

BLACK'S LAW DICTIONARY

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

By

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Compulsory disclosure. Term with variety of meanings; may refer to court order compelling disclosure of matters within scope of discovery rules (see Fed.R. Civil P. 26, 37, 45; Fed.R.Crim.P. 16, 17); may also refer to obligation of public officers or candidates for public office to reveal assets and income from private sources. See also **Subpoena**.

Compulsory insurance. Motor vehicle liability coverage which is required in most states as a condition to registration of such vehicle.

Compulsory nonsuit. An involuntary nonsuit. See **Nonsuit**.

Compulsory payment. One not made voluntarily, but exacted by duress, threats, the enforcement of legal process, or unconscionably taking advantage of another. May also refer to legal obligations, such as payment of taxes or support; or to creditor remedies such as garnishment or attachment.

Compulsory process. Process to compel the attendance in court of a person wanted there as a witness or otherwise; including not only the ordinary subpoena, but also a warrant of arrest or attachment if needed. See e.g. Fed.R. Civil P. 45. See **Bench warrant**; **Subpoena**.

The 6th Amend., U.S.Const., provides that the accused shall have the right to "have compulsory process for obtaining witnesses in his favor".

Compulsory sale or purchase. Term used to characterize the transfer of title to property under the exercise of the power of eminent domain, or by reason of judicial sale for nonpayment of taxes, or the like.

Compulsory self-incrimination. Any form of coercion, physical or psychological, which renders a confession of crime or an admission involuntary, is in violation of the 5th Amend., U.S.Const. and due process clause of 14th Amend. Such practices contravene the very basis of our criminal jurisprudence which is accusatorial not inquisitorial. *Rogers v. Richmond*, 365 U.S. 534, 81 S.Ct. 735, 5 L.Ed.2d 760.

Compurgator /kómpərgəydər/. One of several neighbors of a person accused of a crime, or charged as a defendant in a civil action, who appeared and swore that they believed him on his oath. 3 Bl.Comm. 341.

Computation. The act of computing, numbering, reckoning, or estimating. The account or estimation of time by rule of law, as distinguished from any arbitrary construction of the parties.

Computation of time. For purpose of calculating time under Rules of Civil Procedure, the day of the act, event or default from which the designated period of time begins to run shall not be included, though the last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday. Fed.R. Civil P. 6(a); Fed.R.Crim.P. 45.

Computo /kəmpyúwdow/. Lat. To compute, reckon, or account. Used in the phrases *insimul computasent*, "they reckoned together," (see **Insimul**); *plene computavit*, "he has fully accounted," (see **Plene**); *quod computet*, "that he account," (see **Quod computet**).

Computus /kómpyədəs/. A writ to compel a guardian, bailiff, receiver, or accountant to yield up his accounts. It is founded on the statute Westm. 2, c. 12.

Comte /kównt/. Fr. A count or earl. In the ancient French law, the *comte* was an officer having jurisdiction over a particular district or territory, with functions partly military and partly judicial.

Con. *Adj.* A slang or cant abbreviation for confidence, as a *con man* or a *con game*.

Con. *Prep.* With.

Con- A prefix meaning with, together.

Conatus quid sit, non definitur in jure /kənáydas kwíd sit nòn dèfánáydar in júry/. What an attempt is, is not defined in law.

Con buena fe /kòn bwéynə féy/. In Spanish law, with (or in) good faith.

Conceal. To hide, secrete, or withhold from the knowledge of others. To withdraw from observation; to withhold from utterance or declaration; to cover or keep from sight. To hide or withdraw from observation, cover or keep from sight, or prevent discovery of. *People v. Eddington*, 201 Cal.App.2d 574, 20 Cal.Rptr. 122, 124.

See **Compounding crime**; **Harbor**; **Misprision of felony**; **Withholding of evidence**.

Accessories after the fact. A person who conceals the principal felon or the accessory before the fact is an accessory after the fact if he knows of the felony and of the identity of the felon.

Concealers /kənsíylərz/. In old English law, such as find out concealed lands; that is, lands privily kept from the king by common persons having nothing to show for them. They are called "a troublesome, disturbant sort of men; turbulent persons."

Concealment. To conceal. A withholding of something which one knows and which one, in duty, is bound to reveal. A "concealment" in law of insurance implies an intention to withhold or secrete information so that the one entitled to be informed will remain in ignorance. *Indiana Ins. Co. v. Knoll*, 142 Ind.App. 506, 236 N.E.2d 63, 70. See also **Conceal**; **Fraudulent concealment**.

Concealment may be basis of estoppel. Elements of such estoppel are concealment of material facts with knowledge thereof, ignorance thereof on part of person to whom representations are made, or from whom facts are concealed, intention that such person shall act thereon, and action induced thereby on his part. *Rhoads v. Rhoads*, 342 Mo. 934, 119 S.W.2d 247, 252; *Rosser v. Texas Co.*, 173 Okl. 309, 48 P.2d 327, 330. The doctrine of "estoppel by concealment and suppression" applies only where there has been reduction to practice of invention. *Bogoslowsky v. Huse*, 31 C.C.P.A. (Patents) 1034, 142 F.2d 75, 76.

Conceder /kònseydáy/. Fr. In French law, to grant. See **Concession**.

Concedo /kənsíydow/. Lat. I grant. A word used in old Anglo-Saxon grants, and in statutes merchant.

Fraudulent. Based on fraud; proceeding from or characterized by fraud; tainted by fraud; done, made, or effected with a purpose or design to carry out a fraud. See also **False and fraudulent**.

A statement, or claim, or document, is "fraudulent" if it was falsely made, or caused to be made, with the intent to deceive.

To act with "intent to defraud" means to act willfully, and with the specific intent to deceive or cheat; ordinarily for the purpose of either causing some financial loss to another, or bringing about some financial gain to oneself.

Fraudulent alienation. In a general sense, the transfer of property with an intent to defraud creditors, lienors, or others. In a particular sense, the act of an administrator who wastes the assets of the estate by giving them away or selling at a gross undervalue.

Fraudulent alienee /frɔːlənt əyl(i)əni/. One who knowingly receives from an administrator assets of the estate under circumstances which make it a fraudulent alienation on the part of the administrator.

Fraudulent banking. Receipt of deposit by banker who knows that bank is insolvent at the time.

Fraudulent claims. See **False claim**.

Fraudulent concealment. The hiding or suppression of a material fact or circumstance which the party is legally or morally bound to disclose. The employment of artifice planned to prevent inquiry or escape investigation and to mislead or hinder the acquisition of information disclosing a right of action; acts relied on must be of an affirmative character and fraudulent. *Fundunburks v. Michigan Mut. Liability Co.*, 63 Mich.App. 405, 234 N.W.2d 545, 547. The test of whether failure to disclose material facts constitutes fraud is the existence of a duty, legal or equitable, arising from the relation of the parties; failure to disclose a material fact with intent to mislead or defraud under such circumstances being equivalent to an actual "fraudulent concealment." Fraudulent concealment justifying a rescission of a contract is the intentional concealment of some fact known to the party charged, which is material for the party injured to know to prevent being defrauded; the concealment of a fact which one is bound to disclose being the equivalent of an indirect representation that such fact does not exist. See **Material fact**.

Fraudulent conversion. Receiving into possession money or property of another and fraudulently withholding, converting, or applying the same to or for one's own use and benefit, or to use and benefit of any person other than the one to whom the money or property belongs. See **Conversion**.

Fraudulent conveyance. A conveyance or transfer of property, the object of which is to defraud a creditor, or hinder or delay him, or to put such property beyond his reach. *Dean v. Davis*, 242 U.S. 438, 37 S.Ct. 130, 61 L.Ed. 419. Conveyance made with intent to avoid some duty or debt due by or incumbent on person making transfer. As constituting an act of bankruptcy, a gift or transfer of the bankrupt's property for little or no consideration at a time when the bankrupt is insolvent, or one which renders bank-

rupt's capital unreasonably small, or one made by bankrupt who believes that he will not be able to meet maturing obligations, or one made with actual intent to hinder and delay his creditors. Many states have adopted the Uniform Fraudulent Conveyances Act.

Fraudulent intent. Such intent exists where one, either with a view of benefitting himself or misleading another into a course of action, makes a representation which he knows to be false or which he does not believe to be true. In *re Orenduff*, D.C.Okla., 226 F.Supp. 312, 314.

Fraudulent or dishonest act. One which involves bad faith, a breach of honesty, a want of integrity, or moral turpitude. *Hartford Acc. & Indem. Co. v. Singer*, 185 Va. 620, 39 S.E.2d 505, 507, 508.

Fraudulent preferences. See **Preference**.

Fraudulent representation. A false statement as to material fact, made with intent that another rely thereon, which is believed by other party and on which he relies and by which he is induced to act and does act to his injury, and statement is fraudulent if speaker knows statement to be false or if it is made with utter disregard of its truth or falsity. *Osborne v. Simmons*, Mo.App., 23 S.W.2d 1102, 1104. As basis for civil action, establishment of representation, falsity, scienter, deception, and injury, are generally required. See also **Deceit**; **Fraud**; **Material fact**; **Misrepresentation**.

Fraudulent sale. See **Sale**.

Fraudulent transfers. See **Fraudulent conveyance**.

Fraunc, fraunche, fraunke /frɔŋk/. See **Frank**.

Fraunchise /frɔnʃəz/frɔnʃəyz/. L. Fr. A franchise.

Fraus /frɔs/. Lat. Fraud. More commonly called, in the civil law, "*dolus*," and "*dolus malus*" (*q.v.*). A distinction, however, was sometimes made between "*fraus*" and "*dolus*"; the former being held to be of the most extensive import.

Fraus dans locum contractui /frɔs dæn(d)z lɔwkəm kɔntrɔkʃuway/. A misrepresentation or concealment of some fact that is material to the contract, and had the truth regarding which been known the contract would not have been made as made, is called a "*fraus dans locum contractui*"; *i.e.*, a fraud occasioning the contract, or giving place or occasion for the contract.

Fraus est celare fraudem /frɔs ɛst sɛləri frɔdɛm/. It is a fraud to conceal a fraud.

Fraus est odiosa et non præsumenda /frɔs ɛst ɔwdiɔwsə ɛt nɔn priyz(y)əmɛndə/. Fraud is odious, and not to be presumed.

Fraus et dolus nemini patrocinari debent /frɔs ɛt dɔwls nɛmənay pətrɔsnəriy dɛbɛnt/. Fraud and deceit should defend or excuse no man.

Fraus et jus nunquam cohabitant /frɔs ɛt jəs nʌŋkwəm kɔwhɛbɛdant/. Fraud and justice never dwell together.

Fraus latet in generalibus /frɔs lædɛt in jɛnərəyləbəs/. Fraud lies hid in general expressions.

Basis pattern

Party A, the party in control and has some to hide, creates a cloud of confusion and conflict which makes it impossible to see what is behind it. Party B, who has nothing to hide, is left to clear away the confusion and conflict because Party A won't. Creating clarity out of confusion and conflict is difficult. When Party B falls short of clarity, Party B, and not Party A, appears confused and conflicted and the matter is dismissed. The only way to see what is behind the cloud is to require Party A to remove the cloud: to make Party A accountable.