

## H.

**H.** This letter, as an abbreviation, stands for Henry (a king of that name) in the citation of English statutes. In the Year Books, it is used as an abbreviation for Hilary term.

**H. A.** An abbreviation for *hoc anno*, this year, in this year.

**H. B.** An abbreviation for house bill, *i. e.*, a bill in the house of representatives, as distinguished from a senate bill.

**H. C.** An abbreviation for house of commons, or for *habeas corpus*.

**H. L.** An abbreviation for house of lords.

**H. R.** An abbreviation for house of representatives.

**H. T.** An abbreviation for *hoc titulo*, this title, under this title; used in references to books.

**H. V.** An abbreviation for *hoc verbo* or *hac voce*, this word, under this word; used in references to dictionaries and other works alphabetically arranged.

**HABE, or HAVE.** Lat. A form of the salutatory expression "*Ave*," (hail,) in the titles of the constitutions of the Theodosian and Justinian Codes. Calvin.; Spelman.

**HABEAS CORPORA JURATORUM.** A writ commanding the sheriff to bring up the persons of jurors, and, if need were, to distrain them of their lands and goods, in order to insure or compel their attendance in court on the day of trial of a cause. It issued from the Common Pleas, and served the same purpose as a *distringas juratores* in the King's Bench. It was abolished by the C. L. P. Act, 1852, § 104. Brown.

**HABEAS CORPUS.** (You have the body.) The name given to a variety of writs, (of which these were anciently the emphatic words,) having for their object to bring a party before a court or judge. In common usage, and whenever these words are used alone, they are understood to mean the *habeas corpus ad subjiciendum*, (*q. v.*)

**HABEAS CORPUS ACT.** The English statute of 31 Car. II. c. 2, is the original and prominent *habeas corpus* act. It was amended and supplemented by St. 56 Geo. III. c. 100. And similar statutes have been enacted in all the United States. This

act is justly regarded as the great constitutional guaranty of personal liberty.

**HABEAS CORPUS AD DELIBERANDUM ET RECIPIENDUM.** A writ which is issued to remove, for trial, a person confined in one county to the county or place where the offense of which he is accused was committed. Bac. Abr. "*Habeas Corpus*," A; 1 Chit. Crim. Law, 132. Thus, it has been granted to remove a person in custody for contempt to take his trial for perjury in another county. 1 Tyrw. 185.

**HABEAS CORPUS AD FACIENDUM ET RECIPIENDUM.** A writ issuing in civil cases, to remove the cause, as also the body of the defendant, from an inferior court to a superior court having jurisdiction, there to be disposed of. It is also called "*habeas corpus cum causa*."

**HABEAS CORPUS AD PROSEQUENDUM.** A writ which issues when it is necessary to remove a prisoner in order to *prosecute* in the proper jurisdiction wherein the fact was committed. 3 Bl. Comm. 130.

**HABEAS CORPUS AD RESPONDENDUM.** A writ which is usually employed in civil cases to remove a person out of the custody of one court into that of another, in order that he may be sued and answer the action in the latter. 2 Sell. Pr. 259; 2 Mod. 198; 3 Bl. Comm. 129; 1 Tidd, Pr. 300.

**HABEAS CORPUS AD SATISFACIENDUM.** In English practice. A writ which issues when a prisoner has had judgment against him in an action, and the plaintiff is desirous to bring him up to some superior court, to charge him with process of execution. 3 Bl. Comm. 129, 130; 3 Steph. Comm. 693; 1 Tidd, Pr. 350.

**HABEAS CORPUS AD SUBJICIENDUM.** In practice. A writ directed to the person detaining another, and commanding him to produce the body of the prisoner, (or person detained,) with the day and cause of his caption and detention, *ad faciendum, subjiciendum et recipiendum*, to do, submit to, and receive whatsoever the judge or court awarding the writ shall consider in that behalf. 3 Bl. Comm. 131; 3 Steph. Comm. 695. This is the well-known remedy for deliverance from illegal confinement, called by

Sir William Blackstone the most celebrated writ in the English law, and the great and efficacious writ in all manner of illegal confinement. 3 Bl. Comm. 129.

**HABEAS CORPUS AD TESTIFICANDUM.** In practice. A writ to bring a witness into court, when he is in custody at the time of a trial, commanding the sheriff to have his body before the court, to testify in the cause. 3 Bl. Comm. 130; 2 Tidd, Pr. 809.

**HABEAS CORPUS CUM CAUSA.** (You have the body, with the cause.) In practice. Another name for the writ of *habeas corpus ad faciendum et recipiendum*, (q. v.) 1 Tidd, Pr. 348, 349.

*Habemus optimum testem, confitentem reum.* 1 Phil. Ev. 397. We have the best witness, — a confessing defendant. "What is taken *pro confesso* is taken as indubitable truth. The plea of guilty by the party accused shuts out all further inquiry. *Habemus confitentem reum* is demonstration, unless indirect motives can be assigned to it." 2 Hagg. Eccl. 315.

**HABENDUM.** In conveyancing. The clause usually following the granting part of the premises of a deed, which defines the extent of the ownership in the thing granted to be held and enjoyed by the grantee. 3 Washb. Real Prop. 437.

**HABENDUM ET TENENDUM.** In old conveyancing. To have and to hold. Formal words in deeds of land from a very early period. Bract. fol. 17b.

**HABENTES HOMINES.** In old English law. Rich men; literally, having men. The same with *fasting-men*, (q. v.) Cowell.

**HABENTIA.** Riches. Mon. Angl. t. 1, 100.

**HABERE.** Lat. In the civil law. To have. Sometimes distinguished from *tenere*, (to hold,) and *possidere*, (to possess;) *habere* referring to the right, *tenere* to the fact, and *possidere* to both. Calvin.

**HABERE FACIAS POSSESSIONEM.** That you cause to have possession. The name of the process commonly resorted to by the successful party in an action of ejectment. for the purpose of being placed by the sheriff in the actual possession of the land recovered. It is commonly termed simply "*habere facias*," or "*hab. fa.*"

**HABERE FACIAS SEISINAM.** That you cause to have seisin. The writ of execution in real actions, directing the sheriff to cause the demandant to have seisin of the lands recovered. It was the proper process for giving seisin of a freehold, as distinguished from a chattel interest in lands.

**HABERE FACIAS VISUM.** That you cause to have a view. A writ to cause the sheriff to take a view of lands or tenements.

**HABERE LICERE.** Lat. In Roman law. To allow [one] to have [possession.] This phrase denoted the duty of the seller of property to allow the purchaser to have the possession and enjoyment. For a breach of this duty, an *actio ex empto* might be maintained.

**HABERGEON.** A diminutive of *hauberk*, a short coat of mail without sleeves. Blount.

**HABERJECTS.** A cloth of a mixed color. Magna Charta, c. 26.

**HABETO TIBI RES TUAS.** Have or take your effects to yourself. One of the old Roman forms of divorcing a wife. Calvin.

**HABILIS.** Lat. Fit; suitable; active; useful, (of a servant.) Proved; authentic, (of Book of Saints.) Fixed; stable, (of authority of the king.) Du Cange.

**HABIT.** A disposition or condition of the body or mind acquired by custom or a usual repetition of the same act or function.

**HABIT AND REPUTE.** By the law of Scotland, marriage may be established by "habit and repute" where the parties cohabit and are at the same time held and reputed as man and wife. See Bell. The same rule obtains in some of the United States.

**HABITABLE REPAIR.** A covenant by a lessee to "put the premises into habitable repair" binds him to put them into such a state that they may be occupied, not only with safety, but with reasonable comfort, for the purposes for which they are taken. 2 Moody & R. 186.

**HABITANCY.** It is difficult to give an exact definition of "habitancy." In general terms, one may be designated as an "inhabitant" of that place which constitutes the principal seat of his residence, of his business, pursuits, connections, attachments, and of his political and municipal relations. The term, therefore, embraces the fact of residence at a place, together with the intent

to regard it and make it a home. The act and intent must concur. 17 Pick. 231.

**HABITANT.** Fr. In French and Canadian law. A resident tenant; a settler; a tenant who kept hearth and home on the seigniory.

**HABITATIO.** In the civil law. The right of dwelling; the right of free residence in another's house. Inst. 2, 5; Dig. 7, 8.

**HABITATION.** In the civil law. The right of a person to live in the house of another without prejudice to the property. It differed from a usufruct, in this: that the usufructuary might apply the house to any purpose, as of a store or manufactory; whereas the party having the right of habitation could only use it for the residence of himself and family. 1 Browne, Civil Law, 184.

In estates. A dwelling-house; a home-stall. 2 Bl. Comm. 4; 4 Bl. Comm. 220.

**HABITUAL CRIMINALS ACT.** The statute 32 & 33 Vict. c. 99. By this act power was given to apprehend on suspicion convicted persons holding license under the penal servitude acts, 1853, 1857, and 1864. The act was repealed and replaced by the prevention of crimes act, 1871, (34 & 35 Vict. c. 112.)

**HABITUAL DRUNKARD.** A person given to ebriety or the excessive use of intoxicating drink, who has lost the power or the will, by frequent indulgence, to control his appetite for it. 18 Pa. St. 172.

One who has the habit of indulging in intoxicating liquors so firmly fixed that he becomes intoxicated as often as the temptation is presented by his being in the vicinity where liquors are sold is an "habitual drunkard," within the meaning of the divorce law. 35 Mich. 310.

In England, it is defined by the habitual drunkards' act, 1879, (43 & 43 Vict. c. 19,) which authorizes confinement in a retreat, upon the party's own application, as "a person who, not being amenable to any jurisdiction in lunacy, is, notwithstanding, by reason of habitual intemperate drinking of intoxicating liquor, at times dangerous to himself, or herself, or others, or incapable of managing himself or herself, or his or her affairs."

**HABLE.** L. Fr. In old English law. A port or harbor; a station for ships. St. 27 Hen. VI. c. 3.

**HACIENDA.** In Spanish law. The public domain; the royal estate; the aggregate wealth of the state. The science of administering the national wealth; public economy. Also an estate or farm belonging to a private person.

**HACKNEY CARRIAGES.** Carriages plying for hire in the street. The driver is liable for negligently losing baggage.

**HADBOTE.** In Saxon law. A recompense or satisfaction for the violation of holy orders, or violence offered to persons in holy orders. Cowell; Blount.

**HADD.** In Hindu law. A boundary or limit. A statutory punishment defined by law, and not arbitrary. Mozley & Whitley

**HADERUNGA.** Hatred; ill will; prejudice, or partiality. Spelman; Cowell.

**HADGONEL.** A tax or mulct. Jacob.

**HÆC EST CONVENTIO.** Lat. This is an agreement. Words with which agreements anciently commenced. Yearb. H. 6 Edw. II. 191.

**HÆC EST FINALIS CONCORDIA.** L. Lat. This is the final agreement. The words with which the foot of a fine commenced. 2 Bl. Comm. 351.

**HÆREDA.** In Gothic law. A tribunal answering to the English court-leet.

**HÆREDE ABDUCTO.** An ancient writ that lay for the lord, who, having by right the wardship of his tenant under age, could not obtain his person, the same being carried away by another person. Old Nat. Brev. 93.

**HÆREDE DELIBERANDO ALTERI QUI HABET CUSTODIUM TERRÆ**  
An ancient writ, directed to the sheriff, to require one that had the body of an heir, being in ward, to deliver him to the person whose ward he was by reason of his land. Reg. Orig. 161.

**HÆREDE RAPTO.** An ancient writ that lay for the ravishment of the lord's ward. Reg. Orig. 163.

**Hæredem Deus facit, non homo.** God makes the heir, not man. Co. Litt. 7b.

**HÆREDES.** Lat. In the civil law. Heirs. The plural of *hæres*, (*q. v.*)

**HÆREDES EXTRANEI.** In the civil law. Extraneous, strange, or foreign heirs; those who were not subject to the power of the testator. Inst. 2, 19, 3.

**HÆREDES NECESSARI.** In Roman law. Necessary heirs; those who, being named heirs in the will, had no election whether to accept or decline the inheritance, but were compelled to take it. This was the case with a slave who was made heir. Upon

the testator's death, he at once became free, but was also obliged to take the succession.

**HÆREDES PROXIMI.** Nearest or next heirs. The children or descendants of the deceased.

**HÆREDES REMOTIORES.** More remote heirs. The kinsmen other than children or descendants.

**HÆREDES SUI ET NECESSARI.** In Roman law. Own and necessary heirs; *i. e.*, the lineal descendants of the estate-leaver. They were called "necessary" heirs, because it was the law that made them heirs, and not the choice of either the decedent or themselves. But since this was also true of slaves (when named "heirs" in the will) the former class were designated "*sui et necessarii*," by way of distinction, the word "*sui*" denoting that the necessity arose from their relationship to the decedent. Mackeld. Rom. Law, § 733.

**HÆREDIPETA.** Lat. In old English law. A seeker of an inheritance; hence, the next heir to lands.

*Hæredipetæ suo propinquo vel extraneo periculoso sane custodi nullus committatur.* To the next heir, whether a relation or a stranger, certainly a dangerous guardian, let no one be committed. Co. Litt. 88b.

**HÆREDITAS.** In Roman law. The *hæreditas* was a universal succession by law to any deceased person, whether such person had died testate or intestate, and whether in trust (*ex fideicommisso*) for another or not. The like succession according to Prætorian law was *bonorum possessio*. The *hæreditas* was called "*jacens*," until the *hæres* took it up, *i. e.*, made his *aditio hæreditatis*; and such *hæres*, if a *suus hæres*, had the right to abstain, (*potestas abstinendi*), and, if an *extraneus hæres*, had the right to consider whether he would accept or decline, (*potestas deliberandi*), the reason for this precaution being that (prior to Justinian's enactment to the contrary) a *hæres* after his *aditio* was liable to the full extent of the debts of the deceased person, and could have no relief therefrom, except in the case of a *damnum emergens* or *damnosa hæreditas*, *i. e.*, an *hæreditas* which disclosed (after the *aditio*) some enormous unsuspected liability. Brown.

In old English law. An estate transmissible by descent; an inheritance. Co. Litt. 9.

*Hæreditas, alia corporalis, alia incorporalis; corporalis est, quæ tangi potest et videri; incorporalis quæ tangi non potest nec videri.* Co. Litt. 9. An inheritance is either corporeal or incorporeal. Corporeal is that which can be touched and seen; incorporeal, that which can neither be touched nor seen.

**HÆREDITAS DAMNOSA.** A burdensome inheritance. See **DAMNOSA HÆREDITAS**.

*Hæreditas est successio in universum jus quod defunctus habuerit.* Co. Litt. 237. Inheritance is the succession to every right which the deceased had.

**HÆREDITAS JACENS.** In the civil law. A vacant inheritance. So long as no one had acquired the inheritance, it was termed "*hæreditas jacens*," and this, by a legal fiction, represented the person of the decedent. Mackeld. Rom. Law, § 737.

The estate of a person deceased, where the owner left no heirs or legatee to take it, called also "*caduca*," an escheated estate. Cod. 10, 10, 1; 4 Kent, Comm. 425.

In English law. An estate in abeyance; that is, after the ancestor's death, and before assumption of heir. Co. Litt. 342b. An inheritance without legal owner, and therefore open to the first occupant. 2 Bl. Comm. 259.

**HÆREDITAS LUCTUOSA.** In the civil law. A sad or mournful inheritance or succession; as that of a parent to the estate of a child, which was regarded as disturbing the natural order of mortality, (*turbato ordine mortalitatis*.) Cod. 6, 25, 9; 4 Kent, Comm. 397.

*Hæreditas nihil aliud est, quam successio in universum jus, quod defunctus habuerit.* The right of inheritance is nothing else than the faculty of succeeding to all the rights of the deceased. Dig. 50, 17, 62.

*Hæreditas nunquam ascendit.* An inheritance never ascends. Glanv. lib. 7, c. 1; 2 Bl. Comm. 211. A maxim of feudal origin, and which invariably prevailed in the law of England down to the passage of the statute 3 & 4 Wm. IV. c. 106, § 6, by which it was abrogated. 1 Steph. Comm. 378. See Brooin, Max. 527, 528.

*Hæredum appellatione veniunt hæredes hæredum in infinitum.* By the title of heirs, come the heirs of heirs to infinity. Co. Litt. 9.

**HÆRES.** In Roman law. The heir, or universal successor in the event of death. The heir is he who actively or passively succeeds to the entire property of the estate-leaver. He is not only the successor to the rights and claims, but also to the estate-leaver's debts, and in relation to his estate is to be regarded as the identical person of the estate-leaver, inasmuch as he represents him in all his active and passive relations to his estate. Mackeld. Rom. Law, § 651.

It should be remarked that the office, powers, and duties of the *hæres*, in Roman law, were much more closely assimilated to those of a modern *executor* than to those of an heir at law. Hence "heir" is not at all an accurate translation of "*hæres*," unless it be understood in a special, technical sense.

In common law. An heir; he to whom lands, tenements, or hereditaments by the act of God and right of blood do descend, of some estate of inheritance. Co. Litt. 7b.

**HÆRES ASTRARIUS.** In old English law. An heir in actual possession.

**HÆRES DE FACTO.** In old English law. Heir from fact; that is, from the deed or act of his ancestor, without or against right. An heir in fact, as distinguished from an heir *de jure*, or by law.

*Hæres est alter ipse, et filius est pars patris.* An heir is another self, and a son is part of the father. 3 Coke. 12b.

*Hæres est aut jure proprietatis aut jure representationis.* An heir is either by right of property, or right of representation. 3 Coke, 40b.

*Hæres est eadem persona cum antecessore.* An heir is the same person with his ancestor. Co. Litt. 22; Branch, Princ. See Nov. 48, c. 1, § 1.

*Hæres est nomen collectivum.* "Heir" is a collective name or noun. 1 Vent. 215.

*Hæres est nomen juris; filius est nomen naturæ.* "Heir" is a name or term of law; "son" is a name of nature. Bac. Max. 52, in reg. 11.

*Hæres est pars antecessoris.* An heir is a part of the ancestor. So said because the ancestor, during his life, bears in his body (in judgment of law) all his heirs.

**HÆRES EX ASSE.** In the civil law. An heir to the whole estate; a sole heir. Inst. 2, 23, 9.

**HÆRES EXTRANEUS.** In the civil law. A strange or foreign heir; one who

was not subject to the power of the testator, or person who made him heir. *Qui testatoris juri subjecti non sunt, extranei hæredes appellantur.* Inst. 2, 19, 3.

**HÆRES FACTUS.** In the civil law. An heir made by will; a testamentary heir; the person created universal successor by will. Story, Conf. Laws, § 507; 3 Bl. Comm. 224. Otherwise called "*hæres ex testamento*," and "*hæres institutus*." Inst. 2, 9, 7; Id. 2, 14.

**HÆRES FIDEICOMMISSARIUS.** In the civil law. The person for whose benefit an estate was given to another (termed "*hæres fiduciarius*," (*q. v.*) by will. Inst. 2, 23, 6, 7, 9. Answering nearly to the *cestui que trust* of the English law.

**HÆRES FIDUCIARIUS.** A fiduciary heir, or heir in trust; a person constituted heir by will, in trust for the benefit of another, called the "*fideicommissarius*."

*Hæres hæredis mei est meus hæres.* The heir of my heir is my heir.

**HÆRES LEGITIMUS.** A lawful heir; one pointed out as such by the marriage of his parents.

*Hæres legitimus est quem nuptiæ demonstrant.* He is a lawful heir whom marriage points out as such; who is born in wedlock. Co. Litt. 7b; Bract. fol. 88; Fleta, lib. 6, c. 1; Broom, Max. 515.

*Hæres minor uno et viginti annis non respondebit, nisi in casu dotis.* Moore, 348. An heir under twenty-one years of age is not answerable, except in the matter of dower.

**HÆRES NATUS.** In the civil law. An heir born; one born heir, as distinguished from one made heir, (*hæres factus, q. v.*;) an heir at law, or by intestacy, (*ab intestato*;) the next of kin by blood, in cases of intestacy. Story, Conf. Laws, § 507; 3 Bl. Comm. 224.

**HÆRES NECESSARIUS.** In the civil law. A necessary or compulsory heir. This name was given to the heir when, being a slave, he was named "heir" in the testament, because on the death of the testator, whether he would or not, he at once became free, and was compelled to assume the heirship. Inst. 2, 19, 1.

*Hæres non tenetur in Anglia ad debita antecessoris reddenda, nisi per antecessorem ad hoc fuerit obligatus, præterquam debita regis tantum.* Co. Litt.

386. In England, the heir is not bound to pay his ancestor's debts, unless he be bound to it by the ancestor, except debts due to the king. But now, by 3 & 4 Wm. IV. c. 104, he is liable.

**HÆRES RECTUS.** In old English law. A right heir. Fleta, lib. 6, c. 1, § 11.

**HÆRES SUUS.** In the civil law. A man's *own* heir; a decedent's proper or natural heir. This name was given to the lineal descendants of the deceased. Inst. 3, 1, 4-5.

**HÆRETARE.** In old English law. To give a right of inheritance, or make the donation hereditary to the grantee and his heirs. Cowell.

**HÆRETICO COMBURENDO.** The statute 2 Hen. IV. c. 15, *de hæretico comburendo*, was the first penal law enacted against heresy, and imposed the penalty of death by burning against all heretics who relapsed or who refused to abjure their opinions. It was repealed by the statute 29 Car. II. c. 9. Brown. This was also the name of a writ for the purpose indicated.

**HAFNE.** A haven or port. Cowell.

**HAFNE COURTS.** Haven courts; courts anciently held in certain ports in England. Spelman.

**HAGA.** A house in a city or borough. Scott.

**HAGIA.** A hedge. Mon. Angl. tom. 2, p. 273.

**HAGNE.** A little hand-gun. St. 33 Hen. VIII. c. 6.

**HAGNEBUT.** A hand-gun of a larger description than the hagne. St. 2 & 3 Edw. VI. c. 14; 4 & 5 P. & M. c. 2.

**HAI A.** A park inclosed. Cowell.

**HAI EBOTE.** In old English law. A permission or liberty to take thorns, etc., to make or repair hedges. Blount.

**HAILL.** In Scotch law. Whole; the whole. "All and hail" are common words in conveyances. 1 Bell, App. Cas. 499.

**HAILWORKFOLK,** (*i. e.*, holywork-folk.) Those who formerly held lands by the service of defending or repairing a church or monument.

**HAIMHALDARE.** In old Scotch law. To seek restitution of one's own goods and

gear, and bring the same *home* again. Skene de Verb. Sign.

**HAIMSUCKEN.** In Scotch law. The crime of assaulting a person in his own house. Bell.

**HAKETON.** A military coat of defense.

**HALF-BLOOD.** A term denoting the degree of relationship which exists between those who have the same father or the same mother, but not both parents in common. See BROTHER.

**HALF-BROTHER, HALF-SISTER.** Persons who have the same father, but different mothers; or the same mother, but different fathers.

**HALF-CENT.** A copper coin of the United States, of the value of five mills, and of the weight of ninety-four grains. The coinage of these was discontinued in 1857.

**HALF-DEFENSE.** In common-law pleading. The technical name of the common clause at the commencement of a defendant's plea: "And the said defendant, by —, his attorney, comes and defends the wrong, (or force,) and injury, when," etc. Called "*half-defense*" from its abbreviated form.

**HALF-DIME.** A silver (now nickel) coin of the United States, of the value of five cents.

**HALF-DOLLAR.** A silver coin of the United States, of the value of fifty cents, or one-half the value of a dollar.

**HALF-EAGLE.** A gold coin of the United States, of the value of five dollars. I

**HALF-ENDEAL.** A moiety, or half of a thing.

**HALF-KINEG.** In Saxon law. Half-king, (*semi-rex*.) A title given to the aldermen of all England. Crabb, Eng. Law, 28; Spelman. J

**HALF-MARK.** A noble, or six shillings and eight pence in English money. K

**HALF-PROOF.** In the civil law. Proof by one witness, or a private instrument. Hallifax, Civil Law, b. 3. c. 9, no. 25; 3 Bl. Comm. 370. Or *prima facie* proof, which yet was not sufficient to found a sentence or decree. L

**HALF-SEAL.** That which was formerly used in the English chancery for sealing of commissions to delegates, upon any appeal M

to the court of delegates, either in ecclesiastical or marine causes.

**HALF-TIMER.** A child who, by the operation of the English factory and education acts, is employed for less than the full time in a factory or workshop, in order that he may attend some "recognized efficient school." See factory and workshop act, 1878, § 23; elementary education act, 1876, § 11.

**HALF-TONGUE.** A jury half of one tongue or nationality and half of another. See *DE MEDIETATE LINGUÆ*.

**HALF-YEAR.** In legal computation. The period of one hundred and eighty-two days; the odd hours being rejected. Co. Litt. 135*b*; Cro. Jac. 166; Yel. 100; 1 Steph. Comm. 265.

**HALIGEMOT.** In Saxon law. The meeting of a hall, (*conventus aulae*), that is, a lord's court; a court of a manor, or court-baron. Spelman. So called from the *hall*, where the tenants or freemen met, and justice was administered. Crabb, Eng. Law, 26.

**HALIMAS.** In English law. The feast of All Saints, on the 1st of November; one of the cross-quarters of the year, was computed from Halimas to Candlemas. Wharton.

**HALL.** A building or room of considerable size, used as a place for the meeting of public assemblies, conventions, courts, etc.

In English law. A name given to many manor-houses because the magistrate's court was held in the hall of his mansion; a chief mansion-house. Cowell.

**HALLAGE.** In old English law. A fee or toll due for goods or merchandise vended in a hall. Jacob.

A toll due to the lord of a fair or market, for such commodities as were vended in the common hall of the place. Cowell; Blount.

**HALLAZCO.** In Spanish law. The finding and taking possession of something which previously had no owner, and which thus becomes the property of the first occupant. Las Partidas, 3, 5, 28; 5, 48, 49; 5, 20, 50.

**HALLE-GEMOTE.** Hall assembly. A species of court-baron.

**HALLUCINATION.** In medical jurisprudence. A species of mania; the perception of objects which have no reality, or of sensations which have no corresponding ex-

ternal cause, arising from disorder of the nervous system; delusion. Webster.

**HALMOTE.** See *HALLE-GEMOTE*.

**HALYMOTE.** A holy or ecclesiastical court.

A court held in London before the lord mayor and sheriffs, for regulating the bakers.

It was anciently held on Sunday next before St. Thomas' day, and therefore called the "*holymote*," or boly court. Cowell.

**HALYWERCIFOLK.** Sax. In old English law. Tenants who held land by the service of repairing or defending a church or monument, whereby they were exempted from feudal and military services.

**HAMA.** In old English law. A hook; an engine with which a house on fire is pulled down. Yel. 60.

A piece of land.

**HAMBLING.** In forest law. The hoxing or hock-sinewing of dogs; an old mode of laming or disabling dogs. *Termes de la Ley*.

**HAMESECKEN.** In Scotch law. The violent entering into a man's house without license or against the peace, and the seeking and assaulting him there. Skene de Verb. Sign.; 2 Forb. Inst. 139.

The crime of housebreaking or burglary. 4 Bl. Comm. 223.

**HAMFARE.** (Sax. From *ham*, a house.) In Saxon law. An assault made in a house; a breach of the peace in a private house.

**HAMLET.** A small village; a part or member of a vill. It is the diminutive of "*ham*," a village. Cowell.

**HAMMA.** A close joining to a house; a croft; a little meadow. Cowell.

**HAMMER.** Metaphorically, a forced sale or sale at public auction. "To bring to the hammer," to put up for sale at auction. "Sold under the hammer," sold by an officer of the law or by an auctioneer.

**HAMSOCNE.** The right of security and privacy in a man's house. Du Cange. The breach of this privilege by a forcible entry of a house is breach of the peace. Du Cange.

**HANAPER.** A hamper or basket in which were kept the writs of the court of chancery relating to the business of a subject, and their returns. 3 Bl. Comm. 49. According to others, the fees accruing on

writs, etc., were there kept. Spelman; Du Cange.

**HANAPER-OFFICE.** An office belonging to the common-law jurisdiction of the court of chancery, so called because all writs relating to the business of a subject, and their returns, were formerly kept in a hamper, *in hanaperio*. 5 & 6 Vict. c. 103.

**HAND.** A measure of length equal to four inches, used in measuring the height of horses. A person's signature.

In old English law. An oath.

**HAND DOWN.** An appellate court is said to "hand down" its decision in a case, when the opinion is prepared and filed for transmission to the court below.

**HAND-FASTING.** Betrothment.

**HAND-GRITH.** Peace or protection given by the king with his own hand.

**HAND MONEY.** Money paid in hand to bind a bargain; earnest money.

**HANDBILL.** A written or printed notice displayed to inform those concerned of something to be done.

**HANDBOROW.** In Saxon law. A hand pledge; a name given to the nine pledges in a decenary or friborg; the tenth or chief, being called "*headborow*." (*q. v.*) So called as being an inferior pledge to the chief. Spelman.

**HANDHABEND.** In Saxon law. One having a thing in his hand; that is, a thief found having the stolen goods in his possession. Jurisdiction to try such thief.

**HANDBALE.** Anciently, among all the northern nations, shaking of hands was held necessary to bind a bargain,—a custom still retained in verbal contracts. A sale thus made was called "handsale," (*venditio per mutuum manum complexionem*.) In process of time the same word was used to signify the price or earnest which was given immediately after the shaking of hands, or instead thereof. 2 Bl. Comm. 448.

**HANDSEL.** Handsale, or earnest money.

**HANDWRITING.** The chirography of a person; the cast or form of writing peculiar to a person, including the size, shape, and style of letters, tricks of penmanship, and whatever gives individuality to his writing, distinguishing it from that of other persons.

Anything written by hand; an instrument written by the hand of a person, or a specimen of his writing.

Handwriting, considered under the law of evidence, includes not only the ordinary writing of one able to write, but also writing done in a disguised hand, or in cipher, and a mark made by one able or unable to write. 9 Amer. & Eng. Enc. Law, 264.

**HANG.** In old practice. To remain undetermined. "It has *hung* long enough; it is time it were made an end of." Holt, C. J., 1 Show. 77.

Thus, the present participle means pending; during the pendency. "If the tenant alien, *hanging* the *præcipe*." Co. Litt. 266a.

**HANGING.** In criminal law. Suspension by the neck; the mode of capital punishment used in England from time immemorial, and generally adopted in the United States. 4 Bl. Comm. 403.

**HANGING IN CHAINS.** In atrocious cases it was at one time usual, in England, for the court to direct a murderer, after execution, to be hanged upon a gibbet in chains near the place where the murder was committed, a practice quite contrary to the Mosaic law. (Deut. xxi. 23.) Abolished by 4 & 5 Wm. IV. c. 26. Wharton.

**HANGMAN.** An executioner. One who executes condemned criminals by hanging.

**HANGWITE.** In Saxon law. A fine for illegal hanging of a thief, or for allowing him to escape. Immunity from such fine. Du Cange.

**HANIG.** Customary labor.

**HANSE.** An alliance or confederation among merchants or cities, for the good ordering and protection of the commerce of its members. An imposition upon merchandise. Du Cange.

**HANSE TOWNS, LAWS OF THE.** The maritime ordinances of the Hanseatic towns, first published in German at Lubeck, in 1597, and in May, 1614, revised and enlarged.

**HANSE TOWNS.** The collective name of certain German cities, including Lubeck, Hamburg, and Bremen, which formed an alliance for the mutual protection and furtherance of their commercial interests, in the twelfth century. The powerful confederacy thus formed was called the "Hanseatic League." The league framed and promul-

gated a code of maritime law, which was known as the "Laws of the Hanse Towns," or *Jus Hanseaticum Maritimum*.

**HANSEATIC.** Pertaining to a hanse or commercial alliance; but, generally, the union of the Hanse towns is the one referred to, as in the expression the "Hanseatic League."

**HANSGRAVE.** The chief of a company; the head man of a corporation.

**HANTELOD.** In old European law. An arrest, or attachment. Spelman.

**HAP.** To catch. Thus, "hap the rent," "hap the deed-poll," were formerly used.

**HAPPINESS.** The constitutional right of men to pursue their "happiness" means the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity, or develop their faculties, so as to give to them their highest enjoyment. 111 U. S. 757, 4 Sup. Ct. Rep. 652; 1 Bl. Comm. 41.

**HAQUE.** In old statutes. A hand-gun, about three-quarters of a yard long.

**HARACIUM.** In old English law. A race of horses and mares kept for breed; a stud. Spelman.

**HARBINGER.** In England, an officer of the royal household.

**HARBOR, v.** To receive clandestinely and without lawful authority a person for the purpose of so concealing him that another having a right to the lawful custody of such person shall be deprived of the same. 5 How. 215, 227. A distinction has been taken, in some decisions, between "harbor" and "conceal." A person may be convicted of harboring a slave, although he may not have concealed her. 24 Ala. 71.

**HARBOR, n.** A haven, or a space of deep water so sheltered by the adjacent land as to afford a safe anchorage for ships.

"Port" is a word of larger import than "harbor," since it implies the presence of wharves, or at any rate the means and opportunity of receiving and discharging cargo.

**HARBOR AUTHORITY.** In England a harbor authority is a body of persons, corporate or unincorporate, being proprietors of, or intrusted with the duty of constructing, improving, managing, or lighting, any harbor. St. 24 & 25 Vict. c. 47.

**HARD LABOR.** A punishment, additional to mere imprisonment, sometimes im-

posed upon convicts sentenced to a penitentiary. But the labor is not, as a rule, any harder than ordinary mechanical labor.

**HARDHEIDIS.** In old Scotch law. Lions; coins formerly of the value of three half-pence. 1 Pitt. Crim. Tr. pt. 1, p. 64, note.

**HARDSHIP.** The severity with which a proposed construction of the law would bear upon a particular case, founding, sometimes, an argument against such construction, which is otherwise termed the "argument *ab inconvenienti*."

**HARNASCA.** In old European law. The defensive armor of a man; harness. Spelman.

**HARNESS.** All warlike instruments; also the tackle or furniture of a ship.

**HARO, HARRON.** Fr. In Norman and early English law. An outcry, or hue and cry after felons and malefactors. Cowell.

**HARRIOTT.** The old form of "heriot," (*q. v.*) Williams, Seis. 203.

**HART.** A stag or male deer of the forest five years old complete.

**HASP AND STAPLE.** In old Scotch law. The form of entering an heir in a subject situated within a royal borough. It consisted of the heir's taking hold of the hasp and staple of the door, (which was the symbol of possession,) with other formalities. Bell; Burrill.

**HASPA.** In old English law. The hasp of a door; by which livery of seisin might anciently be made, where there was a house on the premises.

**HASTA.** Lat. A spear. In the Roman law, a spear was the sign of a public sale of goods or sale by auction. Hence the phrase "*hasta subicere*" (to put under the spear) meant to put up at auction. Calvin.

In feudal law. A spear. The symbol used in making investiture of a fief. Feud. lib. 2, tit. 2.

**HAT MONEY.** In maritime law. Primage; a small duty paid to the captain and mariners of a ship.

**HAUBER.** O. Fr. A high lord; a great baron. Spelman.

**HAUGH, or HOWGH.** A green plot in a valley.

**HAUL.** The use of this word, instead of the statutory word "carry," in an indictment charging that the defendant "did feloniously steal, take, and haul away" certain personalty, will not render the indictment bad, the words being in one sense equivalent. 108 Ind. 171, 8 N. E. Rep. 911.

**HAUR.** In old English law. Hatred. Leg. Wm. 1. c. 16; Blount.

**HAUSTUS.** Lat. In the civil law. A species of servitude, consisting in the right to draw water from another's well or spring, in which the *iter*, (right of way to the well or spring,) so far as it is necessary, is tacitly included. Dig. 8, 3, 1; Mackeld. Rom. Law, § 318.

**HAUT CHEMIN.** L. Fr. Highway. Yearb. M. 4 Hen. VI. 4.

**HAUT ESTRET.** L. Fr. High street; highway. Yearb. P. 11 Hen. VI. 2.

**HAUTHONER.** A man armed with a coat of mail. Jacob.

**HAVE.** Lat. A form of the salutatory expression "*Ave*," used in the titles of some of the constitutions of the Theodosian and Justinianean codes. See Cod. 7, 62, 9; Id. 9, 2, 11.

**HAVE.** To possess corporally. "No one, at common law, was said to *have* or to be in possession of land, unless it were conveyed to him by the livery of seisin, which gave him the corporal investiture and bodily occupation thereof." Bl. Law Tracts, 113.

**HAVE AND HOLD.** A common phrase in conveyancing, derived from the *habendum et tenendum* of the old common law. See **HABENDUM ET TENENDUM**.

**HAVEN.** A place of a large receipt and safe riding of ships, so situate and secured by the land circumjacent that the vessels thereby ride and anchor safely, and are protected by the adjacent land from dangerous or violent winds; as Milford Haven, Plymouth Haven, and the like. Hale de Jure Mar. par. 2, c. 2.

**HAW.** A small parcel of land so called in Kent; houses. Co. Litt. 5.

**HAWBERK.** He who held land in France, by finding a coat or shirt of mail, with which he was to be ready when called upon. Wharton.

**HAWGH, HOWGH.** In old English law. A valley. Co. Litt. 5b.

**HAWKER.** A trader who goes from place to place, or along the streets of a town, selling the goods which he carries with him.

It is perhaps not essential to the idea, but is generally understood from the word, that a hawker is to be one who not only carries goods for sale, but seeks for purchasers, either by outcry, which some lexicographers conceive as intimated by the derivation of the word, or by attracting notice and attention to them, as goods for sale, by an actual exhibition or exposure of them, by placards or labels, or by a conventional signal, like the sound of a horn for the sale of fish. 12 Cush. 495.

**HAWKING.** The business of one who sells or offers goods for sale on the streets, by outcry, or by attracting the attention of persons by exposing his goods in a public place, or by placards, labels, or signals. 107 Ind. 505, 8 N. E. Rep. 609.

**HAY-BOTE.** Another name for "hedge-bote," being one of the estovers allowed to a tenant for life or years, namely, material for repairing the necessary hedges or fences of his grounds. 2 Bl. Comm. 35; 1 Washb. Real Prop. 129.

**HAYWARD.** In old English law. An officer appointed in the lord's court to keep a common herd of cattle of a town; so called because he was to see that they did not break or injure the hedges of inclosed grounds. His duty was also to impound trespassing cattle, and to guard against pound-breaches. Kitch. 46; Cowell.

**HAZARD.** An unlawful game at dice, and those who play at it are called "hazardors." Jacob.

**HAZARDOUS.** Exposed to or involving danger; perilous; risky.

The terms "hazardous," "extra-hazardous," "specially hazardous," and "not hazardous" are well-understood technical terms in the business of insurance, having distinct and separate meanings. Although what goods are included in each designation may not be so known as to dispense with actual proof, the terms themselves are distinct and known to be so. 38 N. Y. 364; 47 N. Y. 597.

**HAZARDOUS CONTRACT.** A contract in which the performance of that which is one of its objects depends on an uncertain event. Civil Code La. art. 1769. See 1 J. J. Marsh. 596.

**HE.** The use of this pronoun in a written instrument, in referring to a person whose Christian name is designated therein by a mere initial, is not conclusive that the person referred to is a male; it may be shown

by parol that the person intended is a female. 71 Cal. 38, 11 Pac. Rep. 802.

He who has committed iniquity shall not have equity. Francis, Max.

He who seeks equity must do equity. It is in pursuance of this maxim that equity enforces the right of the wife's equity to a settlement. Snell, Eq. (5th Ed.) 374.

**HEAD.** Chief; leading; principal; the upper part or principal source of a stream.

**HEAD OF A CREEK.** This term means the source of the longest branch, unless general reputation has given the appellation to another. 2 Bibb, 110.

**HEAD OF A FAMILY.** A term used in homestead and exemption laws to designate a person who maintains a family; a householder.

**HEADBOROUGH.** In Saxon law. The head or chief officer of a borough; chief of the frankpledge tithing or decenary. This office was afterwards, when the pettyconstableness was created, united with that office.

**HEAD-COURTS.** Certain tribunals in Scotland, abolished by 20 Geo. II. c. 50. Ersk. 1, 4, 5.

**HEADLAND.** In old English law. A narrow piece of unplowed land left at the end of a plowed field for the turning of the plow. Called, also, "butt."

**HEAD-NOTE.** A syllabus to a reported case; a summary of the points decided in the case, which is placed at the *head* or beginning of the report.

**HEAD-PENCE.** An exaction of 40d. or more, collected by the sheriff of Northumberland from the people of that county twice in every seven years, without account to the king. Abolished in 1444. Cowell.

**HEAFODWEARD.** In old English law. One of the services to be rendered by a thane, but in what it consisted seems uncertain.

**HEALGEMOTE.** In Saxon law. A court-baron; an ecclesiastical court.

**HEALSFANG.** In Saxon law. A sort of pillory, by which the head of the culprit was caught between two boards, as feet are caught in a pair of stocks. Cowell.

**HEALTH.** Freedom from sickness or suffering. The right to the enjoyment of *health* is a subdivision of the right of personal security, one of the absolute rights of

persons. 1 Bl. Comm. 129, 134. As to injuries affecting health, see 3 Bl. Comm. 122.

**HEALTH LAWS.** Laws prescribing sanitary measures, and designed to promote or preserve the health of the community.

**HEALTH OFFICER.** The officer charged with the execution and enforcement of health laws. The powers and duties of health officers are regulated by local laws.

**HEALTHY.** Free from disease or bodily ailment, or any state of the system peculiarly susceptible or liable to disease or bodily ailment. 13 Ired. Law, 356.

**HEARING.** In equity practice. The hearing of the arguments of the counsel for the parties upon the pleadings, or pleadings and proofs; corresponding to the trial of an action at law.

The word "hearing" has an established meaning as applicable to equity cases. It means the same thing in those cases that the word "trial" does in cases at law. And the words "final hearing" have long been used to designate the trial of an equity case upon the merits, as distinguished from the hearing of any preliminary questions arising in the cause, and which are termed "interlocutory." 24 Wis. 171.

In criminal law. The examination of a prisoner charged with a crime or misdemeanor, and of the witnesses for the accused.

**HEARSAY.** A term applied to that species of testimony given by a witness who relates, not what he knows personally, but what others have told him, or what he has heard said by others.

Hearsay evidence is that which does not derive its value solely from the credit of the witness, but rests mainly on the veracity and competency of other persons. The very nature of the evidence shows its weakness, and it is admitted only in specified cases from necessity. Code Ga. 1882, § 3770; 1 Phil. Ev. 185.

Hearsay evidence is second-hand evidence, as distinguished from original evidence; it is the repetition at second-hand of what would be original evidence if given by the person who originally made the statement.

**HEARTH MONEY.** A tax levied in England by St. 14 Car. II. c. 10, consisting of two shillings on every hearth or stove in the kingdom. It was extremely unpopular, and was abolished by 1 W. & M. St. 1, c. 10. This tax was otherwise called "chimney money."

**HEARTH SILVER.** In English law. A species of *modus* or composition for tithes. Austr. 323, 326.

**HEAT OF PASSION.** In criminal law. A state of violent and uncontrollable rage engendered by a blow or certain other provocation given, which will reduce a homicide from the grade of murder to that of manslaughter. A state of mind contradistinguished from a cool state of the blood. 66 Mo. 13; 74 Mo. 250.

**HEBBERMAN.** An unlawful fisher in the Thames below London bridge; so called because they generally fished at *ebbing* tide or water. 4 Hen. VII. c. 15; Jacob.

**HEBBERTHEF.** In Saxon law. The privilege of having the goods of a thief, and the trial of him, within a certain liberty. Cowell.

**HEBBING-WEARS.** A device for catching fish in ebbing water. St. 23 Hen. VIII. c. 5.

**HEBDOMAD.** A week; a space of seven days.

**HEBDOMADIUS.** A week's man; the canon or prebendary in a cathedral church, who had the peculiar care of the choir and the offices of it for his own week. Cowell.

**HECCAGIUM.** In feudal law. Rent paid to a lord of the fee for a liberty to use the engines called "hecks."

**HECK.** An engine to take fish in the river Ouse. 23 Hen. VIII. c. 18.

**HEDA.** A small haven, wharf, or landing place.

**HEDAGIUM.** Toll or customary dues at the hithe or wharf, for landing goods, etc., from which exemption was granted by the crown to some particular persons and societies. Wharton.

**HEDGE-BOTE.** An allowance of wood for repairing hedges or fences, which a tenant or lessee has a right to take off the land let or demised to him. 2 Bl. Comm. 35.

**HEDGE-PRIEST.** A vagabond priest in olden time.

**HEGEMONY.** The leadership of one among several independent confederate states.

**HEGIRA.** The epoch or account of time used by the Arabians and the Turks, who begin their computation from the day that

Mahomet was compelled to escape from Mecca, which happened on Friday, July 16, A. D. 622, under the reign of the Emperor Heraclius. Wharton.

**HEGUMENOS.** The leader of the monks in the Greek Church.

**HEIFER.** A young cow which has not had a calf. 2 East, P. C. 616.

**HEIR.** At common law. A person who succeeds, by the rules of law, to an estate in lands, tenements, or hereditaments, upon the death of his ancestor, by descent and right of relationship.

The term "heir" has a very different signification at common law from what it has in those states and countries which have adopted the civil law. In the latter, the term is indiscriminately applied to all persons who are called to the succession, whether by the act of the party or by operation of law. The person who is created universal successor by a will is called the "testamentary heir;" and the next of kin by blood is, in cases of intestacy, called the "heir at law," or "heir by intestacy." The executor of the common law in many respects corresponds to the testamentary heir of the civil law. Again, the administrator in many respects corresponds with the heir by intestacy. By the common law, executors and administrators have no right except to the personal estate of the deceased; whereas the heir by the civil law is authorized to administer both the personal and real estate. Story, Conf. Laws, §§ 507, 508.

**In the civil law.** A universal successor in the event of death. He who actively or passively succeeds to the entire property or estate, rights and obligations, of a decedent, and occupies his place.

The term "heir" has several significations. Sometimes it refers to one who has formally accepted a succession and taken possession thereof; sometimes to one who is called to succeed, but still retains the faculty of accepting or renouncing, and it is frequently used as applied to one who has formally renounced. 26 La. Ann. 417.

**In Scotch law.** The person who succeeds to the heritage or heritable rights of one deceased. 1 Forb. Inst. pt. 3, p. 75. The word has a more extended signification than in English law, comprehending not only those who succeed to lands, but successors to personal property also. Wharton.

**HEIR APPARENT.** An heir whose right of inheritance is indefeasible, provided he outlive the ancestor; as in England the eldest son, or his issue, who must, by the course of the common law, be heir to the father whenever he happens to die. 2 Bl. Comm. 208; 1 Steph. Comm. 358.

**HEIR AT LAW.** He who, after his ancestor's death intestate, has a right to in-

herit all lands, tenements, and hereditaments which belonged to him or of which he was seised. The same as "heir general."

**HEIR BENEFICIARY.** In the civil law. One who has accepted the succession under the benefit of an inventory regularly made.

Heirs are divided into two classes, according to the manner in which they accept the successions left to them, to-wit, unconditional and beneficiary heirs. Unconditional heirs are those who inherit without any reservation, or without making an inventory, whether their acceptance be express or tacit. Beneficiary heirs are those who have accepted the succession under the benefit of an inventory regularly made. Civil Code La. art. 881.

**HEIR BY CUSTOM.** In English law. One whose right of inheritance depends upon a particular and local custom, such as *gavel-kind*, or *borough English*. Co. Litt. 140.

**HEIR BY DEVISE.** One to whom lands are devised by will; a devisee of lands. Answering to the *haeres factus* (q. v.) of the civil law.

**HEIR COLLATERAL.** One who is not lineally related to the decedent, but is of collateral kin; e. g., his uncle, cousin, brother, nephew.

**HEIR CONVENTIONAL.** In the civil law. One who takes a succession by virtue of a contract or settlement entitling him thereto.

**HEIR, FORCED.** One who cannot be disinherited. See FORCED HEIRS.

**HEIR GENERAL.** An heir at law. The ordinary heir by blood, succeeding to all the lands.

**HEIR INSTITUTE.** In Scotch law. One to whom the right of succession is ascertained by disposition or express deed of the deceased. 1 Forb. Inst. pt. 3, p. 75.

**HEIR, IRREGULAR.** In Louisiana. Irregular heirs are those who are neither testamentary nor legal, and who have been established by law to take the succession. See Civil Code La. art. 874. When there are no direct or collateral relatives surviving the decedent, and the succession consequently devolves upon the surviving husband or wife, or illegitimate children, or the state, it is called an "irregular succession."

**HEIR, LEGAL.** In the civil law. A legal heir is one who takes the succession by relationship to the decedent and by force of law. This is different from a testamentary

or conventional heir, who takes the succession in virtue of the disposition of man. See Civil Code La. arts. 873, 875.

**HEIR-LOOMS.** Such goods and chattels as, contrary to the nature of chattels, shall go by special custom to the heir along with the inheritance, and not to the executor. The termination "*loom*" (Sax.) signifies a limb or member; so that an heir-loom is nothing else but a limb or member of the inheritance. They are generally such things as cannot be taken away without damaging or dismembering the freehold; such as deer in a park, doves in a cote, deeds and charters, etc. 2 Bl. Comm. 427.

**HEIR MALE.** In Scotch law. An heir institute, who, though not next in blood to the deceased, is his nearest male relation that can succeed to him. 1 Forb. Inst. pt. 3, p. 76.

**HEIR OF CONQUEST.** In Scotch law. One who succeeds to the deceased in *conquest*, i. e., lands or other heritable rights to which the deceased neither did nor could succeed as heir to his predecessor.

**HEIR OF LINE.** In Scotch law. One who succeeds lineally by right of blood; one who succeeds to the deceased in his heritage; i. e., lands and other heritable rights derived to him by succession as heir to his predecessor. 1 Forb. Inst. pt. 3, p. 77.

**HEIR OF PROVISION.** In Scotch law. One who succeeds as heir by virtue of a particular provision in a deed or instrument.

**HEIR OF TAILZIE.** In Scotch law. He on whom an estate is settled that would not have fallen to him by legal succession. 1 Forb. Inst. pt. 3, p. 75.

**HEIR PRESUMPTIVE.** The person who, if the ancestor should die immediately, would, in the present circumstances of things, be his heir, but whose right of inheritance may be defeated by the contingency of some nearer heir being born; as a brother or nephew, whose presumptive succession may be destroyed by the birth of a child. 2 Bl. Comm. 208; 1 Steph. Comm. 358.

**HEIR SPECIAL.** In English law. The issue in tail, who claims *per formam doni*; by the form of the gift.

**HEIR SUBSTITUTE, IN A BOND.** In Scotch law. He to whom a bond is payable expressly in case of the creditor's decease, or after his death. 1 Forb. Inst. pt. 3, p. 76.

**HEIR TESTAMENTARY.** In the civil law. One who is named and appointed heir in the testament of the decedent. This name distinguishes him from a *legal* heir, (one upon whom the law casts the succession,) and from a *conventional* heir, (one who takes it by virtue of a previous contract or settlement.)

**HEIR UNCONDITIONAL.** In the civil law. One who inherits without any reservation, or without making an inventory, whether his acceptance be express or tacit. Distinguished from *heir beneficiary*, (*q. v.*)

**HEIRDOM.** Succession by inheritance.

**HEIRESS.** A female heir to a person having an estate of inheritance. When there are more than one, they are called "co-heiresses," or "co-heirs."

**HEIRS.** A word used in deeds of conveyance, (either solely, or in connection with others,) where it is intended to pass a fee.

**HEIRS OF THE BODY.** An heir begotten or borne by the person referred to; a lineal descendant. The terms "natural heirs" and "heirs of the body," in a will, and by way of executory devise, are considered as of the same legal import. 19 Conn. 112.

**HEIRSHIP.** The quality or condition of being heir, or the relation between the heir and his ancestor.

**HEIRSHIP MOVABLES.** In Scotch law. The movables which go to the heir, and not to the executor, that the land may not go to the heir completely dismantled, such as the best of furniture, horses, cows, etc., but not fungibles. Bell.

**HELL.** The name given to a place under the exchequer chamber, where the king's debtors were confined. Rich. Diet.

**HELM.** Thatch or straw; a covering for the head in war; a coat of arms bearing a crest; the tiller or handle of the rudder of a ship.

**HELOWE-WALL.** The end-wall covering and defending the rest of the building. Paroch. Antiq. 573.

**HELSING.** A Saxon brass coin, of the value of a half-penny.

**HEMOLDBORH, or HELMELBORCH.** A title to possession. The admission of this old Norse term into the laws of the Conqueror is difficult to be accounted

for; it is not found in any Anglo-Saxon law extant. Wharton.

**HENCHMAN.** A page; an attendant; a herald.

**HENEDPENNY.** A customary payment of money instead of hens at Christmas; a composition for eggs. Cowell.

**HENFARE.** A fine for flight on account of murder. Domesday Book.

**HENGHEN.** In Saxon law. A prison, a gaol, or house of correction.

**HENGWYTE.** Sax. In old English law. An acquittance from a fine for hanging a thief. Fleta, lib. 1, c. 47, § 17.

**HENRICUS VETUS.** Henry the Old, or Elder. King Henry I. is so called in ancient English chronicles and charters, to distinguish him from the subsequent kings of that name. Spelman.

**HEORDFÆTE, or HUDEFÆST.** In Saxon law. A master of a family, keeping house, distinguished from a lower class of freemen, viz., *folgeras*, (*folgarii*), who had no habitations of their own, but were house-retainers of their lords.

**HEORDPENNY.** Peter-pence, (*q. v.*)

**HEORDWERCH.** In Saxon law. The service of herdsmen, done at the will of their lord.

**HEPTARCHY.** A government exercised by seven persons, or a nation divided into seven governments. In the year 560, seven different monarchies had been formed in England by the German tribes, namely, that of Kent by the Jutes; those of Sussex, Wessex, and Essex by the Saxons; and those of East Anglia, Bernicia, and Deira by the Angles. To these were added, about the year 586, an eighth, called the "Kingdom of Mercia," also founded by the Angles, and comprehending nearly the whole of the heart of the kingdom. These states formed what has been designated the "Anglo-Saxon Octarchy," or more commonly, though not so correctly, the "Anglo-Saxon Heptarchy," from the custom of speaking of Deira and Bernicia under the single appellation of the "Kingdom of Northumberland." Wharton.

**HERALD.** In ancient law, a herald was a diplomatic messenger who carried messages between kings or states, and especially proclamations of war, peace, or truce. In English law, a herald is an officer whose duty is to keep genealogical lists and tables, ad-

just armorial bearings, and regulate the ceremonies at royal coronations and funerals.

**HERALDRY.** The art, office, or science of heralds. Also an old and obsolete abuse of buying and selling precedence in the paper of causes for hearing.

**HERALDS' COLLEGE.** In England. An ancient royal corporation, first instituted by Richard III. in 1483. It comprises three kings of arms, six heralds, and four marshals or pursuivants of arms, together with the earl marshal and a secretary. The heralds' books, compiled when progresses were solemnly and regularly made into every part of the kingdom, to inquire into the state of families, and to register such marriages and descents as were verified to them upon oath, are allowed to be good evidence of pedigrees. The heralds' office is still allowed to make grants of arms and to permit change of names. 3 Starkie, Ev. 843; Wharton.

**HERBAGE.** In English law. An easement or liberty, which consists in the right to pasture cattle on another's ground.

Feed for cattle in fields and pastures. Braet. fol. 222; Co. Litt. 46; Shep. Touch. 97. A right to herbage does not include a right to cut grass, or dig potatoes, or pick apples. 4 N. H. 303.

**HERBAGIUM ANTERIUS.** The first crop of grass or hay, in opposition to aftermath or second cutting. Paroch. Antiq. 459.

**HERBENGER, or HARBINGER.** An officer in the royal house, who goes before and allots the noblemen and those of the household their lodgings; also an innkeeper.

**HERBERGAGIUM.** Lodgings to receive guests in the way of hospitality. Cowell.

**HERBERGARE.** To harbor; to entertain.

**HERBERGATUS.** Harbored or entertained in an inn. Cowell.

**HERBERY, or HERBURY.** An inn. Cowell.

**HERCIA.** A harrow. Fleta, lib. 2, c. 77.

**HERCIARE.** To harrow. 4 Inst. 270.

**HERCIATURA.** In old English law. Harrowing; work with a harrow. Fleta, lib. 2, c. 82, § 2.

**HERCISCUNDA.** In the civil law. To be divided. *Familia herciscunda*, an inheritance to be divided. *Actio familiae herciscundae*, an action for dividing an inheritance. *Herciscunda* is more commonly used in the civil law. Dig. 10, 2; Inst. 3, 28, 4; Id. 4, 6, 20.

**HERDEWICH.** A grange or place for cattle or husbandry. Mon. Angl. pt. 3.

**HERDWERCH, HEORDWERCH.** Herdsmen's work, or customary labor, done by shepherds and inferior tenants, at the will of the lord. Cowell.

**HEREBANNUM.** In old English law. A proclamation summoning the army into the field.

A mulct or fine for not joining the army when summoned. Spelman.

A tax or tribute for the support of the army. Du Cange.

**HEREBOTE.** The royal edict summoning the people to the field. Cowell.

**HEREDAD.** In Spanish law. A piece of land under cultivation; a cultivated farm, real estate.

**HEREDAD YACENTE.** From Lat. "*hereditas jacens*," (q.v.) In Spanish law. An inheritance not yet entered upon or appropriated. White, New Recop. b. 2, tit. 19, c. 2, § 8.

**HEREDERO.** In Spanish law. Heir; he who, by legal or testamentary disposition, succeeds to the property of a deceased person. "*Heres censeatur cum defuncto una eademque persona*." Las Partidas, 7, 9, 13.

**HEREDITAGIUM.** In Sicilian and Neapolitan law. That which is held by hereditary right; the same with *hereditamentum* (*hereditament*) in English law. Spelman.

**HEREDITAMENTS.** Things capable of being inherited, be it corporeal or incorporeal, real, personal, or mixed, and including not only lands and everything thereon, but also heir-looms, and certain furniture which, by custom, may descend to the heir together with the land. Co. Litt. 56; 2 Bl. Comm. 17.

The two kinds of hereditaments are *corporeal*, which are tangible, (in fact, they mean the same thing as land,) and *incorporeal*, which are not tangible, and are the rights and profits annexed to or issuing out of land. Wharton.

The term includes a few rights unconnected with land, but it is generally used as the widest

expression for real property of all kinds, and is therefore employed in conveyances after the words "lands" and "tenements," to include everything of the nature of realty which they do not cover. Sweet.

**HEREDITARY.** That which is the subject of inheritance.

**HEREDITARY RIGHT TO THE CROWN.** The crown of England, by the positive constitution of the kingdom, has ever been descendible, and so continues, in a course peculiar to itself, yet subject to limitation by parliament; but, notwithstanding such limitation, the crown retains its descendible quality, and becomes hereditary in the prince to whom it is limited. 1 Bl. Comm. 191.

**HEREFARE.** Sax. A going into or with an army; a going out to war, (*profectio militaris*;) an expedition. Spelman.

**HEREGEAT.** A heriot, (*q. v.*)

**HEREGELD.** Sax. In old English law. A tribute or tax levied for the maintenance of an army. Spelman.

**HEREMITORIUM.** A place of retirement for hermits. Mon. Angl. tom. 3, p. 18.

**HEREMONES.** Followers of an army.

**HERENACH.** An archdeacon. Cowell.

**HERES.** Heir; an heir. A form of *heres*, very common in the civil law. See **HERES**.

**HERESCHIP.** In old Scotch law. Theft or robbery. 1 Fite. Crim. Tr. pt. 2, pp. 26, 89.

**HERESLITA, HERESSA, HERESSIZ.** A hired soldier who departs without license. 4 Inst. 128.

**HERESY.** In English law. An offense against religion, consisting not in a total denial of Christianity, but of some of its essential doctrines, publicly and obstinately avowed. 4 Bl. Comm. 44, 45. An opinion on divine subjects devised by human reason, openly taught, and obstinately maintained. 1 Hale, P. C. 384. This offense is now subject only to ecclesiastical correction, and is no longer punishable by the secular law. 4 Steph. Comm. 233.

**HERETOCH.** A general, leader, or commander; also a baron of the realm. Du Fresne.

**HERETOFORE.** This word simply denotes time past, in distinction from time

present or time future, and has no definite and precise signification beyond this. 40 Conn. 157.

**HERETUM.** In old records. A court or yard for drawing up guards or military retinue. Cowell.

**HEREZELD.** In Scotch law. A gift or present made or left by a tenant to his lord as a token of reverence. Skene.

**HERGE.** In Saxon law. Offenders who joined in a body of more than thirty-five to commit depredations.

**HERIGALDS.** In old English law. A sort of garment. Cowell.

**HERIOT.** In English law. A customary tribute of goods and chattels, payable to the lord of the fee on the decease of the owner of the land.

Heriots are divided into heriot *service* and heriot *custom*. The former expression denotes such as are due upon a special reservation in a grant or lease of lands, and therefore amount to little more than a mere rent; the latter arise upon no special reservation whatever, but depend solely upon immemorial usage and custom. 2 Bl. Comm. 423.

**HERISCHILD.** A species of military service, or knight's fee. Cowell.

**HERISCHULDA.** In old Scotch law. A fine or penalty for not obeying the proclamation made for warfare. Skene.

**HERISCINDIUM.** A division of household goods. Blount.

**HERISLIT.** Laying down of arms. Blount. Desertion from the army. Spelman.

**HERISTAL.** The station of an army; the place where a camp is pitched. Spelman.

**HERITABLE.** Capable of being taken by descent. A term chiefly used in Scotch law, where it enters into several phrases.

**HERITABLE BOND.** In Scotch law. A bond for a sum of money to which is added, for further security of the creditor, a conveyance of land or heritage to be held by the creditor as pledge. 1 Ross, Conv. 76; 2 Ross, Conv. 324.

**HERITABLE JURISDICTIONS.** In Scotch law. Grants of criminal jurisdiction formerly bestowed on great families in Scotland, to facilitate the administration of justice. Whishaw. Abolished in effect by St. 20 Geo. II. c. 50. Tomlins.

**HERITABLE OBLIGATION.** In Louisiana. An obligation is heritable when the heirs and assigns of one party may enforce the performance against the heirs of the other. Civil Code La. art. 1997.

**HERITABLE RIGHTS.** In Scotch law. Rights of the heir; all rights to land or whatever is connected with land, as mills, fishings, tithes, etc.

**HERITAGE.** In the civil law. Every species of immovable which can be the subject of property; such as lands, houses, orchards, woods, marshes, ponds, etc., in whatever mode they may have been acquired, either by descent or purchase. 3 Toullier, no. 472.

In Scotch law. Land, and all property connected with land; real estate, as distinguished from movables, or personal estate. Bell.

**HERITOR.** In Scotch law. A proprietor of land. 1 Kames, Eq. Pref.

**HERMANDAD.** In Spanish law. A fraternity formed among different towns and villages to prevent the commission of crimes, and to prevent the abuses and vexations to which they were subjected by men in power. Bouvier.

**HERMAPHRODITE.** An animal or human being so malformed as to have the organs of generation of both sexes.

*Hermaphroditus tam masculo quam foeminae comparatur, secundum praevalem entiam sexus incalescentis.* An hermaphrodite is to be considered male or female according to the predominance of the exciting sex. Co. Litt. 8; Bract. fol. 5.

**HERMENEUTICS.** The science or art of construction and interpretation. By the phrase "legal hermeneutics" is understood the systematic body of rules which are recognized as applicable to the construction and interpretation of legal writings.

**HERMER.** A great lord. Jacob.

**HERMOGENIAN CODE.** See **CODEx HERMOGENIANUS.**

**HERNESCUS.** A heron. Cowell.

**HERNESIUM, or HERNASIUM.** Household goods; implements of trade or husbandry; the rigging or tackle of a ship. Cowell.

**HEROUD, HERAUD.** L. Fr. A herald.

**HERPEX.** A harrow. Spelman.

**HERPICATIO.** In old English law. A day's work with a harrow. Spelman.

**HERRING SILVER.** This was a composition in money for the custom of supplying herrings for the provision of a religious house. Wharton.

**HERUS.** A master. *Servus facit ut herus det*, the servant does [the work] in order that the master may give [him the wages agreed on.] *Herus dat ut servus facit*, the master gives [or agrees to give, the wages,] in consideration of, or with a view to, the servant's doing [the work.] 2 Bl. Comm. 445.

**HESIA.** An easement. Du Cange.

**HEST CORN.** In old records. Corn or grain given or devoted to religious persons or purposes. 2 Mon. Angl. 367b; Cowell.

**HESTA, or HESTHA.** A little loaf of bread.

**HETÆRARCHA.** The head of a religious house; the head of a college; the warden of a corporation.

**HETÆRIA.** In Roman law. A company, society, or college.

**HEUVELBORH.** Sax. In old English law. A surety, (*warrantus*.)

**HEYLODE.** In old records. A customary burden upon inferior tenants, for mending or repairing hays or hedges.

**HEYMECTUS.** A hay-net; a net for catching conies. Cowell.

**HIBERNAGIUM.** The season for sowing winter corn. Cowell.

**HIDAGE.** An extraordinary tax formerly payable to the crown for every hide of land. This taxation was levied, not in money, but provision of armor, etc. Cowell.

**HIDALGO.** In Spanish law. A noble; a person entitled to the rights of nobility. By *hidalgos* are understood men chosen from good situations in life, (*de buenos lugures*), and possessed of property, (*algo*.) White, New Recop. b. 1, tit. 5, c. 1.

**HIDALGUIA.** In Spanish law. Nobility by descent or lineage. White, New Recop. b. 1, tit. 5, c. 3, § 4.

**HIDE.** In old English law. A measure of land, being as much as could be worked with one plow. It is variously estimated at

from 60 to 100 acres, but was probably determined by local usage. Another meaning was as much land as would support one family or the dwellers in a mansion-house. Also a house; a dwelling-house.

**HIDE AND GAIN.** In English law. A term anciently applied to arable land. Co. Litt. 85b.

**HIDE LANDS.** In Saxon law. Lands belonging to a hide; that is, a house or mansion. Spelman.

**HIDEL.** In old English law. A place of protection; a sanctuary. St. 1 Hen. VII. cc. 5, 6; Cowell.

**HIDGILD.** A sum of money paid by a villein or servant to save himself from a whipping. Fleta, l. 1, c. 47, § 20.

**HIERARCHY.** Originally, government by a body of priests. Now, the body of officers in any church or ecclesiastical institution, considered as forming an ascending series of ranks or degrees of power and authority, with the correlative subjection, each to the one next above. Derivatively, any body of men, taken in their public capacity, and considered as forming a chain of powers, as above described.

**HIGH BAILIFF.** An officer attached to an English county court. His duties are to attend the court when sitting; to serve summonses; and to execute orders, warrants, writs, etc. St. 9 & 10 Vict. c. 95, § 33; Poll. C. C. Pr. 16. He also has similar duties under the bankruptcy jurisdiction of the county courts.

**HIGH COMMISSION COURT.** In English law. An ecclesiastical court of very formidable jurisdiction, for the vindication of the peace and dignity of the church, by reforming, ordering, and correcting the ecclesiastical state and persons, and all manner of errors, heresies, schisms, abuses, offenses, contempts, and enormities. 3 Bl. Comm. 67. It was erected by St. 1 Eliz. c. 1, and abolished by 16 Car. I. c. 11.

**HIGH CONSTABLE.** In English law. An officer of public justice, otherwise called "chief constable" and "constable of the hundred," whose proper duty is to keep the king's peace within the hundred, as the petty constable does within the parish or township. 3 Steph. Comm. 46, 47. See **CONSTABLE**.

An officer appointed in some cities with powers generally limited to matters of police.

**HIGH CONSTABLE OF ENGLAND, LORD.** His office has been disused (except only upon great and solemn occasions, as the coronation, or the like) since the attainder of Stafford, Duke of Buckingham, in the reign of Henry VII.

**HIGH COURT OF ADMIRALTY.** In English law. This was a court which exercised jurisdiction in prize cases, and had general jurisdiction in maritime causes, on the instance side. Its proceedings were usually *in rem*, and its practice and principles derived in large measure from the civil law. The judicature acts of 1873 transferred all the powers and jurisdiction of this tribunal to the probate, divorce, and admiralty division of the high court of justice.

**HIGH COURT OF DELEGATES.** In English law. A tribunal which formerly exercised appellate jurisdiction over cases brought from the ecclesiastical and admiralty courts. 3 Bl. Comm. 66.

It was a court of great dignity, erected by the statute 25 Hen. VII. c. 19. It was abolished, and its jurisdiction transferred to the judicial committee of the privy council.

**HIGH COURT OF ERRORS AND APPEALS.** The court of last resort in the state of Mississippi.

**HIGH COURT OF JUSTICE.** That branch of the English supreme court of judicature (*q. v.*) which exercises (1) the original jurisdiction formerly exercised by the court of chancery, the courts of queen's bench, common pleas, and exchequer, the courts of probate, divorce, and admiralty, the court of common pleas at Lancaster, the court of pleas at Durham, and the courts of the judges or commissioners of assize; and (2) the appellate jurisdiction of such of those courts as heard appeals from inferior courts. Judicature act, 1873, § 16.

**HIGH COURT OF JUSTICIARY.** See **COURT OF JUSTICIARY**.

**HIGH COURT OF PARLIAMENT.** In English law. The English parliament, as composed of the house of peers and house of commons; or the house of lords sitting in its judicial capacity.

**HIGH CRIMES.** High crimes and misdemeanors are such immoral and unlawful acts as are nearly allied and equal in guilt to felony, yet, owing to some technical circumstance, do not fall within the definition of "felony." 6 Conn. 417.

**HIGH JUSTICE.** In feudal law. The jurisdiction or right of trying crimes of every kind, even the highest. This was a privilege claimed and exercised by the great lords or barons of the middle ages. 1 Robertson's Car. V., appendix, note 23.

**HIGH JUSTICIER.** In old French and Canadian law. A feudal lord who exercised the right called "high justice." Guyot, Inst. Feod. c. 26.

**HIGH MISDEMEANORS.** See MISPRISION; HIGH CRIMES.

**HIGH SCHOOL.** A school in which higher branches of learning are taught than in the common schools. 123 Mass. 306. A school in which such instruction is given as will prepare the students to enter a college or university.

**HIGH SEAS.** The ocean; public waters. According to the English doctrine, the high sea begins at the distance of three miles from the coast of any country; according to the American view, at low-water mark, except in the case of small harbors and roadsteads inclosed within the *fauces terræ*.

The open ocean outside of the *fauces terræ*, as distinguished from arms of the sea; the waters of the ocean without the boundary of any county.

Any waters on the sea-coast which are without the boundaries of low-water mark.

**HIGH STEWARD, COURT OF THE LORD.** In English law. A tribunal instituted for the trial of peers indicted for treason or felony, or for misprision of either, but not for any other offense. The office is very ancient, and was formerly hereditary, or held for life, or *dum bene se gesserit*; but it has been for many centuries granted *pro hac vice* only, and always to a lord of parliament. When, therefore, such an indictment is found by a grand jury or freeholders in the queen's bench, or at the assizes before a judge of *oyer and terminer*, it is removed by a writ of *certiorari* into the court of the lord high steward, which alone has power to determine it. A peer may plead a pardon before the queen's bench, in order to prevent the trouble of appointing a high steward, merely to receive the plea, but he cannot plead any other plea, because it is possible that, in consequence of such plea, judgment of death might be pronounced upon him. Wharton.

**HIGH TREASON.** In English law. Treason against the king or sovereign, as

distinguished from petit or petty treason, which might formerly be committed against a subject. 4 Bl. Comm. 74, 75; 4 Steph. Comm. 183, 184, note.

**HIGH-WATER MARK.** This term is properly applicable only to tidal waters, and designates the line on the shore reached by the water at the high or flood tide. But it is sometimes also used with reference to the waters of artificial ponds or lakes, created by dams in unnavigable streams, and then denotes the highest point on the shores to which the dams can raise the water in ordinary circumstances.

**HIGH WOOD.** Timber.

**HIGHER AND LOWER SCALE.** In the practice of the English supreme court of judicature there are two scales regulating the fees of the court and the fees which solicitors are entitled to charge. The lower scale applies (unless the court otherwise orders) to the following cases: All causes and matters assigned by the judicature acts to the queen's bench, or the probate, divorce, and admiralty divisions; all actions of debt, contract, or tort; and in almost all causes and matters assigned by the acts to the chancery division in which the amount in litigation is under £1,000. The higher scale applies in all other causes and matters, and also in actions falling under one of the above classes, but in which the principal relief sought to be obtained is an injunction. Sweet.

**HIGHNESS.** A title of honor given to princes. The kings of England, before the time of James I., were not usually saluted with the title of "Majesty," but with that of "Highness." The children of crowned heads generally receive the style of "Highness." Wharton.

**HIGHWAY.** A free and public road, way, or street; one which every person has the right to use.

"In all counties of this state, public highways are roads, streets, alleys, lanes, courts, places, trails, and bridges, laid out or erected as such by the public, or, if laid out and erected by others, dedicated or abandoned to the public, or made such in actions for the partition of real property." Pol. Code Cal. § 2618.

There is a difference in the shade of meaning conveyed by two uses of the word. Sometimes it signifies right of free passage, in the abstract, not importing anything about the character or construction of the way. Thus, a river is called a "highway;" and it has been not unusual for con-

gress, in granting a privilege of building a bridge, to declare that it shall be a public highway. Again, it has reference to some system of law authorizing the taking a strip of land, and preparing and devoting it to the use of travelers. In this use it imports a road-way upon the soil, constructed under the authority of these laws. Abbott.

**HIGHWAY ACTS, or LAWS.** The body or system of laws governing the laying out, repair, and use of highways.

**HIGHWAY CROSSING.** A place where the track of a railroad crosses the line of a highway.

**HIGHWAY-RATE.** In English law. A tax for the maintenance and repair of highways, chargeable upon the same property that is liable to the poor-rate.

**HIGHWAY ROBBERY.** In criminal law. The crime of robbery committed upon or near a public highway. In England, by St. 23 Hen. VIII. c. 1, this was made felony without benefit of clergy, while robbery committed elsewhere was less severely punished. The distinction was abolished by St. 3 & 4 W. & M. c. 9, and in this country it has never prevailed generally.

**HIGHWAY TAX.** A tax for and applicable to the making and repair of highways.

**HIGHWAYMAN.** A bandit; one who robs travelers upon the highway.

**HIGLER.** In English law. A hawker or peddler. A person who carries from door to door, and sells by retail, small articles of provisions, and the like.

**HIGUELA.** In Spanish law. A receipt given by an heir of a decedent, setting forth what property he has received from the estate.

**HIKENILD STREET.** One of the four great Roman roads of Britain. More commonly called "Ikenild Street."

**HILARY RULES.** A collection of orders and forms extensively modifying the pleading and practice in the English superior courts of common law, established in Hilary term, 1834. Stimson.

**HILARY TERM.** In English law. A term of court, beginning on the 11th and ending on the 31st of January in each year. Superseded (1875) by Hilary sittings, which begin January 11th, and end on the Wednesday before Easter.

**HINDENI HOMINES.** A society of men. The Saxons ranked men into three

classes, and valued them, as to satisfaction for injuries, etc., according to their class. The highest class were valued at 1,200s., and were called "*twelf hindmen*;" the middle class at 600s., and called "*sexhindmen*;" the lowest at 200s., called "*tyghindmen*." Their wives were termed "*hindas*." Brompt. Leg. Alfred. c. 12.

**HINDER AND DELAY.** To hinder and delay is to do something which is an attempt to defraud, rather than a successful fraud; to put some obstacle in the path, or interpose some time, unjustifiably, before the creditor can realize what is owed out of his debtor's property, 42 N. Y. Super. Ct. 63.

**HINDU LAW.** The system of native law prevailing among the Gentoos, and administered by the government of British India.

**HINE, or HIND.** A husbandry servant.

**HINEFARE.** The loss or departure of a servant from his master. Domesday.

**HIPOTECA.** In Spanish law. A mortgage of real property.

**HIRCISCUNDA.** See **HERCISCUNDA**.

**HIRE, v.** To purchase the temporary use of a thing, or to stipulate for the labor or services of another. See **HIRING**.

To engage in service for a stipulated reward, as to hire a servant for a year, or laborers by the day or month; to engage a man to temporary service for wages. To "employ" is a word of more enlarged signification. A man hired to labor is employed, but a man may be employed in a work who is not hired. 11 N. Y. 605.

For definitions of the various species of this class of contracts, under their Latin names, see **LOCATIO** and following titles.

**HIRE, n.** Compensation for the use of a thing, or for labor or services.

**HIREMAN.** A subject. Du Cange.

**HIRER.** One who hires a thing, or the labor or services of another person.

**HIRING.** Hiring is a contract by which one person grants to another either the enjoyment of a thing or the use of the labor and industry, either of himself or his servant, during a certain time, for a stipulated compensation, or where one contracts for the labor or services of another about a thing bailed to him for a specified purpose. Code Ga. 1882, § 2085.

**Hiring** is a contract by which one gives to another the temporary possession and use of property, other than money, for reward, and the latter agrees to return the same to the former at a future time. Civil Code Cal. § 1925; Civil Code Dak. § 1103.

**HIRST, HURST.** In old English law. A wood. Co. Litt. 4b.

**HIS.** The use of this pronoun in a written instrument, in referring to a person whose Christian name is designated therein by a mere initial, is not conclusive that the person referred to is a male; it may be shown by parol that the person intended is a female. 71 Cal. 38, 11 Pac. Rep. 802.

**HIS EXCELLENCY.** In English law. The title of a viceroy, governor general, ambassador, or commander in chief.

In American law. This title is given to the governor of Massachusetts by the constitution of that state; and it is commonly given, as a title of honor and courtesy, to the governors of the other states and to the president of the United States. It is also customarily used by foreign ministers in addressing the secretary of state in written communications.

**HIS HONOR.** A title given by the constitution of Massachusetts to the lieutenant-governor of that commonwealth. Const. Mass. pt. 2, c. 2, § 2, art. 1.

**HIS TESTIBUS.** Lat. These being witnesses. The attestation clause in old deeds and charters.

**HIWISC.** A hide of land.

**HLAF ÆTA.** Sax. A servant fed at his master's cost.

**HLAFORD.** Sax. A lord. 1 Spence, Ch. 36.

**HLAFORDSOCNA.** Sax. A lord's protection. Du Cange.

**HLAFORDSWICE.** Sax. In Saxon law. The crime of betraying one's lord, (*proditio domini*;) treason. Crabb, Eng. Law, 59, 301.

**HLASOCNA.** Sax. The benefit of the law. Du Cange.

**HLOTHBOTE.** In Saxon law. A fine for being present at an unlawful assembly. Spelman.

**HLOTHE.** In Saxon law. An unlawful assembly from eight to thirty-five, inclusive. Cowell.

**HOASTMEN.** In English law. An ancient gild or fraternity at Newcastle-upon-Tyne, who dealt in sea coal. St. 21 Jac. I. c. 3.

**HOBBLEERS.** In old English law. Light horsemen or bowmen; also certain tenants, bound by their tenure to maintain a little light horse for giving notice of any invasion, or such like peril, towards the seaside. Camden, Brit.

**HOC.** Lat. This. *Hoc intuitu*, with this expectation. *Hoc loco*, in this place. *Hoc nomine*, in this name. *Hoc titulo*, under this title. *Hoc voce*, under this word.

**HOC QUIDEM PERQUAM DURUM EST, SED ITA LEX SCRIPTA EST.** Lat. (This indeed is exceedingly hard, but so the law is written; such is the written or positive law.) An observation quoted by Blackstone as used by Ulpian in the civil law; and applied to cases where courts of equity have no power to abate the rigor of the law. Dig. 40, 9, 12, 1; 3 Bl. Comm. 430.

**HOC PARATUS EST VERIFICARE.** Lat. This he is ready to verify.

*Hoc servabitur quod initio convenit.* This shall be preserved which is useful in the beginning. Dig. 50, 17, 23; Bract. 73b.

**HOCCUS SALTIS.** A hoke, hole, or lesser pit of salt. Cowell.

**HOCK - TUESDAY MONEY.** This was a duty given to the landlord that his tenants and bondmen might solemnize the day on which the English conquered the Danes, being the second Tuesday after Easter week. Cowell.

**HOCKETTOR, or HOCQUETEUR.** A knight of the post; a decayed man; a basket carrier. Cowell.

**HODGE - PODGE ACT.** A name applied to a statute which comprises a medley of incongruous subjects.

**HOGA.** In old English law. A hill or mountain. In old English, a *how*. *Grene hoga*, Grenehow. Domesday; Spelman.

**HOGASTER.** In old English law. A sheep of the second year. Fleta, lib. 2, c. 79, §§ 4, 12. A young hog. Cowell.

**HOGGUS, or HOGIETUS.** A hog or swine. Cowell.

**HOGHENHYNE.** In Saxon law. A house-servant. Any stranger who lodged three nights or more at a man's house in a

decenary was called "*hoghenhnye*," and his host became responsible for his acts as for those of his servant.

**HOGSHEAD.** A measure of a capacity containing the fourth part of a tun, or sixty-three gallons. Cowell. A large cask, of indefinite contents, but usually containing from one hundred to one hundred and forty gallons. Webster.

**HOLD, v.** 1. To possess in virtue of a lawful title; as in the expression, common in grants, "to have and to hold," or in that applied to notes, "the owner and holder."

2. To be the grantee or tenant of another; to take or have an estate from another. Properly, to have an estate on condition of paying rent, or performing service.

3. To adjudge or decide, spoken of a court, particularly to declare the conclusion of law reached by the court as to the legal effect of the facts disclosed.

4. To maintain or sustain; to be under the necessity or duty of sustaining or proving; as when it is said that a party "holds the affirmative" or negative of an issue in a cause.

5. To bind or obligate; to restrain or constrain; to keep in custody or under an obligation; as in the phrases "hold to bail," "hold for court," "held and firmly bound," etc.

6. To administer; to conduct or preside at; to convoke, open, and direct the operations of; as to hold a court, hold pleas, etc.

7. To prosecute; to direct and bring about officially; to conduct according to law; as to hold an election.

8. To possess; to occupy; to be in possession and administration of; as to hold office.

**HOLD, n.** In old law. Tenure. A word constantly occurring in conjunction with others, as *freehold*, *leasehold*, *copyhold*, etc., but rarely met with in the separate form.

**HOLD OVER.** To hold possession after the expiration of a term or lease. To retain possession of property leased, after the end of the term. To continue in possession of an office, and continue to exercise its functions, after the end of the officer's lawful term.

**HOLD PLEAS.** To hear or try causes. 8 Bl. Comm. 35, 298.

**HOLDER.** The holder of a bill of exchange, promissory note, or check is the person who has legally acquired the possession of the same, from a person capable of transferring it, by indorsement or delivery, and

who is entitled to receive payment of the instrument from the party or parties liable to meet it.

**HOLDER IN DUE COURSE,** in English law, is "a holder who has taken a bill of exchange (check or note) complete and regular on the face of it, under the following conditions, namely: (a) That he became the holder of it before it was overdue, and without notice that it had been previously dishonored, if such was the fact. (b) That he took the bill (check or note) in good faith and for value, and that at the time it was negotiated to him he had no notice of any defect in the title of the person who negotiated it." Bills of exchange act, 1882, (45 & 46 Vict. c. 61, § 29.)

**HOLDES.** Sax. In Saxon law. A military commander. Spelman.

**HOLDING.** In English law. A piece of land held under a lease or similar tenancy for agricultural, pastoral, or similar purposes.

In Scotch law. The tenure or nature of the right given by the superior to the vassal. Bell.

**HOLDING OVER.** A holding beyond a term; a continuing in possession after the expiration of a term. The act of keeping possession of premises leased, after the expiration of the term of the lease, without the consent of the landlord; or of an office after the expiration of the incumbent's legal term.

**HOLDING UP THE HAND.** In criminal practice. A formality observed in the arraignment of prisoners. Held to be not absolutely necessary. 1 W. Bl. 3, 4.

**HOLIDAY.** A religious festival; a day set apart for commemorating some important event in history; a day of exemption from labor. Webster. A day upon which the usual operations of business are suspended and the courts closed, and, generally, no legal process is served.

**HOLM.** An island in a river or the sea. Spelman.

Plain grassy ground upon water sides or in the water. Blount. Low ground intersected with streams. Spelman.

**HOLOGRAFO.** In Spanish law. A holograph. An instrument (particularly a will) wholly in the handwriting of the person executing it; or which, to be valid, must be so written by his own hand.

**HOLOGRAPH.** A will or deed written entirely by the testator or grantor with his own hand.

**HOLT. Sax.** In old English law. A wood or grove. Spelman; Cowell; Co. Litt. 4b.

**HOLY ORDERS.** In ecclesiastical law. The orders of bishops, (including archbishops,) priests, and deacons in the Church of England. The Roman canonists had the orders of bishop, (in which the pope and archbishops were included,) priest, deacon, subdeacon, psalmist, acolyte, exorcist, reader, ostiarius. 3 Steph. Comm. 55, and note a.

**HOMAGE.** In feudal law. A service (or the ceremony of rendering it) which a tenant was bound to perform to his lord on receiving in vestiture of a fee, or succeeding to it as heir, in acknowledgment of the tenure. It is described by Littleton as the most honorable service of reverence that a free tenant might do to his lord. The ceremony was as follows: The tenant, being ungiirt and with bare head, knelt before the lord, the latter sitting, and held his hands extended and joined between the hands of the lord, and said: "I become your man [*homo*] 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." The tenant then received a kiss from the lord. Homage could be done only to the lord himself. Litt. § 85; Glanv. lib. 9, c. 1; Bract. fols. 77b, 78-80; Wharton.

"Homage" is to be distinguished from "fealty," another incident of feudalism, and which consisted in the solemn oath of fidelity made by the vassal to the lord, whereas homage was merely an acknowledgment of tenure. If the homage was intended to include fealty, it was called "liege homage;" but otherwise it was called "simple homage." Brown.

**HOMAGE ANCESTRAL.** In feudal law. Homage was called by this name where a man and his ancestors had immemorially held of another and his ancestors by the service of homage, which bound the lord to warrant the title, and also to hold the tenant clear of all services to superior lords. If the tenant aliened in fee, his alienee was a tenant by homage, but not by homage ancestral. Litt. § 143; 2 Bl. Comm. 300.

**HOMAGE JURY.** A jury in a court-baron, consisting of tenants that do homage, who are to inquire and make presentments of the death of tenants, surrenders, admittances, and the like.

**HOMAGE LIEGE.** That kind of homage which was due to the sovereign alone as supreme lord, and which was done without any saving or exception of the rights of other lords. Spelman.

**HOMAGER.** One who does or is bound to do homage. Cowell.

**HOMAGIO RESPECTUANDO.** A writ to the escheator commanding him to deliver seisin of lands to the heir of the king's tenant, notwithstanding his homage not done. Fitzh. Nat. Brev. 269.

**HOMAGIUM.** Homage, (*q. v.*)

**HOMAGIUM LIGIUM.** Liege homage; that kind of homage which was due to the sovereign alone as supreme lord, and which was done without any saving or exception of the rights of other lords. Spelman. So called from *ligando*, (binding,) because it could not be renounced like other kinds of homage.

*Homagium, non per procuratores nec per literas fieri potuit, sed in propria persona tam domini quam tenentis capi debet et fieri.* Co. Litt. 68. Homage cannot be done by proxy, nor by letters, but must be paid and received in the proper person, as well of the lord as the tenant.

**HOMAGIUM PLANUM.** In feudal law. Plain homage; a species of homage which bound him who did it to nothing more than fidelity, without any obligation either of military service or attendance in the courts of his superior. 1 Robertson's Car. V., Appendix, note 8.

**HOMAGIUM REDDERE.** To renounce homage. This was when a vassal made a solemn declaration of disowning and defying his lord; for which there was a set form and method prescribed by the feudal laws. Bract. l. 2, c. 35, § 35.

**HOMAGIUM SIMPLEX.** In feudal law. Simple homage; that kind of homage which was merely an acknowledgment of tenure, with a saving of the rights of other lords. Harg. Co. Litt. note 18, lib. 2.

**HOMBRE BUENO.** In Spanish law. The judge of a district. Also an arbitrator chosen by the parties to a suit. Also a man

in good standing; one who is competent to testify in a suit.

**HOME.** When a person voluntarily takes up his abode in a given place, with intention to remain permanently, or for an indefinite period of time, or without any present intention to remove therefrom, such place of abode becomes his residence or *home*. 43 Me. 418. This word has not the same technical meaning as "domicile." 19 Me. 301.

**HOME, or HOMME.** L. Fr. Man; a man.

Home ne sera puny pur suer des briefes en court le roy, soit il a droit ou a tort. A man shall not be punished for suing out writs in the king's court, whether he be right or wrong. 2 Inst. 228.

**HOME OFFICE** The department of state through which the English sovereign administers most of the internal affairs of the kingdom, especially the police, and communicates with the judicial functionaries.

**HOME PORT.** A port in a state in which the owner of a vessel resides.

**HOMESOKEN, HOMSOKEN.** See HAMESOKEN.

**HOMESTALL.** A mansion-house.

**HOMESTEAD.** The home place; the place where the home is. It is the home, the house and the adjoining land, where the head of the family dwells; the home farm. 36 N. H. 166.

The fixed residence of the head of a family, with the land and buildings surrounding the main house.

**HOMESTEAD CORPORATIONS.** Corporations organized for the purpose of acquiring lands in large tracts, paying off incumbrances thereon, improving and subdividing them into homestead lots or parcels, and distributing them among the shareholders, and for the accumulation of a fund for such purposes, are known as "homestead corporations," and must not have a corporate existence for a longer period than ten years. Civil Code Cal. § 557.

**HOMESTEAD EXEMPTION LAWS.** Laws passed in most of the states allowing a householder or head of a family to designate a house and land as his homestead, and exempting the same homestead from execution for his general debts.

AM. DICT. LAW—37

**HOMICIDAL.** Pertaining to homicide; relating to homicide; impelling to homicide; as a homicidal mania.

**HOMICIDE.** The killing any human creature. 4 Bl. Comm. 177. The act of a human being in killing another human being.

"Homicide," as a term, does not import crime. It includes crimes, such, for instance, as murder and manslaughter. But a homicide may be innocent; may even be in the performance of duty. The execution of the sentence of death upon a criminal by the officer of the law is a homicide. The term "homicide" embraces all man-killing. 1 Park. Crim. R. 182, 186.

*Justifiable* homicide is such as is committed intentionally, but without any evil design, and under such circumstances of necessity or duty as render the act proper, and relieve the party from any shadow of blame; as where a sheriff lawfully executes a sentence of death upon a malefactor, or where the killing takes place in the endeavor to prevent the commission of a felony which could not be otherwise avoided.

*Excusable* homicide is such as is committed through misadventure or accident, without any willful or malicious intention; or by necessity, in self-defense.

*Felonious* homicide (which may be either murder or manslaughter) is that committed without justification or excuse in law, *i. e.*, with malice and intention, and under such circumstances as to make it punishable.

**HOMICIDE PER INFORTUNIUM.** In criminal law. Homicide by misfortune, or accidental homicide; as where a man doing a lawful act, without any intention of hurt, unfortunately kills another; a species of excusable homicide. 4 Bl. Comm. 182; 4 Steph. Comm. 101.

**HOMICIDE PER MISADVENTURE.** See HOMICIDE PER INFORTUNIUM.

**HOMICIDE SE DEFENDENDO.** In criminal law. Homicide in self-defense; the killing of a person in self-defense upon a sudden affray, where the slayer had no other possible (or, at least, probable) means of escaping from his assailant. 4 Bl. Comm. 183-186; 4 Steph. Comm. 103-105. A species of excusable homicide. *Id.*; 1 Russ. Crimes, 660.

**HOMICIDIUM.** Lat. Homicide, (*q. v.*) *Homicidium ex justitia*, homicide in the administration of justice, or in the execution of the sentence of the law.

*Homicidium ex necessitate*, homicide from inevitable necessity, as for the protection of one's person or property.

*Homicidium ex casu*, homicide by accident.

*Homicidium ex voluntate*, voluntary or willful homicide. Bract. fols. 120b, 121.

**HOMINATIO.** The mustering of men; the doing of homage.

**HOMINE CAPTO IN WITHERNAM-IUM.** A writ to take him that had taken any bond man or woman, and led him or her out of the country, so that he or she could not be replevied according to law. Reg. Orig. 79.

**HOMINE ELIGENDO.** In old English law. A writ directed to a corporation, requiring the members to make choice of a man to keep one part of the seal appointed for statutes merchant, when a former is dead, according to the statute of Acton Burnell. Reg. Orig. 178; Wharton.

**HOMINE REPLEGIANDO.** In English law. A writ which lay to replevy a man out of prison, or out of the custody of any private person, in the same manner that chattels taken in distress may be replevied. Brown.

**HOMINES.** Lat. In feudal law. Men; feudatory tenants who claimed a privilege of having their causes, etc., tried only in their lord's court. Paroch. Antiq. 15.

**HOMINES LIGII.** In feudal law. Liege men; feudal tenants or vassals, especially those who held immediately of the sovereign. 1 Bl. Comm. 367.

**Hominum causa jus constitutum est.** Law is established for the benefit of man.

**HOMIPLAGIUM.** In old English law. The maiming of a man. Blount.

**HOMME.** Fr. Man; a man. This term is defined by the Civil Code of Louisiana to include a woman. Article 3522, nn. 1, 2.

**HOMMES DE FIEF.** Fr. In feudal law. Men of the fief; feudal tenants; the peers in the lords' courts. Montesq., *Esprit des Lois*, liv. 28, c. 27.

**HOMMES FEODAUZ.** Fr. In feudal law. Feudal tenants; the same with *hommes de fief*, (*q. v.*) Montesq., *Esprit des Lois*, liv. 28, c. 36.

**HOMO.** Lat. A man; a human being, male or female; a vassal, or feudal tenant; a retainer, dependent, or servant.

**HOMO CHARTULARIUS.** A slave manumitted by charter.

**HOMO COMMENDATUS.** In feudal law. One who surrendered himself into the power of another for the sake of protection or support. See **COMMENDATION**.

**HOMO ECCLESIASTICUS.** A church vassal; one who was bound to serve a church, especially to do service of an agricultural character. Spelman.

**HOMO EXERCITALIS.** A man of the army, (*exercitus*;) a soldier.

**HOMO FEODALIS.** A vassal or tenant; one who held a fee, (*feodum*), or part of a fee. Spelman.

**HOMO FISCALIS, or FISCALINUS.** A servant or vassal belonging to the treasury or *fiscus*.

**HOMO FRANCUS.** In old English law. A freeman. A Frenchman.

**HOMO INGENUUS.** A free man. A free and lawful man. A yeoman.

**HOMO LIBER.** A freeman.

**HOMO LIGIUS.** A liege man; a subject; a king's vassal. The vassal of a subject.

**HOMO NOVUS.** In feudal law. A new tenant or vassal; one who was invested with a new fee. Spelman.

**HOMO PERTINENS.** In feudal law. A feudal bondman or vassal; one who belonged to the soil, (*qui glebæ adscribitur*.)

**Homo potest esse habilis et inhabilis diversis temporibus.** 5 Coke, 98. A man may be capable and incapable at different times.

**HOMO REGIUS.** A king's vassal.

**HOMO ROMANUS.** A Roman. An appellation given to the old inhabitants of Gaul and other Roman provinces, and retained in the laws of the barbarous nations. Spelman.

**HOMO TRIUM LITTERARUM.** A man of the three letters; that is, the three letters, "f," "u," "r;" the Latin word *fur* meaning "thief."

**Homo vocabulum est naturæ; persona juris civilis.** Man (*homo*) is a term of nature; person (*persona*) of civil law. Calvin.

**HOMOLOGACION.** In Spanish law. The tacit consent and approval inferred by law from the omission of the parties, for the

space of ten days, to complain of the sentences of arbitrators, appointment of syndics, or assignees of insolvents, settlements of successions, etc. Also the approval given by the judge of certain acts and agreements for the purpose of rendering them more binding and executory. Escriche.

**HOMOLOGARE.** In the civil law. To confirm or approve; to consent or assent; to confess. Calvin.

**HOMOLOGATE.** In modern civil law. To approve; to confirm; as a court *homologates* a proceeding. See **HOMOLOGATION**. Literally, to use the *same words* with another; to say the like. 9 Mart. (La.) 324. To assent to what another says or writes.

**HOMOLOGATION.** In the civil law. Approbation; confirmation by a court of justice; a judgment which orders the execution of some act. Merl. Répert. The term is also used in Louisiana.

In English law. An estoppel *in pais*. L. R. 3 App. Cas. 1026.

In Scotch law. An act by which a person approves of a deed, the effect of which is to render that deed, though in itself defective, binding upon the person by whom it is homologated. Bell. Confirmation of a voidable deed.

**HOMONYMIÆ.** A term applied in the civil law to cases where a law was repeated, or laid down in the same terms or to the same effect, more than once. Cases of iteration and repetition. 2 Kent, Comm. 489, note.

**HONDHABEND.** Sax. Having in hand. See **HANDHABEND**.

**HONESTE VIVERE.** Lat. To live honorably, creditably, or virtuously. One of the three general precepts to which Justinian reduced the whole doctrine of the law, (Inst. 1, 1, 3; Bract. fols. 3, 3b,) the others being *alterum non lædere*, (not to injure others,) and *suum cuique tribuere*, (to render to every man his due.)

**HONESTUS.** Of good character or standing. *Coram duobus vel pluribus viris legalibus et honestis*, before two or more lawful and good men. Bract. fol. 61.

**HONOR, v.** To accept a bill of exchange, or to pay a note, check, or accepted bill, at maturity and according to its tenor.

**HONOR, n.** In English law. A seigniority of several manors held under one

baron or lord paramount. Also those dignities or privileges, degrees of nobility, knighthood, and other titles, which flow from the crown as the fountain of honor. Whar-ton.

In American law. The customary title of courtesy given to judges of the higher courts, and occasionally to some other officers; as "his honor," "your honor."

**HONOR COURTS.** Tribunals held within honors or seigniories.

**HONORABLE.** A title of courtesy given in England to the younger children of earls, and the children of viscounts and barons; and, collectively, to the house of commons. In America, the word is used as a title of courtesy for various classes of officials, but without any clear lines of distinction.

**HONORARIUM.** In the civil law. An honorary or free gift; a gratuitous payment, as distinguished from hire or compensation for service; a lawyer's or counsellor's fee. Dig. 50, 13, 1, 10-12.

An *honorarium* is a voluntary donation, in consideration of services which admit of no compensation in money; in particular, to advocates at law, deemed to practice for honor or influence, and not for fees. 14 Ga. 89.

**HONORARIUM JUS.** In Roman law. The law of the prætors and the edicts of the ædiles.

**HONORARY CANONS.** Those without emolument. 3 & 4 Vict. c. 113, § 23.

**HONORARY FEUDS.** Titles of nobility, descendible to the eldest son, in exclusion of all the rest. 2 Bl. Comm. 56.

**HONORARY SERVICES.** In feudal law. Special services to be rendered to the king in person, characteristic of the tenure by grandserjeanty; such as to carry his banner, his sword, or the like, or to be his butler, champion, or other officer, at his coronation. Litt. § 153; 2 Bl. Comm. 73.

**HONORARY TRUSTEES.** Trustees to preserve contingent remainders, so called because they are bound, in honor only, to decide on the most proper and prudential course. Lewin, Trusts, 408.

**HONORIS RESPECTUM.** By reason of honor or privilege. See **CHALLENGE**.

**HONTFONGENETHEF.** In Saxon law. A thief taken with *hondhabend*; i. e., having the thing stolen in his hand. Cowell.

**HONY.** L. Fr. Shame; evil; disgrace. *Hony soit qui mal y pense*, evil be to him who evil thinks.

**HOO.** A hill. Co. Litt. 5b.

**HOOKLAND.** Land plowed and sown every year.

**HOPCON.** A valley. Cowell.

**HOPE.** In old English law. A valley. Co. Litt. 4b.

**HOPPO.** A Chinese term for a collector; an overseer of commerce.

**HORA AURORÆ.** In old English law. The morning bell, as *ignitegium* or *coverfeu* (curfew) was the evening bell.

*Hora non est multum de substantia negotii, licet in appello de ea aliquando fiat mentio.* The hour is not of much consequence as to the substance of business, although in appeal it is sometimes mentioned. 1 Bulst. 82.

**HORÆ JURIDICÆ, or JUDICIÆ.** Hours during which the judges sat in court to attend to judicial business.

**HORCA.** In Spanish law. A gallows; the punishment of hanging. White, New Recop. b. 2, tit. 19, c. 4, § 1.

**HORDA.** In old records. A cow in calf.

**HORDERA.** A treasurer. Du Cange.

**HORDERIUM.** In old English law. A hoard; a treasure, or repository. Cowell.

**HORDEUM.** In old records. Barley. *Hordeum palmale*, beer barley, as distinguished from common barley, which was called "*hordeum quadragesimale*." Blount.

**HORN.** In old Scotch practice. A kind of trumpet used in denouncing contumacious persons rebels and outlaws, which was done with three blasts of the horn by the king's sergeant. This was called "putting to the horn;" and the party so denounced was said to be "at the horn." Bell.

**HORN-BOOK.** A primer; a book explaining the rudiments of any science or branch of knowledge. The phrase "horn-book law" is a colloquial designation of the rudiments or most familiar principles of law.

**HORN TENURE.** In old English law. Tenure by cornage; that is, by the service of winding a horn when the Scots or other enemies entered the land, in order to warn the

king's subjects. This was a species of grand serjeanty. Litt. § 156; 2 Bl. Comm. 74.

**HORN WITH HORN, or HORN UNDER HORN.** The promiscuous feeding of bulls and cows or all horned beasts that are allowed to run together upon the same common. Spelman.

**HORNGELD.** Sax. In old English law. A tax within a forest, paid for horned beasts. Cowell; Blount.

**HORNING.** In Scotch law. "Letters of horning" is the name given to a judicial process issuing on the decree of a court, by which the debtor is summoned to perform his obligation in terms of the decree, the consequence of his failure to do so being liability to arrest and imprisonment. It was anciently the custom to proclaim a debtor who had failed to obey such process a rebel or outlaw, which was done by three blasts of the horn by the king's sergeant in a public place. This was called "putting to the horn," whence the name.

**HORREUM.** Lat. A place for keeping grain; a granary. A place for keeping fruits, wines, and goods generally; a store-house. Calvin.; Bract. fol. 48.

**HORS.** L. Fr. Out; out of; without.

**HORS DE SON FEE.** L. Fr. Out of his fee. In old pleading, this was the name of a plea in an action for rent or services, by which the defendant alleged that the land in question was out of the compass of the plaintiff's fee.

**HORS PRIS.** L. Fr. Except. Literally translated by the Scotch "out taken."

**HORS WEALH.** In old English law. The wealth, or Briton who had care of the king's horses.

**HORS WEARD.** In old English law. A service or *corvée*, consisting in watching the horses of the lord. Anc. Inst. Eng.

**HORSE.** Until a horse has attained the age of four years, he is called a colt. 1 Russ. & R. 416.

The word "horse" is used in a *quasi* generic sense, to include every description of the male, in contradistinction to the female or mare, whether stallion or gelding. 33 Tex. 555.

**HORSE GUARDS.** The directing power of the military forces of the kingdom of Great Britain. The commander in chief, or general commanding the forces, is at the head of this department. It is subordinate to the

war office, but the relations between them are complicated. Wharton.

**HORTUS.** Lat. In the civil law. A garden. Dig. 32, 91, 5.

**HOSPES.** Lat. A guest. 8 Coke, 32.

**HOSPES GENERALIS.** A great chamberlain.

**HOSPITAL.** An institution for the reception and care of sick, wounded, infirm, or aged persons; generally incorporated, and then of the class of corporations called "eleemosynary" or "charitable."

**HOSPITALLERS.** The knights of a religious order, so called because they built a hospital at Jerusalem, wherein pilgrims were received. All their lands and goods in England were given to the sovereign by 32 Hen. VIII. c. 24.

**HOSPITATOR.** A host or entertainer. *Hospitator communis.* An innkeeper. 8 Coke, 32.

*Hospitator magnus.* The marshal of a camp.

**HOSPITIA.** Inns. *Hospitia communia,* common inns. Reg. Orig. 105. *Hospitia curia,* inns of court. *Hospitia cancellaria,* inns of chancery. Crabb, Eng. Law, 428, 429; 4 Reeve, Eng. Law, 120.

**HOSPITICIDE.** One that kills his guest or host.

**HOSPITIUM.** An inn; a household.

**HOSPODAR.** A Turkish governor in Moldavia or Wallachia.

**HOST.** L. Fr. An army. Britt. c. 22. A military expedition; war. Kelham.

**HOSTAGE.** A person who is given into the possession of the enemy, in a public war, his freedom (or life) to stand as security for the performance of some contract or promise made by the belligerent power giving the hostage with the other.

**HOSTELAGIUM.** In old records. A right to receive lodging and entertainment, anciently reserved by lords in the houses of their tenants. Cowell.

**HOSTELER.** An innkeeper. Now applied, under the form "ostler," to those who look to a guest's horses. Cowell.

**HOSTES.** Enemies. *Hostes humani generis,* enemies of the human race; *i. e.,* pirates.

*Hostes sunt qui nobis vel quibus nos bellum decernimus; ceteri proditores vel prædones sunt.* 7 Coke, 24. Enemies are those with whom we declare war, or who declare it against us; all others are traitors or pirates.

**HOSTIA.** In old records. The host-bread, or consecrated wafer, in the eucharist. Cowell.

**HOSTICIDE.** One who kills an enemy.

**HOSTILARIA, HOSPITALARIA.** A place or room in religious houses used for the reception of guests and strangers.

**HOSTILE.** Having the character of an enemy; standing in the relation of an enemy. See 1 Kent, Comm. c. 4.

**HOSTILE EMBARGO.** One laid upon the vessels of an actual or prospective enemy.

**HOSTILE WITNESS.** A witness who manifests so much hostility or prejudice under examination in chief that the party who has called him, or his representative, is allowed to cross-examine him, *i. e.,* to treat him as though he had been called by the opposite party. Wharton.

**HOSTILITY.** In the law of nations. A state of open war. "At the breaking out of hostility." 1 Kent, Comm. 60.

An act of open war. "When *hostilities* have commenced." *Id.* 56.

A hostile character. "Hostility may attach only to the person." *Id.*

**HOT-WATER ORDEAL.** In old English law. This was a test, in cases of accusation, by hot water; the party accused and suspected being appointed by the judge to put his arms up to the elbows in seething hot water, which, after sundry prayers and invocations, he did, and was, by the effect which followed, judged guilty or innocent. Wharton.

**HOTCHPOT.** The blending and mixing property belonging to different persons, in order to divide it equally. 2 Bl. Comm. 190.

Anciently applied to the mixing and blending of lands given to one daughter in frank marriage, with those descending to her and her sisters in fee-simple, for the purpose of dividing the whole equally among them; without which the daughter who held in frank marriage could have no share in the lands in fee-simple. Litt. §§ 267, 268; Co. Litt. 177a; 2 Bl. Comm. 190.

*Hotchpot, or the putting in hotchpot, is ap-*

pled in modern law to the throwing the amount of an advancement made to a particular child, in real or personal estate, into the common stock, for the purpose of a more equal division, or of equalizing the shares of all the children. 2 Kent, Comm. 421, 422. This answers to or resembles the *collatio bonorum*, or *collation* of the civil law.

**HOTEL.** An inn; a public house or tavern; a house for entertaining strangers or travelers. 54 Barb. 316; 2 Daly, 15; 46 Mo. 594.

**HOUR.** The twenty-fourth part of a natural day; sixty minutes of time.

**HOUR OF CAUSE.** In Scotch practice. The hour when a court is met. 3 How. State Tr. 603.

**HOUSE.** 1. A dwelling; a building designed for the habitation and residence of men.

"House" means, presumptively, a dwelling-house; a building divided into floors and apartments, with four walls, a roof, and doors and chimneys; but it does not necessarily mean precisely this. 14 Mees. & W. 181; 7 Man. & G. 122.

"House" is not synonymous with "dwelling-house." While the former is used in a broader and more comprehensive sense than the latter, it has a narrower and more restricted meaning than the word "building." 46 N. H. 61.

In the devise of a house, the word "house" is synonymous with "messuage," and conveys all that comes within the curtilage. 4 Pa. St. 93.

2. A legislative assembly, or (where the bicameral system obtains) one of the two branches of the legislature; as the "house of lords," "house of representatives." Also a quorum of a legislative body. See 2 Mich. 287.

3. The name "house" is also given to some collections of men other than legislative bodies, to some public institutions, and (colloquially) to mercantile firms or joint-stock companies.

**HOUSE-BOTE.** A species of estovers, belonging to a tenant for life or years, consisting in the right to take from the woods of the lessor or owner such timber as may be necessary for making repairs upon the house. See Co. Litt. 41b.

**HOUSE-BURNING.** See **ARSON**.

**HOUSE-DUTY.** A tax on inhabited houses imposed by 14 & 15 Vict. c. 36, in lieu of window-duty, which was abolished.

**HOUSE OF COMMONS.** One of the constituent houses of the British parliament, composed of representatives of the counties, cities, and boroughs.

**HOUSE OF CORRECTION.** A reformatory. A place for the imprisonment of juvenile offenders, or those who have committed crimes of lesser magnitude.

**HOUSE OF ILL FAME.** A bawdy-house; a brothel; a dwelling allowed by its chief occupant to be used as a resort of persons desiring unlawful sexual intercourse. 33 Conn. 91.

**HOUSE OF LORDS.** The upper chamber of the British parliament. It comprises the archbishops and bishops, (called "Lords Spiritual,") the English peers sitting by virtue of hereditary right, sixteen Scotch peers elected to represent the Scotch peerage under the act of union, and twenty-eight Irish peers elected under similar provisions. The house of lords, as a judicial body, has ultimate appellate jurisdiction, and may sit as a court for the trial of impeachments.

**HOUSE OF REFUGE.** A prison for juvenile delinquents. A house of correction or reformatory.

**HOUSE OF REPRESENTATIVES.** The name of the body forming the more popular and numerous branch of the congress of the United States; also of the similar branch in many of the state legislatures.

**HOUSEAGE.** A fee paid for housing goods by a carrier, or at a wharf, etc.

**HOUSEBREAKING.** In criminal law. Breaking and entering a dwelling-house with intent to commit any felony therein. If done by night, it comes under the definition of "burglary."

**HOUSEHOLD.** A family living together. 18 Johns. 400, 402. Those who dwell under the same roof and compose a family. Webster. A man's family living together constitutes his household, though he may have gone to another state.

Belonging to the house and family; domestic. Webster.

**HOUSEHOLD FURNITURE.** This term, in a will, includes all personal chattels that may contribute to the use or convenience of the householder, or the ornament of the house; as plate, linen, china, both useful and ornamental, and pictures. But goods in trade, books, and wines will not pass by a bequest of household furniture. 1 Rep. Leg. 203.

**HOUSEHOLD GOODS.** These words, in a will, include everything of a permanent nature (*i. e.*, articles of household which are

not consumed in their enjoyment) that are used in or purchased or otherwise acquired by a testator for his house. 1 *Rep. Leg.* 191.

**HOUSEHOLD STUFF.** This phrase, in a will, includes everything which may be used for the convenience of the house, as tables, chairs, bedding, and the like. But apparel, books, weapons, tools for artificers, cattle, victuals, and clothes in action will not pass by those words, unless the context of the will clearly show a contrary intention. 1 *Rep. Leg.* 206.

**HOUSEHOLDER.** The occupier of a house. Brande. More correctly, one who keeps house with his family; the head or master of a family. Webster; 18 *Johns.* 302. One who has a household; the head of a household.

**HOUSEKEEPER.** One who is in actual possession of and who occupies a house, as distinguished from a "boarder," "lodger," or "guest."

**HOVEL.** A place used by husbandmen to set their plows, carts, and other farming utensils out of the rain and sun. A shed; a cottage; a mean house.

**HOWE.** In old English law. A hill. *Co. Litt.* 5b.

**HOY.** A small coasting vessel, usually sloop-rigged, used in conveying passengers and goods from place to place, or as a tender to larger vessels in port. Webster.

**HOYMAN.** The master or captain of a hoy.

**HUCUSQUE.** In old pleading. Hitherto. 2 *Mod.* 24.

**HUDE-GELD.** In old English law. An acquittance for an assault upon a trespassing servant. Supposed to be a mistake or misprint in Fleta for "*hinegeld.*" Fleta, lib. 1, c. 47, § 20. Also the price of one's skin, or the money paid by a servant to save himself from a whipping. Du Cange.

**HUE AND CRY.** In old English law. A loud outcry with which felons (such as robbers, burglars, and murderers) were anciently pursued, and which all who heard it were bound to take up, and join in the pursuit, until the malefactor was taken. Bract. fols. 115b, 124; 4 *Bl. Comm.* 293.

A written proclamation issued on the escape of a felon from prison, requiring all officers and people to assist in retaking him. 3 *How. State Tr.* 386.

**HUEBRAS.** In Spanish law. A measure of land equal to as much as a yoke of oxen can plow in one day. 2 White, *Recop.* (38,) 49; 12 *Pet.* 443.

**HUISSERIUM.** A ship used to transport horses. Also termed "*uifer.*"

**HUISSIERS.** In French law. Marshals; ushers; process-servers; sheriffs' officers. Ministerial officers attached to the courts, to effect legal service of process required by law in actions, to issue executions, etc., and to maintain order during the sitting of the courts.

**HULKA.** In old records. A hulk or small vessel. Cowell.

**HULLUS.** In old records. A bill. 2 *Mon. Angl.* 292; Cowell.

**HUMAGIUM.** A moist place. *Mon. Angl.*

**HUNDRED.** Under the Saxon organization of England, each county or shire comprised an indefinite number of *hundreds*, each hundred containing ten *tithings*, or groups of ten families of freeholders or frankpledges. The hundred was governed by a high constable, and had its own court; but its most remarkable feature was the corporate responsibility of the whole for the crimes or defaults of the individual members. The introduction of this plan of organization into England is commonly ascribed to Alfred, but the idea, as well of the collective liability as of the division, was probably known to the ancient German peoples, as we find the same thing established in the Frankish kingdom under Clothaire, and in Denmark. See 1 *Bl. Comm.* 115; 4 *Bl. Comm.* 411.

**HUNDRED COURT.** In English law. A larger court-baron, being held for all the inhabitants of a particular *hundred*, instead of a manor. The free suitors are the judges, and the steward the registrar, as in the case of a court-baron. It is not a court of record, and resembles a court-baron in all respects except that in point of territory it is of greater jurisdiction. These courts have long since fallen into desuetude. 3 *Bl. Comm.* 34, 35; 3 *Steph. Comm.* 394, 395.

**HUNDRED GEMOTE.** Among the Saxons, a meeting or court of the freeholders of a hundred, which assembled, originally, twelve times a year, and possessed civil and criminal jurisdiction and ecclesiastical powers. 1 *Reeve, Eng. Law,* 7.

**HUNDRED LAGH.** The law of the hundred, or hundred court; liability to attend the hundred court. Spelman.

**HUNDRED PENNY.** In old English law. A tax collected from the hundred, by the sheriff or lord of the hundred. Spel. voc. "*Hundredus*."

**HUNDRED SECTA.** The performance of suit and service at the hundred court.

**HUNDRED SETENA.** In Saxon law. The dwellers or inhabitants of a hundred. Cowell; Blount. Spelman suggests the reading of *seealena* from Sax. "*sceat*," a tax.

**HUNDRED-WEIGHT.** A denomination of weight containing, according to the English system, 112 pounds; but in this country, generally, it consists of 100 pounds avoirdupois.

**HUNDREDARIUS.** In old English law. A hundredary or hundredor. A name given to the chief officer of a hundred, as well as to the freeholders who composed it. Spel. voc. "*Hundredus*."

**HUNDREDARY.** The chief or presiding officer of a hundred.

**HUNDREDES EARLDOR, or HUNDREDES MAN.** The presiding officer in the hundred court. Anc. Inst. Eng.

**HUNDREDORS.** In English law. The inhabitants or freeholders of a hundred, anciently the suitors or judges of the hundred court. Persons impaneled or fit to be impaneled upon juries, dwelling within the hundred where the cause of action arose. Crompt. Jur. 217. It was formerly necessary to have some of these upon every panel of jurors. 3 Bl. Comm. 359, 360; 4 Steph. Comm. 370.

The term "hundredor" was also used to signify the officer who had the jurisdiction of a hundred, and held the hundred court, and sometimes the bailiff of a hundred. *Termes de la Ley*; Cowell.

**HURDEREFERST.** A domestic; one of a family.

**HURDLE.** In English criminal law. A kind of sledge, on which convicted felons were drawn to the place of execution.

**HURST, HYRST, HERST, or HIRST.** A wood or grove of trees. Co. Litt. 4b.

**HURTARDUS, or HURTUS.** A ram or wether.

**HURTO.** In Spanish law. Theft. White, New Recop. b. 2, tit. 20.

**HUSBAND.** A married man; one who has a lawful wife living. The correlative of "wife."

Etymologically, the word signified the "house bond;" the man who, according to Saxon ideas and institutions, held around him the family, for whom he was in law responsible.

**HUSBAND AND WIFE.** One of the great domestic relationships; being that of a man and woman lawfully joined in marriage, by which, at common law, the legal existence of a wife is incorporated with that of her husband.

**HUSBAND LAND.** In old Scotch law. A quantity of land containing commonly six acres. Skene.

**HUSBAND OF A SHIP.** See SHIP'S HUSBAND.

**HUSBANDMAN.** A farmer; a cultivator or tiller of the ground. The word "farmer" is colloquially used as synonymous with "husbandman," but originally meant a tenant who cultivates *leased* ground.

**HUSBANDRIA.** In old English law. Husbandry. Dyer, (Fr. Ed.) 35b.

**HUSBANDRY.** Agriculture; cultivation of the soil for food; farming, in the sense of operating land to raise provisions.

**HUSBREC.** In Saxon law. The crime of housebreaking or burglary. Crabb, Eng. Law, 59, 308.

**HUSCARLE.** In old English law. A house servant or domestic; a man of the household. Spelman.

A king's vassal, thane, or baron; an earl's man or vassal. A term of frequent occurrence in Domesday Book.

**HUSFASTNE.** He who holds house and land. Bract. l. 3, t. 2, c. 10.

**HUSGABLUM.** In old records. House rent; or a tax or tribute laid upon a house. Cowell; Blount.

**HUSH-MONEY.** A colloquial expression to designate a bribe to hinder information; pay to secure silence.

**HUSTINGS.** Council; court; tribunal. Apparently so called from being held within a building, at a time when other courts were held in the open air. It was a local court. The county court in the city of London bore this name. There were hustings at York,

Winchester, Lincoln, and in other places similar to the London hustings. Also the raised place from which candidates for seats in parliament address the constituency, on the occasion of their nomination. Wharton.

In Virginia, some of the local courts are called "hustings," as in the city of Richmond. 6 Grat. 696.

**HUTESIUM ET CLAMOR.** Hue and cry. See **HUE AND CRY**.

**HUTILAN.** Taxes. Mon. Angl. i. 586.

**HWATA, HWATUNG.** In old English law. Augury; divination.

**HYBERNAGIUM.** In old English law. The season for sowing winter grain, between Michaelmas and Christmas. The land on which such grain was sown. The grain itself; winter grain or winter corn. Cowell.

**HYBRID.** A mongrel; an animal formed of the union of different species, or different genera; also (metaphorically) a human being born of the union of persons of different races.

**HYD.** In old English law. Hide; skin. A measure of land, containing, according to some, a hundred acres, which quantity is also assigned to it in the *Dialogus de Scaccaria*. It seems, however, that the hide varied in different parts of the kingdom.

**HYDAGE.** See **HIDAGE**.

**HYDROMETER.** An instrument for measuring the density of fluids. Being immersed in fluids, as in water, brine, beer, brandy, etc., it determines the proportion of their density, or their specific gravity, and thence their quality. See 3 Story, U. S. Laws, 1976.

**HYEMS, HIEMS.** Lat. In the civil law. Winter. Dig. 43, 20, 4, 34. Written, in some of the old books, "yems." Fleta, lib. 2, c. 73, §§ 16, 18.

**HYPOBOLUM.** In the civil law. The name of the bequest or legacy given by the husband to his wife, at his death, above her dowry.

**HYPOTHEC.** In Scotland, the term "hypothec" is used to signify the landlord's right which, independently of any stipulation, he has over the crop and stocking of his tenant. It gives a security to the landlord over the crop of each year for the rent of that year, and over the cattle and stocking on the farm for the current year's rent, which last continues for three months after the last con-

ventional term for the payment of the rent. Bell.

**HYPOTHECA.** "Hypotheca" was a term of the Roman law, and denoted a pledge or mortgage. As distinguished from the term "*pignus*," in the same law, it denoted a mortgage, whether of lands or of goods, in which the subject in pledge remained in the possession of the mortgagor or debtor; whereas in the *pignus* the mortgagee or creditor was in the possession. Such an hypotheca might be either express or implied; express, where the parties upon the occasion of a loan entered into express agreement to that effect; or implied, as, *e. g.*, in the case of the stock and utensils of a farmer, which were subject to the landlord's right as a creditor for rent; whence the Scotch law of hypothec.

The word has suggested the term "hypothecate," as used in the mercantile and maritime law of England. Thus, under the factor's act, goods are frequently said to be "hypothecated;" and a captain is said to have a right to hypothecate his vessel for necessary repairs. Brown. See Mackeld. Rom. Law, §§ 334-359.

**HYPOTHECARIA ACTIO.** In the civil law. An hypothecary action; an action for the enforcement of an *hypotheca*, or right of mortgage; or to obtain the surrender of the thing mortgaged. Inst. 4, 6, 7; Mackeld. Rom. Law, § 356. Adopted in the Civil Code of Louisiana, under the name of "*l'action hypothécaire*," (translated, "action of mortgage.") Article 3361.

**HYPOTHECARIi CREDITORES.** In the civil law. Hypothecary creditors; those who loaned money on the security of an *hypotheca*, (*q. v.*) Calvin.

**HYPOTHECARY ACTION.** The name of an action allowed under the civil law for the enforcement of the claims of a creditor by the contract of hypotheca.

**HYPOTHECATE.** To pledge a thing without delivering the possession of it to the pledgee. "The master, when abroad, and in the absence of the owner, may *hypothecate* the ship, freight, and cargo, to raise money requisite for the completion of the voyage." 3 Kent, Comm. 171.

**HYPOTHECATION.** A term borrowed from the civil law. In so far as it is naturalized in English and American law, it means a contract of mortgage or pledge in which the subject-matter is not delivered

into the possession of the pledgee or pawnee; or, conversely, a conventional right existing in one person over specific property of another, which consists in the power to cause a sale of the same, though it be not in his possession, in order that a specific claim of the creditor may be satisfied out of the proceeds.

The term is frequently used in our textbooks and reports, particularly upon the law of bottomry and maritime liens; thus a vessel is said to be hypothecated for the demand of one who has advanced money for supplies.

In the common law, there are but few, if any, cases of hypothecation, in the strict sense of the civil law; that is, a pledge without possession by the pledgee. The nearest approaches, perhaps, are cases of bottomry bonds and claims of materialmen, and of seamen for wages; but these are liens and privileges, rather than hypothecations. Story, Bailm. § 288.

"Hypothecation" is a term of the civil law, and is that kind of pledge in which the possession of the thing pledged remains with the debtor, (the obligation resting in mere contract without delivery;) and in this respect distinguished from "*pi-g-nus*," in which possession is delivered to the creditor or pawnee. 24 Ark. 27. See 2 Bell, Comm. 25.

**HYPOTHECATION BOND.** A bond given in the contract of bottomry or *respondentia*.

**HYPOTHÈQUE.** In French law. Hypothecation; a mortgage on real property; the right vested in a creditor by the assignment to him of real estate as security for the payment of his debt, whether or not it be accompanied by possession. See Civil Code La. art. 3360.

It corresponds to the mortgage of real property in English law, and is a real charge, following the property into whose hands it comes. It may be *légale*, as in the case of the charge which the state has over the lands of its accountants, or which a married woman has over those of her husband; *judiciaire*, when it is the result of a judg-

ment of a court of justice; and *conventionelle*, when it is the result of an agreement of the parties. Brown.

**HYPOTHESIS.** A supposition, assumption, or theory; a theory set up by the prosecution, on a criminal trial, or by the defense, as an explanation of the facts in evidence, and a ground for inferring guilt or innocence, as the case may be, or as indicating a probable or possible motive for the crime.

**HYPOTHETICAL CASE.** A combination of assumed or proved facts and circumstances, stated in such form as to constitute a coherent and specific situation or state of facts, upon which the opinion of an expert is asked, by way of evidence on a trial.

**HYPOTHETICAL YEARLY TENANCY.** The basis, in England, of rating lands and hereditaments to the poor-rate, and to other rates and taxes that are expressed to be leviable or assessable in like manner as the poor-rate.

**HYRNES.** In old English law. A parish.

**HYSTEROPOTMOI.** Those who, having been thought dead, had, after a long absence in foreign countries, returned safely home; or those who, having been thought dead in battle, had afterwards unexpectedly escaped from their enemies and returned home. These, among the Romans, were not permitted to enter their own houses at the door, but were received at a passage opened in the roof. Enc. Lond.

**HYSTEROTOMY.** The Cæsarian operation.

**HYTHE.** In English law. A port, wharf, or small haven to embark or land merchandise at. Cowell; Blount.