

THE
CYCLOPEDIA
LAW DICTIONARY

COMPRISING

TERMS AND PHRASES OF AMERICAN JURISPRUDENCE, INCLUDING ANCIENT AND MODERN
COMMON LAW, INTERNATIONAL LAW, AND NUMEROUS SELECT TITLES FROM THE
CIVIL LAW, THE FRENCH AND THE SPANISH LAW, ETC., ETC.

WITH

AN EXHAUSTIVE COLLECTION OF LEGAL MAXIMS

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LAW. That which is established; a rule or method of action.

A distinction is to be observed in the outset between the abstract and the concrete meaning of the word. In the broadest sense which it bears when used in the abstract law, it is the science which treats of the theory of government.

In a stricter sense, but still in the abstract, it is the aggregate of those rules and principles enforced and sanctioned by the governing power in a community, and according to which it regulates, limits, and protects the conduct of members of the community. In the abstract sense, it includes the decisions of courts. 164 Wis. 228.

Used in the concrete, law is a rule of action prescribed by a superior. 1 Bl. Comm. 38.

In a stricter concrete sense, it is a rule of civil conduct prescribed by the supreme power in a state. 1 Steph. Comm. 25.

In the strictest sense, it is a statute; a rule prescribed by the legislative power. 10 Pet. (U. S.) 18.

Used without an article prefixed, the abstract sense is generally intended; with an article, the sense is usually concrete.

Law is used to denote the system of the common law, as distinguished from equity. See "Equity."

It is also used in contradistinction to "fact." See "In Law."

Arbitrary law. A law or provision of law so far removed from considerations of abstract justice that it is necessarily founded

on the mere will of the law-making power, so that it is rather a rule established than a principle declared. The principle that an infant shall not be bound by his contract is not arbitrary; but the rule that the limit of infancy shall be twenty-one years, not twenty nor twenty-two, is arbitrary.

The term is also sometimes used to signify an unreasonable law,—one that is in violation of justice.

Irrevocable laws. All laws which have not in their nature or in their language some limit or termination provided are, in theory, perpetual; but the perpetuity is liable to be defeated by subsequent abrogation. It has sometimes been attempted to secure an absolute perpetuity by an express provision forbidding any abrogation. But it may well be questioned whether one generation has power to bind their posterity by an irrevocable law. See this subject discussed by Benth. Works, vol. 2, pp. 402-407; and see Dwarr. St. 479.

Municipal law is a system of law proper to any single state, nation, or community. See "Municipal Law."

Penal law is one which inflicts a penalty for its violation.

Positive law is the system naturally established by a community, in distinction from "natural law."

A private law is one which relates to private matters which do not concern the public at large. Corp. L.

A prospective law or statute is one which applies only to cases arising after its enactment, and does not affect that which is already past.

A public law is one which affects the public, either generally or in some classes.

STARE DECISIS, ET NON QUIETA MO-
vere. To adhere to precedents, and not to
unsettle things which are established. 9
Johns. (N. Y.) 395, 428; 11 Wend. (N. Y.)
504, 507; 23 Wend. (N. Y.) 336, 340; 25
Wend. (N. Y.) 119, 142; 4 Hill (N. Y.)
271, 323; 4 Hill (N. Y.) 592, 595; 22 Barb.
(N. Y.) 97, 106.

STARE DECISIS To abide by or adhere
to decided cases. It is a general rule that,
when a point has been settled by a deci-
sion, it becomes a precedent which should
be followed in subsequent cases before the
same court. The rule is based wholly on
policy, in the interest of uniformity and
certainty of the law, but is frequently de-
parted from. See "Rule of Property."

RULE OF PROPERTY. A rule of law af-
fecting the ownership or transfer of prop-
erty. The term is ordinarily used in con-
nection with rules established by judicial
decision, it being a general principle of
law that decisions which have become rules
of property, *i. e.*, under which property
rights have been acquired, will not be over-
ruled, though erroneous. 30 Miss. 256; 4
N. Y. 261. See "Stare Decisis."

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