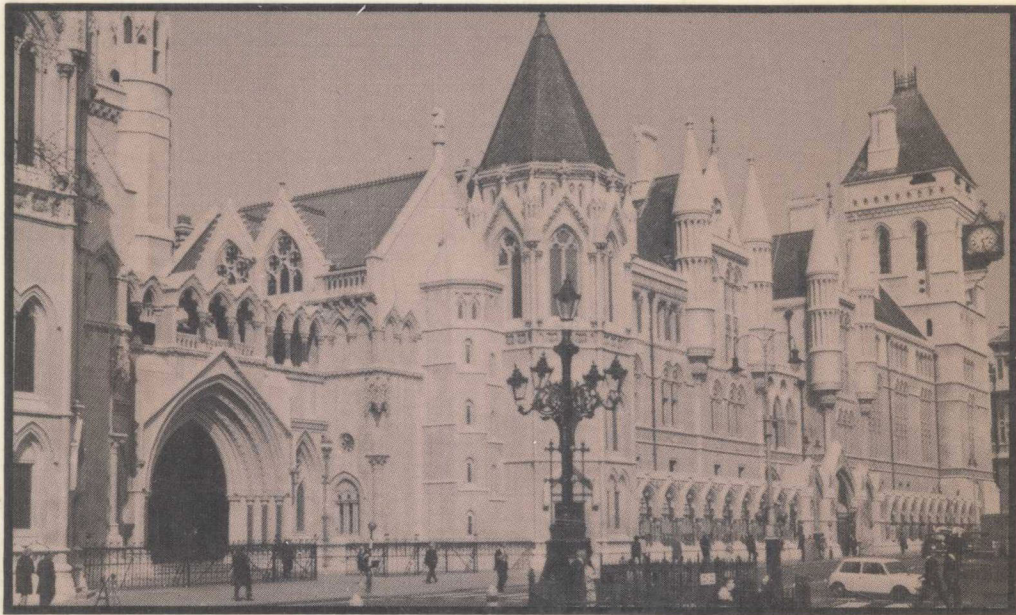


*The Layman's
Dictionary of*
English Law



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Preface

There is little doubt that across the centuries lawyers have tended to envelop their activities in a shroud of jargon which often mystifies the general public. Less true perhaps is the accusation that, having invented a private language, the legal profession then has to be paid substantial sums to explain what it is really talking about!

Most legal dictionaries until now have sought to provide a summary of the law relating to each entry, or to give the strict legal definition of each word or phrase. This is very helpful to other lawyers, but may not be of much assistance to the non-lawyer looking for a quick insight into the fundamentals. This Dictionary does not set out to provide definitions for citation in courts of law; on the contrary, it tries to convey a clear impression in everyday language of the terms and expressions commonly used in legal offices and documents. I hope that I have succeeded in avoiding any direct reference to a decided case or a particular Act of Parliament.

It has not been possible to escape completely from Latin tags and maxims, as they are so widely used by the legal profession. Side by side with the new concepts of consumer credit and software protection there are entries describing courts and legal principles which no longer apply in modern law. They are included because they are often referred to in the general literature of our language, and form part of the country's social and economic development.

This book is designed to find a place in the ordinary household, so that it may help to give a speedy explanation of legal words and phrases used in newspapers and broadcasting, or the technical documentation which increasingly finds its way through the letter box. I hope that it may also be of use to

students of law and other professional disciplines, to the businessman or woman, and indeed to anyone brought into contact with our legal system.

It remains to acknowledge the friendly encouragement and assistance I have received from the editorial staff at Waterlows, particularly James Lamb, Jeremy Stratton and Kate Robertson.

G.McF.

In fond memory of my brother
Neil Stewart Robertson McFarlane
(1939-1952)

Abbreviations used in the Dictionary

(Fr.) French (including Norman French)

(Lat.) Latin

(q.v.) quod vide, *which see* (a cross-reference which may prove helpful)

A

abandonment of claim

The relinquishment by one side in a civil action of its claim against the other side or party.

abatement

(1) The bringing to an end of a situation which was causing a nuisance.

(2) The proportionate reduction of all bequests in a will, where they cannot be paid in full.

abduction

The crime of taking a woman or girl away, or keeping her against her will for marriage or sexual purposes. In the case of a girl under 16, taking her away from the person responsible for her.

ab extra (*Lat.*)

From the outside.

ab inconvenienti (*Lat.*)

An argument which sets out to provide an explanation for a tricky problem.

ab initio (*Lat.*)

From the beginning; from the outset.

abominable crime

A nineteenth century expression used to describe **BUGGERY** (q.v.) and **BESTIALITY** (q.v.)

abortion

The termination of pregnancy, which may constitute a crime if the prescribed conditions are not carried out.

absconding

The act of making off without permission, applied frequently to people who have been released on bail.

absolute bill of sale

A BILL OF SALE (q.v.) not given as security for money, which vests the property absolutely in the GRANTEE (q.v.), although the GRANTOR (q.v.) keeps possession.

absolute discharge

An order made by a court in a criminal case whereby no immediate punishment is imposed on the person discharged.

absolute offence

A criminal offence of so-called strict liability, in which no element of intention is needed in order to prove guilt.

absolute privilege

A defence to an action for defamation where the words complained of were uttered during the course of one of a limited class of occasions, such as Parliamentary or judicial proceedings.

abstract of title

In conveyancing, a document drawn up on behalf of the seller summarising the title deeds.

abuse of process

Something done by the prosecution in a criminal trial which seriously prejudices the possibility of the accused person successfully defending himself.

abusing children

The criminal offence of having unlawful intercourse with young girls.

abuttals

The boundaries of any piece of land, at points where it touches neighbouring pieces of land.

academic lawyer

A teacher of law, not necessarily practising or employed in the law, but whose researches or commentaries may assist in its development.

A.C.A.S.

The Advisory, Conciliation and Arbitration Service, set up to work for improvement in industrial relations, particularly collective bargaining procedures.

accepting house

A business which guarantees payment of debts by accepting bills of exchange drawn on them by the sellers of goods.

acceptor

The term applied after his acceptance to the person (for example a bank) called on to make a payment under a cheque or a bill of exchange.

access

(1) A right enjoyed by all owners of land which adjoins a highway.

(2) In matrimonial proceedings, a right granted to a parent, who has not been awarded **CARE AND CONTROL** (q.v.), to come into contact with his or her child on a regular basis.

accident

A defence which may be successful in criminal cases where **MENS REA** (q.v.) is required, but which will not necessarily be effective in **STRICT LIABILITY** or **ABSOLUTE OFFENCES** (q.v.)

accident book

A record of all accidents which every person, company or business employing 10 or more people is obliged to keep.

accommodation bill

A negotiable instrument (bill of exchange) put into circulation without any **CONSIDERATION** (q.v.) having been given, in order to assist or accommodate the person principally involved.

accord and satisfaction

An agreement between persons who originally made a

contract, that it shall be carried out in a different way, and that no legal action will result because of it.

Accountant-General

The official who holds funds paid into court in any case or action taking place in the SUPREME COURT OF JUDICATURE (q.v.)

account payee only

A cheque with this crossing on it may only be paid into the account of the person specified. The bank receiving it is negligent if it pays it in to any other account.

accretion

The addition of new territory to the existing territory of a state by operation of nature, such as the emergence of a volcanic island in its territorial waters.

accused

The person against whom a criminal charge or prosecution is brought. Also called 'the defendant'. The term 'the prisoner' is now discouraged.

acquittal

A verdict in a criminal case meaning that the facts alleged against the person accused are not proved, and that accordingly he should not be convicted.

action in personam

A case against a person, as opposed to a case for the recovery of a certain thing or of goods.

action in rem

A case for the recovery of a certain thing or of goods, as opposed to a case against a person.

actionable per se

Applied to an action which can be brought but which requires the plaintiff to prove damage.

actio personalis moritur cum persona (*Lat.*)

A right of action to which an individual is entitled while alive, but which comes to an end on that person's death.

active partner

A member of a PARTNERSHIP (q.v.) who assumes executive responsibility for the business.

act of bankruptcy

One of a number of acts which may be committed by a debtor and giving rise to a bankruptcy petition. An example would be a fraudulent transfer of part of his property.

act of God

An act of fate or the workings of nature which causes some loss, damage or injury.

act of indemnity

A law passed by Parliament to pardon or legalise an illegal action taken in the past.

Act of Parliament

A written law which has passed through first, second and third readings in both Houses of Parliament, and has received the Royal Assent.

act of state

An exercise of power by the Sovereign which cannot be questioned in a court of law; a defence to an action in an English court in respect of an act committed abroad by a Crown servant.

actual bodily harm (ABH)

The crime of causing physical harm to another person, of a less serious kind than GRIEVOUS BODILY HARM (q.v.)

actual loss

The situation where no part of the subject-matter of a policy of insurance remains in existence.

actuary

A member of the actuarial profession. Not a lawyer, but concerned with calculations such as life expectancy and various probabilities for insurance purposes.

actus non facit reum, nisi mens sit rea (Lat.)

'An action does not make for guilt, unless there is a guilty intent.'

actus reus (*Lat.*)

An act which is forbidden for the purposes of the criminal law.

adaptation

The conversion of a copyright work, such as a novel, into another form, such as a play.

address for service

An address nominated by a party to a case, at which any document for him may be left.

ademption

The cancellation of a specific bequest in a will, because the object or funds referred to have already been disposed of during the life of the maker of the will.

ad hoc (*Lat.*)

For a specific case, in the sense of an arrangement or action taken to deal with a particular situation.

ad idem (*Lat.*)

In complete agreement.

ad infinitum (*Lat.*)

For ever.

adjacent zone

In international law, water outside the territorial limits of a particular state, where special interests may be claimed.

adjourned sine die

Adjournment without a day being fixed for the next hearing of a case; therefore adjourned indefinitely.

adjournment of the House

The ending of a sitting of the House of Lords or the House of Commons, generally on the basis that the next sitting will take place on the following working day.

adjudication order

A court order having the effect of judging a debtor bankrupt.

ad litem (Lat.)

For the purposes of the case being heard, for example a
GUARDIAN AD LITEM (q.v.)

administrator

A person interested in an estate to whom letters of administration have been granted after the maker's death where probate could not be granted, usually because of intestacy.

administration ad litem

A special grant of administration for the purpose of litigation, where the proper executor or administrator will not assume responsibility.

administration cum testamento annexo

A grant of administration 'with the will attached', which has the same effect as a grant of probate. It is applicable where the person who has died has left a will, but there is no executor to take the grant.

administration de bonis non administratis

A special grant of administration over part of an estate not yet administered, on the death of an administrator or sole executor, provided that an original grant has already been made.

administration durante absentia

A special grant of administration while an executor or administrator is abroad.

administration durante dementia

A special grant of administration while the person otherwise entitled to it is suffering from a temporary mental disorder.

administration durante minore aetate

A special grant of administration during the minority of an executor or administrator.

administration order

A court order for the administration of the estate of someone who cannot meet the conditions of a court order made against him.

administration pendente lite

A special grant of administration while litigation is pending over the validity of a will, or the revocation of a grant of probate.

administrative law

The rules covering areas of legal control exercised by agencies other than courts which have the right to administer law. Much of this is concerned with tribunals.

administrative tribunals

Bodies outside the ordinary judicial system of courts, set up under Acts of Parliament with judicial or similar powers.

administrator's oath

A document filed in order to obtain a grant of administration, giving certain information about the relevant death.

Admiralty law

The body of law arising out of shipping and maritime matters, including salvage and collisions at sea.

Admiralty Court

Until 1873, the court which dealt with Admiralty matters. They were then transferred to the Probate, Divorce and Admiralty Division of the High Court.

Admiralty Court of the Cinque Ports

A special court sitting to hear maritime matters arising within the jurisdiction of the Cinque Ports.

admission

The acknowledgement by one side to a case and given to the other side, of the truth of certain matters which have been alleged.

adoption proceedings

The system in the county courts by which the formal adoption of a child is carried out.

adoptive child

Someone who has been legally adopted as another person's child.

adoptive parent

Someone who has legally adopted another person as their child.

adultery

Sexual relations by a married person with someone other than his or her spouse, now evidence of irretrievable breakdown of marriage.

ad valorem duty

A duty payable on goods calculated as a percentage of their value.

ad valorem freight

A charge for shipping goods by reference to a stated percentage of their value.

advance freight

A sum to be paid in advance, in respect of the carriage of goods by sea.

advocate

One who presents a case orally, as a barrister or solicitor; in Scotland, a member of the Faculty of Advocates, equivalent to a barrister in England and Wales.

advowson

The right to nominate a clergyman to a particular church appointment.

affidavit

A document sworn on oath before a Commissioner to administer oaths.

affidavit of alias

An affidavit to be attached to an application for the grant of PROBATE (q.v.), where the maker of the will made use of an alias name.

affidavit of execution

A document on oath certifying that a will was probably signed when some doubt existed about it.

affidavit of plight and condition

In cases involving wills which have been marked in some way, a document sworn on oath explaining how it got into that condition.

affiliate

A commercial organisation which is subject to the control or influence of another commercial organisation.

affiliation order

A court order made for the support of an illegitimate child by the person found to be its father.

affiliation proceedings

An action brought by the mother of a child against the man whom she alleges is its father, in order to establish paternity and obtain financial support.

affirmation

The alternative to the swearing of an OATH (q.v.) in judicial proceedings, either where the person making the declaration does not wish to swear on the basis of religious belief, or where it is not practicable to administer the appropriate oath.

affreightment

The carriage of goods by sea in return for reward.

affray

A fight between two or more people which frightens members of the public, and constitutes a criminal offence.

a fortiori (*Lat.*)

With all the more reason (to emphasise a particular point).

agency

The relationship between one person (the AGENT, q.v.) authorised by another person (the PRINCIPAL, q.v.) to act on his behalf in matters relating to contracts.

agency by implication

An agency inferred in certain cases from the conduct of the persons concerned.