibit free passes except to employees, (3) prohibit common carriers from transporting any products (except timber) in which they had an interest, and (4) require joint tariffs and a uniform system of accounts. [Cases: Carriers 25, 32(1); Commerce 85.2. C.J.S. Carriers §§ 14–20, 48, 193, 195, 197, 199–201, 336, 388–389.]

#### HEPTARCHY

heptarchy (hep-tahr-kee). 1. A government by seven rulers. 2. A nation divided into seven governments, specif. the seven Anglo-Saxon kingdoms of Kent, Sussex, Essex, Wessex, East Anglia, Mercia, and Northumbria existing before the Norman Conquest.

#### HERALD

herald, n. 1. In England and Scotland, one of several officers responsible for keeping genealogical lists and tables, adjusting armorial bearings, and regulating the ceremonies at royal coronations and funerals. • There are six in England and three in Scotland. 2. Hist. A messenger who announces royal or state proclamations, and who carries diplomatic messages (esp. proclamations of war, peace, or truce) between kings or countries.

#### HERALDS' COLLEGE

Heralds' College. A royal corporation responsible in England for granting and recording armorial insignia and genealogies, and for dealing with matters of precedence. • The College was founded by Richard III in 1484, is governed by the Earl Marshal, and consists of three kings of arms, six heralds, and four pursuivants. The heralds' books, based on family-lineage inquiries made throughout England, are considered good evidence of pedigrees. The heralds' office is still allowed to make grants of arms and to grant name changes. — Also termed College of Arms.

#### HERBAGE

herbage (<<schwa>>r-bij). In England, an easement or liberty of pasturage on another's land.

#### HERDWERCH

herdwerch (h<<schwa>>rd-w<<schwa>>rk), n. Hist. Herdsmen's work, or customary labor, done by shepherds and inferior tenants at the lord's will. — Also spelled heordwerch.

#### HEREAFTER

hereafter, adv. 1. From now on; henceforth <because of the highway construction, she will

hereafter take the bus to work>.2. At some future time <the court will hereafter issue a ruling on the gun's admissibility>.3.HEREINAFTER <the exhibits hereafter referred to as Exhibit A and Exhibit B>.

## HERE AND THERE

here and there. See VALUE DATE.

## HEREBANNUM

herebannum (her-*<<schwa>>-ban-<<schwa>>m*), n. [Law Latin fr. Old English here "army" + bann "proclamation"] Hist. 1. A proclamation summoning the army into the field. 2. A mulct or fine for not joining that army when summoned. 3. A tax or tribute for the support of that army.

## HEREBOTE

herebote (her-*<<schwa>>-boht*), n. [fr. Old English here "army" + bod "command"] Hist. In England, a royal edict summoning the people to the battlefield; an edict commanding subjects into battle. — Also spelled herebode; hebote.

## HEREBY

hereby, adv. By this document; by these very words <I hereby declare my intention to run for public office>.

## HEREDAD

heredad (e-re-dahd), n. Spanish law. 1. An inheritance or heirship. 2. A piece of land under cultivation; a cultivated farm.

heredad yacente (e-re-dad yah-sen-te). An inheritance not yet accepted. See hereditas jacens under HEREDITAS.

## HEREDERO

heredero (e-re-der-oh), n. Spanish law. 1. An heir or legatee. 2. An owner of a cultivated farm.

## HEREDES

heredes. See HERES.

## HEREDES ALIOQUI SUCCESSURI

heredes alioqui successuri (h-*<<schwa>>-ree-deez ay-lee-oh-kwI s<<schwa>>k-ses-<<schwa>>-rI*). [Latin] Hist. Heirs entitled otherwise to succeed. — Also termed heredes alioquin successuri.

## HEREDES NATI ET FACTI

heredes nati et facti (h-*<<schwa>>-ree-deez nay-tI et fak-tI*). [Latin] Hist. Heirs born and made.

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**HEREDES PROXIMI**

heredes proximi (h<<schwa>>-ree-deez prok-s<<schwa>>-ml), n.[Latin] Nearest or next heirs.

**HEREDES PROXIMI ET REMOTIORES**

heredes proximi et remotiores (h<<schwa>>-ree-deez prok-s<<schwa>>-mlet ri-moh-shee-or-eez). [Latin] Hist. Heirs nearer and more remote.

**HEREDES REMOTIORES**

heredes remotiores (h<<schwa>>-ree-deez ri-moh-shee-or-eez), n.[Latin] Heirs more remote; relatives other than children or descendants.

**HEREDIPETA**

heredipeta (he-r<<schwa>>-dip-<<schwa>>-t<<schwa>>), n.[Law Latin] Hist. A legacy-hunter; the seeker of an inheritance.

**HEREDIS INSTITUTIO**

heredis institutio (h<<schwa>>-ree-dis in-sti-t[y]oo-shee-oh). See INSTITUTIO HEREDIS .

**HEREDITAMENT**

hereditament (her-<<schwa>>-dit-<<schwa>>-m<<schwa>>nt or h<<schwa>>-red-i-t<<schwa>>-m<<schwa>>nt).1. Any property that can be inherited; anything that passes by intestacy. [Cases: Descent and Distribution 8. C.J.S. Descent and Distribution §§ 9–12; Right of Privacy and Publicity§ 42.] 2. Real property; land. [Cases: Property 4. C.J.S. Property §§ 14–21, 23.]

corporeal hereditament (kor-por-ee-<<schwa>>l). A tangible item of property, such as land, a building, or a fixture. [Cases: Fixtures 1; Property 4. C.J.S. Property §§ 14–21, 23.]

incorporeal hereditament (in-kor-por-ee-<<schwa>>l). An intangible right in land, such as an easement. • The various types at common law were advowsons, annuities, commons, dignities, franchises, offices, pensions, rents, tithes, and ways.

“There are two quite distinct classes of incorporeal hereditaments: 1. Those which may ripen into corporeal hereditaments. Thus a grant to A for life with remainder to B in fee simple gave B an incorporeal hereditament which becomes corporeal after A's death. 2. Those which can never become corporeal hereditaments but are merely rights over the land of another, e.g., rentcharges.” Robert E. Megarry & M.P. Thompson, *A Manual of the Law of Real Property* 361 (6th ed. 1993).

**HEREDITARY**

hereditary,adj. Of or relating to inheritance; that descends from an ancestor to an heir.

**HEREDITARY SUCCESSION**

hereditary succession.See intestate succession under SUCCESSION(2).

## HEREDITAS

hereditas (h<<schwa>>-red-i-tas), n.[Latin] 1.Roman law. An inheritance by universal succession to a decedent. • This succession applied whether the decedent died testate or intestate, and whether in trust (ex fideicommisso) for another or not. The comparable right under Praetorian law was bonorum possessio, possession of an inheritance that could be the basis of a right to succeed. 2.Hist. An estate transmissible by descent; an inheritance. — Also spelled haereditas.

hereditas damnosa (h<<schwa>>-red-i-tas dam-noh-s<<schwa>>). A burdensome inheritance; an inheritance whose debts exceed its assets.

hereditas jacens (h<<schwa>>-red-i-tas jay-senz). [Latin iaceo “to lie”] 1. Property belonging to an estate before an heir accepts it. • This term had a similar meaning at common law. See ABEYANCE(2).

“Hereditas jacens is the term applied to an inheritance which has not yet vested, an inheritance, that is to say, which has been ‘delata’ to a heres extraneus (i.e. voluntarius), but has not yet been acquired by him.” Rudolph Sohm, *The Institutes: A Textbook of the History and System of Roman Private Law* 512 (James Crawford Ledlie trans., 3d ed. 1907).

2.Hist. A decedent's estate that has no heir or legatee to take it; an escheated estate. — Also termed caduca. See ESCHEAT. 3.Hist. An inheritance without legal owner and thus open to the first occupant.

hereditas legitima (h<<schwa>>-red-i-tas l<<schwa>>-jit-i-m<<schwa>>). A succession or inheritance devolving by operation of law rather than by will. See INTESTACY.

hereditas luctuosa (h<<schwa>>-red-i-tas l<<schwa>>k-choo-oh-s<<schwa>>). A sad or mournful inheritance; one that disturbs the natural order of mortality (turbato ordine mortalitatis), as that of a parent inheriting a child's estate. • This term is more literary than legal. — Also termed tristis successio.

hereditas paterna (h<<schwa>>-red-i-tas p<<schwa>>-t<<schwa>>r-n<<schwa>>). [Latin] Hist. A succession that descends through the father.

hereditas testamentaria (h<<schwa>>-red-i-tas tes-t<<schwa>>-men-tair-ee-<< schwa>>). Testamentary inheritance; succession to an estate under a decedent's will.

## HEREDITY

heredity. 1.Archaic. Intestate succession; the taking of an inheritance by common-law succession. 2. The genetic transmission of characteristics from a parent to a child; the biological law by which characteristics of a living being tend to repeat themselves in the being's descendants.

## HEREIN

herein,adv. In this thing (such as a document, section, or matter) <the due-process arguments stated herein should convince the court to reverse the judgment>.

## HEREINAFTER

hereinafter,adv. Later in this document <the buyer agrees to purchase the property described hereinafter>. — Also loosely termed hereafter.

## HERENACH

herenach (her-*<<schwa>>-nak*), n.[fr. Old Irish airchinnich “chief man”] An archdeacon. — Also spelled erenach.

## HEREOF

hereof,adv. Of this thing (such as a provision or document) <the conditions hereof are stated in section 3>.

## HERES

heres (heer-eez), n.[Latin] Roman law. A successor to the rights and liabilities of a deceased person; an heir. • Because the heres succeeded to both the rights and the debts of the decedent, the office combined that of a modern executor with that of an heir at law. The institution of the heres was the essential characteristic of a testament; if this was not done, the instrument was called a codicillus. — Also spelled (in Law Latin) haeres. Pl. heredes (*h<<schwa>>-ree-deez*) or (for haeres) haeredes.

heres actu (*ak-t[y]oo*). [Law Latin] Hist. Heir by appointment.

heres astrarius (*as-trair-ee-<<schwa>>s*). [Law Latin “heir of the hearth”] An heir who has received, by conveyance, an ancestor's estate during the ancestor's lifetime.

heres de facto (*di fak-toh*). [Law Latin “heir from fact”] Hist.1.An heir whose status arises from the disseisin or other wrongful act of the heir's ancestor. See DISSEISIN. 2. An heir in fact, as distinguished from an heir by law (*de jure*).

heres ex asse (*as-ee*). [Latin “sole heir”] Roman law. An heir to the whole estate.

heres ex testamento (*eks tes-t<<schwa>>-men-to*). See heres factus.

heres extraneus (*ek-stray-nee-<<schwa>>s*). [Latin “extraneous heir”] Roman law. An external heir; one who had not been subject to the testator's power (*potestas*) and hence not bound to accept the inheritance. Pl. heredes extranei (*h<<schwa>>-ree-deez ek-stray-nee-I*).

heres factus (*fak-t<<schwa>>s*). [Latin “made heir”] An heir appointed by will; a testamentary heir. — Also termed heres ex testamento; heres institutus. Cf. heres natus.

heres fideicommissarius (*fi-dee-I-kom-<<schwa>>-sair-ee-<<schwa>>s*). [Latin] Roman law. The person for whose benefit an estate was given by will to a fiduciary heir. • This office corresponds loosely to the cestui que trust of the common law. Cf. heres fiduciarius.

heres fiduciarius (*fi-d[y]oo-shee-air-ee-<<schwa>>s*). [Latin “fiduciary heir”] Roman law. A person made heir by will, in trust for the benefit of another; an heir subject to a trust. Cf. heres fideicommissarius.

heres in mobilibus (*heer-eez in moh-bil-i-b<<schwa>>s*). [Law Latin] Hist. Heir in

movables.

heres institutus (in-sti-t[y]oo-t<<schwa>>s). See heres factus.

heres legitimus (l<<schwa>>-jit-i-m<<schwa>>s). [Latin "lawful heir"] Roman law. An heir entitled to succeed (on intestacy) by the laws of the Twelve Tables.

heres natus (nay-t<<schwa>>s). [Latin "heir by birth"] An heir by reason of birth; an heir at law or by intestacy. Cf. heres factus.

heres necessarius (nes-<<schwa>>-sair-ee-<<schwa>>s). [Latin "necessary heir"] Roman law. A slave freed on the testator's death and thus compelled to accept the inheritance.

heres rectus (rek-t<<schwa>>s). [Law Latin] Hist. A right or proper heir.

heres suus (s[y]oo-<<schwa>>s). [Latin "one's own heir"] 1. A decedent's proper or natural heir; a lineal descendant of the deceased. 2. Roman law. A free person who was subject to the testator's power (potestas) but who could exercise full legal rights upon the testator's death.

heres suus et necessarius (s[y]oo-<<schwa>>s et nes-<<schwa>>-sair-ee-<<schwa>>s). [Latin "one's own and necessary heir"] A free person subject to the decedent's potestas. • These heirs were called necessary because they became heirs by law, not by the decedent's choice. But since this was also true of slaves, when named heirs in a will, the former class was designated suus et necessarius by way of distinction, the word suus denoting that the necessity arose from the relationship to the decedent.

ultimus heres (<<schwa>>l-ti-m<<schwa>>s). The last or remote heir; the lord.

#### HERESY

heresy (her-<<schwa>>-see), n.1. Opinion or doctrine contrary to (usu. Catholic) church dogma. [Cases: Religious Societies 28.] 2. Hist. In England, an offense against religion, consisting not in totally denying Christianity, but in publicly denying some of its essential doctrines; an opinion on divine subjects devised solely by human reason, openly taught, and obstinately maintained. • This offense is now subject only to ecclesiastical correction and is no longer punishable by the secular law.

#### HERETO

hereto,adv. To this document <the exhibits are attached hereto>.

#### HERETOFORE

heretofore,adv. Up to now; before this time <a question that has not heretofore been decided>.

#### HEREUNDER

hereunder,adv. 1. Later in this document <review the provisions hereunder before signing the consent form>.2. In accordance with this document <notice hereunder must be provided within 30 days after the loss>.

## HEREWITH

herewith,adv. With or in this document <enclosed herewith are three copies>.

## HEREYELD

hereyeld.Hist. In a feudal system, a vassal's best animal (esp. the best horse, ox, or cow), given in tribute to the superior upon the vassal's death. — Also spelled herezeld; herield.

## HERIELD

herield. See HEREYELD.

## HERIOT

heriot (her-ee-<<schwa>>t), n.[fr. Old English here “army” + geatwa “trappings”] Hist. A customary tribute of goods and chattels, payable to the lord of the fee on the tenant's death. • Heriot derives from an earlier feudal service consisting of military equipment returned to the lord on the tenant's death; over time it came to refer only to the chattel payment due at the tenant's death.

“We are told that the ancient heriot (heregeatu, military apparel) had at one time consisted of the horses and arms lent by the lord to his man which on the man's death were returned to the lord.... Turning to manorial surveys, we find it among the commonest of customs that when a tenant in villeinage dies, the lord shall have the best beast; sometimes a similar due is taken from the goods of the dead freeholder, and it is to these customary dues that the name ‘heriot’ permanently attaches itself.” 1 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 312, 317 (2d ed. 1898).

heriot custom.A heriot due by custom. • This term is used primarily to distinguish a heriot service from an ordinary heriot.

heriot service.A tribute arising from special reservation in a grant or lease of lands, and thus amounting to little more than rent.

## HERISLIT

herislit (her-<<schwa>>-sleet orhair-), n.[Old English] Hist. 1.The act of surrendering; laying down of arms. 2. The crime of deserting from an army.

## HERITABLE

heritable (her-i-t<<schwa>>-b<<schwa>>l), adj.1. (Of property) capable of being inherited. [Cases: Descent and Distribution 8. C.J.S. Descent and Distribution §§ 9–12; Right of Privacy and Publicity§ 42.] 2. (Of a person) capable of inheriting. — Also termed inheritable. [Cases: Descent and Distribution 20–67. C.J.S. Descent and Distribution §§ 23–67.]

## HERITABLE BLOOD

heritable blood.See BLOOD.

## HERITABLE BOND

heritable bond. See BOND(2).

## HERITABLE JURISDICTION

heritable jurisdiction. Hist. Scots law. The power of a laird to try his own people and hand down punishments, including death. • The laird or clan chief traditionally acted as a supreme court. There was no appeal from decisions, and sentences were usu. carried out immediately. The Heritable Jurisdiction Act of 1748 abolished this power.

## HERITABLE OBLIGATION

heritable obligation. See OBLIGATION.

## HERITABLE PROPERTY

heritable property. Scots law. See HERITAGE.

## HERITABLE SECURITY

heritable security. See SECURITY.

## HERITAGE

heritage (her-i-tij), n. Scots law. Property that passed on death to the owner's heir; esp., land and all the property connected to it (such as a house). — Also termed heritable property.

## HER MAJESTY'S STATIONERY OFFICE

Her Majesty's Stationery Office. See STATIONERY OFFICE.

## HERMENEUTICS

hermeneutics (h<<schwa>>r-m<<schwa>>-n[y]oo-tiks), n. The art of interpreting texts, esp. as a technique used in critical legal studies. — hermeneutical, hermeneutic, adj.

## HERMOGENIAN CODE

Hermogenian Code. See CODEX HERMOGENIANUS.

## HESIA

hesia (hee-zhee-<<schwa>> or hee-shee-<<schwa>>), n. [Law Latin] An easement.

## HETAERARCHA

hetaerarcha (het-<<schwa>>r-ahr-k<<schwa>>), n. [Greek hetaera “companion” + archein “to rule”] Roman law. The head of a society, corporation, or college.

## HETAERIA

hetaeria (h<<schwa>>-teer-ee-<<schwa>>), n. [Greek “companion”] Roman law. A society, guild, or college; a fraternity. — Also termed (in English) hetaery.



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**HETEROLOGOUS**

heterologous,adj. Patents. Of, relating to, or describing the DNA of a foreign organism.

**HETEROLOGOUS ARTIFICIAL INSEMINATION**

heterologous artificial insemination.See artificial insemination by donor under ARTIFICIAL INSEMINATION.

**HEURISTIC**

heuristic (hyuu-ris-tik), adj. Of or relating to a method of learning or problem-solving by using trial-and-error and other experimental techniques < heuristic discovery methods>.

**HEW**

HEW.abbr.The Department of Health, Education, and Welfare, created in 1953. • When the Department of Education was created in 1979, the name of HEW was changed to the Department of Health and Human Services (HHS).

**HEYDON'S CASE, RULE IN**

Heydon's case, rule in.See MISCHIEF RULE.

**HGN TEST**

HGN test.abbr.HORIZONTAL-GAZE NYSTAGMUS TEST.

**HHS**

HHS.abbr.DEPARTMENT OF HEALTH AND HUMAN SERVICES.

**HIATUS**

hiatus.Patents. A gap between the time a parent application ceases to be pending (by abandonment or issuance) and the time a continuing application is filed. • A hiatus breaks the chain of continuity, so that later applications are not entitled to the effective filing date of the parent application. Cf. CONTINUITY(2). [Cases: Patents 110. C.J.S. Patents § 156.]

**HIDAGE**

hidage (hId-ij), n. Hist. A tax, payable to the Crown, based on every hide of land. — Also spelled hydage. See HIDE.

“Of the same nature with scutages upon knights'-fees were the assessments of hidage upon all other lands, and of talliage upon cities and burghs. But they all gradually fell into disuse, upon the introduction of subsidies, about the time of king Richard II and king Henry IV.” 1 William Blackstone, Commentaries on the Laws of England 300 (1765).

**HIDALGO**

hidalgo (hi-dal-goh or ee-dahl-goh), n.[fr. Spanish hijo “son” + algo “property”] In Spain, a man belonging to the lower nobility; a gentleman of property.

**HIDALGUIA**

hidalguia (ee-dahl-gee-y<<schwa>>), n.[Spanish] In Spain, nobility by descent or lineage.

**HIDC**

HIDC.abbr.HOLDER IN DUE COURSE.

**HIDDEN ASSET**

hidden asset.See ASSET.

**HIDDEN DEFECT**

hidden defect.See DEFECT.

**HIDDEN FRAUD**

hidden fraud.See fraudulent concealment under CONCEALMENT.

**HIDDEN TAX**

hidden tax.See TAX.

**HIDE**

hide,n. Hist.1.In England, a measure of land consisting in as much as could be worked with one plow, variously estimated as 30 to 120 acres but probably determined by local usage. • A hide was anciently employed as a unit of taxation. Cf. CARUCATE. 2. As much land as would support one family or the dwellers in a mansion-house. — Also termed (in senses 1 & 2) hide land. 3. A house; a dwelling house.

**HIDEGILD**

hidegild (hId-gild), n.[Old English] Hist. A sum of money paid by a villein or servant to avoid a whipping. — Also spelled hidgild; hydegeld; hudegeld.

**HIDEL**

hidel (hId-<<schwa>>l orhid-<<schwa>>l), n.[Old English] Hist. A hiding-place; a place of protection or sanctuary.

**HIDE LAND**

hide land.1.HIDE(1).2.HIDE(2).

**HIGH BAILIFF**

high bailiff.See BAILIFF.

**HIGH COMMISSION COURT**

High Commission Court.See COURT OF HIGH COMMISSION.

**HIGH COURT**

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High Court. 1. See HIGH COURT OF JUSTICE. 2. See HIGH COURT OF JUSTICIARY.

#### HIGH COURT OF ADMIRALTY

High Court of Admiralty. In England, a court exercising jurisdiction in matters relating to shipping, collision, and salvage cases. • The court dates from the 14th century, and much of its early history concerns prize and piracy cases. Its jurisdiction varied through the centuries, sometimes extending into criminal matters and other areas of law not related directly to maritime issues. The Judicature Acts of 1873–1875 merged the Court into the High Court as part of the Probate, Divorce, and Admiralty Division. The Administration of Justice Act of 1970 established a new Admiralty Court as part of the Queen's Bench Division of the High Court. It is regulated by the Supreme Court Act of 1981. — Also termed Court of the Lord High Admiral; Court of Admiralty. Cf. ADMIRALTY(1).

“To the office of the Lord High Admiral (originally a naval official concerned with the command of the fleet and the suppression of piracy and wrecking) there was annexed a court which acquired a jurisdiction over civil cases of a maritime nature. Just how and when this happened is too cloudy and controversial for simple or even accurate summary, but by the time of Richard II (1377–1400) the admiral and vice-admiral were transacting enough judicial business to move Parliament to limit their jurisdiction by statute to ‘a thing done upon the sea,’ and in Tudor times the court was well established as a court of record, doing a large civil business. It slowly but surely took away most of their business from the local maritime courts in the port towns, and attracted the easily aroused jealousy of the common law courts, as well as the dislike of those who feared it as a prerogative court .... These factors resulted in the rather anticlimactic eclipse of the court for almost two centuries.” Grant Gilmore & Charles L. Black Jr., *The Law of Admiralty* § 1-4, at 9–10 (2d ed. 1975).

#### HIGH COURT OF CHIVALRY

High Court of Chivalry. Hist. A court of honor having jurisdiction over matters relating to deeds of arms and war, armorial insignia, and precedence. — Also termed Court of Chivalry; Court of Earl Marshal. See COURT OF HONOR.

“This Curia Marescalli, or High Court of Chivalry, was revived by James I as a court of honour, which not only tried the right to distinctions of honour and coat armour but also redressed affronts to honour such as slander. The slander jurisdiction was later denied, leaving it with a jurisdiction probably confined to disputes over armorial bearings, which are determined according to the law of arms. The court, which has only sat once since 1737, is the last English court to use the procedure of the civil law.” J.H. Baker, *An Introduction to English Legal History* 142 (3d ed. 1990).

#### HIGH COURT OF DELEGATES

High Court of Delegates. See COURT OF DELEGATES.

#### HIGH COURT OF ERRORS AND APPEALS

High Court of Errors and Appeals. See COURT OF ERRORS AND APPEALS.

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**HIGH COURT OF JUSTICE**

High Court of Justice. The superior civil court of England and Wales. — Often shortened to High Court.

**HIGH COURT OF JUSTICIARY**

High Court of Justiciary (j<<schwa>>-stish-ee-er-ee). Scots law. The superior criminal court of Scotland, acting both as a trial court and as a court of final criminal appeal. • Its judges are Lords Commissioners of Justiciary. — Often shortened to High Court.

**HIGH CRIME**

high crime. See CRIME.

**HIGH DEGREE OF CARE**

high degree of care. See great care under CARE.

**HIGH DILIGENCE**

high diligence. See great diligence under DILIGENCE.

**HIGHER COURT**

higher court. See court above under COURT.

**HIGHER SCALE**

higher scale. See SCALE(4).

**HIGHEST AND BEST USE**

highest and best use. See USE(1).

**HIGHEST COURT**

highest court. See COURT.

**HIGHEST DEGREE OF CARE**

highest degree of care. See CARE.

**HIGHEST PROVED VALUE**

highest proved value. See VALUE(2).

**HIGH FLIER**

high flier. Slang. A security that has strongly attracted public interest so that investors pay an unusually high price.

**HIGHGRADE**

highgrade, vb. 1. To steal rich ore, as from a mine by a miner. 2. To mine only esp. valuable

ore (such as gold).

**HIGH-GRADE SECURITY**

high-grade security. See SECURITY.

**HIGH JUSTICE**

high justice. See JUSTICE(3).

**HIGH-LOW AGREEMENT**

high-low agreement. A settlement in which a defendant agrees to pay the plaintiff a minimum recovery in return for the plaintiff's agreement to accept a maximum amount regardless of the outcome of the trial. — Also termed hilo settlement. [Cases: Compromise and Settlement 15.C.J.S. Compromise and Settlement §§ 32–37, 40–41.]

**HIGHLY PRUDENT PERSON**

highly prudent person. See REASONABLE PERSON.

**HIGH-MANAGERIAL AGENT**

high-managerial agent. See AGENT(2).

**HIGH MISDEMEANOR**

high misdemeanor. 1. See gross misdemeanor under MISDEMEANOR. 2. See serious misdemeanor under MISDEMEANOR.

**HIGH-PROBABILITY RULE**

high-probability rule. Marine insurance. The principle that an insured may abandon a vessel if it appears extremely likely that a total loss is imminent. [Cases: Insurance 2236–2237. C.J.S. Insurance §§ 1216, 1218–1229.]

**HIGH SEAS**

high seas. See SEA.

**HIGH SHERIFF**

high sheriff. See SHERIFF(1).

**HIGH-TEST MARRIAGE**

high-test marriage. See covenant marriage under MARRIAGE(1).

**HIGH TREASON**

high treason. See TREASON.

**HIGH-WATER LINE**

high-water line. See high-water mark under WATERMARK.

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**HIGH-WATER MARK**

high-water mark. See WATERMARK.

**HIGHWAY**

highway. 1. Broadly, any main route on land, on water, or in the air. 2. A free and public roadway or street that every person may use. [Cases: Highways 18.]

“Every thoroughfare which is used by the public, and is, in the language of the English books, ‘common to all the king's subjects,’ is a highway, whether it be a carriage-way, a horse-way, a foot-way, or a navigable river. It is, says Lord Holt, the genus of all public ways.” 3 James Kent, Commentaries on American Law \*432 (George Comstock ed., 11th ed. 1866).

3. The main public road connecting towns or cities. 4. The entire width between boundaries of every publicly maintained way when part is open to public use for purposes of vehicular traffic.

common highway. A highway for use by the public for any purpose of transit or traffic.

public highway. A highway controlled and maintained by governmental authorities for general use. [Cases: Highways 18.]

**HIGHWAY ACT**

highway act. (usu. pl.) One of a body of statutes governing the laying out, construction, repair, and use of highways. — Also termed highway law. [Cases: Highways 21.]

**HIGHWAYMAN**

highwayman. A highway robber; a person who robs on a public road.

**HIGHWAY RATE**

highway rate. Hist. In England, a tax for the maintenance and repair of highways.

**HIGHWAY ROBBERY**

highway robbery. See ROBBERY.

**HIGHWAY TAX**

highway tax. See TAX.

**HIGH-YIELD BOND**

high-yield bond. See BOND(3).

**HIGH-YIELD DEBT OBLIGATION**

high-yield debt obligation. See high-yield bond under BOND(3).

**HIGUELA**

higuela (ee-gay-lah), n. Spanish law. A receipt given by a decedent's heir, setting forth what

property the heir has received from the estate, and kept as a record.

#### HIJACK

hijack,vb.1. To commandeer (a vehicle or airplane), esp. at gunpoint. See CARJACKING; SKYJACK. 2. To steal or rob from (a vehicle or airplane in transit). [Cases: Aviation 16. C.J.S. Aeronautics and Aerospace §§ 284–285, 287.] 3.Hist. To rob by trickery or violence; esp., to rob (a smuggler or bootlegger) and take illegal goods.

#### HILARY RULES

Hilary Rules.Hist. A collection of English pleading rules designed to ease the strict pleading requirements of the special-pleading system, esp. by limiting the scope of the general issue in the formed actions and by forcing the defendant to set up affirmatively all matters other than a denial of the breach of duty or of the wrongful act. • Promulgated in England in the 1834 Hilary Term, these rules followed an 1828 initiative to examine procedural laws and other subjects and to report to Parliament changes that might be enacted. The rules had the unintended effect of extending the reach of strict-pleading requirements into new areas of law. Widespread dissatisfaction with the Hilary Rules led to the liberalization of the pleading system under the 1873–1875 Judicature Acts. — Formerly also termed New Rules.

“The failure of the Hilary Rules ... lay in their insistence on special pleading as it was understood late in the eighteenth century. That parties should plead precisely, and clarify as far as possible the issue between them, is one thing; that their endeavours to do so should be judged by the extremely artificial standards of the old system, was quite another.” Theodore F.T. Plucknett, *A Concise History of the Common Law* 416 (5th ed. 1956).

#### HILARY SITTINGS

Hilary sittings.In England, a term of court beginning on January 11 of each year and ending on the Wednesday before Easter. • The Hilary sittings were known as Hilary term until 1875. Cf. EASTER SITTINGS; MICHAELMAS SITTINGS; TRINITY SITTINGS.

#### HILO SETTLEMENT

hilo settlement.See HIGH—LOW AGREEMENT.

#### HILTON<TT> DOCTRINE

Hilton doctrine.Civil procedure. The rule that in a dispute between parties to an oil-and-gas lease, royalty owners who would lose their rights if the defendant's lease were terminated are regarded as indispensable parties to a proceeding challenging the lease. *Hilton v. Atlantic Refining Co.*, 327 F.2d 217 (5th Cir. 1964). [Cases: Mines and Minerals 78.7(2).]

#### HIMALAYA CLAUSE

Himalaya clause.Maritime law. A provision in a bill of lading extending the carrier's defenses and limitations under the Carriage of Goods by Sea Act to third parties, typically employees, agents, and independent contractors. • The Supreme Court has held that this type of clause must be

strictly construed. *Robert C. Herd & Co. v. Krawill Machinery Corp.*, 359 U.S. 297, 79 S.Ct. 766 (1959). See CARRIAGE OF GOODS BY SEA ACT. [Cases: Shipping 140(1). C.J.S. Shipping §§ 300–311.]

“The plaintiff was injured while a passenger on the cruise ship *The Himalaya*. She sued the master and the boatswain for their negligence because the carrier was contractually exempt from all liability. Because the contract did not have a ‘Himalaya clause,’ she succeeded. The carrier, having indemnified its employees, ultimately paid the damages. It thus lost its contractual exemption indirectly.” Michael J. Sturley, *International Uniform Law in National Courts*, 27 Va. J. Int'l L. 729, 740 n.101 (1987).

#### HINC INDE

*hinc inde* (hink in-dee). [Law Latin] Scots law. On either side. • The phrase usu. refers to the respective claims of parties to a lawsuit.

#### HINE

*hine* (hIn), n. Hist. In England, a husbandry servant. — Also spelled *hind*.

#### HINEFARE

*hinefare* (hIn-fair), n. Hist. In England, the loss or departure of a servant from the master.

#### HINEGELD

*hinegeld* (hIn-geld), n. Hist. A ransom for an offense committed by a servant.

#### HIPOTECA

*hipoteca* (ee-poh-tek-ah), n. Spanish law. A mortgage of real property. See HYPOTHECATION.

#### HIPAA

HIPAA (hip-<<schwa>>).abbr. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT .

#### HIRE

*hire*,vb.1. To engage the labor or services of another for wages or other payment. 2. To procure the temporary use of property, usu. at a set price. 3. To grant the temporary use of services <hire themselves out>.

#### HIRED GUN

*hired gun*.Slang. 1. An expert witness who testifies favorably for the party paying his or her fee, often because of that financial relationship rather than because of the facts. 2. A lawyer who stops at nothing to accomplish the client's goals, regardless of moral consequences.

#### HIRELING



hireling, n. A person who is hired or serves for wages, esp. one who works only for the sake of payments. [Cases: Master and Servant 1. C.J.S. Apprentices §§ 2, 11; Employer–Employee Relationship §§ 2–3, 6–12.]

#### HIRE-PURCHASE AGREEMENT

hire-purchase agreement. See LEASE-PURCHASE AGREEMENT.

#### HIRING

hiring. See LOCATIO.

#### HIRING AT WILL

hiring at will. See employment at will under EMPLOYMENT.

#### HIS

his. Properly a possessive pronoun of the masculine gender, but traditionally used and construed to include both sexes. • Because of the trend toward nonsexist language, careful drafters now generally avoid using his (and the personal pronouns he and him) unless the reference is only to a male person.

#### HIS HONOR; HER HONOR

His Honor; Her Honor. 1. A title customarily given to a judge. 2. A title customarily given to the mayor of a city. 3. A title given by the Massachusetts Constitution to the lieutenant governor of the commonwealth. Cf. YOUR HONOR.

#### HIS TESTIBUS

his testibus (his tes-t<<schwa>>-b<<schwa>>s). [Law Latin] Hist. These being witnesses. • The concluding clause of deeds and charters typically opened with these words, which stated the names of the witnesses to the instrument. This clause appeared in deeds and charters until the 16th century. — Also spelled hijs testibus; hiis testibus.

#### HISTORIAN

historian. Parliamentary law. An officer charged with compiling or contributing to an organization's official history.

#### HISTORICAL COST

historical cost. See acquisition cost (1) under COST(1).

#### HISTORICAL JURISPRUDENCE

historical jurisprudence. See JURISPRUDENCE.

#### HISTORIC BAY

historic bay. See BAY.

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**HISTORIC-PRESERVATION LAW**

historic-preservation law. An ordinance prohibiting the demolition or exterior alteration of certain historic buildings or of all buildings in a historic district. [Cases: Environmental Law 61–103.]

**HISTORIC SITE**

historic site. A building, structure, area, or property that is significant in the history, architecture, archaeology, or culture of a country, state, or city, and has been so designated by statute. • A historic site usu. cannot be altered without the permission of the appropriate authorities. [Cases: Environmental Law 78.]

**HIT**

hit, n. 1. A physical strike. 2. Criminal law. A murder committed for money or on orders from a gang leader. 3. Criminal law. An instance of the taking of a drug. 3. Intellectual property. A single instance of a computer's connection to a webpage. • Counters keep track of how many visitors a webpage attracts, and a large number of hits is a major selling point for advertising. 4. Intellectual property. A webpage identified by an Internet search engine as containing words matching a user's query. 5. A creative work that is a popular or a commercial success.

**HIT-AND-RUN STATUTE**

hit-and-run statute. A law requiring a motorist involved in an accident to remain at the scene and to give certain information to the police and others involved. [Cases: Automobiles 336. C.J.S. Motor Vehicles §§ 1488–1504.]

**HITHERTO**

hitherto, adv. Until now; heretofore.

**H.L.**

H.L. abbr. HOUSE OF LORDS.

**HLA TEST**

HLA test. See HUMAN-LEUKOCYTE ANTIGEN TEST.

**HMO**

HMO. abbr. HEALTH-MAINTENANCE ORGANIZATION.

**HOARD**

hoard, vb. To acquire and hold (goods) beyond one's reasonable needs, usu. because of an actual or anticipated shortage or price increase <hoarding food and medical supplies during wartime>.

**HOBLER**

hobbler.Hist. In England, a light horseman or bowman; a tenant bound by his tenure to maintain a small light horse for military service.

#### HOBBS ACT

Hobbs Act.A federal anti-racketeering act making it a crime to interfere with interstate commerce by extortion, robbery, or physical violence. 18 USCA § 1951. See RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT. [Cases: Extortion and Threats 25.1; Robbery 1. C.J.S. Robbery §§ 2, 4, 12, 90–91; Threats and Unlawful Communications §§ 2–20.]

#### HOBBY LOSS

hobby loss.See LOSS.

#### HOC

hoc. [Latin] This; with; by; in.

#### HOC INTUITU

hoc intuitu (hok in-t[y]oo-<<schwa>>-t[y]oo). [Law Latin] Scots law. In this prospect. • The phrase appeared in reference to deeds executed in expectation of an event, such as a marriage.

#### HOC LOCO

hoc loco (hok loh-koh). [Law Latin] Hist. In this place.

#### HOC NOMINE

hoc nomine (hok nahm-<<schwa>>-nee). [Law Latin] Hist. In this name.

#### HOC ORDINE

hoc ordine (hok or-di-nee). [Law Latin] Hist. In this order.

#### HOC TITULO

hoc titulo (hok tit-y<<schwa>>-loh ortich-<<schwa>>-loh). [Law Latin] Hist. Under this title.

#### HODGEPODGE

hodgepodge. 1.HOTCHPOT(1).2. An unorganized mixture.

#### HODGEPODGE ACT

hodgepodge act.A statute that deals with incongruous subjects.

“Hodge-Podge Act.... Such acts, besides being evident proofs of the ignorance of the makers of them, or of their want of good faith, are calculated to create a confusion which is highly prejudicial to the interests of justice.... In many states bills, except general appropriation bills, can contain but one subject, which must be expressed in the title.” 1 John Bouvier, Bouvier's Law Dictionary 1444 (8th ed. 1914).

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**HOLD**

hold,n. Archaic. In England, tenure. • This word occurs most often in conjunction with others — for example, freehold, leasehold — and rarely in its separate form. See HOLDING(4).

hold,vb.1. To possess by a lawful title <Sarah holds the account as her separate property>.2. (Of a court) to adjudge or decide as a matter of law (as opposed to fact) <this court thus holds the statute to be unconstitutional>. Cf. FIND. 3. To direct and bring about officially; to conduct according to law <we must hold an election every two years>.4. To keep in custody or under an obligation <I will ask the judge to hold you accountable>.5. To take or have an estate from another; to have an estate on condition of paying rent or performing service <James holds Hungerstream Manor under lease>.6. To conduct or preside at; to convoke, open, and direct the operations of <Judge Brown holds court four days a week>.7. To possess or occupy; to be in possession and administration of <Jones holds the office of treasurer>.

**HOLDBACK**

holdback,n. An amount withheld from the full payment of a contract pending the other party's completion of some obligation, esp. to ensure that a contractor finishes the work agreed on beforehand. • The terms of a holdback are typically expressed in the contract. The device gives the contractor an incentive to finish the work, and the other party security that the work will be finished. — hold back,vb.

**HOLDER**

holder. 1. A person who has legal possession of a negotiable instrument and is entitled to receive payment on it. [Cases: Bills and Notes 427(1).] 2. A person with legal possession of a document of title or an investment security. 3. A person who possesses or uses property.

**HOLDER FOR VALUE**

holder for value.A person who has given value in exchange for a negotiable instrument. • Under the UCC, examples of “giving value” include acquiring a security interest in the instrument and accepting the instrument in payment of an antecedent claim. UCC § 3-303(a). — Also termed bona fide holder for value. [Cases: Bills and Notes 352. C.J.S. Bills and Notes; Letters of Credit § 185.]

**HOLDER IN DUE COURSE**

holder in due course.A person who in good faith has given value for a negotiable instrument that is complete and regular on its face, is not overdue, and, to the possessor's knowledge, has not been dishonored. • Under UCC § 3-302, a holder in due course takes the instrument free of all claims and personal defenses, but subject to real defenses. — Abbr. HDC; HIDC. — Also termed due-course holder. [Cases: Bills and Notes 327–384. C.J.S. Bills and Notes; Letters of Credit §§ 4, 24, 28, 30, 33, 65, 142–147, 149–153, 157, 159, 169–201.]

**HOLDER IN GOOD FAITH**

holder in good faith.One who takes property or an instrument without knowledge of any

defect in its title.

**HOLDER OF RECORD**

holder of record. See STOCKHOLDER OF RECORD.

**HOLD HARMLESS**

hold harmless, vb. To absolve (another party) from any responsibility for damage or other liability arising from the transaction; INDEMNIFY. — Also termed save harmless. [Cases: Indemnity 25, 31(4).]

**HOLD-HARMLESS AGREEMENT**

hold-harmless agreement. A contract in which one party agrees to indemnify the other. — Also termed save-harmless agreement. See INDEMNITY. [Cases: Indemnity 25–33.]

**HOLD-HARMLESS CLAUSE**

hold-harmless clause. See INDEMNITY CLAUSE.

**HOLDING**

holding, n. 1. A court's determination of a matter of law pivotal to its decision; a principle drawn from such a decision. Cf. OBITER DICTUM. [Cases: Courts 88. C.J.S. Courts § 139; Trade-Marks, Trade-Names, and Unfair Competition § 187.] 2. A ruling on evidence or other questions presented at trial. 3. (usu. pl.) Legally owned property, esp. land or securities. 4. Hist. In feudal law, tenure.

**HOLDING CELL**

holding cell. See JAIL.

**HOLDING CHARGE**

holding charge. A criminal charge of some minor offense filed to keep the accused in custody while prosecutors take time to build a bigger case and prepare more serious charges.

**HOLDING COMPANY**

holding company. See COMPANY.

**HOLDING-COMPANY TAX**

holding-company tax. See TAX.

**HOLDING OVER**

holding over. 1. A tenant's action in continuing to occupy the leased premises after the lease term has expired. • Holding over creates a tenancy at sufferance, with the tenant being referred to as a holdover. See tenancy at sufferance under TENANCY. [Cases: Landlord and Tenant 119(2). C.J.S. Landlord and Tenant § 177.] 2. Parliamentary law. An officer's continued tenure beyond the term for which he or she was elected, usu. because a successor has not been elected or

cannot yet assume the office.

#### HOLDING PERIOD

holding period.Tax. The time during which a capital asset must be held to determine whether gain or loss from its sale or exchange is long-term or short-term. [Cases: Internal Revenue 3260; Taxation 995–996.C.J.S. Internal Revenue § 127; Taxation §§ 1726, 1732–1733.]

#### HOLDING ZONE

holding zone.See ZONE.

#### HOLD ORDER

hold order.A notation in a prisoner's file stating that another jurisdiction has charges pending against the prisoner and instructing prison officials to alert authorities in that other jurisdiction instead of releasing the prisoner.

#### HOLD OUT

hold out,vb.1. To represent (oneself or another) as having a certain legal status, as by claiming to be an agent or partner with authority to enter into transactions <even though he was only a promoter, Schwartz held himself out as the principal>. [Cases: Principal and Agent 99.] 2. To refuse to yield or submit; to stand firm <Womack held out for a higher salary and better benefits>.

#### HOLDOVER CLAUSE

holdover clause.See TRAILER CLAUSE.

#### HOLDOVER TENANCY

holdover tenancy.See tenancy at sufferance under TENANCY.

#### HOLDOVER TENANT

holdover tenant.See TENANT.

#### HOLD PLEAS

hold pleas.Archaic. To hear or try cases.

#### HOLDUP

holdup. See STICKUP.

#### HOLOGRAPH

holograph (hol-<<schwa>>-graf), n. A document (such as a will or deed) that is handwritten by its author. • The majority rule is that a holographic will need not be entirely handwritten — only the “material provisions” — to take into account the popular use of fill-in-the-blank will forms. This is also the position of the Uniform Probate Code. — Also termed olograph; autograph. Cf. ONOMASTIC; SYMBOLIC. [Cases: Wills 130–135. C.J.S. Wills §§ 317–327, 339, 341.] —

holographic,adj.

#### HOLOGRAPHIC WILL

holographic will.See WILL.

#### HOLYMOTE

holymote. See HALLMOTE(4).

#### HOMAGE

homage (hom-ij). In feudal times, a ceremony that a new tenant performed for the lord to acknowledge the tenure. • This was the most honorable service that a free tenant might do for a lord. In the ceremony, kneeling before the lord, the tenant placed his hands between the lord's hands while saying, "I become your man from this day forward, of life and limb and earthly honor, and to you will be faithful and loyal, and bear you faith, for the tenements that I claim to hold of you, saving the faith that I owe unto our sovereign lord the king, so help me God."

"Homage is an oath of fidelity, acknowledging himself to be the lord's man: wherein the tenant must be ungirt, uncovered, kneel upon both knees, and hold both his hands together between the lord's hands sitting before him. This is to be done only to the lord himself." Sir Henry Finch, *Law, or a Discourse Thereof* 143 (1759).

homage ancestral (hom-ij an-ses-tr<<schwa>>l). [Law French] A type of homage in which a tenant and the tenant's ancestors have held immemorially of another by the service of homage. • This long-standing relationship bound the lord to warrant the title and to hold the tenant clear of all services to superior lords. — Also spelled homage auncestral (aw-mahzh on-se-stral).

homage liege (hom-ij leej). Homage due the sovereign alone as supreme lord, done without any saving or exception of the rights of other lords. — Also termed homagium ligium (h<<schwa>>-may-jee-<<schwa>>m II-jee-<<schwa>>m).

#### HOMAGE JURY

homage jury.See JURY.

#### HOMAGIO RESPECTUANDO

homagio respectuando (h<<schwa>>-may-jee-oh ri-spek-choo-an-doh), n.[Law Latin "homage to the respected"] Hist. A writ to the escheator commanding the delivery of seisin of lands to the heir of the king's tenant, even though the heir had not performed homage.

#### HOMAGIUM

homagium (h<<schwa>>-may-jee-<<schwa>>m), n.[Law Latin] A formal ceremony in which a feudal tenant acknowledged the tenure granted by a lord; HOMAGE.

homagium ligium.See homage liege under HOMAGE.

homagium planum (play-n<<schwa>>m), n.[Law Latin "plain homage"] Hist. A type of

homage binding the homager to nothing more than fidelity, without obligation either of military service or of attendance in the superior's courts.

homagium reddere (red-<<schwa>>-ree), n.[Law Latin “to renounce homage”] Hist. The process, prescribed in feudal law by a set form and method, by which a vassal disowns and defies the lord.

homagium simplex (sim-pleks), n.[Law Latin “simple homage”] Hist. A type of homage that acknowledges tenure, while reserving the rights of other lords.

#### HOMBRE BUENO

hombre bueno (awm-bray bway-noh), n. Spanish law. 1. An arbitrator chosen by the parties to a suit. 2. A judge. 3. A citizen in good standing; esp., one who is competent to testify in a suit.

#### HOME

home. A dwelling place. See FAMILY HOME.

manufactured home.Secured transactions. A structure, transportable in one or more sections, that when traveling is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and that has within it plumbing, heating, air-conditioning, and electrical systems. UCC § 9-102(a)(53). [Cases: Secured Transactions 87. C.J.S. Secured Transactions §§ 57–58, 63.]

matrimonial home.See matrimonial domicile under DOMICILE.

tax home.See TAX HOME.

#### HOME-EQUITY LINE OF CREDIT

home-equity line of credit.See home-equity loan under LOAN.

#### HOME-EQUITY LOAN

home-equity loan.See LOAN.

#### HOMELESS SHELTER

homeless shelter.See SHELTER.

#### HOME LOAN BANK

home loan bank.See FEDERAL HOME LOAN BANK.

#### HOME OFFICE

home office. 1. A corporation's principal office or headquarters. 2. (cap.) In England, the Department of State, responsible for overseeing the internal affairs of the country.

#### HOMEOWNERS' ASSOCIATION



homeowners' association. See ASSOCIATION.

#### HOMEOWNER'S EQUITY LOAN

homeowner's equity loan. See LOAN.

#### HOMEOWNER'S INSURANCE

homeowner's insurance. See INSURANCE.

#### HOMEOWNER'S POLICY

homeowner's policy. See INSURANCE POLICY.

#### HOME OWNERS WARRANTY

Home Owners Warranty. A warranty and insurance program that, among other coverage, insures a new home for ten years against major structural defects. • The program was developed by the Home Owners Warranty Corporation, a subsidiary of the National Association of Home Builders. Builders often provide this type of coverage, and many states provide similar warranty protection by statute. — Abbr. HOW. — Also spelled Home Owners' Warranty. [Cases: Consumer Protection 8. C.J.S. Credit Reporting Agencies; Consumer Protection §§ 40–51, 64.]

#### HOME PORT

home port. See PORT.

#### HOME-PORT DOCTRINE

home-port doctrine. Maritime law. The rule mandating that a vessel engaged in interstate and foreign commerce is taxable only at its home port, usu. where the vessel is registered. [Cases: Taxation 98. C.J.S. Taxation §§ 153–157, 160, 283.]

#### HOME RULE

home rule. A state legislative provision or action allocating a measure of autonomy to a local government, conditional on its acceptance of certain terms. Cf. LOCAL OPTION. [Cases: Municipal Corporations 65. C.J.S. Municipal Corporations §§ 122, 140–141, 143.]

“Home rule in the United States was sometimes envisioned in its early days as giving the cities to whom such rule was granted full-fledged sovereignty over local affairs, thus bringing about dual state and local sovereignty along the national plan of federal and state governments. But such local sovereignty has never developed, nor have any clear-cut distinctions between state and local power.” Osborne M. Reynolds Jr., *Handbook of Local Government Law* § 35, at 96 (1982).

#### HOME-RULE CHARTER

home-rule charter. See CHARTER(2).

#### HOMESTALL

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homestall.Hist. Homestead.

#### HOME STATE

home state.Family law. In an interstate child-custody dispute governed by the Uniform Child Custody Jurisdiction and Enforcement Act, the state where a child has lived with a parent or a person acting as a parent for at least six consecutive months immediately before the proceeding. See home-state jurisdiction under JURISDICTION.

#### HOME-STATE JURISDICTION

home-state jurisdiction.See JURISDICTION.

#### HOMESTEAD

homestead. 1. The house, outbuildings, and adjoining land owned and occupied by a person or family as a residence. • As long as the homestead does not exceed in area or value the limits fixed by law, in most states it is exempt from forced sale for collection of a debt. — Also termed homestead estate. See HOMESTEAD LAW. [Cases: Homestead 58–89.]

business homestead.The premises on which a family's business is located. • In some states, business homesteads are exempt from execution or judicial sale for most kinds of debt. [Cases: Homestead 36.]

constitutional homestead.A homestead, along with its exemption from forced sale, conferred on the head of a household by a state constitution. — Also termed statutory homestead; pony homestead. [Cases: Homestead 3, 30.]

pony homestead.See constitutional homestead.

probate homestead.A homestead created by a probate court from a decedent's estate for the benefit of the decedent's surviving spouse and minor children. • Under most statutes providing for the creation of a probate homestead, it is exempt from forced sale for the collection of decedent's debts. The family can remain in the home at least until the youngest child reaches the age of majority. Many states allow the surviving spouse to live in the home for life. In a few states, such as Texas, the right to a probate homestead is constitutional. See family allowance, spousal allowance under ALLOWANCE; HOMESTEAD LAW. Cf. life estate under ESTATE(1). [Cases: Homestead 134–153.]

statutory homestead.See constitutional homestead.

2. A surviving spouse's right of occupying the family home for life. • In some states, the right is extended to other dependents of a decedent.

#### HOMESTEADER

homesteader. One who acquires or occupies a homestead. [Cases: Homestead 16–29; Public Lands 35. C.J.S. Public Lands § 43.]

#### HOMESTEAD ESTATE

homestead estate. See HOMESTEAD.

#### HOMESTEAD EXEMPTION

homestead exemption. See HOMESTEAD LAW.

#### HOMESTEAD-EXEMPTION STATUTE

homestead-exemption statute. See HOMESTEAD LAW.

#### HOMESTEAD LAW

homestead law. A statute exempting a homestead from execution or judicial sale for debt, unless all owners, usu. a husband and wife, have jointly mortgaged the property or otherwise subjected it to creditors' claims. — Also termed homestead exemption; homestead-exemption statute; homestead right. [Cases: Homestead 1, 118.]

“Almost all states also have legislative provisions, commonly referred to as homestead laws, designed to protect the family home from the reach of certain classes of creditors.... The protection afforded by an exemption statute is not absolute. A federal tax claim may be satisfied from ‘exempt property.’ A number of states make similar exceptions for state taxes, claims for alimony and child support, materialmen and mechanics' liens. By statute in most states, case law in others, purchase money mortgages and security interests are generally not affected by an exemption statute.” David G. Epstein & Steve H. Nickles, *Consumer Law in a Nutshell* 384–85 (2d ed. 1981).

#### HOMESTEAD RIGHT

homestead right. See HOMESTEAD LAW.

#### HOME-STUDY REPORT

home-study report. Family law. A summary of an investigation into a child's home, family environment, and background, usu. prepared by a social worker when a child has been removed from his or her home because of abuse or neglect, but also prepared after a similar investigation of the home of potential adoptive parents. — Often shortened to home study. — Also termed custody evaluation; social study.

#### HOME-STYLE EXEMPTION

home-style exemption. Copyright. A provision in the U.S. Copyright Act allowing for the public airing of radio and television broadcasts in public-accommodation establishments, such as bars and restaurants, with impunity from liability for infringement. • The exemption is so named because the equipment used for the airing must be a single receiver of the type typically found in homes. 17 USCA § 110(5). [Cases: Copyrights and Intellectual Property 67.1. C.J.S. Copyrights and Intellectual Property §§ 51–52, 54.]

#### HOMICIDE

homicide (hom-<<schwa>>-sId), n. 1. The killing of one person by another. [Cases: Homicide 520.] 2. A person who kills another. — homicidal, adj.

“The legal term for killing a man, whether lawfully or unlawfully, is ‘homicide.’ There is no crime of ‘homicide.’ Unlawful homicide at common law comprises the two crimes of murder and manslaughter. Other forms of unlawful homicide have been created by statute: certain new forms of manslaughter (homicide with diminished responsibility, and suicide pacts), infanticide, and causing death by dangerous driving.” Glanville Williams, *Textbook of Criminal Law* 204 (1978).

criminal homicide. 1. Homicide prohibited and punishable by law, such as murder or manslaughter. [Cases: Homicide 525, 656.] 2. The act of purposely, knowingly, recklessly, or negligently causing the death of another human being. Model Penal Code § 210.1.

“Criminal homicide is everywhere divided into categories that reflect the historical distinction in English law between murder and manslaughter. American statutory formations have varied the terminology and the precise classifications; many statutes create more than two forms of criminal homicide, for purposes of definition and/or punishment. These variations notwithstanding, it is usually possible to discern a category that corresponds to the common-law crime of murder, the paradigm of which is a deliberate killing without legal justification or excuse, and a category that corresponds to the common-law crime of manslaughter and comprises killings that either are committed in circumstances which substantially mitigate their intentional aspect or are not intentional. In common speech as well as in the law, murder refers to the most serious criminal homicides, and manslaughter to those that may be serious crimes for which a substantial penalty is imposed but lack the special gravity of murder.” Lloyd L. Weinreb, “Homicide: Legal Aspects,” in 2 *Encyclopedia of Crime and Justice* 855, 857 (Sanford H. Kadish ed., 1983).

criminally negligent homicide. See negligent homicide.

culpable homicide. Scots law. A wrongful act that results in a person's death but does not amount to murder. Cf. MANSLAUGHTER.

excusable homicide. 1. Homicide resulting from a person's lawful act, committed without intention to harm another. [Cases: Homicide 750.] 2. See justifiable homicide (1).

felonious homicide. Homicide committed unlawfully, without legal justification or excuse. • This is the category into which murder and manslaughter fall.

homicide by abuse. Homicide in which the perpetrator, under circumstances showing an extreme indifference to human life, causes the death of the perpetrator's dependent — usu. a child or mentally retarded person.

homicide by misadventure. See ACCIDENTAL KILLING.

homicide per infortunium (p<<schwa>>r in-for-t[y]oo-nee-<<schwa>>m). [Latin “homicide by misfortune”] The unintentional killing of another while engaged in a lawful act; ACCIDENTAL KILLING. See PER INFORTUNIUM. [Cases: Homicide 762.]

innocent homicide. Homicide that does not involve criminal guilt.

justifiable homicide. 1. The killing of another in self-defense when faced with the danger of death or serious bodily injury. — Also termed excusable homicide. See SELF-DEFENSE(1). 2. A

killing mandated or permitted by the law, such as execution for a capital crime or killing to prevent a crime or a criminal's escape. [Cases: Homicide 752–756.]

“It should be noted that a justifiable homicide is not criminal, since it is a killing which the law has either commanded or permitted: the actus in such a case is not legally punishable, and therefore we may perhaps say that it is an actus of killing which is not reus. As we shall see in most cases of justifiable homicide the killing is intentional, and therefore the mental element of criminal responsibility is clearly present: but there is no crime committed since there is no actus reus.” J.W. Cecil Turner, *Kenny's Outlines of Criminal Law* 109 (16th ed. 1952).

“English lawyers once distinguished between ‘excusable’ homicide (e.g. accidental non-negligent killing) and ‘justifiable’ homicide (e.g. killing in self-defence or in the arrest of a felon) and different legal consequences once attached to these two forms of homicide. To the modern lawyer this distinction has no longer any legal importance: he would simply consider both kinds of homicide to be cases where some element, negative or positive, required in the full definition of criminal homicide (murder or manslaughter) was lacking. But the distinction between these two different ways in which actions may fail to constitute a criminal offence is still of great moral importance. Killing in self-defence is an exception to a general rule making killing punishable; it is admitted because the policy or aims which in general justify the punishment of killing (e.g. protection of human life) do not include cases such as this. In the case of ‘justification’ what is done is regarded as something which the law does not condemn, or even welcomes.” H.L.A. Hart, “Prolegomenon to the Principles of Punishment,” in *Punishment and Responsibility* 1, 13 (1968).

negligent homicide. Homicide resulting from the careless performance of a legal or illegal act in which the danger of death is apparent; the killing of a human being by criminal negligence. — Also termed criminally negligent homicide. See criminal negligence under NEGLIGENCE. [Cases: Homicide 708.]

“There is no common-law offense known as ‘negligent homicide.’ As a matter of the common law of crimes any killing below the grade of manslaughter is innocent homicide. Some of the new penal codes have a classification scheme which (omitting degrees or other variations) divides criminal homicide into murder, manslaughter and criminally negligent homicide — or simply negligent homicide. For the most part, however, this has been achieved by removing from manslaughter the offense of homicide by criminal negligence and using this to constitute the newly named offense. Thus, though there are a few exceptions, most states will have no homicide offense which would be below common-law manslaughter.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 116–17 (3d ed. 1982).

nonfelonious homicide. A killing that is legally either excusable or justifiable. See excusable homicide; justifiable homicide.

reckless homicide. The unlawful killing of another person with conscious indifference toward that person's life. Cf. MANSLAUGHTER. [Cases: Homicide 709.]

vehicular homicide. The killing of another person by one's unlawful or negligent operation of

a motor vehicle. — Also termed automobile homicide. [Cases: Automobiles 342.1. C.J.S. Motor Vehicles §§ 1456–1458, 1460–1466, 1468–1469, 1471–1476, 1478–1485.]

victim-precipitated homicide. 1. See suicide-by-cop under SUICIDE. 2. A killing provoked by the victim who consciously intended to die at the hands of another person. • This term applies loosely to any assisted suicide. Unlike most types of homicide, the victim bears some of the responsibility for causing his or her own death.

willful homicide. The act of intentionally causing a person's death, with or without legal justification.

### HOMICIDIUM

homicidium (hom-*<<schwa>>-sI-dee-*<<schwa>>m**), n. [Latin “felling of a person”] Homicide.

homicidium ex casu (eks kay-s[y]oo). Homicide by accident. See ACCIDENTAL KILLING.

homicidium ex justitia (eks j*<<schwa>>s-tish-ee-*<<schwa>>**). Homicide in the administration of justice, or in the carrying out of a legal sentence. See justifiable homicide (2) under HOMICIDE.

homicidium ex necessitate (eks n*<<schwa>>-ses-i-tay-tee*). Homicide from inevitable necessity, such as for the protection of one's person or property. See justifiable homicide (1) under HOMICIDE.

homicidium ex voluntate (eks vol-*<<schwa>>n-tay-tee*). Voluntary or willful homicide. See criminal homicide under HOMICIDE.

homicidium in rixa (in rik-s*<<schwa>>*). [Law Latin] Scots law. Homicide committed in the course of a brawl.

“Homicidium in rixa .... Such crime amounts only to culpable homicide, and the punishment being in the discretion of the judge, varies according to the particular circumstances of each case. It is not punished capitally, because this crime lacks the previous malice essential to the crime of murder.” John Trayner, *Trayner's Latin Maxims* 244 (4th ed. 1894).

### HOMINATIO

hominatio (hom-*<<schwa>>-nay-shee-oh*), n. [Law Latin] Hist. Homage; the act of performing homage.

### HOMINE CAPTO IN WITHERNAMIUM

homine capto in withernamium (hom-*<<schwa>>-nee kap-toh in with-*<<schwa>>r-nay-mee-*<<schwa>>m***). [Law Latin “for taking a man in withernam”] Hist. A writ for the arrest of a person who had taken a bondman out of the country to prevent a replevy. See WITHERNAM.

### HOMINE REPLEGIANDO

homine replegiando (hom-<<schwa>>-nee ri-plee-jee-an-doh). [Law Latin “for replevying a man”] Hist. A writ to replevy a man out of prison, or out of the custody of a private person.

#### HOMINES

homines (hom-<<schwa>>-neez), n.[Latin “men”] Hist. Feudal tenants entitled to have their causes and other matters tried only in their lord's court. See HOMO.

homines ligii (II-jee-I). [Latin] Hist. Liege men; feudal tenants or vassals, esp. those who held immediately of the sovereign.

#### HOMIPLAGIUM

homiplagium (hom-<<schwa>>-play-jee-<<schwa>>m), n.[Law Latin] Hist. The act of maiming a man.

#### HOMMES DE FIEF

hommes de fief (awm d<<schwa>> feef), n.[French “men of the fief”] Hist. Feudal tenants; peers in the lords' courts. — Also termed hommes feudaux.

#### HOMO

homo (hoh-moh), n.[Latin] Hist. 1. A male human. 2. A member of humankind; a human being of either sex. 3. A slave. 4. A vassal; a feudal tenant. 5. A retainer, dependent, or servant. Pl. homines. See HOMINES.

homo alieni juris (ay-lee- or al-ee-ee-nIjoor-is). See FILIUSFAMILIAS.

homo chartularius (kahr-ch<<schwa>>-lair-ee-<<schwa>>s). A slave manumitted by charter.

homo commendatus (kom-<<schwa>>n-day-t<<schwa>>s). A man who commends himself into another's power for protection or support.

homo ecclesiasticus (e-klee-z[h]ee-as-ti-k<<schwa>>s). A church vassal; one bound to serve a church, esp. in an agricultural capacity.

homo exercitalis (eg-z<<schwa>>r-sh<<schwa>>-tay-lis). A man of the army; a soldier.

homo feodalis (fyoo-day-lis). A fee man; a vassal or tenant who holds a fee.

homo fiscalis (fis-kay-lis). A servant or vassal belonging to the treasury (fiscus). — Also termed homo fiscalinus.

homo francus (frangk-<<schwa>>s). 1. Hist. In England, a freeman. 2. A Frenchman.

homo ingenuus (in-jen-yoo-<<schwa>>s). A free and lawful man; a yeoman.

homo liber (II-b-<<schwa>>r). 1. A free man. 2. A freeman lawfully competent to be a juror. 3. An allodial proprietor, as distinguished from a feudal tenant. See ALLODIAL.

homo ligius (II-jee-<<schwa>>s). A liege man, esp. the vassal of a king.

homo novus (noh-v<<schwa>>s). 1. A new tenant or vassal; one invested with a new fee. 2. A tenant pardoned after being convicted of a crime.

homo pertinens (p<<schwa>>r-t<<schwa>>-nenz). A feudal bondman or vassal; one belonging to the soil.

homo regius (ree-jee-<<schwa>>s). A king's vassal.

homo Romanus (r<<schwa>>-may-n<<schwa>>s). A Roman. • A term used in Germanic law codes to describe the Roman inhabitants of Gaul and other former Roman provinces.

homo sui juris (s[y]oo-Ijoor-is). See PATERFAMILIAS.

homo trium litterarum (trĪ-<<schwa>>m lit-<<schwa>>-rair-<<schwa>>m). [Latin "a man of three letters"] A thief. • The "three letters" refers to f, u, and r, for the Latin word fur ("thief").

### HOMOLOGACIÓN

homologación. See HOMOLOGATION.

### HOMOLOGARE

homologare (hom-<<schwa>>-l<<schwa>>-gair-ee), vb. [Law Latin] Civil law. 1. To confirm or approve; to consent or assent. 2. To confess.

### HOMOLOGATE

homologate (h<<schwa>>-mol-<<schwa>>-gayt), vb. Civil law. To approve or confirm officially <the court homologated the sale>.

### HOMOLOGATION

homologation (h<<schwa>>-mol-<<schwa>>-gay-sh<<schwa>>n). Civil law. 1. Confirmation, esp. of a court granting its approval to some action. 2. The consent inferred by law from a party's failure, for a ten-day period, to complain of an arbitrator's sentence, of an appointment of a syndic (or assignee) of an insolvent, or of a settlement of successions. 3. The approval given by a judge of certain acts and agreements, to render them more readily enforceable. — Also termed (in Spanish law) homologación (oh-moh-loh-gah-syohn). See judgment homologating the tableau under JUDGMENT.

### HOMOLOGOUS ARTIFICIAL INSEMINATION

homologous artificial insemination. See artificial insemination by husband under ARTIFICIAL INSEMINATION.

### HOMOSEXUAL MARRIAGE

homosexual marriage. See same-sex marriage under MARRIAGE(1).

### HON.

Hon. abbr. HONORABLE.



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**HONEST CLAIM**

honest claim. See CLAIM(3).

**HONESTE VIVERE**

honeste vivere ([h]<<schwa>>-nes-tee vI-v<<schwa>>-ree). [Latin] Roman law. To live honorably. • This was one of the three general precepts in which Justinian expressed the requirements of the law. Cf. ALTERUM NON LAEDERE; SUUM CUIQUE TRIBUERE.

**HONESTY CLAUSE**

honesty clause. See FULL-REPORTING CLAUSE(1).

**HONOR**

honor, n. 1. In the United States, a courtesy title given to judges and certain other public officials. 2. (usu. pl.) In England, those dignities or privileges, degrees of nobility, knighthood, and other titles that flow from the Crown. 3. Hist. In England, a seignior of several manors held under one baron or lord paramount.

honor, vb. 1. To accept or pay (a negotiable instrument) when presented. [Cases: Banks and Banking 140(3); Bills and Notes 24, 388, 428. C.J.S. Banks and Banking §§ 357, 359, 361, 371–379, 401; Bills and Notes; Letters of Credit §§ 19, 100, 234–236, 238.] 2. To recognize, salute, or praise.

**HONORABLE**

Honorable. A title of respect given to judges, members of the U.S. Congress, ambassadors, and the like <The Honorable Ruth Bader Ginsburg>. — Abbr. Hon.

**HONORABLE DISCHARGE**

honorable discharge. See DISCHARGE(8).

**HONORABLE-ENGAGEMENT CLAUSE**

honorable-engagement clause. Reinsurance. An arbitration provision in a reinsurance contract allowing the arbitrators to view the reinsurance arrangement reasonably — in line with the agreement's general purposes — rather than strictly according to the rules of law or an overly technical interpretation of contract language. [Cases: Insurance 3626. C.J.S. Insurance § 1516.]

**HONORARIUM**

honorarium (on-<<schwa>>-rair-ee-<<schwa>>m), n. 1. A payment of money or anything else of value made to a person for services rendered for which fees cannot legally be or are not traditionally paid. • Federal law restricts the payment of honoraria to members of Congress. 2. A voluntary reward for that for which no remuneration could be collected by law; a voluntary donation in consideration of services that admit of no compensation in money. 3. Roman law. A gratuitous payment, esp. for professional services, as distinguished from compensation for physical labor. Pl. honoraria. Cf. MERCES.

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**HONORARY**

honorary,adj. (Of a title or status) conferred in recognition of merit or service, but without the attendant rights, powers, or duties; nominal < honorary member>. • An honorary title or status may be granted without regard to whether the honoree ever held the title or status in fact. The honorary title conferred on a former officer who has honorably retired from office is often “emeritus” or “emerita.” See EMERITUS.

**HONORARY CANON**

honorary canon.See CANON(5).

**HONORARY FEUD**

honorary feud.Hist. In England, a title of nobility descending to the eldest son only. See FEUD(1)–(3).

**HONORARY SERVICES**

honorary services.Hist. Special services rendered to the king by a person holding tenure of grand serjeanty. • The services usu. consisted of carrying the royal banner or sword, or serving at the king's coronation as a butler, as a champion, or in some other capacity.

**HONORARY TRUST**

honorary trust.See TRUST.

**HORAE JURIDICAE**

horae juridicae (hor-ee juu-rid-i-see), n. pl.[Latin] Hist. Juridical hours. • The time during which judges sat in court to attend to judicial business. — Also termed horae iudicii (hor-ee joo-dish-ee-ee).

**HORCA**

horca (or-kah), n. Spanish law. 1. A gallows. 2. A stick for administering corporal punishment. 3. A designated place for administering corporal punishment.

**HORDERA**

hordera (hor-deer-⟨⟨schwa⟩⟩), n.[Law Latin] Hist. In England, a treasurer. — Also termed hordarius (hor-dair-ee-⟨⟨schwa⟩⟩s).

**HORDERIUM**

horderium (hor-deer-ee-⟨⟨schwa⟩⟩m), n.[Law Latin] Hist. In England, a hoard, treasury, or repository.

**HORIZONTAL AGREEMENT**

horizontal agreement.See horizontal restraint under RESTRAINT OF TRADE.

**HORIZONTAL COMPETITION**

horizontal competition. See COMPETITION.

#### HORIZONTAL EQUALITY

horizontal equality. In per capita distribution of an estate, parity of distribution among members of the same generation. See PER CAPITA. Cf. VERTICAL EQUALITY.

#### HORIZONTAL-GAZE NYSTAGMUS TEST

horizontal-gaze nystagmus test. Criminal law. A field-sobriety test for intoxication, in which the suspect is told to focus on an object (such as a pencil) and to track its movement, usu. from side to side, by moving only the eyes. • Intoxication is indicated if the eyes jerk or twitch while tracking the object. — Abbr. HGN test. [Cases: Automobiles 411. C.J.S. Motor Vehicles §§ 1397–1411.]

#### HORIZONTAL INTEGRATION

horizontal integration. See horizontal merger under MERGER.

#### HORIZONTAL MERGER

horizontal merger. See MERGER.

#### HORIZONTAL NONPRIVITY

horizontal nonprivity. See NONPRIVITY.

#### HORIZONTAL PRICE-FIXING

horizontal price-fixing. See PRICE-FIXING.

#### HORIZONTAL PRIVITY

horizontal privity. See PRIVITY.

#### HORIZONTAL-PROPERTY ACT

horizontal-property act. A statute dealing with cooperatives and condominiums.

#### HORIZONTAL RESTRAINT

horizontal restraint. See RESTRAINT OF TRADE.

#### HORIZONTAL UNION

horizontal union. See craft union under UNION.

#### HORNBOOK

hornbook. 1. A book explaining the basics of a given subject. 2. A textbook containing the rudimentary principles of an area of law. Cf. CASEBOOK.

“Hornbook... The first book of children, covered with horn to keep it unsoiled.” Samuel Johnson, *A Dictionary of the English Language* (1755).

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**HORNBOOK LAW**

hornbook law. See BLACKLETTER LAW.

**HORNBOOK METHOD**

hornbook method. A method of legal instruction characterized by a straightforward presentation of legal doctrine, occasionally interspersed with questions. • The hornbook method predominates in civil-law countries, and in certain fields of law, such as procedure and evidence. — Also termed lecture method. Cf. CASEBOOK METHOD; SOCRATIC METHOD.

**HORNING**

horning, n. Hist. Scots law. The denunciation of a person as an outlaw. • The term comes from the old ceremony of proclaiming a person outlawed in which the king's messenger gave three blasts on a horn. — Also termed putting to the horn.

**HORN TENURE**

horn tenure. 1. CORNAGE(1). 2. CORNAGE(2).

**HORS**

hors (or). [French] 1. Out or out of. 2. Outside or outside of.

**HORS DE SON FEE**

hors de son fee (or d<<schwa>> sonfee), n. [French “out of his fee”] Hist. A defensive plea in an action for rent or services by which the defendant alleged that the land in question was outside the plaintiff's fee.

**HORSE CASE**

horse case. See WHITEHORSE CASE.

**HORSEHEAD**

horsehead. See PUMPING UNIT.

**HORSESHEDDING**

horseshedding, n. The instruction of a witness favorable to one's case (esp. a client) about the proper method of responding to questions while giving testimony. — Also termed woodshedding. Cf. SANDPAPERING. — horseshed, vb.

**HOSPITALARIA**

hospitalaria. See HOSTILARIA.

**HOSPITALLERS**

Hospitallers (hos-pi-t<<schwa>>l-<<schwa>>rz). A military and religious order founded in the 12th century and so called because it built a hospital at Jerusalem to care for pilgrims. • The

Crown seized all its lands and goods in England under the Grantees of Reversions Act (1540). The Hospitallers still function in several countries as a humanitarian society.

#### HOSPITAL LIEN

hospital lien. See LIEN.

#### HOSPITATOR

hospitator (hos-p<<schwa>>-tay-t<<schwa>>r), n. [Law Latin] A host or entertainer.

hospitator communis (k<<schwa>>-myoo-nis). A common innkeeper.

hospitator magnus (mag-n<<schwa>>s). The marshal of a camp.

#### HOSPITIA

hospitia (hah-spish-ee-<<schwa>>), n. [Latin] Inns.

hospitia cancellariae (kan-s<<schwa>>-lair-ee-I). Inns of chancery.

hospitia communia (k<<schwa>>-myoo-nee-<<schwa>>). Common inns.

hospitia curiae (kyoor-ee-I). Inns of court.

#### HOSPITICIDE

hospiticide (hah-spit-<<schwa>>-sId), n. 1. The murder of a host by a guest. 2. A host who murders a guest.

#### HOSPITIUM

hospitium (hah-spish-ee-<<schwa>>m), n. [Latin] An inn; a household.

#### HOSTAGE

hostage. 1. An innocent person held captive by another who threatens to kill or harm that person if one or more demands are not met. • Hostage-taking is a federal crime. 18 USCA § 1203. Cf. KIDNAPPING. 2. Int'l law. A person who is given or taken into an enemy's custody, in time of war, with his or her freedom or life to stand as security for the performance of some agreement made to the enemy by the belligerent power giving the hostage. [Cases: War and National Emergency 11. C.J.S. War and National Defense §§ 7–8.]

#### HOSTELAGIUM

hostelagium (hos-t<<schwa>>-lay-jee-<<schwa>>m), n. [Law Latin] Hist. A right to receive lodging and entertainment, anciently reserved by lords in their tenants' houses.

#### HOSTELER

hosteler (hos-t<<schwa>>-l<<schwa>>r). 1. A person who stays in a youth hostel. 2. A stableman. 3. Archaic. A person who receives and entertains guests, esp. at a monastery. 4. Archaic. An innkeeper. See HOSTLER.

## HOSTES

hostes (hos-teez), n. pl.[Latin] Enemies. Sing. hostis (hos-tis).

hostes humani generis (hyoo-may-nIjen-*<<schwa>>*-ris). Enemies of the human race; specif., pirates.

## HOSTICIDE

homicide (hos-t*<<schwa>>*-sId), n.1. The killing of an enemy. 2. A person who kills an enemy.

## HOSTILARIA

hostilaria (hos-t*<<schwa>>*-lair-ee-*<<schwa>>*), n.[Latin] A place or room in a religious house used to receive guests and strangers. — Also termed hospitalaria (hos-p*<<schwa>>*-t*<<schwa>>*-ler-[ee-]*<<schwa>>*).

## HOSTILE

hostile,adj.1.ADVERSE. 2. Showing ill will or a desire to harm. 3. Antagonistic; unfriendly.

## HOSTILE ACT

hostile act.See ACT OF HOSTILITY.

## HOSTILE AMENDMENT

hostile amendment.See AMENDMENT(3).

## HOSTILE BIDDER

hostile bidder.See CORPORATE RAIDER.

## HOSTILE EMBARGO

hostile embargo.See EMBARGO(1).

## HOSTILE-ENVIRONMENT SEXUAL HARASSMENT

hostile-environment sexual harassment.See SEXUAL HARASSMENT.

## HOSTILE POSSESSION

hostile possession.See POSSESSION.

## HOSTILE PROPAGANDA

hostile propaganda.See PROPAGANDA.

## HOSTILE TAKEOVER

hostile takeover.See TAKEOVER.

## HOSTILE WITNESS

hostile witness. See WITNESS.

#### HOSTILITY

hostility. 1. A state of enmity between individuals or nations. 2. An act or series of acts displaying antagonism. 3. (usu. pl.) Acts of war.

#### HOSTLER

hostler ([h]os-l<<schwa>>r). [fr. hosteler] Archaic. 1. A stableman; an ostler. 2. An innkeeper. • By the 16th century, this term had lost its “innkeeper” sense, and referred exclusively to a stableman.

#### HOT BLOOD

hot blood. See HEAT OF PASSION.

#### HOT CARGO

hot cargo. Labor law. Goods produced or handled by an employer with whom a union has a dispute.

#### HOT-CARGO AGREEMENT

hot-cargo agreement. Labor law. A voluntary agreement between a union and a neutral employer by which the latter agrees to exert pressure on another employer with whom the union has a dispute, as by ceasing or refraining from handling, using, selling, transporting, or otherwise dealing in any of the products of an employer that the union has labeled as unfair. • Most agreements of this type were prohibited by the Landrum–Griffin Act of 1959. See LANDRUM–GRIFFIN ACT.

#### HOT CHECK

hot check. See bad check under CHECK.

#### HOTCHPOT

hotchpot (hoch-pot), n.1. The blending of items of property to secure equality of division, esp. as practiced either in cases of divorce or in cases in which advancements of an intestate's property must be made up to the estate by a contribution or by an accounting. — Also termed hotchpotch; hotchpot rule. Cf. RAPPORT à SUCCESSION. [Cases: Descent and Distribution 108; Wills 757, 762. C.J.S. Descent and Distribution § 106; Wills §§ 1774–1776, 1789.]

“In some states ... a child who has received his advancement in real or personal estate, may elect to throw the amount of the advancement into the common stock, and take his share of the estate descended, or his distributive share of the personal estate, as the case may be: and this is said to be bringing the advancement into hotchpot, and it is a proceeding which resembles the collatio bonorum in the civil law.” 4 James Kent, Commentaries on American Law \*419 (George Comstock ed., 11th ed. 1866).

“[T]he distribution of the property among the children is subject to what is called the

hotchpot rule, the purpose of which is to ensure that the shares of all the children shall be equal. The rule is that any money or property which the intestate has paid to, or settled on, or covenanted to settle on a child, either by way of advancement or in view of marriage, shall be brought into account and deducted from the share which is payable to that child under the intestacy." G.C. Cheshire, *Modern Law of Real Property* 783–84 (3d ed. 1933).

2. In a community-property state, the property that falls within the community estate. See COLLATIO BONORUM. [Cases: Husband and Wife 248.5–260.] 3.MAIN POT.

#### HOT COURT

hot court. See COURT.

#### HOT DOCUMENT

hot document. See DOCUMENT.

#### HOTEL DIVORCE

hotel divorce. See DIVORCE.

#### HOTELKEEPER

hotelkeeper. See INNKEEPER.

#### HOTELKEEPER'S LIEN

hotelkeeper's lien. See LIEN.

#### HOT ISSUE

hot issue. See ISSUE(2).

#### HOT NEWS

hot news. Intellectual property. Extremely time-sensitive or transient information that is usually reliable for very brief periods, such as stock quotations.

#### HOT-NEWS TEST

hot-news test. Intellectual property. A judicial test for determining whether a misappropriation claim is preempted by the Sears–Compco doctrine by analyzing whether, in addition to the elements of copyright infringement, the claim also requires proof of (1) time-sensitive information collected at a cost to the plaintiff, (2) unfair use of that information by a directly competing defendant who has made no similar investment, and (3) a consequent threat to the plaintiff's commercial existence.

#### HOT-POTATO RULE

hot-potato rule. The principle that a lawyer may not unreasonably withdraw from representing a client. • The term comes from the rule's classic formulation: "a firm may not drop a client like a 'hot potato,' especially if it is in order to keep happy a far more lucrative client." *Picker Int'l, Inc.*



v. Varian Assocs., Inc., 670 F.Supp. 1363, 1365 (N.D. Ohio 1987).

#### HOT PURSUIT

hot pursuit. 1.FRESH PURSUIT. 2.Int'l law. The legitimate chase of a foreign vessel on the high seas just after that vessel has violated the law of the pursuing country while within that country's jurisdiction.

#### HOT STOCK

hot stock.See hot issue under ISSUE(2).

#### HOT-WATER ORDEAL

hot-water ordeal.See ordeal by water (2) under ORDEAL.

#### HOUR OF CAUSE

hour of cause.Scots law. The time at which a trial is to begin.

#### HOUSAGE

housage (howz-ij).1. A fee for storing goods. 2. The state of being housed or the action of housing.

#### HOUSE

house. 1. A home, dwelling, or residence.

ancient house.Hist. In England, a house that has stood long enough to acquire an easement of support against the adjoining land or building.

bawdy house.See DISORDERLY HOUSE(2).

disorderly house.See DISORDERLY HOUSE.

dwelling house.See DWELLING HOUSE.

house of correction. 1. A reformatory. 2. A place for the confinement of juvenile offenders or those who have committed crimes of lesser magnitude. — Also termed house of refuge. [Cases: Infants 271. C.J.S. Infants § 271.]

house of detention.See JAIL.

house of ill fame.1.BROTHEL. 2.DISORDERLY HOUSE(2).

house of prostitution.See DISORDERLY HOUSE(2).

house of refuge.See house of correction.

house of worship.A building or place set apart for and devoted to the holding of religious services or exercises or public worship; a church or chapel, or a place similarly used. [Cases: Religious Societies 15. C.J.S. Religious Societies §§ 53–54.]

public house. See PUBLIC HOUSE.

2. A branch of a legislature or a quorum of such a branch; esp., the lower chamber of a bicameral legislature. 3. HOUSE OF REPRESENTATIVES. 4. HOUSE OF DELEGATES.

#### HOUSEAGE

houseage (howz-ij). A fee paid for housing goods, as by a carrier or at a wharf.

#### HOUSE ARREST

house arrest. The confinement of a person who is accused or convicted of a crime to his or her home, usu. by attaching an electronically monitored bracelet to the criminal offender. • Most house-arrest programs require the offender to work and permit leaving the home only for reasons such as work, medical needs, or community-service obligations. [Cases: Sentencing and Punishment 2047.]

#### HOUSE BILL

house bill. See BILL(3).

#### HOUSEBOTE

housebote. See BOTE(1).

#### HOUSEBREAKING

housebreaking. The crime of breaking into a dwelling or other secured building, with the intent to commit a felony inside; BURGLARY. • Burglary is now used more frequently than housebreaking. In England, for example, housebreaking was replaced in 1968 with statutory burglary, though the term is still used in Scots law. In some jurisdictions, housebreaking includes “breaking out” of a house that was entered without a breaking. [Cases: Burglary 1.C.J.S. Burglary §§ 2–5.]

“The oldest term for this purpose [i.e., of distinguishing between common-law burglary and its statutory enlargements], still encountered at times, is ‘housebreaking’; a more recent suggestion is ‘breaking and entering,’ and peace officers sometimes speak of a ‘breakin.’ ” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 270 (3d ed. 1982).

constructive housebreaking. A breaking made out by construction of law, as when a burglar gains entry by threat or fraud. — Also termed constructive breaking into a house. [Cases: Burglary 9. C.J.S. Burglary §§ 11–12, 16, 21–22.]

#### HOUSEBURNING

houseburning. The common-law misdemeanor of intentionally burning one's own house that is within city limits or that is close enough to other houses that they might be in danger of catching fire (even though no actual damage to them may result). — Also termed *combustio domorum*. Cf. ARSON. [Cases: Arson 2. C.J.S. Arson §§ 2–5, 9.]

#### HOUSE COUNSEL

house counsel. See in-house counsel under COUNSEL.

#### HOUSE-DUTY

house-duty. Hist. English law. A tax first imposed in 1851 on inhabited houses. 14 & 15 Vict., ch. 36 (repealed 1924). • This tax replaced the window tax, which levied a duty on houses with more than six windows. See window tax under TAX.

#### HOUSEHOLD

household, adj. Belonging to the house and family; domestic.

household, n. 1. A family living together. 2. A group of people who dwell under the same roof. Cf. FAMILY.

#### HOUSEHOLDER

householder. 1. A person who keeps house with his or her family; the head or master of a family. 2. A person who has a household. 3. An occupier of a house. Cf. HEAD OF HOUSEHOLD.

#### HOUSEHOLD GOODS

household goods. See GOODS.

#### HOUSE LAW

house law. Hist. A regulatory code promulgated by the head of a royal or noble family, or of a prominent private family, governing intrafamily relationships and acts concerning events such as marriage, disposition of property, and inheritance. • Such a code had no legal authority but was enforced within the family by personal and economic sanctions.

#### HOUSE MARK

house mark. See house trademark under TRADEMARK.

#### HOUSE OF ASSIGNATION

house of assignation. See DISORDERLY HOUSE(2).

#### HOUSE OF COMMONS

House of Commons. The lower chamber of the British and Canadian parliaments. — Abbr. H.C.

#### HOUSE OF CORRECTION

house of correction. See HOUSE.

#### HOUSE OF DELEGATES

house of delegates. 1. (often cap.) The convention of many learned or professional associations, including the American Bar Association <the ABA House of Delegates>. — Often

shortened to House. — Also termed house of representatives. See CONVENTION(4). [Cases: Attorney and Client 31.C.J.S. Attorney and Client §§ 8–9.] 2. (cap.) The lower chamber of the state legislature in Maryland, Virginia, and West Virginia. [Cases: States 26. C.J.S. States § 40.]

#### HOUSE OF DETENTION

#### HOUSE OF ILL FAME

house of ill fame. See HOUSE.

#### HOUSE OF LORDS

House of Lords. The upper chamber of the British Parliament, of which the 11-member judicial committee provides judges who serve as the final court of appeal in most civil cases. • In practice, the Lords sit as committees, usu. of five but occasionally of seven. Two committees may sit simultaneously. — Abbr. H.L. — Also termed Lords.

“ ‘House of Lords’ is an ambiguous expression. It refers (1) to all the peers who choose to sit as the Upper House of the legislature (Parliament), and also (2) to a court consisting of the highest level of the judiciary.” Glanville Williams, *Learning the Law* 8 (11th ed. 1982).

#### HOUSE OF PROSTITUTION

#### HOUSE OF REFUGE

house of refuge. See house of correction under HOUSE.

#### HOUSE OF REPRESENTATIVES

House of Representatives. 1. The lower chamber of the U.S. Congress, composed of 435 members — apportioned among the states on the basis of population — who are elected to two-year terms. [Cases: United States 7.1. C.J.S. United States § 16.] 2. The lower house of a state legislature. — Abbr. (in senses 1 & 2) H.; H.R. [Cases: States 26. C.J.S. States § 40.] 3. HOUSE OF DELEGATES(1). — Often shortened (in all senses) to House.

#### HOUSE OF WORSHIP

house of worship. See HOUSE.

#### HOUSE TRADEMARK

house trademark. See TRADEMARK.

#### HOUSING CODE

housing code. See BUILDING CODE.

#### HOUSING COURT

housing court. See COURT.

#### HOVERING ACT

hovering act. Int'l law. A statute applying to a coastal country's criminal jurisdiction over ships, and persons aboard those ships, when the ships are outside the country's territory.

“The notion of hovering acts evolved long before that of a belt of uniform width in the form of territorial waters. Great Britain's first anti-smuggling legislation to operate at a stated distance seaward was in 1719, applying to the master of any ship ‘found at anchor or hovering within two leagues from the shore.’ Later enactments extended this limit to three, then four, then eight leagues. A statute of 1794 gave power to seize and confiscate customable goods in vessels ‘found at anchor, or hovering’ inside specific straight lines drawn between lines on the British coasts, thus resembling the ‘King's Chambers’ of the Stuart era. In 1805 the British Parliament extended the seizure limit to 100 leagues (300 miles) from the coasts of Great Britain and Ireland in respect of vessels ‘belonging wholly or in part to His Majesty's subjects, or whereof one-half of the persons on board shall be subjects of His Majesty.’ Foreign-flag vessels could have fallen within this category. In the case of *Le Louis* (1817) 165 E.R. 1464, the British Admiralty judge Lord Stowell described these statutes as being permitted by ‘the common courtesy of nations for their convenience.’ ” Geoffrey Marston, “Hovering Acts,” in 2 *Encyclopedia of Public International Law* 884–85 (1995).

HOW

HOW.abbr.HOME OWNERS WARRANTY.

HOW SAY YOU?

How say you? Archaic. (Asked of a jury) How do you find?

HOWSOEVER

howsoever,adv. In whatever way; however.

H.R.

H.R.abbr.HOUSE OF REPRESENTATIVES.

H.R. 10 PLAN

H.R. 10 plan. See KEOGH PLAN.

HSR ACT

HSR Act. See HART–SCOTT–RODINO ANTITRUST IMPROVEMENT ACT.

HTML

HTML.abbr. HYPERTEXT MARKUP LANGUAGE.

HTTP

http.abbr. HYPERTEXT TRANSFER PROTOCOL.

HUB-AND-SPOKE CONSPIRACY

hub-and-spoke conspiracy. See wheel conspiracy under CONSPIRACY.

#### HUC USQUE

huc usque (h<<schwa>>k <<schwa>>s-kwee), adv. [Latin] Hist. Hitherto. • This term commonly appeared in pleadings. — Also spelled hucusque.

#### HUD

HUD. abbr. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

#### HUDEGELD

hudegeld. See HYDEGELD.

#### HUE AND CRY

hue and cry. Hist. 1. The public uproar that, at common law, a citizen was expected to initiate after discovering a crime. — Also termed vociferatio.

“Hue and Cry is the old Common Law mode of pursuing, ‘with horn and voice,’ persons suspected of felony, or having inflicted a wound from which death is likely to ensue.” 1 Joseph Chitty, *A Practical Treatise on the Criminal Law* 26 (2d ed. 1826).

“All were obliged to pursue the criminal when the hue and cry was raised. Neglect of these duties entailed an amercement of the individual, the township or the hundred. The sheriffs and the constables were under special obligations, as conservatores pacis, to fulfil these duties.” 1 William Holdsworth, *A History of English Law* 294 (7th ed. 1956).

2. The pursuit of a felon accompanying such an uproar. 3. A written proclamation for the capture of a felon.

#### HUI

hui (hoo-ee), n. In Hawaiian law, an association of persons who own land together, usu. as tenants in common. [Cases: Associations 1. C.J.S. Associations §§ 2–3, 8.]

#### HUISSIER

huissier (wee-syay), n. [French fr. huis “door”] 1. French law. An usher of a court; an officer (such as a marshal) who serves process. 2. Hist. In England, a ministerial officer attached to a court, responsible for service of process, issuing executions, and maintaining order during court sessions.

#### HULK

hulk, n. Hist. In England, a dismantled ship used as a prison. • Living conditions in hulks were notoriously poor, and their use as prisons ended as part of the broad prison-reform movements of the mid-19th century.

#### HUMANITARIAN DOCTRINE

humanitarian doctrine. See LAST-CLEAR-CHANCE DOCTRINE.

## HUMANITARIAN INTERVENTION

humanitarian intervention. See INTERVENTION.

## HUMANITARIAN LAW

humanitarian law. Int'l law. Law dealing with such matters as the permissible use of weapons and other means of warfare, the treatment of prisoners of war and civilian populations in armed conflicts, and generally the direct impact of war on human life and liberty. • Most existing rules composing humanitarian law are codified in the Geneva Conventions and their protocols.

## HUMAN-LEUKOCYTE ANTIGEN TEST

human-leukocyte antigen test. A medical process of analyzing the blood sample of a man in a paternity or legitimacy case by comparing certain indicators with the child's blood. — Abbr. HLA test. See BLOOD-GROUPING TEST. Cf. GENETIC-MARKER TEST. [Cases: Children Out-of-Wedlock 58. C.J.S. Children Out-of-Wedlock §§ 75–76.]

## HUMAN RIGHTS

human rights. The freedoms, immunities, and benefits that, according to modern values (esp. at an international level), all human beings should be able to claim as a matter of right in the society in which they live. See UNIVERSAL DECLARATION OF HUMAN RIGHTS . [Cases: Civil Rights 1026. C.J.S. Civil Rights §§ 4–5, 8, 13.]

## HUNDI

hundi. See HALAWA.

## HUNDRED

hundred. 1. Formerly, a county subdivision that had its own local court.

“The hundred was a group of adjoining townships. It may have consisted of an area taxed at one hundred hides. Other explanations of the term ‘hundred’ are that the unit may have consisted of one hundred households, or the area had to supply one hundred fighting men for the national defence.” L.B. Curzon, *English Legal History* 7 (2d ed. 1979).

2. The populace of such a subdivision. 3. See hundred court under COURT. 4. In the United States, a political division derived from the English county division. • Hundreds existed in colonial Delaware, Maryland, Pennsylvania, and Virginia. Today, they exist only in Delaware. — hundredal (hun-dri-d<<schwa>>l), adj.

## HUNDREDARIUS

hundredarius (h<<schwa>>n-dri-dair-ee-<<schwa>>s), n. [Law Latin] Hist. 1. HUNDREDARY. 2. HUNDREDOR(1).

## HUNDREDARY

hundredary (h<<schwa>>n-dri-der-ee), n. [Law Latin] Hist. The chief or presiding officer of a

hundred. — Also termed hundredarius.

#### HUNDRED COURT

hundred court. See COURT.

#### HUNDREDES EARLDOR

hundredes earldor (h<<schwa>>n-dridz <<schwa>>rl-d<<schwa>>r), n. [Latinized Old English] Hist. The presiding officer in a hundred court. — Also termed hundredes man.

#### HUNDRED MOOT

hundred moot. See hundred court under COURT.

#### HUNDREDOR

hundredor (h<<schwa>>n-dri-d<<schwa>>r), n. Hist. 1. A freeholder of a hundred who can sue in, or act as judge of, a hundred court. 2. A person who has been empaneled (or is fit to be empaneled) on a hundred-court jury, and who dwells within the hundred where the cause of action arose. 3. An officer who has jurisdiction of a hundred and who holds the hundred court. 4. The bailiff of a hundred.

#### HUNDREDPENNY

hundredpenny (h<<schwa>>n-dr<<schwa>>d-pen-ee), n. Hist. A tax or dues that in medieval times were levied in a hundred. See HUNDRED(1), (2).

#### HUNDRED ROLLS

hundred rolls. Hist. Records that list the various feudal tenancies and feudal obligations existing among English lords and tenants. • The hundred rolls were compiled in 1274–1275 by royal commissioners from inquiries put to hundred-court juries in order to alert the Crown to the existence of feudal relationships that infringed on royal prerogatives (and thereby royal revenue).

#### HUNG JURY

hung jury. See JURY.

#### HURTO

hurto (oor-toh), n. Spanish law. Theft; larceny; stealing.

#### HUSBAND

husband. A married man; a man who has a lawful wife living. • Etymologically, the word signified the house bond, the man who, according to Saxon ideas and institutions, held around him the family, for which he was legally responsible. [Cases: Husband and Wife 1.]

common-law husband. The husband in a common-law marriage; a man who contracts an informal marriage with a woman and then holds himself out to the community as being married to her. See common-law marriage under MARRIAGE(1).



## HUSBANDLIKE AND PROPER

husbandlike and proper.(Of land cultivation or management) according to the locale's usual practices.

## HUSBANDMAN

husbandman.Archaic. A farmer.

## HUSBANDRIA

husbandria (h<<schwa>>z-b<<schwa>>n-dree-<<schwa>>), n.[Law Latin] Hist.  
HUSBANDRY.

## HUSBANDRY

husbandry. 1. Agriculture or farming; cultivation of the soil for food. • In some states, tools and equipment used in farming are exempt from forced sale for collection of a debt. [Cases: Exemptions 45.] 2. Generally, care of a household; careful management of resources.

## HUSBAND–WIFE IMMUNITY

husband–wife immunity.See IMMUNITY(2).

## HUSBAND–WIFE PRIVILEGE

husband–wife privilege.See marital privilege under PRIVILEGE(3).

## HUSCARLE

huscarle (hoos-kahl), n.[Old English] Hist. 1.A house servant or domestic; a man of the household. 2. A king's vassal, thane, or baron; an earl's man or vassal.

## HUSFASTNE

husfastne (hoos-fas[t]-<<schwa>>n), n.[Old English] Hist. A person who holds house and land; a man bound to a frankpledge.

## HUSGABLUM

husgablum (hoos-gab-l<<schwa>>m), n.[Old English] Hist. A tax or tribute levied upon a house; house rent.

## HUSH MONEY

hush money.Slang. A bribe to suppress the dissemination of certain information; a payment to secure silence.

## HUSTING

husting. (usu. pl.) [Old English] 1.Hist. A deliberative assembly, esp. one called by the king or other leader. 2.Hist. COURT OF HUSTINGS. 3.Hist. The raised platform used by officials of the Court of Hustings. 4.Hist. The raised platform used to nominate candidates for Parliament. •

This practice ended after passage of the Ballot Act in 1872. 5. Any place where political campaign speeches are made.

#### HUTESIUM ET CLAMOR

hutesium et clamor (h[y]oo-tee-z[h]ee-<<schwa>>m et klam-<<schwa>>r). [Law Latin]  
HUE AND CRY.

#### HYBRID ACTION

hybrid action.Labor law. A lawsuit in which a union member asserts claims against the employer for breach of a collective-bargaining agreement, and against the union for breach of the duty of fair representation. [Cases: Labor Relations 758.1, 773.1.]

#### HYBRID CLASS ACTION

hybrid class action.See CLASS ACTION.

#### HYBRID MARK

hybrid mark.See composite trademark under TRADEMARK.

#### HYBRID SECURITY

hybrid security.See SECURITY.

#### HYBRID TRADEMARK

hybrid trademark.See composite trademark under TRADEMARK.

#### HYDE AMENDMENT

Hyde Amendment.A federal law that prohibits the use of Medicaid funds for abortions except when necessary to save the mother's life, and that prohibits federally funded family-planning programs from providing abortion counseling. • The bill was sponsored by Representative Henry Hyde of Illinois.

#### HYDEGELD

hydegeld (hId-geld), n. Hist.1.In England, a discharge for an assault on a trespassing servant. 2.HIDEGILD. — Also spelled hudegeld.

#### HYDRAFLOW<TT> TEST

Hydraflow test. A principle for deciding when an inadvertent disclosure of a privileged document is a waiver of the attorney–client privilege, whereby the court considers the reasonableness of the precautions taken to prevent the inadvertent disclosure, the number of disclosures involved, the extent of the disclosure, the promptness of any efforts to remedy the disclosure, and whether justice would be best served by permitting the disclosing party to retrieve the document. *Hydraflow, Inc. v. Enidine Inc.*, 145 F.R.D. 626 (W.D.N.Y. 1993). — Also termed middle-of-the-road test. Cf. LENIENT TEST; STRICT TEST. [Cases: Witnesses 219(3).]

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**HYPERLINK**

hyperlink. Intellectual property. An element on a webpage — usu. a word, phrase, or graphic, but sometimes a single pixel — that, when clicked on, takes the user to another part of the same website or to a different website. • A copyright violation occurs if a person knows or has reason to know that a link will be used for unauthorized copying, and creates a link to encourage or contribute to wrongful copying. — Often shortened to link. — hyperlink, vb.

**HYPERTEXT MARKUP LANGUAGE**

hypertext markup language. The programming code used on websites to format text and provide links between resources. — Abbr. HTML.

**HYPERTEXT TRANSFER PROTOCOL**

hypertext transfer protocol. The set of programmed rules that enable computers to exchange information over the Internet. • Browsers use http to contact other computers. — Abbr. http.

**HYPOBOLUM**

hypobolum (hi-pob-<<schwa>>-l<<schwa>>m), n. [Latin fr. Greek] Civil law. A legacy given to a wife, in addition to her dowry, on the death of her husband. Pl. hypobola.

**HYPOTHEC**

hypothec (hI-poth-ek or hi-). Civil law. A mortgage given to a creditor on property to secure a debt; HYPOTHECA.

landlord's hypothec. Scots law. The lessor's right of security for rent in articles, furniture, and equipment (other than tools of the tenant's trade) that the tenant brought onto the leased premises. • Unlike the English remedy of distress, the right of security is effected only by the lessor's application to the court for a decree of sequestration. Until 1880, a landlord could assert the lien against a tenant's crops and stock as well as personal property. See SEQUESTRATION FOR RENT.

mariner's hypothec. 1. A lien that a seaman, freighter, or repairer can assert against a ship for payment of wages or other sums due. 2. A shipowner's lien against the ship's cargo for the freight costs.

solicitor's hypothec. A legal agent's lien for costs in excess of the costs recovered from an opposing party. • The lien may also apply to the retention of some documents, such as title deeds, as security for a client's outstanding account.

**HYPOTHECA**

hypotheca (hI-p<<schwa>>-thee-k<<schwa>> or hip-<<schwa>>-), n. [Latin fr. Greek] Roman law. A mortgage of property in which the debtor was allowed to keep, but not alienate, the property.

“Yet another mode of creating a security is possible, by which not merely the ownership of a

thing but its possession also remains with the debtor. This is called by the Roman lawyers and their modern followers 'hypotheca.' Hypothecs may arise by the direct application of a rule of law, by judicial decision, or by agreement." Thomas E. Holland, *The Elements of Jurisprudence* 235 (13th ed. 1924).

#### HYPOTHECARIA ACTIO

hypothecaria actio (hI-poth-*<<schwa>>*-kair-ee-*<<schwa>>* ak-shee-oh). [Latin] Roman law. A hypothecary action; an action to enforce a mortgage or to obtain the surrender of the thing mortgaged. — Also termed actio hypothecaria. See hypothecary action under ACTION(4).

#### HYPOTHECARIII CREDITORES

hypothecarii creditores (hI-poth-*<<schwa>>*-kair-ee-I kred-*<<schwa>>*-tor-eez). [Latin] Roman law. Hypothecary creditors; those who lent money on the security of a hypotheca.

#### HYPOTHECARY

hypothecary (hI-poth-*<<schwa>>*-ker-ee), adj. Of, relating to, or involving a hypothec or hypothecation.

#### HYPOTHECARY ACTION

hypothecary action. See ACTION(4).

#### HYPOTHECARY DEBT

hypothecary debt. See DEBT.

#### HYPOTHECATE

hypothecate (hI-poth-*<<schwa>>*-kayt), vb. To pledge (property) as security or collateral for a debt, without delivery of title or possession.

#### HYPOTHECATION

hypothecation (hI-poth-*<<schwa>>*-kay-sh*<<schwa>>*n), n. The pledging of something as security without delivery of title or possession. [Cases: Pledges 1–21; Secured Transactions 1. C.J.S. Pledges §§ 2–21, 27; Secured Transactions §§ 3, 7–9, 23, 37.] — hypothecator (hI-poth-*<<schwa>>*-kay-t*<<schwa>>*r), n.

general hypothecation. 1. A debtor's pledge to allow all the property named in the security instrument to serve as collateral and to be used to satisfy the outstanding debt. 2. See tacit hypothecation (1), (2).

tacit hypothecation. 1. Civil law. A type of lien or mortgage that is created by operation of law and without the parties' express agreement. — Also termed tacit mortgage. 2. See maritime lien under LIEN.

#### HYPOTHECATION BOND

hypothecation bond. See BOND(2).

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**HYPOTHÈQUE**

hypothèque (ee-poh-tek), n. French law. Hypothecation; the right vested in a creditor by the assignment to the creditor of real estate as security for a debt, whether or not accompanied by possession. • Hypothèque may be légale, as the charge that the state has over the lands of its accountants, or that a married woman has over the lands of her husband; judiciaire, when it is the result of a judgment of a court of justice; or conventionnelle, when it is the result of the parties' agreement.

**HYPOTHESIS**

hypothesis (hI-poth-<<schwa>>-s<<schwa>>s).1. A supposition based on evidence but not proven; a proposed explanation, supported by evidence, that serves as a starting point for investigation. 2. A theory or supposition proposed for the sake of debate.

**HYPOTHETICAL**

hypothetical,adj. Involving tentative theory or supposition adopted provisionally; assumed or postulated merely for the sake of argument.

hypothetical,n. A proposition or statement that is presumed true for the sake of logical analysis or debate. • Hypotheticals are often used as teaching tools to illustrate the application of legal principles or to explore the potential consequences of words and actions. See HYPOTHETICAL QUESTION.

**HYPOTHETICAL CONTRACT**

hypothetical contract.See conditional contract under CONTRACT.

**HYPOTHETICAL CREDITOR**

hypothetical creditor.See CREDITOR.

**HYPOTHETICAL LIEN CREDITOR**

hypothetical lien creditor.See hypothetical creditor under CREDITOR.

**HYPOTHETICAL NEGOTIATION**

hypothetical negotiation.A judicial construct used to calculate damages in a patent-infringement suit by arriving at a figure that would have been a reasonable royalty acceptable to both parties.

**HYPOTHETICAL-PERSON DEFENSE**

hypothetical-person defense.An entrapment defense in which the defendant asserts that an undercover law-enforcement officer (or person acting at the law-enforcement officer's direction) encouraged the defendant to engage in the criminal conduct either by making false representations designed to convince the defendant that the conduct was not prohibited, or by using persuasive methods that created a substantial risk that the charged offense would be committed by a person who was not otherwise inclined to commit it. • This defense has been adopted by a minority of

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states and by the Model Penal Code. — Also termed objective method. See Model Penal Code § 2.13. Cf. SHERMAN–SORRELLS DOCTRINE.

**HYPOTHETICAL PLEADING**

hypothetical pleading. See PLEADING(1).

**HYPOTHETICAL QUESTION**

hypothetical question. A trial device that solicits an expert witness's opinion based on assumptions treated as facts established by evidence. — Also termed abstract question. [Cases: Evidence 551; Witnesses 237. C.J.S. Evidence § 693; Witnesses § 411.]

**HYPOTHETICAL TENANT**

hypothetical tenant. Hist. A fictional person used for assessing property taxes, which are based on what the person would pay to lease the property.