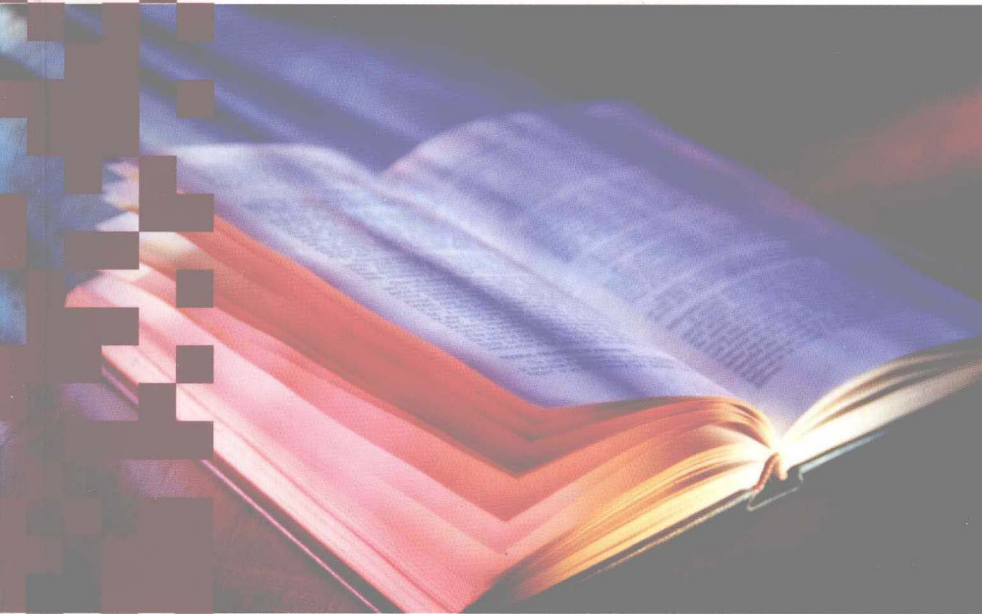




NINTH EDITION

OSBORN'S CONCISE LAW DICTIONARY



EDITED BY SHEILA BONE



Sweet & Maxwell
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OSBORN'S
CONCISE
LAW DICTIONARY

NINTH EDITION

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PREFACE

Producing the dictionary is a team effort and I would like to thank all the contributors for their hard work, good humour and patience. I would also like to thank the many colleagues and friends who have given generously of their time and expertise. These include: Kevin Kerrigan, John Horne, Maggie Crisell, Ann Kenny, Tina Bond, Andrea O'Cain, Michael Stockdale, Bob Cooper, Philip Plowden, Deveral Capps, Malcolm Khan, Phillip Kenny, Jim Lowe, Alan Grisedale, Jane Hodson Hamilton, Kim Blackie, Gill Murphy, Ralph Tiernan.

The law is as stated on May 1, 2001.

Sheila Bone

CONTENTS

<i>Preface</i>	<i>page v</i>
<i>Law Dictionary</i>	<i>1</i>
<i>Law Reports, Journals and Their Abbreviations</i>	<i>417</i>
<i>The Regnal Years of English Sovereigns</i>	<i>466</i>

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.

ACAS. See ADVISORY, CONCILIATION AND ARBITRATION SERVICE.

ADR. See ALTERNATIVE DISPUTE RESOLUTION.

AIM. See ALTERNATIVE INVESTMENT MARKET.

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].

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

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

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 initio. [From the beginning]. (1) A phrase added to the term, VOID, to indicate the time from which a purported contractual transaction is of no effect. (2) 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; VOID.

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.

abandonment

Abandonment of a child means leaving it to its fate. This is an offence (Children and Young Persons Act 1933, s.1).

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 notice. Where a local authority is satisfied that a statutory nuisance (*q.v.*) exists or is likely to exist in its area the authority shall serve an abatement notice on the person responsible for the nuisance or the owner or occupier of the premises from which the nuisance has occurred. An abatement notice may require the abatement (bringing to an end) of the said nuisance or the execution of works and taking of specified steps. It is a criminal offence not to comply with an abatement notice without reasonable excuse. Appeals against abatement notices may be made to the magistrates' court. (See Part III Environmental Protection Act 1990.) See ABATEMENT OF NUISANCE; NUISANCE.

abatement of claim (formerly abatement of action). Formerly a suspension or termination of proceedings in an action for want of proper parties or owing to a defect in the writ or service. Almost every change of interest after the commencement and before the termination of proceedings caused an abatement. Now, where a party to a claim dies or becomes bankrupt but the cause of action survives, the claim shall not abate by reason of the death or bankruptcy (CPR Sched.1 RSC 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 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 (*q.v.*), 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.

Local authorities have statutory powers to secure abatement notices in respect of statutory nuisances (*q.v.*). See, *e.g.*, the Environmental Protection Act 1990, ss.79–82.

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. Renunciation, particularly of an office or responsibility. Royal Abdication, *i.e.* abdication of the throne, can only be effected by Act of Parliament. See, *e.g.* His Majesty's Declaration of Abdication Act 1936.

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 will 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).

Under the Child Abduction Act 1984 as amended, it is an offence for a person connected with a child under the age of 16 (*e.g.* the child's parent), to take or send a child out of the United Kingdom without the appropriate consent. It is also an offence for a person who is not connected to a child to take or detain a child so as to remove or keep that child from the lawful control of someone entitled to such control.

abet. See AID AND ABET; 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", *e.g.* 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 purposes of immigration law a person has "the right of abode" in the United Kingdom in the circumstances set out in the Immigration Act 1971, s.2 (as amended by British Nationality Act 1981, s.39), *i.e.* either that he is a British citizen (*q.v.*) or that he was a Commonwealth citizen (*q.v.*) having the right of abode under s.2(1)(d) or s.2(2) of the Act of 1971 immediately before the commencement of the 1981 Act and has not ceased to be a Commonwealth citizen in the meantime.

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. A miscarriage or expulsion of a human foetus before gestation is completed. Until 1967 procuring or causing an abortion was an offence. Under the Abortion Act 1967 procuring an abortion is not an offence where the pregnancy is terminated by a registered medical practitioner and two registered medical practitioners are of the bona fide opinion that one of the grounds set out in s.1(1)(a), (b), (c), or (d) of the Abortion Act 1967 (as reformulated by the Human Fertilisation and Embryology Act 1990) exists.

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

abrogate. To repeal, cancel, or annul.

abscond. To go away secretly, to evade the jurisdiction of the court. Absconding by a person released on bail is an offence, Bail Act 1976, s.6. See BAIL.

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.

See also BIGAMY.

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

absente reo. [The defendant being absent.]

absolute. Complete and unconditional. (1) A rule or order which is complete and becomes of full effect at once, *e.g.* decree absolute, charging order (*q.v.*) absolute, garnishee order (*q.v.*) absolute. Contrast and 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. (1) Imposed when the court has convicted an offender but is of the opinion that it would be inexpedient to inflict punishment on them, the court having had regard to the circumstances of the case, including the nature of the offence and the character of the offender (see Powers of Criminal Courts (Sentencing) Act 2000, s.12(1)).

(2) Both the Secretary of State and the Mental Health Review Tribunal can direct absolute discharge from hospital of a restricted patient (*q.v.*) within the meaning of the Mental Health Act 1983, ss.42, 73.

(3) A disposal option available to the Crown Court following findings that (a) the accused is unfit to plead, and (b) did the act or made the omission charged (s.5 Criminal Procedure (Insanity) Act 1964 as amended by s.3 Criminal Procedure (Insanity and Unfitness to Plead) Act 1991). The option is also available to both the Crown Court and the Magistrates Court following the special verdict of not guilty by reason of insanity.

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.

abstraction. The removal or abstraction of water from a water supply such as a river, stream or underwater source. Generally the abstraction of water is prohibited

save in pursuance of an abstraction licence granted by the Environment Agency (*q.v.*) under the provisions of Part II Water Resources Act 1991.

abundante cautela. [Out of great caution.] A reference to a statement included to make sure that a matter is plain or understood.

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. The court may strike out a statement of case if it appears to the court that the statement of case is an abuse of the court's process, *e.g.* where the claim is the same as a claim which has already been adjudicated upon between the parties. It is a power "which any court of justice must possess to prevent misuse of its procedure in a way which, although not inconsistent with the literal application of its procedural rules, would nevertheless be manifestly unfair to a party to litigation before it, or would otherwise bring the administration of justice into disrepute among right-thinking people": *per* Lord Diplock in *Hunter v. Chief Constable of the West Midlands Police* [1982] A.C. 529. See VEXATIOUS ACTIONS; STRIKING OUT.

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

ac etiam. [And also.]

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.

(3) Acceptance of goods within the Sale of Goods Act 1979, s.35 is: (a) where the buyer intimates to the seller that he has accepted them; or (b) where the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller; or (c) when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them. Note however the exception to (b) above contained in s.34(1), namely that where a buyer has not previously examined goods, he is not deemed to have accepted them until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

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: (a) is authorised to accept service on behalf of a party; and (b) has notified the party serving the document in writing that he is so authorised, a document must be served on the solicitor unless

acceptance of service

personal service is required by an enactment, rule, practice direction or court order CPR 6.4(2)).

Formerly, when a solicitor wrote on a writ of summons that he accepted service of the writ on behalf of the defendant, personal service was not required and the writ was deemed to have been served on the day the indorsement was made (Ord. 10, r.1(2)).

access. (1) The opportunity of sexual 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, *i.e.* the right of a non-custodial parent, grandparent or other person to see and share the company of children of the family, usually after divorce or separation proceedings. Access to children is a basic right of a parent and is only refused in the most unusual circumstances (*S. v. S.* [1962] 1 W.L.R. 445). Access orders ceased to be available under the Children Act 1989. See now CONTACT ORDER. Access by the child to the parent is considered to be a right of the child, to be refused only in unusual circumstances.

(3) Approach or the means of approach, *e.g.* there is a right of access to a highway by the owner of adjoining land.

access order. Where a person wishes to carry out works to land and, for the purposes of carrying out those works, needs to enter onto adjoining or adjacent land but does not have consent to enter that land, then an application may be made to the County Court for an access order under Access to Neighbouring Land Act 1992, s.1.

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. In English law possession of a thing may give good title to other things which are the natural product and expected increase of the thing possessed, *e.g.* lambs born to ewes possessed under a hire-purchase contract (*Tucker v. Farm and General Investment Trust Ltd* [1966] 2 Q.B. 421). See ACCESSIO CREDIT PRINCIPALI.

accessio credit principal. [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).

accessory. A person, other than the actual perpetrator, who is a party to the commission of a criminal offence.

Prior to the Criminal Law Act 1967 s.1, which abolished the distinction between felony and misdemeanour and assimilated the law to that applicable to misdemeanour, a person who procured the commission of a felony but was not

present at its commission was known as an accessory before the fact (if present, such a person was a principal in the second degree). A person who, knowing a felony had been committed, afterwards gave assistance to the perpetrator, was an accessory after the fact.

Since the Criminal Law Act 1967, the classification of parties as accessories before the fact and principals in the second degree has ceased and they are known generally as secondary parties (although sometimes referred to as accessories), with their liability being governed by the Accessories and Abettors Act 1861 s.8 (as amended by the Criminal Law Act 1967): "whosoever shall aid, abet, counsel or procure the commission of any indictable offence ... shall be liable to be tried, indicted and punished as a principal offender".

The Magistrates' Courts Act 1980 s.44 makes similar provision in relation to summary offences. See **SECONDARY LIABILITY**.

Liability as an accessory after the fact has lapsed, with the creation of a new offence under the Criminal Law Act 1967 s.4 of assisting a person who has committed an arrestable offence.

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 claimant'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. Note the distinction drawn between accidental killing and killing by recklessness or gross negligence.

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, CA).

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, 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

accord and satisfaction

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, claim for (formerly an action for an account). Proceedings for an account may arise in administrative claims, claims for specific performance and partnership claims. They are assigned to the Chancery Division by the Supreme Court Act 1981 s.61 and Schedule 1. The procedure for a claim is governed by CPR Parts 24 and 25.

account controllers. Nominees who hold securities in Stock Exchange listed companies on behalf of the investors in those companies. “Company account controllers” will undertake this service on behalf of listed companies and without charge to the investor. “Commercial account controllers” will act on behalf of such investors where they so choose and will charge investors for their services. An account controller holds the securities subject to the investor’s entitlement (*q.v.*), until the company’s register of members is updated. See Uncertificated Securities Regulations S.I. 1992 No. 225. See SHARE CERTIFICATE; SHARE TRANSFER.

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

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 payee (or a/c payee). A direction, written or printed on a cheque, to a collecting banker to apply the proceeds to the account of the payee designated on the face of the cheque. Originally the words did not affect the transferability of the cheque. However, the Cheques Act 1992 inserts a new s.81A into the Bills of Exchange Act 1882 by which such cheques cease to be transferable and are valid only between the original parties. The same section preserves the statutory protection of both paying and collecting bankers who have acted honestly and without negligence.

account, settled. Settled accounts are accounts that are agreed between the parties. A settled account will be a defence to a claim for an account. There are various grounds upon which a settled account may be reopened including common mistake and fraud.

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 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.*) (Supreme Court Act 1981, s.97).

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.

accounting, false. It is an offence for a person dishonestly or with a view to gain or with intent to cause loss to another (1) to destroy, deface, conceal or falsify any account or any record or document made or required for any accounting purpose; or (2) in furnishing information for any purpose to produce or make use of any account, or any such record or document which to his knowledge is or may be misleading, false or deceptive in a material particular (Theft Act 1968, s.17).

accounts and inquiries. Where a claimant, in his claim form, seeks a remedy which includes taking an account or making an inquiry, an application can be made under CPR Part 24 (claim for summary judgment) by any party to the proceedings for an order directing any necessary accounts or inquiries to be taken or made.

The court may also, by powers given to it under CPR Part 25 to grant orders for interim remedies, direct that accounts be taken and inquiries made.

Further provisions as to orders for accounts and inquiries are contained in CPR Part 40.

accounts, falsification of. Falsification of accounts is an indictable offence under the Theft Act 1968, ss.17–20.

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. Limitation periods begin to run from the date on which a cause of action accrues. See CAUSE OF ACTION, LIMITATION, STATUTES OF.

accumulation. The continual increase of principal by the reinvestment 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 mere* 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 the 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 comes *sui juris*. The exercise of his 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.

accusatorial procedure. Sometimes known as the adversary procedure. The common law principle which places the responsibility for collecting and presenting evidence on the party who seeks to introduce that evidence. Furthermore by the common law system of pleading (*q.v.*) the defendant is bound only to refute the allegations made by the claimant in the pleadings in order to succeed. Contrast and see INQUISITORIAL PROCEDURE. See also, STATEMENTS OF CASE.

accused. One charged with an offence.

acknowledgement 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 1980, s.29, 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 acknowledgement. See LIMITATION, STATUTES OF.

acknowledgement 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.

acknowledgement 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 acknowledgement, and to deliver to him true copies of or extracts from them (Law of Property Act 1925, s.64).

acknowledgement of service. Where particulars of claim have been served upon a defendant he will receive a response pack which includes a form for acknowledging service of the claim. The defendant may by CPR 10.1(3) file an acknowledgement of service where he is unable to file a defence within 14 days after service of the particulars of claim, or he wishes to dispute the court's jurisdiction. By CPR 10.3(1) the acknowledgement of service must be filed within 14 days of service of the claim form, where the particulars of claim are served on or with the claim form, or within 14 days of service of the particulars of claim where they are served after the claim form.

Prior to the CPR, service of a writ or originating summons issued in the High Court was acknowledged by the defendant "Properly completing an acknowl-