

Legalese for Genealogists

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LOCATION, LOCATION, LOCATION

- **1790–1805:** General Quarter Session of the Peace [Knox 1790–, Clark 1801–, and Dearborn 1803–]
- **1790–1813:** Circuit Court of the General Court
- **1790– 1805:** Court of Common Pleas [Knox, 1790–; Clark, 1801–; Dearborn, 1803–]
- **1805–1813:** Court of Common Pleas
- **1814–present:** Circuit Court
- **1853–1873:** Court of Common Pleas
- **1871:** Superior Courts [Marion County, 1871; Tippecanoe, 1875; Allen and Vanderburg, 1877; Vigo, 1881; Madison, Laporte, Lake and Porter, 1895; Grant and Howard, 1897]

Source: [familysearch.org/wiki/en/Indiana Court Records](https://familysearch.org/wiki/en/Indiana_Court_Records)

State Court Structures: www.courtstatistics.org/state_court_structure_charts

BLACK’S LAW DICTIONARY

thelawdictionary.org/

Henry Campbell Black

B. 17 October 1860, Ossining, New York

M. 26 April 1910, Washington, D.C. to Bertha A. Brown

D. 19 March 1927, Washington, D.C.

GENERAL TERMS

1. Common Law – law created by judges and tradition
2. Court of Law – court dictated by common law; dealt with criminal matters, damages
3. Court of Equity (Chancery) – court dictated by rules of equity; would order actions
4. Statutory Law – law created by congress rather than courts
5. Statutes of Limitations – numerous laws restricting the time a claim can be brought
6. Appeal – request for review by higher court; a right in Indiana
7. Transfer – request for transfer of jurisdiction to the Supreme Court of Indiana
8. Writ – a special order of the court for a specific, equitable purpose
9. Affidavit – a written, signed statement based on personal knowledge
10. Chattel – personal property
11. Real Property – land, structures
12. Recorder – office where real property records may generally be found
13. Probate – the “proving” court; handles guardianships, wills, etc.
14. Attorney-in-Fact – “Power of Attorney;” a person authorized to act on someone’s behalf
15. Incompetent – someone incapable of making or being held to a legal decision
16. Infant – a minor up to the age of majority (age 18 in Indiana)
17. Fiduciary – someone with a duty to properly execute a specific task for another
18. Guardian – someone with a duty to properly care for another generally
19. Guardian Ad Litem – someone appointed by the court as a guardian for a specific purpose
20. Marriage Bond – amount promised to the court in case a marriage was improper/illegal
21. “-trix” – the female version of “-tor;” Executor/Executrix
22. “In re” – “In the matter of;” “Regarding”

- 23. Cause – proper legal term for a “case” in court
- 24. Caption – heading for legal documents filed in court; State, County, Court, Cause Number

PROPERTY TERMS

- 25. Fee Simple – complete ownership of real property
- 26. Survivorship – when property rights pass automatically to a co-owner
- 27. Joint Tenancy – two or more owners of real property with survivorship interest
- 28. Tenancy in Common – two or more owners of real property without survivorship interest
- 29. Partition – dividing a parcel of land into multiple parts
- 30. Tenancy by the Entirety – allowed for spouses only; similar to joint tenancy
- 31. Life Estate – interest in real property that lasts only until death
- 32. Remainder – the interest in real property that triggers on the death of a life estate
- 33. Reversion – any interest in real property that reverts to another person at a set time
- 34. Covenant – a restriction that runs with the land
- 35. Easement – a right on the land held by someone other than the real property owner
- 36. Restraint on Alienation – anything restricting a person’s right to sell/give real property

PROBATE TERMS

- 37. **Intestate** – death without a will
- 38. Letters of Administration – court documents giving authority on the deceased’s behalf
- 39. Advancement – amount given to an heir/beneficiary prior to death
- 40. Heir – someone who inherits by law from the intestate deceased
 - a. Bodily – a direct, lineal descendant
 - b. Collateral – an indirect, distant relative
- 41. Failure of Issue – term used when a deceased has no bodily heirs
- 42. Escheat – when an intestate deceased has no heirs whatsoever, the estate goes to the State
- 43. **Will** – in Indiana, a signed document witness by two disinterested persons
- 44. Nuncupative – an oral will, void in most states, including Indiana
- 45. Holographic – a will written in the testator/testatrix’s own hand
- 46. Causa Mortis – a “death bed” gift; only oral will allowed in Indiana
- 47. Executor – person designated by the will document to execute the will’s instructions
- 48. Ancillary – a secondary executor or a secondary execution of the will
- 49. Letters Testamentary – court documents given to the executor to execute the will
- 50. Construction – when a will is not clear or contains conflicts, the court interprets it
- 51. Codicil – an attached amendment to an existing will
- 52. Beneficiary – a person who receives something from a will
 - a. Per Capita – beneficiaries receive in equal proportion
 - b. Per Stirpes – beneficiaries receive according to generation
- 53. Legacy – a gift of personal property in a will, usually money
- 54. Bequest – a gift of personal property in a will, usually a physical object
- 55. Devise – a gift of real property
- 56. Residuary – a clause written to dispose of extra/forgotten property not otherwise mentioned
- 57. After-Acquired Property – property obtained post-will and not accounted for in a codicil
- 58. Abatement – a reduction of a legacy due to insufficient assets
- 59. Lapse – when a beneficiary has pre-deceased the testator/testatrix
- 60. Pretermitted – a child unknown at the time of execution of the will
- 61. Election – an heir’s right to take an amount as though the deceased was intestate
- 62. Contest – when beneficiaries/heirs dispute the will’s terms or veracity