

BLACK'S
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DICTIONARY

NINTH EDITION

BRYAN A. GARNER
EDITOR IN CHIEF

Black's Law Dictionary®

Ninth Edition

Bryan A. Garner
Editor in Chief

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Distinguished Research Professor of Law

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Dallas, Texas

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Dallas, Texas

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Preface to the Ninth Edition

Since becoming editor in chief of *Black's Law Dictionary* in the mid-1990s, I've tried with each successive edition—the seventh, the eighth, and now the ninth—to make the book at once both more scholarly and more practical.

Anyone who cares to put this book alongside the sixth or earlier editions will discover that the book has been almost entirely rewritten, with an increase in precision and clarity. It's true that I've cut some definitions that appeared in the sixth and earlier editions. On a representative sample of two consecutive pages of the sixth can be found *botulism*, *bouche* (mouth), *bough of a tree*, *bought* (meaning “purchased”), *bouncer* (referring to a nightclub employee), *bourg* (a village), *boulevard*, *bourgeois*, *brabant* (an obscure kind of ancient coin also called a *crocard*), *brabanter* (a mercenary soldier in the Middle Ages), and *brachium maris* (an arm of the sea). These can hardly be counted as legal terms worthy of inclusion in a true law dictionary, and *Black's* had been properly criticized for including headwords such as these.*

Meanwhile, though, within the same span of terms, I've added entries for three types of boundaries (*agreed boundary*, *land boundary*, *lost boundary*), as well as for *bounty hunter*, *bounty land*, *bounty-land warrant*, *boutique* (a specialized law firm), *box day* (a day historically set aside for filing papers in Scotland's Court of Session), *box-top license* (also known as a *shrink-wrap license*), *Boykin Act* (an intellectual-property statute enacted after World War II), *Boyle defense* (also known as the *government-contractor defense*), *bracket system* (the tax term), *Bracton* (the title of one of the earliest, most important English lawbooks), and *Brady Act* (the federal law for background checks on handgun-purchasers). And all the other entries have been wholly revised—shortened here and amplified there to bring the book into better proportion.

Hence, in one brief span of entries, the sixth and the ninth editions appear to be entirely different books. That's true throughout the work.

But it's not as if I've revised the book with any hostility toward historical material. In fact, I've added hundreds of Roman-law terms that had been omitted from earlier editions and retranslated all the others on grounds that current users of the dictionary might need to look up the meanings of these historical terms. But whatever appears here, in my view, should be plausibly a law-related term—and *closely* related to the law.

Users ought to be reminded once again about the handy collection of legal maxims in Appendix B. It is, I believe, the most comprehensive and accurate set of translated maxims to be found anywhere in print—thanks to the erudite revisions of two civil-law experts of the first rank: Professor Tony Honoré of Oxford and Professor David Walker of Glasgow.

A lexicographer must do what is practicable to improve each new edition of a dictionary. One of the notable features of this new edition is the dating of the most common terms—that is, the parenthetical inclusion of a date to show the term's earliest known use in the English language. For researching these dates, I'm grateful to the distinguished and industrious lexicographer at the Yale Law Library, Fred R. Shapiro.

*See David Mellinkoff, *The Myth of Precision and the Law Dictionary*, 31 U.C.L.A. L. Rev. 423, 440 (1983).

PREFACE TO THE NINTH EDITION

As a lexicographer, I've learned a great deal from my friends and mentors in the field—especially the late Robert W. Burchfield, editor of the *Oxford English Dictionary Supplement* during the latter half of the 20th century. Like his 19th-century precursors at the *Oxford English Dictionary*, Burchfield had a battalion of lexicographic volunteers from around the globe to help him in his momentous work.

I have tried to do the same. Because I genuinely believe in a community of scholars—a community of learned people who understand the cultural and historical importance of having a first-rate dictionary, and are willing to play a role in producing it—I have called on volunteers to help in the production of this vast and complex dictionary. It has been rewarding to have so many lawyers, judges, and scholars answer the call. Take a moment, if you will, and scan the masthead on pages vi–ix. Consider that each of these contributors personally edited 30 to 50 pages of single-spaced manuscript—some more than that. They suggested improved wordings and solved editorial difficulties they encountered. Consider the geographical variety of the panelists, and ponder the years of specialist knowledge they brought to their work. Look at the panel of academic contributors and notice that they are distinguished scholars of the highest order, many of them household names among lawyers. They exerted themselves not just for the betterment of this book, but for the betterment of the law as a whole. For this is the law dictionary that the profession has relied on for over a century. Everyone who cares about the law owes our contributors a debt of thanks.

Bryan A. Garner
LawProse, Inc.
Dallas, Texas
April 2009

Preface to the Eighth Edition

This massive new edition of *Black's Law Dictionary* continues the undertaking begun by Henry Campbell Black in 1891: to marshal legal terms to the fullest possible extent and to define them accurately. But more than that, it continues the effort begun with the seventh edition: to follow established lexicographic principles in selecting headwords and in phrasing definitions, to provide easy-to-follow pronunciations, and to raise the level of scholarship through serious research and careful reassessment.*

The terminology in several fields of law now finds greater coverage in the book than ever before. Specialists generously improved our treatment of terms in admiralty (Michael F. Sturley), contracts (E. Allan Farnsworth), criminal law (Stephen A. Saltzburg, Robert Weisberg), ecclesiastical law (R.H. Helmholz), family law (Lucy S. McGough, Janice M. Rosa), federal agencies (Joseph F. Spaniol Jr.), international law (Thomas Buerghenthal), Louisiana law (Saúl Litvinoff, Symeon Symeonides, A.N. Yianopoulos), oil and gas (John S. Lowe), parliamentary law (Brian Melendez), Roman law (Tony Honoré, O.F. Robinson, Ernest Metzger), and Scots law (O.F. Robinson, David Walker).

Beyond those specialized reviews, however, a newly created panel of academicians reviewed the entire alphabetical span of the book. That way, the entire text received thorough scrutiny by many of the best legal minds in the world. Entries have been updated and expanded to reflect both contemporary and historical usage. I am much indebted to everyone on the panel (see p. v).

Many intellectual-property lawyers reviewed and commented on the terms in their field: Ray Aust, David L. Cargille, Li Chin, Jonathan A. Darcy, Michael J. Dimino, Herbert J. Hammond, Karen G. Horowitz, Audrey E. Klein, Nanda P.B.A. Kumar, Eric Myers, Jeff Mode, Todd A. Norton, Michael A. Papalas, Tracy L. Reilly, and Eric Sofir. Special thanks go to Herbert J. Hammond, who expertly drafted many entries for intellectual property.

The first two appendixes have been greatly amplified. Kurt Adamson of the Underwood Law Library at Southern Methodist University skillfully prepared the table of abbreviations found in Appendix A. The legal maxims in Appendix B were scrutinized and corrected by Professors Honoré and Walker. The maxims have been amended and supplemented to such a degree that it can probably be called the most exhaustive and authoritative collection anywhere to be found.

For the first time, *Black's Law Dictionary* contains citations that stay current: with a massive undertaking by the key-number classification team at West Group, I've added more than 10,000 citations to key numbers and to Corpus Juris Secundum — a significant aid to research. My special thanks to Robin Gernandt, who spearheaded the effort, along with his many colleagues: Jill Bergquist, Kara Boucher, Barbara Bozonie, David Brueggemann, Kevin Callahan, Dan Dabney, Lynn Dale, Lisa Dittmann, Robert Dodd, Wayne Foster, Valerie Garber, Phil Geller, Gerald Gross, Craig Gustafson, Nancy Johnson, Charles Kloos, Nicholas Koster, Jana Kramer, Patricia Larson, Jeffrey Locke,

*See generally Bryan A. Garner, *Legal Lexicography: A View from the Front Lines*, 6 Green Bag 2d 151 (2003).

PREFACE TO THE EIGHTH EDITION

Richard Mattson, Timothy Nornes, Joel Nurre, Frederick Steimann, James Vculek, and Linda Watts. Three who did an extraordinary amount of this highly skilled work merit double mention: Robin Gernandt, Phil Geller, and Lisa Dittmann.

Several splendid lawyers helped edit the manuscript in the final months, often working nights and weekends. My thanks to Julie Buffington, Beverly Ray Burlingame, Nicole Gambrell, and Ann Schwing. Others — namely, Jordan Cherrick, Charles Dewey Cole Jr., Margaret I. Lyle, Steve Putman, and Scott Patrick Stolley — generously took on the task of reviewing batches of new entries. They all made the book better than it otherwise would have been.

In the final stages of preparing the manuscript, Mayuca Salazar and Liliana Taboada, two learned lawyers from Monterrey, Mexico, helpfully reviewed the several Spanish-law terms that appear here.

In the last few days before the manuscript went to the printer, several Minneapolis-area lawyers volunteered to proofread batches of manuscript. My thanks to Catherine Berryman, Vanya S. Hogen, Seth J.S. Leventhal, Michael A. Stanchfield, and Edward T. Wahl. They all made valuable contributions.

As in the past, the business side of producing the dictionary ran smoothly. At West, Doug Powell, Pamela Siegel Chandler, and Louis H. Higgins all provided important support. Timothy L. Payne of West painstakingly shepherded the book through production.

Many others have contributed to the book in one way or another: Angee Calvert, Edwin Carawan, Caroline B. Garner, Harris L. Hartz, Donald F. Hawbaker, Cynde L. Horne, Thomas B. Lemann, Karen Magnuson, R. Eric Nielsen, Alison Parker, Wanda Raiford, Patrick M. Ryan, David W. Schultz, Andre Stipanovic, and Christina E. Wilson. As in the seventh edition, we had the benefit of Charles Harrington Elster's excellent pronunciations.

Finally, I thank my two assistant editors, Tiger Jackson and Jeff Newman, who worked closely with me for several years to produce this much-amplified eighth edition.

Bryan A. Garner
Dallas, Texas
February 2004

Preface to the Seventh Edition

When Henry Campbell Black published the first edition of *Black's Law Dictionary* back in 1891, the *Oxford English Dictionary* had not yet been completed. Nor was the *OED* finished when Black prepared his second edition in 1910. By today's standards, the "gentle art of lexicography,"¹ as it has been called, was yet to experience the tremendous dictionary-making developments that the 20th century had in store, the highlights being the *OED* (1928), *Webster's Second* (1934), *Webster's Third* (1961), and the second edition of the *OED* (1989). Largely through the influence of these major works, dictionaries today are much better than they used to be.

Legal scholarship has also made tremendous strides — even in describing pre-19th-century law. The great legal historians Pollock, Maitland, and Holdsworth had not yet produced their monumental works when Black put out the first edition. Our understanding of Roman law is better today than it was a century ago. Our understanding of feudal law is much better. Meanwhile, our precedent-based system still has not entirely escaped the influence of Roman and feudal law.

At the same time, modern law hurtles headlong into decade after decade of new statutes, new doctrines, and new tripartite tests. The world — as well as the law that tries to govern it — is changing at a dizzying pace. If you want evidence of this change, look inside for the hundreds of new entries such as *cyberstalking*, *jurimetrics*, *parental kidnapping*, *quid pro quo sexual harassment*, *reproductive rights*, and *viatical settlement*.

Given all these developments—both in lexicography and in law—it is hardly surprising that, by the end of the 20th century, *Black's Law Dictionary* had come to need a major overhaul. This edition is the result of that effort.

New Features in the Seventh Edition

Significant strides have been made both in modernizing this edition and in improving its historical depth. The editors' goal was to make it at once the most scholarly and the most practical edition ever published. More than 4,500 entries in the book are entirely new. (Some of the new entries are surprising: previous editions had omitted some commonplace terms such as *act of Congress*, *circuit judge*, *motion for summary judgment*, *senatorial courtesy*, and *sidebar comment*.) Of the remaining 20,000 entries, all have been thoroughly revised: sharpened and tightened.

Aside from the thousands of new entries and subentries, the differences between earlier editions and this one are many. The headwords show whether a term should be uppercase or lowercase, roman or italic. The pronunciation symbols are easy to understand. For the first time ever, etymologies systematically appear. Senses of words are analytically broken down and given numbers — as never before. Definitions are clearer than ever (though the battle for clarity, when the subject is feudal law, can never be completely won). Bullets now appear within definitions to help differentiate definitional information (before the bullet) from encyclopedic information (after the bullet). More than 2,000 newly added quotations from some 400 important works of Anglo-

1. Eric Partridge, *The Gentle Art of Lexicography, as Pursued and Experienced by an Addict* (1963).

PREFACE TO THE SEVENTH EDITION

American legal scholarship appear throughout the text to help convey the nuances of the legal vocabulary. (More about these in a moment.) The 2,200 legal maxims (mostly Latin) are conveniently collected in an appendix, instead of cluttering the main lexicon. In addition, my colleagues and I have:

- Attempted a thorough marshaling of the language of the law from original sources.
- Examined the writings of specialist scholars rather than looking only at judicial decisions.
- Considered entries entirely anew rather than merely accepting what previous editions have said. We have often checked Westlaw and other sources when trying to decide which of two competing forms now predominates in legal usage.
- Imposed analytical rigor on entries by avoiding duplicative definitions and by cataloguing and numbering senses.
- Ensured that specialized vocabularies are included — from bankruptcy to securities law, from legal realism to critical legal studies.

This modern approach to legal lexicography is only a beginning. To its great credit, the West Group has now made the editing of *Black's Law Dictionary*, in its various editions, an ongoing project. This means that *Black's*, like all major dictionaries outside the law, will be a continuing work in progress. As the law continues its rapid evolution, *Black's Law Dictionary* will keep apace.

The Inclusion of Scholarly Quotations

In a novel feature, more than 2,000 quotations from scholarly works appear throughout the text to help round out the treatment of various terms. In selecting these quotations, my colleagues and I have sought a blend of characteristics: temporal and geographic range, aptness, and insight. Some scholars show great astuteness in discussing terminology — particularly Blackstone (English law), Glanville Williams (criminal law and jurisprudence), Rollin Perkins (criminal law), and Charles Alan Wright (federal procedure). Although Blackstone and Wright are well known to American lawyers, Williams and Perkins are not: their work deserves more widespread attention.

In the List of Works Cited (Appendix H) appear the 400-plus lawbooks cited in these pages. We have tried to locate the best scholarly discussions of legal terminology and to give snippets of them. In future editions, we intend to continue this practice, and we encourage readers to submit published quotations for this purpose.

The Challenge of Legal Lexicography

Law dictionaries have a centuries-old tradition of apologizing in advance for errors and omissions. Some of the apologies are moving — especially to one who understands the arduousness of lexicography — and a few border on the humorous:

1607: “[I]f I have either omitted any hard word within my circuit, or set it downe not expounded, I give you good leave to impute the one to my negligence, the other to mine ignorance: and so commend these my paines to your best profit, and you unto God.”²

2. John Cowell, *The Interpreter* 5 (1607).

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- 1670:** “If I have sometimes committed a *Jeofaile*, or hunted Counter in any explication or Etymology, in so large a field of words, and stor’d with such variety of Game, it will be no wonder, and, I hope, will draw no censure upon me from the Ingenuous . . . [I]f I leave some words with a *Quaere* . . . to be resolved or corrected by the more learned; it is but what Cowell frequently, and Spelman has sometimes done.”³
- 1732:** “[W]here there is such great Variety of Learning and abundant Quantity of Nice Matter, with the utmost Care, there must be some Faults and Failings to be Pardon’d by the Reader.”⁴
- 1839:** “To those who are aware of the difficulties of the task, the author deems it unnecessary to make any apology for the imperfections which may be found in the work. His object has been to be useful; if that has been accomplished in any degree, he will be amply rewarded for his labour; and he relies upon the generous liberality of the members of the profession to overlook the errors which may have been committed in his endeavours to serve them.”⁵
- 1848:** “It is not without very considerable diffidence, that this Lexicon is submitted to the indulgence of the Profession and the Public, for no man can be more conscious of the difficulties besetting such a subject — of the many requisites of the task — and above all, of the great discrepancy usually exhibited between what a book *ought to be*, and what it *is* — than the Author of the present undertaking.”⁶
- 1859:** “[T]he work is now submitted to the examination of the profession. That its execution has fallen far short of its design, is already but too apparent to the author’s own observation. Of the defects that may be discovered in its pages, some seem to be inseparable from the task of first compiling any matter of the kind from sources so numerous, and scattered over so wide a field.”⁷
- 1874:** “[W]ithout craving the indulgence of the public, whose servant he is, and to whom, therefore, if he serve up anything he should in all conscience serve up a proper dish, [the Author] is reluctant to acknowledge that an unaccustomed feeling of diffidence has once or twice assailed him, lest his work should not prove so absolutely faultless or so generally useful as it has been his wish to make it.”⁸

In the first edition of this book (1891), Henry Campbell Black broke the tradition, boldly asserting the exhaustiveness of his work:

“The dictionary now offered to the profession is the result of the author’s endeavor to prepare a concise and yet comprehensive book of definitions of the terms, phrases, and maxims used in American and English law and necessary to be understood by the working lawyer and judge, as well as those important to the student of legal history or comparative jurisprudence. . . . Of the most esteemed law dictionaries now in use, each will be found to contain a very considerable number of words not defined in any other. None is quite comprehensive in itself. The author

3. Thomas Blount, *Nomo-Lexicon: A Law-Dictionary* [n.p.] (1670).

4. Giles Jacob, *A New Law-Dictionary* 4 (2d ed. 1732).

5. John Bouvier, *A Law Dictionary* viii (1839).

6. J.J.S. Wharton, *The Legal Lexicon, or Dictionary of Jurisprudence* iii (1st Am. ed. 1848).

7. Alexander M. Burrill, *A Law Dictionary and Glossary* xv (1859).

8. Archibald Brown, *A New Law Dictionary* vi (1874).

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has made it his aim to include *all* these terms and phrases here, together with some not elsewhere defined.” Henry Campbell Black, *A Dictionary of Law* iii (1891).

There is no lack of confidence expressed anywhere in his preface.

Yet in putting forth this seventh edition, my feelings incline more to those of Black’s predecessors than to those of Black himself.

A Lot of Help from Our Friends

Diffidence, though, can lead to safeguards. And so it has in this work. I engaged several distinguished scholars who thoroughly vetted the entire manuscript:

- Tony Honoré, former holder of the Regius Chair in Civil Law at Oxford University, and author of many important books, including *Causation in the Law* (with H.L.A. Hart).
- Joseph F. Spaniol Jr., former Clerk of the Supreme Court of the United States, whose wide-ranging experience includes decades of service in federal rulemaking as a consultant to the Standing Committee on Rules of Practice and Procedure.
- David M. Walker, former holder of the Regius Chair in Civil Law at Glasgow University, perhaps the most prolific legal writer in the British Isles, and author of the renowned *Oxford Companion to Law* (1980).

Additionally, in about a third of the manuscript, we had the help of Hans W. Baade, holder of the Hugh Lamar Stone Chair in Civil Law at the University of Texas. He is a comparativist of the first rank whose expertise ranges from domestic relations to international transactions to conflict of laws.

On the editorial side, several of my colleagues at LawProse, Inc. played crucial roles. David W. Schultz, a seasoned editor who joined the *Black’s* team in 1995, was invaluable in producing both the pocket edition (which appeared in 1996) and this unabridged edition. His editorial judgments have improved every page. Lance A. Cooper, an aspiring legal historian, joined the team in 1997, working skillfully on thousands of entries for more than 18 months. Elizabeth C. Powell arrived in 1998, bringing with her a keen intellect, ten years of lawyerly experience, and an amazing capacity for hard work. All three — Schultz, Cooper, and Powell — are splendid lawyers who, not so long ago, never imagined they would one day be legal lexicographers. Yet they learned dictionary-making as the best lexicographers do: on the job. And they’ve become quite accomplished.

When it came to pronunciations, though, I knew we needed someone already expert in the art. This dictionary presents extraordinary challenges to a pronunciation editor, being full of Latin and French as well as Law Latin (the impure Latin of Renaissance lawyers) and Law French (the Norman French of medieval lawyers). Fortunately, Charles Harrington Elster of San Diego, an orthoepist with several excellent books to his credit, was willing to take on the task. He wisely guided us through the confusing mazes of Anglo-Latin, the only type of Latin with a continuous tradition in Anglo-American law. Even if some of the pronunciations strike you at first as odd, you can be sure that there is sound authority for them.