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BLACK'S LAW DICTIONARY

Definitions of the Terms and Phrases of
American and English Jurisprudence,
Ancient and Modern

By

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Conception. The beginning of pregnancy. As to human beings, the fecundation of the female ovum by the male spermatozoon resulting in human life capable of survival and maturation under normal conditions. Also, a plan, idea, thought or design.

Conception of invention is formation in mind of inventor of definite and permanent idea of complete and operative invention as it is thereafter to be applied in practice. *Radio Corp. of America v. Philco Corp.*, D.C.Pa., 201 F.Supp. 135, 149.

Conceptum /kənséptəm/. In the civil law, a theft (*furtum*) was called "*conceptum*," when the thing stolen was searched for, and found upon some person in the presence of witnesses.

Concern. To pertain, relate, or belong to; be of interest or importance to; have connection with; to have reference to; to involve; to affect the interest of. *People v. Photocolor Corporation*, 156 Misc.2d 47, 281 N.Y.S. 130.

Concerning, concerned. Relating to; pertaining to; affecting; involving; being substantially engaged in or taking part in.

Concert. A person is deemed to act in concert when he acts with another to bring about some preconceived result. See **Accomplice**; **Conspiracy**.

Concerted action (or plan). Action that has been planned, arranged, adjusted, agreed on and settled between parties acting together pursuant to some design or scheme. See **Accomplice**; **Combination in restraint of trade**; **Conspiracy**.

Concert of action rule. A rule providing that an agreement by two persons to commit a particular crime cannot be prosecuted as a conspiracy when the crime is of such a nature as to necessarily require participation of two persons for its commission. *Robinson v. State*, 229 Md. 503, 184 A.2d 814, 820. See **Wharton Rule**.

Concessi /kənsésay/. Lat. I have granted. At common law, in a feoffment or estate of inheritance, this word does not imply a warranty; it only creates a covenant in a lease for years.

Concessimus /kənsésəməs/. Lat. We have granted. A term used in conveyances, the effect of which was to create a joint covenant on the part of the grantors.

Concessio /kənsés(h)(i)yow/. In old English law, a grant. One of the old common assurances, or forms of conveyance.

Concession. A grant, ordinarily applied to the grant of specific privileges by a government; e.g. French and Spanish grants in Louisiana. A voluntary grant, or a yielding to a claim or demand; rebate; abatement.

Concessio per regem fieri debet de certitudine /kənsés(h)(i)yow pər ríyjəm fáyərəy débət diy sərđət(y)úwdəniy/. A grant by the king ought to be made from certainty.

Concessio versus concedentem latam interpretationem habere debet /kənsés(h)(i)yow vərsəs kənsədəntəm léydəm intərpətəyshiyównəm heybíríy débət/. A grant ought to have a broad interpretation (to be liberally interpreted) against the grantor.

Concessit solvere /kənsésət sólvəriy/. He granted and agreed to pay. In English law, an action of debt upon a simple contract.

Concessor /kənsésər/. In old English law, a grantor.

Concessum /kənsésəm/. Accorded; conceded. This term, frequently used in the old reports, signifies that the court admitted or assented to a point or proposition made on the argument.

Concessus /kənsésəs/. A grantee.

Conciergerie /kənsyerzhəriy/. The office or lodge of the concierge or janitor. A famous prison attached to the Palais de Justice in Paris.

Conciliation. The adjustment and settlement of a dispute in a friendly, unantagonistic manner. Used in courts before trial with a view towards avoiding trial and in labor disputes before arbitration. See **Arbitration**; **Court of Conciliation**; **Mediation**; **Pretrial conference**; **Settlement**.

Concilium /kənsiliyəm/. Lat. A council.

In Roman law, a meeting of a section of the people to consider and decide matters especially affecting itself. Also argument in a cause, or the sitting of the court to hear argument; a motion for a day for the argument of a cause; a day allowed to a defendant to present his argument; an imparlance.

Concilium ordinarium /kənsiliyəm ordənəriyəm/. In Anglo-Norman times, an executive and residuary judicial committee of the *Aula Regis* (q.v.).

Concilium regis /kənsiliyəm ríyjəs/. An ancient English tribunal existing during the reigns of Edward I. and Edward II, to which were referred cases of extraordinary difficulty.

Concionator /kənsəneydər/. In old records, a common council man; a freeman called to a legislative hall or assembly.

Conclude. To finish; determine; to estop; to prevent.

Concluded. Ended; determined; estopped; prevented from.

Conclusion. The end; the termination; the act of finishing or bringing to a close. The conclusion of a declaration or complaint is all that part which follows the statement of the plaintiff's cause of action. In trial practice, it signifies making the final or concluding address to the jury or the court; i.e. the summation; closing argument.

Conclusion against the form of the statute. In common law pleading, the proper form for the conclusion of an indictment for an offense created by statute was the technical phrase "against the form of the statute in such case made and provided"; or, in Latin, *contra formam statuti*.

Conclusion of fact. An inference drawn from the subordinate or evidentiary facts.

Conclusion of law. Statement of court as to law applicable on basis of facts found by jury. The final judgment or decree required on basis of facts found or verdict. *Peoples v. Peoples*, 10 N.C.App. 402, 179 S.E.2d 138, 141. Propositions of law which judge

Rejection. See *Non-acceptance; Refusal; Repudiation; Rescind.*

Rejoin. In common-law pleading, to answer a plaintiff's replication in an action at law, by some matter of fact.

Rejoinder. In common-law pleading, the second pleading on the part of the defendant, being his answer to the plaintiff's replication.

Rejoining gratis /rəjójynɪŋ gréydəs/. In common law pleading, rejoining voluntarily, or without being required to do so by a rule to rejoin. When a defendant was under terms to rejoin *gratis*, he had to deliver a rejoinder, without putting the plaintiff to the necessity and expense of obtaining a rule to rejoin.

Relate. To stand in some relation; to have bearing or concern; to pertain; refer; to bring into association with or connection with; with "to."

Related. Standing in relation; connected; allied; akin. *Nowland Realty Co. v. Commissioner of Internal Revenue*, C.C.A.7, 47 F.2d 1018, 1021. Goods are "related" for trademark purposes if they are used in conjunction with one another or are associated together in some way in the minds of the consuming public. *Alfred Dunhill of London, Inc. v. Kasser Distillers Products Corp.*, D.C.Pa., 350 F.Supp. 1341, 1352. See also *Relative*.

Related claim. Within statute permitting joinder of claim for unfair competition with substantial and related claim under patent laws is claim resting on substantially identical facts. *Lyon v. General Motors Corp.*, D.C.Ill., 200 F.Supp. 89, 91.

Related party transactions. The tax law places restrictions upon the recognition of gains and losses between related parties due to the potential for abuse. For example, restrictions are placed upon the deduction of losses from the sale or exchange of property between related parties. A related party includes a corporation which is controlled by the taxpayer. I.R.C. § 267.

Relatio est fictio juris et intenta ad unum /rələyʃh(iy)ow ɛst fɪkʃh(iy)ow jʊrɪs ɛd ɪntɛntə æd yʊwɪnəm/. Relation is a fiction of law, and intended for one thing.

Relation. A relative or kinsman; a person connected by consanguinity. A person connected with another by blood or affinity. *Liprie v. Michigan Millers Mut. Ins. Co.*, La.App., 143 So.2d 597, 600.

The words "relatives" and "relations," in their primary sense, are broad enough to include any one connected by blood or affinity, even to the remotest degree, but where used in wills, as defining and determining legal succession, are construed to include only those persons who are entitled to share in the estate as next of kin under the statute of distributions.

The connection of two persons, or their situation with respect to each other, who are associated, whether by the law, by their own agreement, or by kinship, in some social status or union for the purposes of domestic life; as the relation of guardian and ward, husband and wife, master and servant, parent and child; so in the phrase "domestic relations."

The doctrine of "relation" is that principle by which an act done at one time is considered by a fiction of law to have been done at some antecedent period. It is usually applied where several proceedings are essential to complete a particular transaction, such as a conveyance or deed. The last proceeding which consummates the conveyance is held for certain purposes to take effect by relation as of the day when the first proceeding was had. *Knapp v. Alexander-Edgar Lumber Co.*, 237 U.S. 162, 35 S.Ct. 515, 517, 59 L.Ed. 894; *U. S. v. Anderson*, 194 U.S. 394, 24 S.Ct. 716, 48 L.Ed. 1035. See also *Relation back*.

A recital, account, narrative of facts; information given. Thus, suits by *quo warranto* are entitled "on the relation of" a private person, who is called the "relator." But in this connection the word seems also to involve the idea of the suggestion, instigation, or instance of the relator.

See also *Blood relations; Kin or kindred; Relative*.

Relation back. General rule of "relation back" is that a pleading may not be amended to allege a new or different claim or defense unless it arose out of, or is based on or related to, claim, transaction or occurrence originally set forth or attempted to be set forth. *Harastej v. Reliable Car Rental, Inc.*, D.C.Puerto Rico, 58 F.R.D. 197, 198. See also *Amended pleadings, infra*.

A principle that an act done today is considered to have been done at an earlier time. A document held in escrow and finally delivered is deemed to have been delivered as of the time at which it was escrowed.

Amended pleadings. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. Fed.R.Civil P. 15(c).

Relations. A term which, in its widest sense, includes all the kindred of the person spoken of.

Relatio semper fiat ut valeat dispositio /rələyʃh(iy)ow sɛmpɪr fájad ət væliyat dispəzɪʃh(iy)ow/. Reference should always be had in such a manner that a disposition in a will may avail.

Relative. A kinsman; a person connected with another by blood or affinity. When used generically, includes persons connected by ties of affinity as well as consanguinity, and, when used with a restrictive meaning, refers to those only who are connected by blood.

Individual related by affinity or consanguinity within the third degree as determined by the common law, or individual in a step or adoptive relationship within such third degree. Bankruptcy Act, § 101(34).

A person or thing having relation or connection with some other person or thing; as, relative rights, relative powers, *infra*. See also *Relation*.

Relative confession. See *Confession*.

Relative convenience doctrine. Equity may refuse an injunction or other equitable relief if the inconvenience to one party is great while to the other party there is little or no inconvenience. *Duke v. Crossfield*, 241 Mo.App. 579, 240 S.W.2d 180.