

A NEW ENGLISH-CHINESE LAW DICTIONARY

編新典辭律法漢英

by

WILLIAM S.H. HUNG J.D.

Formerly Professor of Law, National Fu Tan
University, and Legal Practitioner

with Forewords by

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Other Books by the Author

Outlines of Modern Chinese Law

Commercial Law of China

Outlines of Chinese Legal System

Legal English with Translation and Explanations

English-Chinese Law Dictionary

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吳 序

每種專門學問，必有其專門之術語，即所謂專門名詞是也。法律爲社會科學中之主要科目，其專門名詞之繁複，自不待言，而尤以英美法之專門名詞爲甚。

英美法之專門名詞中，頗多羅馬優帝時代以來所沿用之拉丁文法律成語及格言，文義晦澀難解，非有專用之辭書，不易得其要領，故英美二國之法律辭典，版本日出不窮，爲法科學生及從事於法學之著述者，不可或缺之參考工具。

我國之法律辭書，自以我國之文字爲主，其有涉及外國之法律名詞者，間或附列原文，然亦僅供對照而已，初非以英美法之學子爲對象，因之，國人之學習英美法者，遇有疑難之法律名詞，除乞靈於英美二國之法律辭典外，別無漢譯之專書，可資參考。洪士豪博士有鑒及此，以其一人之力，編著英漢法律辭典 *English-Chinese Law Dictionary*，蒐集常用之英文及拉丁文法律名詞及術語二千三百餘條，以原文爲主，加以簡潔正確之詮釋，於民國六十一年一月間世後，各地採用甚廣，咸稱便利，爲我國之法律辭書放一異彩。

洪博士爲余四十餘年前講學美國西北大學時之研究生，學成歸國後，鑒於我國民法法典之條目編制，係沿襲羅馬法之體裁，英美法之學者，於翻查時，有啓卷茫然之感，乃匠

心獨運，用英國普通法之篇目編制，譯述我國之民商諸法，書成，余曾爲之題名曰中國現行法律大綱 Outlines of Modern Chinese Law，並爲之序。出版後，時論多之，譽爲適應時代之創作，英美人且視爲研究我國法律之捷徑。茲洪博士復應各方之需求，繼續致力於法律名詞之編譯，將原著之英漢法律辭典，增廣其內容至五千餘條，譯釋之格式，悉仍原著，而於重要之名詞，則增註辨義及用法，以切合實用，且不厭求詳，繫以有關之英美二國之判例，以爲深入研究者引證上之參考，名之曰「英漢法律辭典新編」“A New English-Chinese Law Dictionary”編著中不時將原稿馳書問疑，尤可見其求精不懈之一斑，其裨益於英美法之學習及譯述者，豈淺鮮哉。復乞序於余，余深佩其學問之淵博，與其著述之認真不苟也，因樂爲之序。

吳經熊序

Foreword

to 1972 edition by Dr. J. R. Jones

This short English and Chinese Law Dictionary is offered at a most opportune time in the history of Hong Kong. The Government of the Colony is considering the adoption in principle of the recommendations of the Chinese Language Committee for the establishment of Chinese as an official language of Hong Kong. It has already started the translation of some of the Government reports but the work is made difficult by the lack of efficient translators and although Government and the universities have planned, or already have opened centres for the training of translators and interpreters, the full implementation of the recommendations must await the training of a body of translators with a thoroughly sound knowledge of both Chinese and English. In no sphere will the task be more difficult or exacting than in the translation of legal documents and in the transactions of the Legislative Council and the interpretation of proceedings in the Law Courts of the Colony. The same difficulty was experienced when forty years ago the new Civil Code of China and the laws promulgated to supplement it were published in Chinese and were also translated into English. To quote an extract from the introduction to the official translation published in 1930:

"Those who read the Chinese text will probably find that in some cases its phraseology is intricate and somewhat unusual. But this could not be avoided: to render into Chinese ideas or formulas taken from the western legal language requires the coining of new expression which, for some years to come, will bear an unfamiliar aspect to the ordinary reader. The putting into Chinese of technical rules so easily expressed in legal French, German or English, but for which there exist no corresponding expressions in the Chinese vocabulary, however rich this vocabulary may be, has proved one of the hardest tasks of the Commission."

The short Dictionary now offered by Dr. Hung will assuredly contribute in a large measure to the harmonious use of Chinese and English especially in matters involving legal terms and expressions which concern the daily life of the people of Hong Kong.

Although this book is timely in its appearance, it is not due to any sudden impulse or inspiration to meet the present emergency. Its origin goes back to the days when the new Chinese Codes were published and were translated into English and other languages. At the time, the author had completed his legal studies in the United States. He had entered on a busy law practice in Shanghai which brought him experience of British and American Courts and in particular of the Shanghai Mixed Court where Chinese Law based on the new codes was administered. Dr. Hung conceived the idea of a dictionary of law terms with their corresponding expressions in Chinese and English and this project he developed for the training of Chinese students when he was appointed Professor of Law at the Fu Tan University near Shanghai. He was also a pioneer in the publication of two scholarly treatises on the laws of China with a view to moulding the principles of the new Codes and statutes into an orderly system of law based on what may be called the Common Law classification. In 1932 he published his first book entitled *Commercial Law of China* which found a well earned place in the commercial world in

clarifying to the business world, the various rules and laws contained in different codes of the Chinese Republic. This treatise was followed in 1934 by a second book entitled *Outlines of Modern Chinese Law*, which gave a condensed summary of the laws of the Republic as they existed but arranged in systematic order under proper titles and subdivisions and divided into definite statements or propositions expounded and illustrated with some eight hundred citations from cases which had been decided in the Chinese Supreme Court.

With such experience as a scholar and a practitioner of Chinese and English and American law, there can be few who are as well qualified as Dr. Hung to present a work of this kind which provides very real service to the Chinese community and to the English reading International public and should be especially helpful to law students, practitioners, translators and interpreters, and to the legal profession and Courts generally.

Hong Kong
June 12, 1971

J. R. Jones

編纂大意

一、本辭典繼「英漢法律辭典」“English-Chinese Law Dictionary”而作。當「英漢法律辭典」於一九七二年一月，由香港中文大學出版時，中文法定化之運動，方興未艾，有識之士，僉以逐譯英文法令，為當務之急，惟以法律上之術語，艱澀難曉，迄無中譯之法律辭書，堪供參考，引為憾事。士豪輒不自揆，即於公餘之暇，蒐集合於實用之英文及拉丁文法律名詞二千三百餘條，加以譯釋，意在勉效前驅而已，蒙法界碩彥及各方學者謬獎，許為中譯法律辭典之嚆矢。茲復應續纂綜合性之法律辭書，以適應研究英美法者進一步之需要，函電敦促，良用感奮，此本辭典之所由作也。顧個人學力譾陋，綆短汲深，至慙蚊負，舛訛失當之處，在所難免，博雅賢達，幸垂教焉。

二、羅馬法在諸法系中，為最大之宗派。世界各國之法律。莫不受其直接或間接之影響。英美二國雖有其獨立之英美法系，所受之影響不若歐洲大陸諸國之甚，但英國早於十一世紀，即已在羅馬法籠罩之下，相沿至今，拉丁文之法律名詞及格言，非但遍佈於英國之法令判決及名家著述，且為訟庭辯論中攻擊防禦之利器。美國直接承英國之衣鉢，間接遂亦同受羅馬法之影響，故英美二國

之法律辭典，莫不將英文及拉丁文兼收並蓄，不分軒輊，本辭典自亦不能例外。

三、英文及拉丁文之法律名詞，浩如烟海，選輯之標準，因人因地而異，本辭典循「英漢法律辭典」之例，以士豪往年在國立復旦大學教授英美法及羅馬法時，所編著之「法學英文譯解」“Legal English with Translation and Explanations”為基礎，而以英美二國最新之法律辭典類書及名著數十種為採選及參酌之對象，計彙集英文及拉丁文法律名詞五千一百餘條。譯義及詮釋之詳略，視其性質及應用之範圍而定。

四、若干歷史性之羅馬民法名詞，在校閱時，為求節省篇幅，曾予剔除，顧羅馬法為研習法律者之基本科目，且是項法律名詞，為一般之辭書所無，經重予編入，以便利讀者之參考。

五、大陸法系以成文法為主，學者以解釋法典之條文為能事，英美法崇尚判例，以相同或相似之例案為準繩，故學習英美法者，以例案為必修之課程，相沿既久，記載歷年例案之法律彙報 Law Reports，卷帙浩繁，種類亦日新月異，舉凡案件之事由，辯論之要點，以及判決之意旨，莫不提要鉤玄，瞭如指掌，因之英美二國之法律辭典，於重要之法律名詞下，摘錄各種法律彙報所載之例案，本辭典倣效其例，以作嘗試。

六、本辭典於編譯中所用之參考書目，開列於卷首，所援引之例案，大多出自書目中前列之類書及辭典，蓋均為權威之作，於例案之選輯，至為精切，讀者欲深入研究，可檢閱該辭書（是類參考要籍，多係累次修訂，其卷頁因版次之先後而異，但各版本所收之法律名詞，均係依字母順序排列，一目了然，與本辭典無異。）

七、法律名詞之譯名，儘量配合我國固有之法律名詞，或傳統上所習用之術語（例如 Substituted service 譯「公示送

達」，Legal aid 譯「訴訟救助」)，無適當之固有名詞，或習用術語，可資依據時，則就管見所及，以鄙意出之，間有在「英漢法律辭典」創譯後，已經各方採用，而意猶未愜者，仍予更易，以期妥貼，有因一字之未妥，而思之累日者，亦所以求心之所安而已。

八、羅馬法有同指一事，而用語各異者(例如所有權在市民法稱“Dominium ex jure quiritium”，而在裁判官法則稱“In bonis habere”，此在英美法亦所在多有(例如“Aquisitive prescription”與“Positive prescription”同指「取得時效」，希讀者注意及之。

九、本辭典因篇幅關係，所收之名詞，以專屬於法律者為限，其詮釋亦然，凡在一般之辭典可以檢得者，概不闌入，例如“average”釋「海損」，不更釋「平均」，“exhibit”釋「呈庭證件」，不更釋「展覽」。

十、本辭典在屬草中，蒙^{*}吳師經熊博士不斷教導指點，稿竣，復蒙題名賜序，一如四十餘年前，拙著「中國現行法律大綱」“Outlines of Modern Chinese Law”付梓前之所賜，引為無上幸事，謹誌於此，藉申感蒙。

慈谿洪土豪識於香港

Books of Reference

- Halsbury's Laws of England (3rd and 4th) (B.)
- J. B. Saunders, Words and Phrases Legally Defined (2d) (B.)
- Black's Law Dictionary (W.)
- Ballentine's Law Dictionary (L.)
- American Jurisprudence (1st and 2d) (L.)
- Mozley & Whiteley's Law Dictionary (B.)
- Bouvier's Law Dictionary (C.P.)
- Osborn's Concise Law Dictionary (S. & M.)
- Stroud's Judicial Dictionary (S. & M.)
- Cyclopedia of Law and Procedure (Am.)
- E. S. Fay, Leading Cases in a Nutshell (S. & M.)
- S. H. Gifis, Law Dictionary (Bn.)
- J. C. H. Wu, Jurisprudence (W.)
- Smith & Keenan, English Law (P.)
- W. W. Buckland, Textbook of Roman Law from Augustus to Justinian (C.)
- Cheshire & Fifoot, Cases on the Law of Contract (B.)
- Archbold's Pleading, Evidence and Practice in Criminal Cases (S. & M.)
- Street on Torts (B.)
- Phipson on Evidence (S. & M.)
- M. Barrows, Handbook on the Law of Negligence (W.)
- R. S. Bauer, Cases on Law of Damages (Cal.)
- Williams, Law and Practice in Bankruptcy (St.)
- Landley on Partnership (S. & M.)
- Palmer's Company Law (St.)
- W. E. McCurdy, Cases on Law of Persons and Domestic Relations (Cal.)
- Rayden on Divorce (B.)
- E. H. Burn, Modern Law of Real Property (B.)
- Williams on Wills (B.)
- J. G. Ridall, Law of Trusts (B.)
- Snell's Principles of Equity (S. & M.)
- G. G. Wilson, International Law (S.B.)
- J. C. H. Wu, Fountain of Justice (M.Y.)
- W. S. H. Hung, Legal English with Translation & Explanations (F.U.)
- W. S. H. Hung, English-Chinese Law Dictionary (C.U.)
- Glossary of Applied Legal Terms (H.K.)
- C. L. Hsia & others, Civil Code of China (K. & W.)
- W. S. H. Hung, Outlines of Modern Chinese Law (K. & W.)
- W. S. H. Hung, Commercial Law of China (Com.)
- 九朝律考 (程樹德)
- 羅馬法 (陳允·應時)
- 羅馬法與現代 (黃右昌)
- 民法要義 (楊仲協)
- 民法債編通則釋義 (洪文瀾)

民法繼承（陳棋炎）

刑法各論（陳樸生）

國際私法（何適）

商事法大綱（曾如）

中華六法判例解釋（世

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

法律大辭典（鄭觀毅）

中國法律大辭典（朱采飭）

法律大辭典（汪翰堯）

商業辭典（陳稼軒）

羅馬法原理（陳朝璽）

中國古代婚姻史（陳顧遠）

Abbreviations Used

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| <p>A.J.; Am. Jur. American Jurisprudence</p> <p>Am. American Law Book Company</p> <p>Arch. Archbold's Pleading, Evidence and Practice in Criminal Cases</p> <p>B. Butterworth & Co. (Publishers) Ltd.</p> <p>Ball.; Ballent. Ballentine's Law Dictionary</p> <p>Bl. D.; Black's. Black's Law Dictionary</p> <p>Bn. Barron's</p> <p>Bvr. Bouvier's Law Dictionary</p> <p>C. Cambridge University Press</p> <p>C.P. Childs & Peterson</p> <p>C.U. Chinese University of Hong Kong</p> <p>Cal. Callaghan & Co.</p> <p>Com. Commercial Press</p> <p>Cyc. Cyclopædia of Law and Procedure</p> <p>F.C.P. Federal Rules of Civil Procedure</p> <p>F. Cr. P. Federal Rules of Criminal Procedure</p> <p>F.U. National Fu Tan University, Shanghai</p> <p>H.; Hal. Halsbury's Laws of England</p> <p>H.K. 香港政府印務局</p> <p>J. Jurisprudence</p> <p>K. & W. Kelly & Walsh, Shanghai</p> | <p>L. Lawyers Co-operative Publishing Co.</p> <p>L.C. Leading Cases in a Nutshell</p> <p>M.Y. Mey Ya Publishers</p> <p>M. & W.; M. & Whit. Mozley & Whiteley's Law Dictionary</p> <p>N.I.L. Negotiable Instruments Law</p> <p>N.Y.B. New York Business Corporation Law</p> <p>Osborne. Osborn's Concise Law Dictionary</p> <p>P. Pitman</p> <p>Rom. Textbook of Roman Law from Augustus to Justinian</p> <p>S.B. Silver, Burdett</p> <p>S. & M. Sweet & Maxwell</p> <p>St. Stevens</p> <p>U.C.C. Uniform Commercial Code</p> <p>U.P.A. Uniform Partnership Act</p> <p>W. West Publishing Co.</p> <p>W. & Phr. Words and Phrases Legally Defined</p> <p>九. 九朝律考</p> <p>法. 法律辭典</p> <p>羅. 羅馬法</p> <p>羅 (黃). 羅馬法與現代</p> <p>六法. 中華六法判解全書</p> <p>民. 民法要義</p> <p>民訴. 民事訴訟法</p> <p>民債. 民法債編總論</p> <p>民繼. 民法繼承</p> |
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A. 即 *Atlantic Reporter* 按本辭典所援引之參考資料，如法令，判例彙報及法學名著等，均依一般之慣例，用縮寫字註明之。上列之 *A.* 即為 *Atlantic Reporter* 之縮寫，如指第二輯則為 *A. 2d*，註明卷頁時，則其前之數字為卷，後者為頁，例如 *2 A. 33* 或 *33 A. 2d 44*，有時有縮寫字 *L.R.* 者，指 *Law Reports*。

A bon droit 有充分理由；正常的；合理的

A confectione praesentium 自訂約後按即契約成立之時起。

A fortiori 推進之詞，用以增強理由或增加力量者 按此為論理學名詞，亦為辯論中之習用語，以之與另一事件相比較而增強辯論之理由，相當於中文之「況」，「何況」，「抑尤有進者」等詞。例如「一夫不可娶，況國乎」。

又按即英文 *with stronger reason; with greater force*。

A mensa et thoro 別居 按別居專指夫妻之分離，俗有稱分居者，易與兄弟之分居相混，故指夫妻時以稱別居為宜，蓋為我國固有之法律名詞也。

此拉丁名詞之英文直譯為 *from bed and board*，即不共寢食之謂，與 *separation* 同義，為離婚之前奏，故有 *limited divorce* 之稱。

A posteriori 自果至因；由結果追溯至原因；歸納的 指就存在之事實，推論其原因之謂。反辭為 *A priori*。

A priori 自因至果；由原因推論至結果；演繹的 指憑臆斷推求結果之謂。反辭為 *A posteriori*。

A retro 落後；拖欠；遲延

A vinculo matrimonii 婚姻關係之完全消滅 按亦稱 *Divorce a vinculo matrimonii*，即離婚之謂。

參閱 1 *Bl. Comm.* 440。

Ab agendo 無行為能力；無處理事務能力

Ab antiquo 自古；古舊的；古時代的 參閱 3 *Bl. Comm.* 96。

Ab extra 外來的；旁採的；來自其他方面者 按英文為 *from without; from outside*。此拉丁名詞之用途甚廣。例如自書遺囑之文字有疑義時，關係人

提出遺囑人生前所書足供解答疑義之其他文件以為佐證，此佐證乃採自其他方面者，故為 *ab extra*。

Ab initio 自始；自起初 例如法律行為經撤銷者，視為自始無效。

按即英文 *from the beginning*。

Ab intestato 未立遺囑；由一無遺囑者按此名詞大都用於未立遺囑者之遺產繼承，例如 *succession ab intestato*。參閱 *Williams on Wills; Wills Act 1837; Hal.*

見本辭典 *Intestacy* 條。

Ab invito 不願；非出自願意者 例如 *transfer ab invito*（強制移轉）

見本辭典 *invito* 條。

Ab irato 忿怒中；氣憤中之所為 例如忿怒中所書立之不利於繼承人之遺囑。因此而提起之撤銷遺囑之訴為 *Action ab irato*。

Abactor 同時盜竊成羣之牲畜者 按此項罪名之成立以同時及成羣二者為要件。

Abalienate 移轉權利

Abandon 沒收物；扣押物；抵償債務之物；捨棄物 按與 *Abandum* 及 *abandonum* 同義。

Abandonment 委付；委棄；遺棄；捨棄；停止行使權利 按委付為海商法名詞，指被保險人因海難而將保險標的物之殘餘利益，移轉與保險人，而請求全部之保險金額。委棄亦為海商法名詞，指船舶所有人因其船上之人員，由於職務，海難救助，或共同海損所生之債務，將船舶交與債權人，而免除其責任。

又按 *abandonment* 與 *surrender* 有別；*surrender* 須經雙方之同意；又與 *forfeiture* 有別；*forfeiture* 為不顧所有人之意思之行為。

Abatement 非法潛占遺產 指在合法繼承人未管領遺產前，乘間盤據之謂。

Abatement 減輕；減免；扣減；限制 按減輕，例如債務之減輕；減免，例如刑之減免（*abatement and exemption*）；扣減，例如遺贈財產不足分配時之扣減；限制，例如滋擾之限制（*abatement of nuisance*）。

又按此名詞亦指無繼承權者之占奪遺產。

Abatement, Plea in 妨訴抗辯 例如關於主體錯誤之抗辯。

見本辭典 Plea in abatement 條。

Abduction 略誘罪

參閱(英) Sexual Offences Act 1956; 3 Bl. Comm. 139; (美) State v. Chisenhall, 106 N.C. 676, 11 S.E. 518.

See Am. Jur.; M. & Whit.; W. & Phr.; Black's; Ballent.; Bvr.

Aberration 心神喪失 按即精神錯亂之謂，於法屬於無行為能力。

Abesse 不在 指離去原來之所在地。其反義辭為 Adesse.

Abet 唆使；煽動；從犯之幫助行為

參閱(英) Accessories and Abettors Act 1861; (美) State v. Lord, 84 P. 2d 80.

See Smith & Hogan's Criminal Law; Hal.; W. & Phr.; Bl. D.

Abeysance 擱置；暫延；中止；懸案 按此名詞適用於暫時不予處理之事件，例如 to be in abeyance.

Abide by, To 依照；遵照；遵守

Ability 能力 例如購買能力，付款能力等，蓋一般指經濟能力。

Abjudicatio 褫奪財產權 按與 foris-judicatio 同義。依英國舊制，以法院之判決為之。

Abjuration 宣誓棄權；放棄原誓；絕誓 例如放棄宗教信仰。

參閱 1 Bl. Comm. 263.

Abode, Place of 所在地

見本辭典 Place of abode 條。

Abominable crime 獸姦罪；背人道之姦非罪 按此項罪行包括人獸交媾及鴿姦醜行。

參閱(英) Offences against the Persons Act 1861.

Aboriginal cost 原始成本

Abortion 墮胎罪 指用藥物或手術使胎兒早產，或使其在母體內斷絕生機之行為。

按英國有 Abortion Act 1967，在美國則各州之規定，並不一致，大多數以墮胎為重罪(felony)，但最近有視初期之墮胎為婦女憲法上之私權者。

又按墮胎在普通法(Common Law)為輕罪(misdemeanor)。

Above par 超過票面 指超過票面價值，例如有關證券之市價超過票面。

A.B.R. 即 American Bankruptcy Reports

Abridged copy 節本 按指自原本摘錄者。

Abridgment of damages 損害賠償額之減縮 按法官就原告所請償之損害賠償額有減縮之權。

Abrogation 撤銷；廢止 例如條約之撤銷；舊法因新法之施行而廢止。

按與此名詞之意義相似者有 derogation 指全部或一部之撤銷；subrogation 指替代或條款之增加；dispensation 指免除；antiquation 指廢止舊律(其對詞為 antiquare 指保存舊律)。

Absence 不到場；缺席；避不應訴；不在；失蹤

參閱(英) Matrimonial Causes Act, 1965, s. 14; Wilkinson v. Wilkinson, (1962) 1 All E.R. 922; (美) Maley v. Penn. R. Co., 258 Pa. 73, 101 A. 911.

See W. & Phr.; Bl. D.; Bvr.; Hal.; Rayden on Divorce.

Absentee 不在人；缺席者 按指離去原來之住所或居所者。亦指庭訊或會議時之缺席者。

參閱(英) Matrimonial Causes Act 1973; Bankruptcy Act 1914; Re London & Northern Bank, McConnell's Claim (1901) 1 Ch. 728; (美) Re Estate of Kite, 194 Iowa 129, 24 A.L.R. 850, 187 N.W. Rep. 585; Montgomery v. Cleveland, 134 Miss. 132, 32 A.L.R. 1151.

See W. & Phr.; Bvr.; Bl. D.; Osb.; L.C.

Abscond 逃亡；脫逃

參閱 State v. Berryhill, 188 La. 549, 177 So. 663; Black's; Bvr.

Absconding debtor 在逃之債務人

按亦指逃亡之破產人，及閉戶避債者。參閱(英) Bankruptcy Act 1914; (美) 121 N.J.L. 136, 1 A. 2d 467; 2 Root (Conn) 133; 10 Misc. R. 51, 157 A. 547.

See Williams' Law and Practice in Bankruptcy; Bvr.; Bl. D.; Am. Jur.

Absoluta sententia expositore non indiget 文字之意義簡明者，無須加以解釋 按羅馬古代之法律成語繁多，此其一也。

Absolute 絕對的；對世的；無條件附者
例如絕對之財產所有權。

參閱(英) Land Registration Act 1925; Halley v. Minister of National Revenue (1963) Ex. C.R. 372; Wheaton v. Maple & Co., 3 Ch. 48; (美) Ketch v. Smith, 131 Okl. 263, 268 P. 715; Columbia Water Power Co. v. Columbia Electric St. Rlwy Light & Power Co., 172 U.S. 475, 43 L. ed (U.S.) 520, 19 Sup. Ct. Rep. 247.
See H.; W. & Phr.; Bl. D.; Bvr.

Absolute conveyance 無條件之財產轉讓或讓與 按此名詞之反義詞為 conditional conveyance 指有條件之轉讓或讓與。所謂財產，係指動產及不動產。

參閱 95 Fed. 2d 487; 67 L.R.A. 461

Absolute discharge 無條件釋放；開釋 按指刑事而言。

參閱(英) Criminal Justice Act 1948; (美) In re. Eddinger, 236 Mich. 668, 211 H.W. 54.

見本辭典 discharge 條。

Absolute divorce 絕對之離婚；完全離婚 指離婚之手續依法完成，夫妻關係完全解除。

參閱 Rayden on Divorce; Bvr.; W. & Phr.; Osborn's; Am. Jur.

Absolute duty 絕對義務 按絕對係指無條件而言，並有不受限制，不能撤回及非暫時性之含義。

參閱(美) Broken Telephone Wires, Home Tel. Co. v. Weir, 101 N.E. 1020, 53 Ind. App. 466; Railroad Employee, Lehigh Valley R. Co. v. Beltz, C.C.A.N.Y., 10 F. 2d 74; Pedestrians, Scibilla v. City of Philadelphia, 279 Pa. 549, 124 A. 273, 32 A.L.R. 981.

See Bvr.; Bl. D.; Bal.

見本辭典 duty 條。

Absolute loss 實際之全部損失

見本辭典 loss 條。

Absolute obligation 絕對債務 指債務人須絕對履行而無選擇之餘地者。按此名詞之反義詞為 alternative obligation.

Absolute pardon 絕對赦免；無條件赦免；完全赦免

見本辭典 amnesty 條。

Abuse of right 濫用權利 指不法行使權利，或權利之行使超越法律所許可之範圍者。

Absolute title 絕對權 例如所有權經登記後之絕對權。

參閱(英) Land Registration Act 1925; (美) Johnson v. McIntosh, 21 U.S. 543, 5 L. ed 681.

Abolution 不受處罰 按此名詞之含義為：行為縱屬不當，但不在法律懲罰之範圍，或尚未至應予處罰之程度。見本辭典 acquittal 條。

Abolutism 絕對性；絕對主義；專制主義

Abstract of record 卷宗節錄；檔案之節本；記錄之節本

Abstention 棄權；廢權；迴避；捨棄；拋棄

Abstract question 抽象問題；假想之問題 按指無事實根據之問題。

Abundans cautela non nocet 未有因謹慎過度而招損害者

Abuse 濫用；妄用；過度使用；不正當之使用或行使 按此名詞用於對待女子時，指不法之性行為，包括強姦行為。參閱(英) Re Thompson (1860), 6 H. & N. 193; (美) Palin v. State, 38 Neb. 862, 57 N.W. 743; Montgomery v. State, 28 Ala. App. 442, 186 So. 589.

See Hal.; W. & Phr.; Bvr.; Bl. D.

Abuse of distress 使用扣押中之動產或牲畜 按此項使用行為可構成侵佔。

Abuse of process 濫用法律程序；在訴訟中，用不正當手段，利用程序，取得利益 按此乃指在正當之程序中，使用不誠實之手段。

Abutals 土地之鄰接

參閱(英) R. v. Straud Board of Works (1863), 4 B. & S. 526; Barnett v. Covell (1903), 68 J.P. 93; (美) Hensler v. City of Anacortes, 248 Pac. Rep. 406.

See W. & Phr.; Bl. D.; Bal.

A.C. 即 Appellate Court; Appeal cases

Accelerated depreciation 過分折舊；增重折舊

Acceleration 預期財產之速償額；先期爭取權益；遲延中未處分之權益