



**DEMO BOUVIER LAW DICTIONARY HYPERLINKED**

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# BOUVIER LAW DICTIONARY HYPERLINKED

The last edition of Bouvier's *Law* Dictionary, *published* in 1856 by John Bouvier, included just under 7000 Legal *Terms* and *Definitions*. At that time the *United States* consisted of 31 *states* and 4 *territories*. *Slavery* would not be *abolished* federally until 1865. Bouvier's *Law* Dictionary is one of the first comprehensive dictionaries of the *laws* of the *United States*. The *federal* and *state constitutions* and *statutes* he cited and paraphrased reflected the *law* of the *United States* as it stood in the 1850's making the dictionary an excellent source for historic legal research; the *common law* legal definitions are still *valid law* in most cases; Bouvier included a list of 1164 of the "more important" *Legal Maxims*; a list of all *Legal Abbreviations* that were used throughout the dictionary was also included.

In this edition every effort has been made to preserve the *original* text. Page numbers and some paragraph numbers have been reordered, and some, but not all, some inconsistently spelled words have been changed for consistency. **NOTE:** Words in blue text are hyperlinks. To be taken to the expected term, click on the specific word of interest. For example, below *United States* and *Constitution* are separate hyperlinks.

The the full text of both the *United States Constitution* and all 27 *Amendments to the Constitution* (through 1992) have been added and Hyperlinked to the dictionary terms.

This edition of the Bouvier *Law* Dictionary Hyperlinked consists of 3506 pages. The following enhancements not technologically available in 1856 have been made to the *original* text:

- 208,145 Hyperlinks
- *The United States Constitution* Hyperlinked
- *Amendments to the Constitution of the United States* Hyperlinked
- Hyperlinked Index of all Legal Terms: Page Numbers are included for printed use
- Hyperlinked Alphabetical Bookmark List
- Powerful Search Capability of any term or phrase

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# Introduction

A **LAW** DICTIONARY ADAPTED TO THE **CONSTITUTION** AND LAWS OF THE **UNITED STATES OF AMERICA** AND OF THE SEVERAL **STATES** OF THE AMERICAN **UNION** With References to the **Civil** and Other Systems of **foreign law**.

by  
John Bouvier

Ignoratis terminis ignoratur et ars. – Co. Litt. 2 a. Je sais que chaque science et chaque art a ses termes **propres**, inconnu au commun des hommes. – Fleury  
SIXTH EDITION, REVISED, IMPROVED, AND GREATLY ENLARGED.  
VOL. I.

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PHILADELPHIA  
CHILDS & PETERSON, 124 ARCH **STREET**  
1856

Entered according to **Act** of **Congress**, in the year one thousand eight hundred and thirty–nine, BY JOHN BOUVIER, In the **Clerk's Office** of the **District Court** for the Eastern **District** of **Pennsylvania**.

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Entered according to **Act** of **Congress**, in the year one thousand eight hundred and fifty–two, BY ELIZA BOUVIER and ROBERT E. PETERSON, **Trustees**, In the **Clerk's Office** of the **District Court** for the Eastern **District** of **Pennsylvania**.

**Deacon** & Peterson, Printers

66 South Third **Street**.

TO THE HONORABLE

JOSEPH STORY, L.L.D., One of the **Judges** of the **Supreme Court** of the **United States**.

THIS WORK IS WITH HIS **PERMISSION** MOST RESPECTFULLY DEDICATED AS A **TOKEN** OF GREAT REGARD ENTERTAINED FOR HIS TALENTS, LEARNING, AND **CHARACTER**, BY THE AUTHOR.

### **ADVERTISEMENT TO THE THIRD EDITION**

Encouraged by the success of this work, the author has endeavored to **render** this edition as **perfect** as it was possible for him to make it. He has remoulded very many of the **articles** contained in the former editions, and added upwards of twelve hundred new ones. To **render** the work as useful as possible, he has added a very copious index to the whole, which, at the same time that it will assist the inquirer, will **exhibit** the great number of subjects treated in these volumes. As Kelham's **Law** Dictionary has been **published** in this **city**, and can be had by those who desire to possess it, that work has not been added as an appendix to this edition.

Philadelphia, November, 1848.

### **ADVERTISEMENT TO THE FOURTH EDITION**

Since the **publication** of the last edition of this work, its author, sincerely devoted to the advancement of his **profession**, has given to the world his **Institutes** of American **Law**, in 4 vols. Always endeavoring to **render** his Dictionary as **perfect** as possible, he was constantly revising it; and whenever he met with an article which he had omitted, he immediately prepared it for a **new** edition. After the completion of his **Institutes**, in September last, laboring to severely, he fell a victim to his zeal, and died on the 18th of November, 1851, at the **age** of sixty-four.

In preparing this edition, not only has the **matter** left by its author been made use of, but additional **matter** has been added, so that the present will contain nearly one-third more than the last edition. Under one head, that of **Maxims**, nearly thirteen hundred new **articles** have been added. The **book** has been carefully examined, a great portion of it by two **members** of the **bar**, in order that it might be purged, as far as possible, from all errors of every **description**. The various changes in the **constitutions** of the **states** made since the last edition, have been noticed, so far as was compatible with this work; and every effort made to **render** it as **perfect** as a work of the kind would permit, in order that it might still sustain the **reputation** given to it by a Dublin **barrister**, "of being a work of a most elaborate character, as compared with English works of a similar nature, and one which should be in every library."

That it may still continue to receive the **approbation** of the **Bench** and **Bar** of the **United States**, is the sincere desire of the **widow** and **daughter** of its author.

## PREFACE

To the difficulties which the author experienced on his **admission** to the **bar**, the present **publication** is to be attributed. His endeavours to get forward in his **profession** were constantly obstructed, and his efforts for a long time frustrated, for want of that **knowledge** which his elder brethren of the **bar** seemed to possess. To find among the **reports** and the various treatises on the **law** the object of his inquiry was a difficult task; he was in a labyrinth without a guide: and much of the time which was spent in finding his way out, might, with the friendly assistance of one who was acquainted with the **construction** of the edifice, have been saved, and more profitably employed. He applied to **law** dictionaries and digests within his reach, in the hope of being directed to the source whence they derived their learning, but he was too often disappointed; they seldom pointed out the **authorities** where the object of his inquiry might be found. It is true such works contain a great mass of information, but from the manner in which they have been compiled, they sometimes embarrassed him more than if he had not consulted them. They were written for another **country**, possessing **laws** different from our own, and it became a question how far they were or were not applicable here. Besides, most of the **matter** in the English **law** dictionaries will be found to have been written while the **feudal law** was in its full vigor, and not fitted to the present times, nor calculated for present use, even in England. And there is a great portion which, though useful to an [vii] English **lawyer**, is almost useless to the American student. What, for example, have we to do with those laws of Great Britain which relate to the **person** of their **king**, their **nobility**, their **clergy**, their **navy**, their army; with their **game laws**; their **local statutes**, such as regulate their **banks**, their **canals**, their **exchequer**, their **marriages**, their **births**, their **burials**, their beer and ale houses, and a variety of similar subjects.

The most modern **law** dictionaries are compilations from the more **ancient**, with some modifications and **alterations** and, in many instances, they are servile copies, without the slightest **alteration**. In the mean time the **law** has undergone a great change. Formerly the principal object of the **law** seemed to be to regulate **real property**, in all its various **artificial** modifications, while little or no attention was bestowed upon the rules which govern **personal property** and **rights**. The mercantile **law** has since arisen, like a bright pyramid, amid the gloom of the **feudal law**, and is now far more important in **practice**, than that which refers to **real estate**. The **law** of **real property**, too, has changed, particularly in this **country**.

The English **law** dictionaries would be very unsatisfactory guides, even in pointing out where the **laws** relating to the **acquisition** and **transfer** of **real estate**, or the **laws** of **descent** in the **United States**, are to be found. And the student who seeks to find in the Dictionaries of Cowel, Manly, Jacobs, Tomlins, Cunningham, Burn, Montefiore, Pott, Wishaw, Williams, the *Termes de Ley*, or any similar **compilation**, any satisfactory account in relation to **international law**, to **trade** and **commerce**, to **maritime law**, to **medical jurisprudence**, or to **natural law**, will probably not be fully gratified. He cannot, **of course**, expect to find in them anything in relation to our **government**, our **constitutions**, or our **political** or **civil** institutions.[viii]

It occurred to the author that a **law** dictionary, written entirely anew, and calculated to **remedy** those defects, would be useful to the **profession**. Probably overrating his strength, he resolved to **undertake** the task, and if he should not fully succeed, he will have the consolation to know, that his effort may **induce** some more gifted individual, and better **qualified** by his learning, to **undertake** such a task, and to **render** the American **bar** an important service. Upon an **examination** of the **constitution** and **laws** of the **United States**, and of the several **states** of the American **Union**, he perceived many **technical expressions** and much valuable information which he would be able to incorporate in his work. Many of these **laws**, although **local** in their nature, will be found useful to every **lawyer**, particularly those engaged in mercantile **practice**. As instances of such laws the reader is referred to the **articles Acknowledgment, Descent, Divorce, Letters of Administration, and Limitation**. It is within the plan of this work to explain such **technical expressions** as relate to the **legislative, executive, or judicial departments** of the **government**; the **political** and the **civil rights and duties** of the **citizens**; the **rights and duties** of **persons**, particularly such as are peculiar to our institutions, as, the **rights of descent and administration**; of the mode of **acquiring and transferring property**; to the **criminal law**, and its **administration**. It has also been an object with the author to embody in his work such **decisions** of the **courts** as appeared to him to be important, either because they differed from former **judgments**, or because they related to some **point** which was before either obscure or unsettled. He does not profess to have examined or even referred to all the American cases; it is a part of the plan, however, to refer to **authorities**, generally, which will lead the student to nearly all the cases.

The author was **induced** to believe, that an occasional comparison of the **civil, canon**, and other systems of **foreign law**, with our own, [ix] would be useful to the **profession**, and illustrate many **articles** which, without such aid, would not appear very clear; and also to introduce many terms from **foreign laws**, which may supply a deficiency in ours. The **articles Condonation, Extradition, and Novation**, are of this sort. He was **induced** to adopt this course because the **civil law** has been considered, perhaps not without **justice**, the best system of written **reason**, and as all **laws** are or ought to be founded in **reason**, it seemed peculiarly **proper** to have recourse to this fountain of wisdom: but another **motive** influenced this **decision**; one of the **states** of the **Union** derives most of its **civil** regulations from the **civil law**; and there seemed a peculiar propriety, therefore, in introducing it into an American **law** dictionary. He also had the example of a Story, a Kent, Mr. Angell, and others, who have ornamented their works from the same source. And he here takes the opportunity to acknowledge the **benefits** which he has derived from the learned labors of these **gentlemen**, and of those of Judge Sergeant, Judge Swift, Judge Gould, Mr. Rawle, and other writers on American **law** and **jurisprudence**.



In the **execution** of his plan, the author has, in the first place, defined and explained the various words and phrases, by giving their most enlarged meaning, and then all the shades of signification of which they are susceptible; secondly, he has divided the subject in the manner which to him appeared the most natural, and laid down such **principles** and **rules** as belong to it; in these cases he has generally been careful to give an illustration, by citing a **case** whenever the subject seemed to require it, and referring to others supporting the same **point**; thirdly, whenever the article admitted of it, he has compared it with the **laws** of other **countries** within his reach, and pointed out their **concord** or disagreement; and, fourthly, he has referred to the **authorities**, the **abridgments**, **digests**, and the [x] **ancient** and modern treatises, where the subject is to be found, in order to facilitate the researches of the student. He desires not to be understood as professing to **cite** cases always exactly in **point**; on the contrary, in many instances the **authorities** will probably be found to be but distantly connected with the subject under **examination**, but still connected with it, and they have been added in order to lead the student to **matter** of which he may possibly be in pursuit.

To those who are aware of the difficulties of the task, the author deems it unnecessary to make any apology for the imperfections which may be found in the work. His object has been to be useful; if that has been accomplished in any degree, he will be amply **rewarded** for his **labor**; and he relies upon the generous liberality of the **members** of the **profession** to overlook the **errors** which may have been committed in his endeavors to serve them.

PHILADELPHIA, September, 1839.

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# A.

## ***ABBREVIATIONS***

and abbreviated references. The following list, though necessarily incomplete, may be useful to some readers.

### **A.**

a, the first letter of the alphabet, is sometimes used in the **ancient** law books to denote that the paging is the first of that number in the book. As an abbreviation, A is used for anonymous.

A. & A. on Corp. Angell & Ames on Corporations. Sometimes cited Ang. on Corp.

A. B. Anonymous Reports, printed at the end of Bendloe's Reports.

A. D. **Anno Domini**, in the year of our Lord

A. & E. Adolphus and Ellis' Reports.

A. & E. N. S. Adolphus & Ellis' Queen's Bench Reports, New Series, commonly cited Q. B.

A. & F. on Fixt. Amos & Ferard on Fixtures.

A. K. Marsh. A. K. Marshall's (Kty.) Reports.

Ab. or Abr. Abridgement.

Abr. Ca. Eq. Abridgement of cases in Equity.

...LEGAL ABBREVIATIONS CONTINUE...



# ABOLITION.

An *act* by which a thing is *extinguished*, *abrogated* or annihilated. Merl. Repert, h.t., as, the *abolition* of *slavery* is the destruction of *slavery*.

2. In the *civil* and French *law abolition* is used nearly synonymously with *pardon*, *remission*, *grace*. Dig. 39, 4, 3, 3. There is, however, this difference: *grace* is the generic term; *pardon*, according to those *laws*, is the *clemency* which the *prince* extends to a *man* who has participated in a *crime*, without being a *principal* or *accomplice*; *remission* is made in cases of *involuntary* homicides, and *self-defence*. *Abolition* is different: it is used when the *crime* cannot be *remitted*. The *prince* then may by letters of *abolition remit* the *punishment*, but the *infamy* remains, unless letters of *abolition* have been obtained before *sentence*. Encycl. de d'Alembert, h.t.

3. The term *abolition* is used in the *German law* in the same sense as in the French *law*. Encycl. Amer. h.t. The term *abolition* is derived from the *civil law*, in which it is sometimes used synonymously with *absolution*. Dig. 39, 4, 3, 3.

# C.

## COMMON LAW.

That which derives its force and **authority** from the universal **consent** and **immemorial** practice of the **people**. See **Law, common**.

## CONSTITUTION,

[Constitution: **Government; Contracts; Of The United States.**]

**government**. The **fundamental law** of the **state**, containing the **principles** upon which the **government** is founded, and regulating the divisions of the **sovereign powers**, directing to what **persons** each of these **powers** is to be confided, and the manner it is to be exercised as, the **Constitution** of the **United States**. See Story on the **Constitution**; Rawle on the Const.

2. The **words constitution** and **government** (q.v.) are sometimes employed to express the same idea, the manner in which **sovereignty** is exercised in each **state**. **Constitution** is also the name of the **instrument** containing the **fundamental laws** of the **state**.

3. By **constitution**, the **civilians**, and, from them, the **common law** writers, mean some particular **law**, as the **constitutions** of the **emperors** contained in the **Code**.

## CONSTITUTION,

**contracts**. The **constitution** of a **contract**, is the making of the **contract** as, the written **constitution** of a **debt**. 1 Bell's Com. 332, 5th ed.

# **CONSTITUTION OF THE UNITED STATES OF AMERICA.**

[Constitution: **Government; Contracts; Of The United States.**]

The **fundamental law** of the **United States** .

2. It was framed by a **convention** of the **representatives** of the **people**, who met at Philadelphia, and finally adopted it on the 17th day of September, 1787. It became the **law** of the **land** on the first Wednesday in March, 1789. 5 Wheat. 420.

3. A short analysis of this **instrument**, so replete with salutary provisions for insuring **liberty** and **private rights**, and **public peace** and prosperity, will here be given.

4. The **preamble** declares that the **people** of the **United States** , in order to form a more **perfect Union**, **establish justice**, insure **public** tranquillity, provide for the common **defence**, promote the general welfare, and **secure** the blessings of **liberty** to themselves and their **posterity**, do **ordain** and **establish** this **constitution** for the **United States of America**.

5.-1. The **First Article** is divided into ten sections.

By the **first** the **legislative power** is **vested** in **congress**.

The **second** regulates the formation of the **house of representatives**, and declares who shall be **electors**.

...CONTINUES THROUGH EACH ARTICLE AND AMENDMENT...

# D.

## **DEFINITION.**

An enumeration of the principal ideas of which a compound idea is formed, to ascertain and explain its nature and character; or it is that which denotes and points out the **substance** of a thing to us. Ayliffe's Pand. 59.

2. A **definition** ought to contain every idea which belongs to the thing defined, and exclude all others.

3. A **definition** should be, 1st. Universal, that is, such that it will apply equally to all individuals of the same kind. 2d. **Proper**, that is, such that it will not apply to any other individual of any other kind. 3d. Clear, that is, without any **equivocal**, vague, or **unknown word**. 4th. Short, that is, without any useless **word**, or anything foreign to the idea intended to be defined.

4. **Definitions** are always dangerous, because it is always difficult to prevent their being inaccurate, or their becoming so; omnis definitio **injure** civili periculosa est, parum est enim, ut **non** subvertipossit.

5. All ideas are not susceptible of **definitions**, and many **words** cannot be defined. This inability is frequently supplied, in a considerable degree, by **descriptions**. (q.v.)

# ***F.***

## ***FEDERAL,***

***government.*** This term is commonly used to ***express*** a ***league*** or ***compact*** between two or more ***states***.

2. In the ***United States*** the central ***government*** of the ***Union*** is ***federal***. The ***constitution*** was adopted "to form a more ***perfect union***" among the ***states***, for the purpose of self-***protection*** and for the promotion of their ***mutual*** happiness.

# L.

## LAW.

In its most general and comprehensive sense, *law* signifies a *rule* of *action*; and this term is applied indiscriminately to all kinds of *action*; whether animate or inanimate, rational or irrational. 1 Bl. Com. 38. In its more confined sense, *law* denotes the *rule*, not of *actions* in general, but of human *action* or conduct. In the *Civil Code of Louisiana*, art. 1, it is defined to be "a *solemn expression* of the legislative *will*." Vide Toull. Dr. Civ. Fr. tit. prel. s. 1, n. 4; 1 Bouv. Inst. n. 1–3.

2. *Law* is generally divided into four principle classes, namely; *natural law*, the *law of nations*, *public law*, and *private law* or *civil law*. When considered in relation to its origin, it is *statute law* or *common law*. When examined as to its different systems it is divided into *civil law*, *common law*, *canon law*. When applied to objects, it is *civil*, *criminal*, or *penal*. It is also divided into *natural law* and *positive law*. Into *written law*, *lex scripta*; and *unwritten law*, *lex non scripta*. Into *law merchant*, *martial law*, *municipal law*, and *foreign law*. When considered as to their duration, *laws* are *immutable* and *arbitrary* or *positive*; when as their *effect*, they are *prospective* and *retrospective*. These will be separately considered.

# M.

## MAXIM.

An established principle or **proposition**. A principle of **law** universally admitted, as being **just** and consonant with **reason**.

2. **Maxims** in **law** are somewhat like axioms in geometry. 1 Bl. Com. 68. They are **principles** and **authorities**, and part of the general **customs** or **common law** of the **land**; and are of the same strength as **acts** of **parliament**, when the **judges** have **determined** what is a **maxim**; which belongs to the **judges** and not the **jury**. Terms do Ley; Doct. & Stud. Dial. 1, c. 8. **Maxims** of the **law** are holden for **law**, and all other cases that may be applied to them shall be taken for granted. 1 Inst. 11. 67; 4 Rep. See 1 Com. c. 68; Plowd. 27, b.

3. The **application** of the **maxim** to the **case** before the **court**, is generally the only difficulty. The true **method** of making the **application** is to ascertain how the **maxim** arose, and to consider whether the case to which it is applied is of the same character, or whether it is an **exception** to an apparently general rule.

4. The **alterations** of any of the **maxims** of the **common law** are dangerous. 2 Inst. 210. The following are some of the more important **maxims**.

A communi observantia **non** est recedendum.

There should be no departure from common observance or **usage**. Co. Litt. 186.

A l'impossible **nul** n'est tenu.

No one is bound to do what is **impossible**. 1 Bouv. Inst. n. 601.

A verbis legis **non** est recedendum.

From the **words** of the **law** there must be no departure. Broom's Max. 268; 5 Rep. 119; Wing. Max. 25.

Absentia ejus qui republicae causa abest, neque ei, neque alii damnosa esse debet.

The absence of him who is **employed** in the service of the **state**, ought not to be burdensome to him nor to others. Dig. 50, 17, 140.

Absoluta sententia expositore **non** indiget.

An **absolute** unqualified **sentence** or **proposition**, needs no expositor. 2 Co. Inst. 533.

...LEGAL MAXIMS CONTINUE...



# O.

## **ORIGINAL,**

**contracts, practice, evidence.** An **authentic instrument** of something, and which is to serve as a **model** or **example** to be copied or imitated. It also means first, or not deriving any **authority** from any other source as, **original jurisdiction, original writ, original bill,** and the like.

2. Originals are single or **duplicate**. Single, when there is but one; **duplicate**, when there are two. In the case of printed **documents**, all the impressions are originals, or in the nature of **duplicate** originals, and any **copy** will be **primary evidence**. Watson's Case, 2 Stark. R. 130; sed vide 14 Serg.& Rawle, 200; 2 Bouv. Inst. n. 2001.

3. When an **original document** is not **evidence** at **common law**, and a **copy** of such **original** is made **evidence** by an act of the **legislature**, the **original** is not, therefore, made admissible **evidence** by **implication**. 2 Camp. R. 121,

# P.

## PUBLICATION.

The **act** by which a thing is made **public**.

2. It differs from **promulgation**, (q.v.) and see also Toullier, Dr. Civ. Fr. Titre Preliminaire, n. 59, for the difference in the meaning of these two words.

3. **Publication** has different meanings. When applied to a **law**, it signifies the rendering **public** the existence of the **law**; when it relates to the opening the **depositions** taken in a case in **chancery**, it means that **liberty** is given to the **officer** in whose **custody** the **depositions** of **witnesses** in a **cause** are lodged, either by **consent** of **parties**, or by the **rules** or **orders** of the **court**, to show the **depositions** openly, and to give out copies of them. Pract. Reg. 297; 1 Harr. Ch. Pr. 345; Blake's Ch. Pr. 143. When it refers to a **libel**, it is its **communication** to a second or third **person**, or a greater number. Holt on **Libels**, 254, 255, 290; Stark. on **Slander**, 350; Holt's N. P. Rep. 299; 2 Bl. R. 1038; 1 Saund. 112, n. 3. And when spoken of a **will**, it signifies that the **testator** has done some **act** from which it can be concluded that he **intended** the **instrument** to operate as his **will**. Cruise, Dig. tit. 38, c. 5, s. 47; 3 Atk. 161; 4 Greenl. R. 220; 3 Rawle, R. 15; Com. Dig. **Estates** by **devise**, E 2. Vide Com. Dig. **Chancery**, Q; Id. **Libel**, B 1; Ibid. **Action** upon the **case** for **defamation**, G 4; Roscoe's Cr. Ev. 529; Bac. Ab. **Libel**, B; Hawk. P. C. B. 1, c. 73, s. 10; 3 Yeates' R. 128; 10 Johns. R. 442. As to the **publication** of an **award**, see 6 N. H. Rep. 36. See, generally, Bouv. Inst. Index, h.t.

# S.

## SLAVERY.

The **state** or **condition** of a **slave**.

2. **Slavery** exists in most of the southern states. In **Pennsylvania**, by the **act** of March, 1780, for the gradual **abolition** of **slavery**, it has been almost entirely removed in **Massachusetts** it was **held**, soon after the Revolution, that **slavery** had been **abolished** by their **constitution**; 4 Mass. 128; in **Connecticut**, **slavery** has been totally **extinguished** by legislative provisions; Reeve's Dom. Bel. 340; the states north of **Delaware**, **Maryland** and the **river Ohio**, may be considered as **free States**, where **slavery** is not tolerated. Vide Stroud on **Slavery**; 2 Kent, Com. 201; Rutherf. Inst. 238.

## STATE,

[State: **Government**, **Persons**.]

**government**. This word is used in various senses. In its most enlarged sense, it signifies a self-sufficient **body** of **persons** united together in one **community** for the **defence** of their **rights**, and to do **right** and **justice** to **foreigners**. In this sense, the **state** means the whole **people** united into one **body politic**; (q.v.) and the state, and the **people** of the **state**, are **equivalent** expressions. 1 Pet. Cond. Rep. 37 to 39; 3 Dall. 93; 2 Dall. 425; 2 Wilson's Lect. 120; Dane's Appx. Sec. 50, p. 63 1 Story, Const. Sec. 361. In a more limited sense, the word **state expresses** merely the **positive** or **actual** organization of the **legislative**, or **judicial powers**; thus the **actual government** of the **state** is designated by the name of the **state**; hence the expression, the **state** has passed such a **law**, or **prohibited** such an **act**. **State** also means the **section** of **territory occupied** by a **state**, as the **state** of **Pennsylvania**.

2. By the word **state** is also meant, more particularly, one of the **commonwealths** which form the **United States of America**. The **constitution of the United States** makes the following provisions in relation to the **states**.

3. **art. 1, s. 9**, Sec. 5. No **tax** or **duty** shall be laid on articles **exported** from any **state**. No preference shall be given by any regulation of **commerce** or **revenue** to the **ports** of one **state** over those of another, nor shall **vessels** bound to or from one **state** be obliged to enter, clear, or pay **duties** in another.

4.–Sec. 6. No **money** shall be drawn from the **treasury** but in consequence of appropriations made by **law**; and a regular **statement** and **account** of the **receipts** and expenditures of all **public money** shall be **published** from time to time.

5.–Sec. 7. No **title** of **nobility** shall be granted by the **United States**, and no **person** holding any **office** of **profit** or **trust** under them shall, without the **consent** of **congress**, **accept** of any present, **emolument**, **office**, or **title** of any kind whatever, from, any **king**, **prince**, or **foreign state**.

6. **art. 1, s. 10**, Sec. 1. No **state** shall enter into any **treaty**, **alliance**, or **confederation**; grant **letters of marque and reprisal**; coin **money**; **emit bills of credit**; make anything but **gold** and silver **coin** a **tender** in **payments** of **debts**; **pass** any **bill of attainder**, **ex post facto**, or **law impairing the obligation of contracts**; or **grant** any **title** of **nobility**.

7.–Sec. 2. No **state** shall, without the **consent** of **congress**, lay any **imposts** or **duties** on **imports** or **exports**, except what may be absolutely necessary for **executing** its **inspection laws**; and the net produce of all **duties** and **imposts** laid by any **state** on **imports** or **exports** shall be for the use of the **treasury** of the **United States**, and all such **laws** shall be subject to the revision and control of **congress**. No **state**, shall, without the **consent** of **congress**, lay any **duty** on **tonnage**, keep troops or **ships** of **war** in time of **peace**, enter into any **agreement** or **compact** with another **state**, or with a **foreign power**, or engage in **war**, unless actually invaded, or in such imminent danger as will not admit of delay.

8. The **district of Columbia** and the **territorial districts** of the **United States**, are not **states** within the meaning of the **constitution** and of the **judiciary act**, so as to enable a **citizen** thereof to sue a **citizen** of one of the **states** in the **federal courts**. 2 Cranch, 445; 1 Wheat. 91.

9. The several **states** composing the **United States** are **sovereign** and independent, in all things not **surrendered** to the **national government** by the **constitution**, and are considered, on general **principles**, by each other as **foreign states**, yet their **mutual** relations are rather those of domestic **independence**, than of **foreign alienation**. 7 Cranch, 481; 3 Wheat. 324; 1 Greenl. Ev. Sec. 489, 504. Vide, generally, Mr. Madison's **report** in the **legislature** of **Virginia**, January, 1800; 1 Story's Com. on Const. Sec. 208; 1 Kent, Com. 189, note b; Grotius, B. 1, c. 1, s. 14; Id. B. 3, c. 3, s. 2; Burlamaqui, vol. 2, pt. 1, c. 4, s. 9; Vattel, B. 1, c. 1; 1 Toull. n. note 1 Nation; Cicer. de Repub. 1. 1, s. 25.

# STATE,

[State: *Government*, *Persons*.]

*condition* of *persons*. This word has various acceptations. If we inquire into its origin, it will be found to come from the Latin *status*, which is derived from the verb stare, sto, whence has been made statio, which signifies the *place* where a *person* is located, stat, to fulfill the *obligations* which are imposed upon him.

2. *State* is that *quality* which belongs to a *person* in *society*, and which *secures* to, and imposes upon him different *rights* and *duties* in consequence of the difference of that *quality*.

3. Although all men come from the hands of *nature* upon an *equality*, yet there are among them marked differences. It is from *nature* that come the distinctions of the *sexes*, *fathers* and *children*, of *age* and youth, &c.

4. The *civil* or *municipal laws* of each *people*, have added to these *natural qualities*, distinctions which are purely *civil* and *arbitrary*, founded on the manners of the *people*, or in the *will* of the *legislature*. Such are the differences, which these *laws* have established between *citizens* and *aliens*, between *magistrates* and *subjects*, and between *freemen* and *slaves*; and those which exist in some *countries* between nobles and *plebeians*, which differences are either *unknown* or contrary to *natural law*.

5. Although these latter distinctions are more particularly subject to the *civil* or *municipal law*, because to it they owe their origin, it nevertheless extends its *authority* over the *natural qualities*, not to destroy or to weaken them, but to *confirm* them and to *render* them more *inviolable* by *positive* rules and by certain *maxims*. This union of the *civil* or *municipal* and *natural law*, form among men a third species of differences which may be called *mixed*, because they participate of both, and derive their *principles* from *nature* and the perfection of the *law*; for example, *infancy* or the *privileges* which belong to it, have their *foundation* in *natural law*; but the *age* and the *term* of these *prerogatives* are *determined* by the *civil* or *municipal law*.

6. Three sorts of different *qualities* which form the *state* or *condition* of men may then be distinguished: those which are purely *natural*, those purely *civil*, and those which are composed of the *natural* and *civil* or *municipal law*. Vide 3 Bl. Com. 396; 1 Toull. n. 170, 171; *Civil State*.

# STATUTE.

The written **will** of the **legislature**, **solemnly expressed** according to the **forms** prescribed in the **constitution**; an **act** of the **legislature**.

2. This word is used in contradistinction to the **common law**. **Statutes acquire** their force from the time of their passage unless otherwise provided. 7 Wheat. R. 104: 1 Gall. R. 62.

3. It is a general rule that when the provision of a **statute** is general, everything which is necessary to make such provision effectual is supplied by the **common law**; Co. Litt. 235; 2 Inst. 222; Bac. Ab. h.t. B; and when a **power** is given by **statute**, everything necessary for making it effectual is given by **implication**: quando le aliquid concedit, concedere videtur et id pe quod devenitur ad aliud. 12 Co. 130, 131 2 Inst. 306.

4. **Statutes** are of several kinds; namely, **Public** or **private**. 1. **Public statutes** are those of which the **judges** will take **notice** without **pleading**; as, those which concern all **officers** in general; **acts** concerning **trade** in general or any specific **trade**; **acts** concerning all **persons** generally. 2. **Private acts**, are those of which the **judges** will not take **notice** without **pleading**; such as concern only a particular species, or **person**; as, **acts** relating to any particular **place**, or to several particular **places**, or to one or several particular **counties**. **Private statutes** may be rendered **public** by being so **declared** by the **legislature**. Bac. Ab. h.t. F; 1 Bl. Com. 85. **Declaratory** or **remedial**. 1. A **declaratory statute** is one which is passed in order to put an end to a **doubt** as to what the **common law** is, and which **declares** what it is, and has ever been. 2. **Remedial statutes** are those which are made to supply such defects, and **abridge** such superfluities in the **common law** as may have been discovered. 1 Bl. Com. 86. These **remedial statutes** are themselves divided into **enlarging statutes**, by which the **common law** is made more comprehensive and extended than it was before; and into **restraining statutes**, by which it is narrowed down to that which is **just** and **proper**. The term **remedial statute** is also applied to those **acts** which give the **party injured** a **remedy**, and in some respects those **statutes** are **penal**. Esp. Pen. **Act**. 1.

5. **Temporary** or **perpetual**. 1. A **temporary statute** is one which is limited in its duration at the time of its enactment. It continues in force until the time of its **limitation** has **expired**, unless sooner **repealed**. 2. A **perpetual statute** is one for the continuance of which there is no limited time, although it be not **declared expressly** to be so. If, however, a **statute** which did not itself contain any **limitation**, is to be governed by another which is **temporary** only, the former will also be **temporary** and dependent upon the existence of the latter. Bac. Ab. h.t. D.



6. **Affirmative** or **negative**. 1. An **affirmative statute** is one which is enacted in **affirmative** terms; such a **statute** does not take away the **common law**. If, for example, a **statute** without **negative words**, **declares** that when certain requisites shall have been complied with, **deeds** shall, have in **evidence** a certain **effect**, this does not prevent their being used in **evidence**, though the requisites have not been complied with, in the same manner as they might have been before the **statute** was passed. 2 Cain. R. 169. 2. A **negative statute** is one **expressed** in **negative** terms, and so controls the **common law**, that it has no force in opposition to the **statute**. Bro. Parl. pl. 72; Bac. Ab. h.t. G.

7. **Penal statutes** are those which **order** or **prohibit** a thing under a certain **penalty**. Esp. Pen. **Actions**, 5 Bac. Ab. h.t. I, 9. Vide, generally, Bac. Ab. h.t.; Com. Dig. **Parliament**; Vin. Ab. h.t.; Dane's Ab. Index, h.t.; Chit. Pr. Index, h.t.; 1 Kent, Com. 447–459; Barrington on the Statutes, Boscow. on **Pen. Stat.**; Esp. on **Penal Actions** and **Statutes**.

8. Among the **civilians**, the term **statute** is generally applied to all sorts of **laws** and regulations; every provision of **law** which **ordains**, **permits**, or **prohibits** anything is a **statute** without considering from what source it arises. Sometimes the word is used in contradistinction to the imperial Roman **law**, which, by way of eminence, **civilians** call the **common law**. They divide **statutes** into three classes, **personal**, **real** and **mixed**.

9. **Personal statutes** are those which have principally for their object the **person**, and treat of **property** only incidentally; such are those which regard **birth**, **legitimacy**, **freedom**, the **right** of instituting **suits**, **majority** as to **age**, **incapacity** to **contract**, to make a **will**, to **plead** in **person**, and the like. A **personal statute** is universal in its operation, and in force everywhere.

10. **Real statutes** are those which have principally for their object, **property**, and which do not speak of **persons**, except in relation to **property**; such are those which concern the **disposition**, which one may make of his **property** either alive or by **testament**. A **real statute**, unlike a **personal** one, is confined in its operation to the **country** of its origin.

11. **Mixed statutes** are those which concern at once both **persons** and **property**. But in this sense almost all **statutes** are **mixed**, there being scarcely any **law** relative to **persons**, which does not at the same time relate to **things**. Vide Merl. Repert. mot **statute**; Poth. Cout. d'Orleans, ch. 1; 17 Martin's Rep. 569–589; Story's Confl. of Laws, Sec. 12, et seq.; Bouv. Inst. Index, h.t.



# T.

## TERM,

[Term: **Construction**; **Contracts**; **Estates**; **Practice**.]

**construction**. **Word**; **expression**; **speech**.

2. **Terms** or **words** are characters by which we announce our sentiments, and make **known** to others things with which we are acquainted. These must be properly construed or interpreted in order to understand the **parties** using them. Vide **Construction**; **Interpretation**; **Word**.

...THE OTHER DEFINITIONS FOR TERM CONTINUE...

## TERRITORY.

A part of a **country**, separated from the rest, and subject to a particular **jurisdiction**. The word is derived from *terreo*, and is so called because the **magistrate** within his **jurisdiction** has the **power** of inspiring a salutary **fear**. *Dictum* cat ab eo quod magistratus intra **finis** ejus terrendi **jus** habet. Henrion de Pansy, Auth. Judiciare, 98. In speaking of the **ecclesiastical jurisdictions**, Francis Duaren observes, that the **ecclesiastics** are said not to have **territory**, nor the **power** of **arrest** or removal, and are not unlike the Roman **magistrates** of whom Gellius says vocationem habebant **non** prehensionem. De Sacris eccl. Minist. lib. 1, cap. 4. In the sense it is used in the **constitution** of the **United States**, it signifies a portion of the **country** subject to and belonging to the **United States**, which is not within the **boundary** of any of them.

2. The **constitution** of the **United States**, art. 4, s. 3, provides, that "the **congress** shall have **power** to dispose of, and make all needful rules and regulations respecting the **territory** or other **property** of the **United States**; and nothing in this **constitution** shall be construed, so as to preclude the **claims** of the **United States** or of any **state**."

3. **Congress** possesses the **power** to erect **territorial governments** within the **territory** of the **United States**; the **power** of **congress** over such **territory** is **exclusive** and universal, and their legislation is subject to no control, unless in the case of ceded **territory**, as far as it may be affected by stipulations in the cessions, or by the **ordinance** of 1787, 3 Story's L. U. S. 2073, under which any part of it has been settled. Story on the Const. Sec. 1322; Rawle on the Const: 237; 1 Kent's Com. 243, 359; 1 Pet. S. C. Rep. 511, 542, 517.

4. The only organized **territories** of the **United States** are **Oregon**, Minnesota, New Mexico and Utah. Vide **Courts of the United States**.

# U.

## UNITED STATES OF AMERICA.

The *name* of this *country*. The *United States*, now thirty–one in number, are *Alabama*, *Arkansas*, *Connecticut*, *Delaware*, *Florida*, *Georgia*, *Illinois*, *Indiana*, *Iowa*, *Kentucky*, *Louisiana*, *Maine*, *Maryland*, *Massachusetts*, *Michigan*, *Mississippi*, *Missouri*, *New Hampshire*, *New Jersey*, *New York*, *North Carolina*, *Ohio*, *Pennsylvania*, *Rhode Island*, *South Carolina*, *Tennessee*, *Texas*, *Vermont*, *Virginia*, *Wisconsin*, and *California*.

2. The *territory* of which these *states* are composed was at one time dependent generally on the *crown* of Great Britain, though governed by the *local legislatures* of the *country*. It is not within the plan of this work to give a *history* of the *colonies*; on this subject the reader is referred to Kent's Com. sect. 10; Story on the *Constitution*, book 1; 8 Wheat. Rep. 543; Marshall, Hist. Colon.

3. The neglect of the British *government* to *redress* grievances which had been felt by the *people*, *induced* the *colonies* to form a closer connexion than their former isolated *state*, in the hopes that by a *union* they might procure what they had separately endeavored in vain, to obtain. In 1774, *Massachusetts* recommended that a *congress* of the *colonies* should be assembled to *deliberate* upon the *state* of *public* affairs; and on the fourth of September of the following year, the *delegates* to such a *congress* assembled in Philadelphia. *Connecticut*, *Delaware*, *Maryland*, *Massachusetts*, *New Hampshire*, *New Jersey*, *New York*, *North Carolina*, *Pennsylvania*, *Rhode Island*, *South Carolina*, and *Virginia*, were represented by their *delegates*; *Georgia* alone was not represented. This *congress*, thus organized, exercised *de facto* and *de jure*, a *sovereign authority*, not as the *delegated agents* of the *governments de facto* of the *colonies*, but in virtue of the *original powers* derived from the *people*. This, which was called the revolutionary *government*, terminated only when superseded by the *confederated government* under the *articles of confederation*, *ratified* in 1781. Serg. on the Const. Intr. 7, 8.

4. The *state* of alarm and danger in which the *colonies* then stood *induced* the formation of a second *congress*. The *delegates*, representing all the *states*, met in May, 1775. This *congress* put the *country* in a *state* of *defence*, and made *provisions* for carrying on the *war* with the *mother country*; and for the internal regulations of which they were then in need; and on the fourth day of July, 1776, adopted and issued the *Declaration of Independence*. (q.v.) The *articles of confederation*, (q.v.) adopted on the first day of March, 1781, 1 Story on the Const. Sec. 225; 1 Kent's Comm. 211, continued in force until the first Wednesday in March, 1789, when the present *constitution* was adopted. 5 Wheat. 420.

5. The **United States of America** are a **corporation** endowed with the **capacity** to sue and be sued, to **convey** and **receive property**. 1 Marsh. Dec. 177, 181. But it is proper to observe that no **suit** can be brought against the **United States** without **authority** of **law**.

6. The **states**, individually, retain all the **powers** which they **possessed** at the formation of the **constitution**, and which have not been given to **congress**. (q.v.)

7. Besides the **states** which are above enumerated, there are various **territories**, (q.v.) which are a species of **dependencies** of the **United States**. New **states** may be admitted by **congress** into this **union**; but no new **state** shall be formed or erected within the **jurisdiction** of any other **state**, nor any **state** be formed by the junction of two or more **states**, or parts of **states**, without the **consent** of the **legislatures** of the **states** concerned, as well as of **congress**. **Const. art. 4, s. 3**. And the **United States** shall **guaranty** to every **state** in this **union**, a **republican form of government**. **Id. art. 4, s. 4**. See the names of the several **states**; and **Constitution** of the **United States**.

**V.**

## ***VALID.***

An ***act, deed, will***, and the like, which has received all the ***formalities*** required by ***law***, is said to be ***valid*** or good in ***law***.

# THE UNITED STATES CONSTITUTION

---

**We the People** of the **United States**, in Order to form a more **perfect Union**, **establish Justice**, insure domestic Tranquility, provide for the common **defence**, promote the general Welfare, and **secure** the Blessings of **Liberty** to ourselves and our **Posterity**, do **ordain** and **establish** this **Constitution** for the **United States of America**.

## Article I.

### Section 1.

All **legislative Powers** herein granted shall be **vested** in a **Congress** of the **United States**, which shall consist of a **Senate** and **House of Representatives**.

### Section 2.

The **House of Representatives** shall be composed of **Members** chosen every second Year by the **People** of the several **States**, and the **Electors** in each **State** shall have the **Qualifications** requisite for **Electors** of the most numerous **Branch** of the **State Legislature**.

...ENTIRE TEXT OF THE CONSTITUTION CONTINUES...

# Amendments to the Constitution

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ARTICLES IN ADDITION TO, AND AMENDMENTS OF, THE **CONSTITUTION** OF THE **UNITED STATES OF AMERICA**, PROPOSED BY **CONGRESS**, AND **RATIFIED** BY THE **LEGISLATURES** OF THE SEVERAL **STATES**, PURSUANT TO THE **FIFTH ARTICLE** OF THE ORIGINAL **CONSTITUTION**

...ENTIRE TEXT OF THE US CONSTITUTION AMENDMENTS IS INCLUDED...

## Amendment XIII. (1865)

### Section 1.

Neither **slavery** nor **involuntary servitude**, except as a **punishment** for **crime** whereof the **party** shall have been duly **convicted**, shall exist within the **United States**, or any **place** subject to their **jurisdiction**.

### Section 2.

**Congress** shall have **power** to enforce this article by appropriate **legislation**.

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