

**OSBORN'S  
CONCISE  
LAW  
DICTIONARY**

**SIXTH EDITION**

By  
**JOHN  
T. BURKE**

**SWEET &  
MAXWELL**

OSBORN'S  
CONCISE  
LAW DICTIONARY

SIXTH EDITION

BY

JOHN BURKE

*of Lincoln's Inn, Barrister-at-Law*

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## PREFACE TO THE SIXTH EDITION

THIS is the first edition of this work which is not by my friend P. G. Osborn. I have not tried to improve the book. The fact that it went through five editions is a tribute to Osborn's choice of subject matter. His gift of pithy expression was admirably suited to a work of this character. I have contented myself with bringing the book up to date, nevertheless the amount of alteration involved in covering the changes of law in the past decade has been very much more than might be expected in a concise law dictionary. The work of the Law Commission and of the Criminal Law Revision Committee has resulted in changes which run right through this work. In addition, the modern tendency of trying to legislate in detail for everything results in Acts of unbelievable complexity. The two latest examples of this are the Sex Discrimination Act 1975 and the Employment Protection Act 1975. The law is stated as at January 1, 1976.

JOHN BURKE

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# A

## CONCISE LAW DICTIONARY

### A

**A1 at Lloyd's.** A ship entered in Lloyd's Register of Shipping as of the highest class.

**A and B Lists.** See CONTRIBUTORY.

**a coelo usque ad centrum.** [From heaven to the centre of the earth.] In principle, the extent of the right of the owner of property. See *CUJUS EST SOLUM*, etc.

**a fortiori.** [Much more; with stronger reason.]

**a mensa et thoro.** [From board and bed.] See DIVORCE

**a posteriori.** [From the effect to the cause.] Inductive reasoning.

**a priori.** [From the cause to the effect.] Deductive reasoning.

**A.R. (Anno Regni).** [In the year of the reign.]

**a tempore cujus contrarii memoria non existet.** [From a time of which there is no memory to the contrary.] See MEMORY.

**a verbis legis non est recedendum.** [You must not vary the words of a statute.]

**a vinculo matrimonii.** [From the bond of matrimony.] See DIVORCE.

**Ab.: Abr.** Abridgment (*q.v.*).

**ab antiquo.** [From old times.]

**ab initio.** [From the beginning.] When an authority or licence is given to a person by the law, and he abuses it, he becomes a trespasser *ab initio*, and everything done by him in purported exercise of such authority or licence becomes wrongful. See *Six Carpenters' Case* (1611) 1 Smith L.C. See NULLITY; TRESPASS AB INITIO.

**ab intestato.** [From an intestate.]

**abandonment.** The relinquishment of an interest, claim, or thing. In marine insurance, when there is a constructive total loss (*q.v.*) the insured may abandon the subject-matter insured to the insurer or underwriter by giving notice of abandonment to him within a reasonable time. Thereupon the insured is entitled to the insurance moneys, and the insurer or underwriter to the subject-matter insured.

An easement (*q.v.*) may be lost by abandonment, of which non-user for 20 years may be sufficient evidence. But customary rights cannot be lost by disuse or abandonment (*New Windsor Corporation v. Mellor* [1975] Ch. 380).

There is abandonment of an action, when it is no longer proceeded with, or of an appeal when it is withdrawn. See DISCONTINUANCE.

**abatement.** A reduction, allowance, or rebate. An abatement *pro rata* is a proportionate reduction of the amount of each of a number of debts or claims, as where a fund or estate is insufficient for payment of all in full.

**abatement of action.** A suspension or termination of proceedings in an action for want of proper parties or owing to a defect in the writ or service. Formerly almost every change of interest after the commencement and before the termination of



## **abatement of freehold**

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proceedings caused an abatement. But now a cause or matter is not abated by the marriage, death or bankruptcy of any of the parties, if the cause of action survives; nor by changes in title during the pendency of the suit; nor by the death of either party between verdict and judgment (Ord. 15, r. 7). Criminal proceedings are not terminated by the death either of the prosecutor or of the Sovereign, but on the death of the accused the proceedings drop. See **PLEAS IN ABATEMENT**.

**abatement of freehold.** The entry of a stranger upon land on the death of the owner, prior to the heir. (Obsolete.)

**abatement of legacies.** The receipt by legatees of none or part only of their legacies owing to insufficiency of assets. General legacies not given in payment of a debt due to the legatee or in consideration of the legatee abandoning any right or interest, abate proportionately between themselves, unless the intention is clear that any particular legacy shall be paid in full. Specific legacies take priority over general legacies, and are liable to abatement only if the assets are insufficient for the payment of debts. Demonstrative legacies are not subject to abatement unless the assets are insufficient for payment of debts, or until the fund out of which payment is directed becomes exhausted. See **LEGACY**.

**abatement of nuisance.** To remove or put an end to it, as an alternative to bringing an action. An occupier of land may terminate by his own act any nuisance by which that land is injuriously affected; *e.g.* by cutting off overhanging branches of trees. Notice may be necessary to the other party if it is necessary to enter on his land to abate the nuisance, except in case of emergency.

A public nuisance may be abated by anyone to whom it does a special injury, but only to the extent necessary to prevent such injury; *e.g.* to remove a fence unlawfully erected across a highway. See **NUISANCE**.

Local authorities have statutory powers to secure abatement notices in respect of statutory nuisances. See *e.g.* the Public Health Act 1936, ss. 91–99; Public Health (Recurring Nuisances) Act 1969, s. 3.

**abatement of purchase-money.** The reduction of the agreed purchase price by way of compensation, when a vendor has misdescribed property and is unable to convey it as described.

**abator.** One who abates, or terminates, a nuisance by his own act.

**abbreviatio placitorum.** A collection of cases decided in the superior courts from the reign of Richard I down to the commencement of the Year Books.

**abdication.** Vacating the throne. It can be effected now only by Act of Parliament. See *e.g.* His Majesty's Declaration of Abdication Act 1936 (1 Edw. 8, c. 3).

**abduction.** The wrongful taking away of a person. Under the Sexual Offences Act 1956, it is an indictable offence (1) to take away or detain against her will any woman of any age with intent to marry her or have sexual intercourse with her or to cause her to be married to or have sexual intercourse with any other person either by force or for the sake of her property or expectations of property (s. 17); (2) unlawfully to take out of the possession and against the will of any person having the lawful care of her, any unmarried girl being under the age of 16 (s. 20), irrespective of whether the defendant believes her to be, or she appears to be, over that age; (3) to take any unmarried girl under 18 out of the possession and against the will of her lawful guardian with the intent that she shall have illicit sexual intercourse with a man or men, unless the defendant has reasonable cause to believe she is over 18 (s. 19); (4) to take a female defective out of the possession of her parent or guardian against his will with intent that she shall have unlawful sexual intercourse with men or a particular man. Reasonable belief that the woman was not a defective is a defence (s. 21).

**abearance.** Behaviour.

**abet.** To aid in the commission of an offence. A person may be found guilty of aiding and abetting although the principal is acquitted (*R. v. Cogan* [1975] 3 W.L.R. 316). See ACCESSORY.

**abeyance.** The condition of an inheritance which has no present owner, *e.g.* a peerage.

**abeyance of seisin.** An interruption in the tenancy of a freehold. It was a rule of the common law that the seisin must always be "full," *i.e.* the tenancy of the freehold be uninterrupted, and any attempted disposition of land which would produce an abeyance of the seisin was void. This rule ceased to operate when the Law of Property Act 1925 came into effect.

**abjuration.** Forswearing or renouncing by oath: an oath to leave the realm for ever, taken by a person who had claimed sanctuary (*q.v.*).

**abode.** Habitation, or place of residence; the place where a person ordinarily lives and sleeps at night. For some purposes, it is a place where he may normally be found *e.g.* where he carries on business. Persons who have, under the Immigration Act 1971, the right of abode in the United Kingdom and the right to come and go are termed "patrials" (ss. 1, 2).

**abominable crime.** The term used in the Offences against the Person Act 1861, s. 61, to describe the felonies of sodomy and bestiality. See BUGGERY.

**abortion.** It is an indictable offence if a woman is with child and any person (including the woman herself) unlawfully administers to her any noxious drug or unlawfully uses any instruments, etc., with intent to procure her miscarriage (Offences against the Person Act 1861, s. 58. Criminal Justice Act 1948, s. 1). It is otherwise if it is done in good faith in order to save the life of the woman, or to prevent her becoming a physical or mental wreck (*R. v. Bourne* [1939] 1 K.B. 687). See also CHILD DESTRUCTION.

A pregnancy may be lawfully terminated under the Abortion Act 1967. See *R. v. Smith* [1973] 1 W.L.R. 1510.

**abridgment.** A digest of the laws of England, *e.g.* Viner's, 1741.

**abrogate.** To repeal, cancel, or annul.

**abscond.** Secretly to go away, or evade the law. See ACT OF BANKRUPTCY (2).

**absence.** If a person has not been heard of for seven years, and the circumstances are such that, if alive, he would have been heard of, the presumption of death arises, but not as to the date of death (*Re Phene's Trusts* (1869) L.R. 5 Ch.App. 139). The court may, however, order that death be presumed at any time if sufficient evidence is shown. See the Matrimonial Causes Act 1973, s. 19; Domicile and Matrimonial Proceedings Act 1973, Sched. 6. See also BIGAMY.

**absence beyond the seas.** Absence from the United Kingdom (*q.v.*).

**absente reo.** [The defendant being absent.]

**absoluta sententia expositore non indiget.** [When you have plain words capable of only one interpretation, no explanation of them is required.]

**absolute.** Complete and unconditional. (1) A rule or order which is complete and becomes of full effect at once. (See NISI.) (2) An estate which is not defeasible before its natural expiration.

**absolute assignment.** An assignment of a whole debt (and not merely a portion of it), free from conditions but including an assignment by way of mortgage, or by way of trust. See ASSIGNMENT OF CHOSSES IN ACTION.

## absolute discharge

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**absolute discharge.** The court may grant a convicted person an absolute discharge (Powers of Criminal Courts Act 1973, s. 7).

**absolute interest.** Full and complete ownership; a vested right of property which is liable to be determined only by the failure of appropriate successors in title.

**absolute title.** The registered proprietor of lands registered with an absolute title has a State guaranteed title that there is no other person who has a better right to the land (see Land Registration Act 1925, s. 5).

**absolve.** To free from liability or guilt.

**absque hoc.** [Without this, that.] The commencing words of a traverse, or denial, in the old pleadings.

**absque impetitione vasti.** [Without impeachment of waste (*q.v.*)]

**absque tali causa.** [Without the alleged cause.] See *DE INJURIA*.

**abstract of title.** A chronological statement of the instruments and events under which a person is entitled to property, showing all incumbrances to which the property is subject. Specimens are given in Schedule 6 to the Law of Property Act 1925 (see s. 206 (2)). Over-reached interests are not to be included in an abstract (*ibid.* s. 10).

An abstract must be supplied by the owner of land to a purchaser under a contract of sale; also it is usually required by an intending mortgagee. Such of the expenses of verifying the abstract as are to be borne by the purchaser are specified in *ibid.* s. 45 (4). See *CURTAIN PROVISION; TITLE*.

**abundans cautela non nocet.** [There is no harm done by great caution.] To remove doubts, there is often expressed what would otherwise be implied.

**abuse.** Vulgar abuse, insult, or vituperation afford in general no ground for an action for defamation.

**abuse of distress.** Where animals or chattels lawfully distrained are worked or used. It is a ground for an action of conversion.

**abuse of process.** Abuse of legal procedure. A frivolous or vexatious action as, *e.g.* setting up a case which has already been decided by a competent court. If the plaintiff induces the defendant by fraud to come under the jurisdiction so that he may be served with a writ, the court will set aside the service as an abuse of the process of the court. See *VEXATIOUS ACTIONS*.

**abutals.** The bounds of land; the parts at which it abuts on other lands.

**ac etiam.** [And also.]

**accedas ad curiam.** [Go to the court.] A writ by which a tenant could remove his case from the Court Baron into the Court of Common Pleas.

**acceleration.** Where an estate or interest in any property in remainder or expectancy falls into possession sooner than it otherwise would, by reason of the preceding interest being or becoming void or determined by surrender, merger, lapse, or extinguishment. No writ of acceleration may be issued in respect of a peerage which has been disclaimed (Peerage Act 1963, s. 3 (2)).

**acceptance.** (1) Tacit acquiescence or agreement imported by failure to reject a thing offered; thus acceptance of rent may create a tenancy or waive a notice to quit.

(2) The act of assenting to an offer. Acceptance of an offer to create a contract must be made while the offer still subsists by the offeree who must know of the offer; it must conform with the offer, and must either be communicated to the offeror, or the requisite act must be done.

## **accessorium non ducit, sed sequitur suum principale**

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(3) Acceptance of goods within the Sale of Goods Act 1893, s. 4, is where the buyer does any act in relation to the goods which recognises a pre-existing contract of sale, whether there is an acceptance in performance of the contract or not. There is only an acceptance of goods for the purposes of the performance of the contract (involving the passing of the property) when the buyer intimates to the seller that he has accepted the goods, or when they have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them (Sale of Goods Act 1893, s. 35; Misrepresentation Act 1967, s. 4 (2)).

**acceptance of a bill of exchange.** When the person on whom the bill is drawn writes his signature across the bill, with or without the word "accepted," he thereby engages to pay the bill when due (Bills of Exchange Act 1882, ss. 17-19). Acceptance *supra protest* is where a bill of exchange has been protested for non-acceptance by the drawee; anyone may thereupon accept it for honour of the drawer or indorsers (*ibid.* ss. 65-68).

**acceptance of service.** Where a solicitor writes on a writ of summons that he accepts service of the writ on behalf of the defendant, personal service is not required and the writ is deemed to have been served on the day the indorsement is made (Ord. 10, r. 1 (2)).

**access.** (1) The opportunity of marital intercourse between husband and wife. It is a presumption of law that a child born during lawful wedlock, or within the period of gestation after its termination, is legitimate, but evidence that access by a husband to his wife at the necessary time was impossible, or highly improbable, will rebut the presumption. The evidence of a husband or wife is admissible in any proceedings to prove that marital intercourse did or did not take place between them during any period (Matrimonial Causes Act 1973, s. 48).

(2) Access to children is a basic right of a parent.

(3) There is a right of access to a highway by the owner of adjoining land.

**Accessio.** The doctrine of Roman law, founded on the right of occupancy, that the additions to property by growth or increase belonged to the owner of that property.

**accessio cedit principali.** [An accessory thing when annexed to a principal thing becomes part of the principal thing.] The accessory thing becomes the property of the owner of the principal thing; as, *e.g.* in alluvion, dereliction, and the addition of buildings and plants to the soil, the birth of offspring of animals, etc.

There is also *accessio* in the combination of things belonging to different persons in a single article; *e.g.* the shoeing of A's horse with B's horseshoes. In principle, the ownership of chattels is not divested, but possession may be awarded at the discretion of the court to the person whose interest in the combined or new chattel is the more substantial, on the terms that he pays the value of the other's interest.

**accession.** (1) Succeeding to the Throne. "The King never dies," and the heir to the throne accedes immediately on the death of the reigning Sovereign. The new Sovereign makes a declaration as prescribed by the Accession Declaration Act 1910. See ACT OF SETTLEMENT.

(2) A mode by which original acquisition of territory may take place, without any formal act of taking possession (see *The Anna* (1807) 5 C.Rob. 373).

**accessorium non ducit, sed sequitur suum principale.** [The incident shall pass by the grant of the principal, but not the principal by the grant of the incident.]

## **accessorium non trahit principale**

**accessorium non trahit principale.** [An accessory thing does not carry with it the thing to which it is accessory.]

**accessory.** Before the abolition of the distinction between felony and misdemeanour (see FELONY), accessories were those concerned in the crime, otherwise than as principals, who actually committed the crime. An accessory before the fact was one who directly or indirectly procured by any means the commission of any felony but who was not actually or constructively present at the commission of the felony. If he was present, he was a principal in the second degree. An accessory after the fact was one who, with knowledge that a felony had been committed, received, relieved, comforted or assisted the felon, or in any way secured or attempted to secure the escape of the felon (Accessories and Abettors Act 1861).

It follows from the assimilation of the law to that applicable to misdemeanour (*q.v.*) that accessories before the fact are to be treated as principal offenders and punishable as such (accessories and Abettors Act 1861, s. 8). The offence of being an accessory after the act has lapsed (*R. v. Charles Fisher* [1969] (1 W.L.R. 8) but is replaced by a new and substantially similar, offence of assisting a person who has committed an arrestable offence (see ARREST).

In treason (*q.v.*) there are no accessories. All are deemed principals and punishable as such.

A person who aids, abets, counsels, or procures the commission of a summary offence is treated as a principal (Magistrates' Courts Act 1952, s. 35).

**accident.** In the popular and ordinary sense, accident denotes an unlooked-for mishap or an untoward event which is not expected or designed (*Fenton v. Thorley* [1903] A.C. 443 at 448, 451). Inevitable accident means an accident the consequences of which were not intended and could not have been foreseen by the exercise of reasonable care and skill. It is, in general a ground of exemption from liability in tort. See ACT OF GOD.

In equity, accident means such an unforeseen event, misfortune, loss, act, or omission as is not the result of any negligence or misconduct by the party applying for relief. If a deed or negotiable security were lost, equity would enforce the plaintiff's rights under the document on his giving, if necessary, a proper bond of indemnity to the defendant.

In criminal law, on a charge of murder, the defence of accident may be a complete defence, or may justify a conviction for manslaughter only.

**accident cases.** The fact that serious injuries have been incurred in accidents is not a "special circumstance" so as to lead to a trial by jury. The judges have evolved scales of damages with which juries would be unfamiliar (*Sims v. William Howard & Son Ltd.* [1964] 2 Q.B. 409, C.A.).

**accommodation agencies.** These are regulated by the Accommodation Agencies Act 1953 made permanent by the Expiring Laws Act 1969. See *Saunders v. Soper* [1975] A.C. 239.

**accommodation bill.** A bill of exchange which a person has signed as drawer, acceptor, or indorser, without receiving value therefor and for the purpose of lending his name to some other person (Bills of Exchange Act 1882, s. 28 (1)).

**accommodation land.** Land occupied or used in conjunction with other land or premises, as a matter of convenience.

**accommodation works.** Gates, bridges, fences, etc., constructed and maintainable by a railway or canal concern or the Railways Board, for the accommodation of the owners or occupiers of adjoining lands.

**accomplice.** Any person who, either as a principal or as an accessory, has been associated with another person in the commission of any offence. The evidence

of an accomplice is admissible, but the judge must warn the jury of the danger of convicting on such evidence unless corroborated, and if this warning is omitted a conviction may be quashed. See ACCESSORY; CORROBORATION.

**accord and satisfaction.** The purchase of a release from an obligation, whether arising under contract or tort, by means of any valuable consideration, not being the actual performance of the obligation itself. The accord is the agreement by which the obligation is discharged. The satisfaction is the consideration which makes the agreement operative (*British Russian Gazette Ltd. v. Associated Newspapers Ltd.* [1933] 2 K.B. 616 at 643–644). Thus there is accord and satisfaction where the parties to a contract agree that one of them shall give, and the other shall accept, something different in kind from what he was bound to give or accept under the contract. The general rule is that accord without satisfaction does not discharge a contract after breach, but the promise of something different will discharge the original cause of action, provided the intention was that the new promise itself should be taken in satisfaction and not the actual performance of it (*Morris v. Baron* [1918] A.C. 1 at 35).

**account, action of.** At common law, an action lay for not rendering a proper account of profits, as *e.g.* between partners. It became obsolete and was replaced by the equitable remedy of an account. A plaintiff may endorse his writ, with a claim for an account. The taking of accounts is assigned to the Chancery Division.

Equity allows an account in aid of an equitable right, and in aid of a legal right in cases of principal against agent, mutual accounts, special complication, and as ancillary to an injunction.

**account, current.** A running account kept between parties with items on both sides; *e.g.* a banking account. See APPROPRIATION.

**account duty.** The duty imposed in 1881 upon personal property above the value of £100 passing at death but not subject to probate duty (*q.v.*). Replaced by estate duty (*q.v.*).

**account on the footing of wilful default.** An account taken on the footing that the accountable party is liable not only for sums actually got in, but for all moneys which, without his wilful neglect or default, might have been possessed or received. Thus, where it is proved that a debt was due to a trust estate, the burden is thrown on the trustee or executor to show why he did not get it in. Similarly, a mortgagee in possession is liable to account not only for the rents and profits he actually receives, but for those he would have received if he had used the greatest possible care.

**account, settled.** A settled account is a statement in writing of the account between two parties, one of whom is under a duty to account to the other, which both of them have agreed to and accepted as correct. The plea of a settled account is a good defence to an action for an account, but the plaintiff may in reply allege error or fraud. Leave may be given him to “surcharge and falsify,” *i.e.* add items in his favour which were omitted, and strike out items against him which were wrongly inserted, or to show errors. If fraud be proved the account will be set aside.

**account stated.** (1) An admission of a sum of money being due from one person to another, who are under no duty to account to each other, from which a promise to pay is implied by law; *e.g.* an IOU. It is not necessarily binding: it may be shown to have been given in mistake, or for a debt for which the consideration has failed or was illegal. (2) An account which contains entries on both sides of it, and in which the parties have agreed that the items on one side should be set against the items on the other side, and the balance should be paid. The items on

## accountable receipt

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the smaller side are set off and deemed to be paid by the items on the larger side, from which arises a promise for good consideration to pay the balance.

**accountable receipt.** An acknowledgment of the receipt of money, or of any chattel, to be accounted for by the person receiving it.

**accountant-general.** The officer of the Supreme Court in whom funds paid into court are vested: the Clerk of the Crown (*q.v.*) (Judicature Act 1925, s. 133; Administration of Justice Act 1965).

**accountant to the Crown.** Any person who has received money belonging to or for and on behalf of the Crown, and is accountable therefor. See CROWN DEBTS.

**accounts and inquiries.** The court may at any stage of the proceedings direct any necessary accounts and inquiries to be taken and made in chambers (Ord. 43, r. 2).

**accounts, falsification of.** Falsification of accounts is an indictable offence under the Theft Act 1968, ss. 17–20. See also the Companies Act 1948, s. 329.

**accredit.** To furnish a diplomatic agent with papers, called credentials or letters of credit, which certify his public character.

**accretion.** The act of growing on to a thing; usually applied to the gradual accumulation of land from out of the sea or a river. If the accretion to land is imperceptible, it belongs to the owner of the land, but if sudden and considerable it belongs to the Crown. Accretions from the sea are annexed to the relevant parish or community (Local Government Act 1972, s. 72). See ACCESSIO; ALLUVION; DERELICTION.

**accrual.** A right is said to accrue when it vests in a person, especially when it does so gradually or without his active intervention, *e.g.* by lapse of time, or by the determination of a preceding right. When a fund or other property is increased by additions which take place in the ordinary course of nature or by operation of law, the additions are said to accrue either to the original fund or property, or to the person entitled to it.

**accumulation.** The continual increase of principal by the re-investment of interest. By the Law of Property Act 1925, replacing the Accumulations Act 1800, accumulation of income is restricted to (a) the life of the settlor; (b) 21 years thereafter; (c) the duration of the minority of any person or persons living or *en ventre sa mère* at the death of the settlor; (d) the duration of the minority of any person or persons who would have been entitled to the income if of full age (s. 164); and (in respect of instruments taking effect on or after July 16, 1964), (e) a term of 21 years from the date of the making of the disposition, and (f) the duration of the minority or respective minorities of any person or persons in being at the date of the disposition (Perpetuities and Accumulations Act 1964, ss. 13, 15 (5)). If the purpose is the purchase of land, then (d) is the only period admissible (Act of 1925 s. 166). The restrictions do not apply to accumulations for the payment of debts of the settlor, for raising portions for children, and in respect of the produce of timber or wood (*ibid.* s. 164). So far as the direction to accumulate is void for excess, the income belongs to those who would have been entitled thereto if such accumulation had not been directed.

A beneficiary may put an end to a trust for accumulation which is exclusively for his benefit and demand the property when he becomes *sui juris*. The exercise of this right is facilitated by s. 14 of the Act of 1964. See PERPETUITY.

**accumulative sentence.** A sentence of imprisonment, which is to commence at the end of another sentence already imposed.

**accusare nemo se debet; accusare nemo se debet nisi coram Deo.** [No one is bound to accuse himself except to God.] A witness is not bound to answer any question which in the opinion of the court would incriminate him.

**acknowledgment of debt.** An admission in writing signed by the debtor or his agent, that a debt is due, which revives a debt which is statute barred. By the Limitation Act 1939, s. 24, where a right of action has accrued in respect of a debt and there is such an admission made, the right of action is deemed to have accrued on the date of the acknowledgment. See LIMITATION, STATUTES OF.

**acknowledgment of deeds.** Deeds purporting to dispose of the property of a woman married before January 1, 1883 had, in general, to be executed by her husband, as well as by her, and had to be acknowledged by her before a judge or a commissioner appointed for the purpose, who examined her separately as to her knowledge of, and consent to, the contents of the deed, and indorsed a memorandum as to the fact on the deed. Rendered unnecessary by the Law of Property Act 1925, s. 167.

**acknowledgment of right to production of documents.** A writing given by a person who retains possession of title deeds which cannot be delivered over to a purchaser. The possessor is obliged to produce them for proving or supporting the title of any person entitled to the benefit of the acknowledgment, and to deliver to him true copies of or extracts from them (Law of Property Act 1925, s. 64).

**acknowledgment of wills.** If a will is not signed in the presence of witnesses, the testator must acknowledge his signature in their presence (Wills Act 1837, s. 9).

**acquiescence.** Assent to an infringement of rights, either expressed, or implied from conduct, by which the right to equitable relief is normally lost. See LACHES.

**acquittal.** Discharge from prosecution upon a verdict of not guilty, or on a successful plea of pardon or of *autrefois acquit* or *autrefois convict* (*q.v.*). Acquittal is a bar to any such subsequent prosecution.

**acquittance.** A written acknowledgment of the payment of a sum of money or debt due.

**act in law.** An act of a party or person having legal effect; *e.g.* the making of a contract or conveyance. See also ACT OF LAW.

**act in pais.** [Act in the country.] An act or transaction done or made otherwise than in the course of a record or deed.

**act of attainder.** See ATTAINDER.

**act of bankruptcy.** An act of a debtor upon which a bankruptcy petition may be grounded, if committed within three months before the presentation of the petition; something done or suffered by a debtor which may give the court jurisdiction to make a receiving order (see Bankruptcy Act 1914, s. 1).

The acts of bankruptcy may be summarised as follows:

(1) If in England or elsewhere a debtor makes: (a) a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally; (b) a fraudulent conveyance, gift, delivery or transfer of his property, or of any part thereof; (c) any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would be void as a fraudulent preference if he were adjudged bankrupt.

(2) If with intent to defeat or delay his creditors he: (a) departs out of England; or (b) being out of England remains out of England; or (c) departs from his dwelling-house; or (d) otherwise absents himself; or (e) begins to keep house.

(3) If execution levied against him by seizure of his goods and sale, or held by sheriff for 21 days.



## act of God

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(4) If he files in the court a declaration of his inability to pay his debts, or presents a bankruptcy petition against himself; or fails to comply with a bankruptcy notice; or gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts.

(5) The making of an application in the county court for an administration order (Administration of Justice Act 1965, s. 21).

(6) On an application to the county court for an attachment of earnings order, an order for the debtor to furnish a list of all his creditors (Attachment of Earnings Act 1971, s. 4).

On a judgment summons in lieu of committal the court may make a Receiving Order, in which case the debtor is deemed to have committed an act of bankruptcy (Act of 1914, s. 107 (*h*)).

**act of God.** An accident or event which happens independently of human intervention and due to natural causes, such as storm, earthquake, etc., which no human foresight can provide against, and of which human prudence is not bound to recognise the possibility. It will relieve from absolute liability in tort.

**act of grace.** An Act of Parliament giving a general and free pardon.

**act of indemnity.** An Act passed to legalise transactions which, when they took place, were illegal, or to exempt particular persons from pecuniary penalties or punishments for acts done in the public service, as in time of war, which were breaches of the law. The Indemnity Act 1920 restricted the taking of legal proceedings in respect of such acts.

**act of law.** The effect of the operation of law, *e.g.* succession to property or intestacy. See also ACT IN LAW.

**Act of Parliament.** The legislative decree of the Queen in Parliament; a statute. There are the following kinds of Acts: Public, General, Local, Personal and Private. Acts are now given chapter numbers by reference to the calendar year in which they are passed (Acts of Parliament Numbering and Citation Act 1962).

An Act comes into force on the day on which it receives the Royal Assent (*q.v.*) unless otherwise provided, with effect from the last moment of the previous day (Acts of Parliament (Commencement) Act 1793). See APPOINTED DAY; ROYAL ASSENT; STATUTE.

**Act of Settlement 1701.** The statute 12 & 13 Will. 3, c. 2, which enacted:

(a) That after the death of William III and of the Princess Anne (afterwards Queen Anne) and in default of issue of either of them, the Crown should descend to Sophia, Electress of Hanover and the heirs of her body, being Protestants.

(b) That the Sovereign shall be a member of the Church of England as by law established and shall vacate the throne on becoming or marrying a Roman Catholic.

(c) That judges should hold office during good behaviour and be paid fixed salaries, but might be removed from office on the address of both Houses of Parliament. See now Judicature Act 1925, s. 12.

(d) That no pardon under the Great Seal of England should be pleadable to an impeachment (*q.v.*).

**act of state.** An act of the executive as a matter of policy performed in the course of its relations with another state, including its relations with the subjects of that state, unless they are temporarily within the allegiance of the Crown. It is an exercise of sovereign power which cannot be challenged, controlled or interfered with by municipal courts. Its sanction is not that of law but that of sovereign power, and whatever it be, municipal courts must accept it, as it is, without