Law Dictionary, by John Bovier; 1868 - 1870.

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Citizen:

In English Law. An inhabitant of a City. ...

In American Law. One who, under the constitution and laws of the United States, has a right to vote for representatives in congress, and other public officers, and who is qualified to fill offices in the gift of the people. Any white person born in the United States, or naturalized person born outside of the same, who has not lost his right as such, – including men women and children.

One of the sovereign people. A constituent member of the sovereignty, synonymous with the people. 19 How. 404.

Civil Law:

This term is generally used to designate the Roman jurisprudence, *jus civile Romanorum*. ... 10. Its influence in the formation of the common law of England cannot be denied by the impartial inquirer. It was publicly taught in England, by Roger Vacarius, as early as 1149; & all admit that **the whole of equity jurisprudence prevailing in England & the United States is mainly based on the civil law.**

Civil Remedy:

In practice. The remedy which the party injured by the commission of a tortious act has by action against the party committing it, as distinguished from the proceeding by indictment, by which the wrongdoer is made to expiate the injury done to society.

In cases of treason, felony, and some other of the graver offences, **this private remedy is suspended, on grounds of private policy, until after the prosecution of the wrong-doer for the public wrong**. (many citations)

COMMON LAW -

The common law is that system of law or form of the science of jurisprudence which has prevailed in England and in the United States of America, in contradistinction to other great systems, such as the Roman or Civil Law.

Those principles, usages, and rules of action applicable to the government and security of person and of property, which do not rest for their authority upon any express and positive declaration of the will of the legislature. (1 Kent, Comm. 492)

The body of rules and remedies administered by courts of law, technically, so called, in contradistinction to those of equity and to the canon law. The law of any country, to denote that which is common to the whole country, in contradistinction to laws and customs of local application.

2.The most prominent characteristic which marks this contrast, and perhaps the source of the distinction, lies in the fact that in the common law neither the stiff rule of a long antiquity, on the one hand, nor, on the other, the sudden changes of a present arbitrary power, are allowed ascendancy, but, under the sanction of a constitutional government, each of these is set off against the other; so that the will of the people, as it is gathered both from long established custom and from the expression of the legislative power, gradually forms a system . . . just, because it is the deliberate will of a free people . . .- stable, because it is the growth of centuries, --progressive, because it is amenable to the constant revision of the people.

A full idea of the genius of the common law cannot be gathered without a survey of the philosophy of English and American history. Some of the elements will, however, appear in considering the various narrower senses in which the phrase "common law" is used.

3. Perhaps the most important of these narrower senses is that which it has when used in contradistinction to statute law, to designate unwritten as distinguished from written law. It is that law which derives its force and authority from the **universal consent** and immemorial practice **of the people.** It has never received the sanctions of the legislature by an express act, which is the criterion by which it is distinguished from the statute law. When it is spoken of as the lex non scripta, it is meant that it is law not written by authority of law. The statutes are the expression of law in a written form, which form is essential to the statute. The decision of a court which establishes or declares a rule of law may be reduced to writing and published in the reports; but this report is not the law it is but evidence of the law; it is but a written account of one application of a legal principal, which principle, in the theory of the common law, is still unwritten.

However artificial this distinction may appear, it is nevertheless of the utmost importance and bears continually the most wholesome results. It is only by the legislative power that law can be bound by phraseology and forms of expression. The common law eludes such bondage: its principles are not limited nor hampered by the mere forms in which they may have been expressed, and the reported adjudications declaring such principles are but the instances in which they have been applied. The principles themselves are still unwritten, and ready, with all the adaptability of truth, to meet every new and unexpected case. Hence it is said that the rules of the common law are flexible. 1 Gray, Mass. 263; Swan, Tenn. 42; 5 Cow. N.Y. 587, 628, 632

4. It naturally results from the inflexible form of the statute or written law, which has no self-contained power of adaptation to cases not foreseen by legislators, that every statute of importance becomes, in course of time, supplemented, explained, enlarged, or limited by a series of adjudications upon it, so that at last it may appear to be merely the foundation of a larger superstructure of unwritten law.

It naturally follows too, from the less definite and precise forms in which the doctrine of the unwritten law stands and from the proper hesitation of courts to modify recognized doctrines in new exigencies, that the legislative power frequently intervenes to declare, to qualify, or to abrogate the doctrines of the common law. Thus , the written

and the unwritten law, the statutes of the present and the traditions of the past, interlace and react upon each other.

Historical evidence supports the view which these facts suggest, that many of the doctrines of the common law are but the common law form of antique statutes, long since overgrown and imbedded in judicial decisions. While this process is doubtless continually going on in some degree, the contrary process is also continually going on; and to a very considerable extent, particularly in the United States, the doctrines of the common law are being reduced to the statutory form, with such modifications, of course, as the legislature will choose to make. This subject is more fully considered under the subject of Code.

5. In a still narrower sense, the expression "common law" is used to distinguish the body of rules and of remedies adminstered by courts of law, technically so called, in contradistinction to those of equity, administered by courts of chancery, and to the canon law, administered by the ecclesiastical courts.

In England the phrase is more commonly used at the present day in the second of the three senses above mentioned.

6. In this country the common law of England has been adopted as the basis of our jurisprudence in all the states except Louisiana. Many of the most valued principles of the common law have been embodied in the constituton of the United States and the constitutions of the several states; and in many of the states the common law and the statutes of England in force in the colony at the time of our independence are by the state constitution declared to be the law of the state until repealed. (See Bishop, Crim. Law, pp15, note 4, P 45, where the rules adopted by the several states in the respect are stated.)

Hence, where a question in the courts of one state turns upon the laws of a sister state, if no proof of such laws is offered, it is, in general, presumed that the common law as it existed at the time of the separation of this country from England prevails in such state. (4 Den., N.Y. 305; 3 Abb. Pract. N.Y. 23).

The term common law as thus used may be deemed to include equity (8, N.Y. 535); but the term is also used in the amendments to the constitution of the United States (art.7) in contradistinction to equity, in the provision that "In suits of common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved. The common law here mentioned is the common law of England and not of any particular state (1 Gall. C.C. 20; 1 Baldw. C.C. 554, 558; 3 Wheat 223; 3 Pet. 446). The term is used is used in contradistinction to equity, admiralty and maritime law. (3 Pet Pet. 446; 1 Baldw. C.C. 554)

7. The common law of England is not in all respects to be taken as that of the United States or of the several states: its general principles are are adapted only so far as they are applicable to our situation. <Varous cites omitted>

In general, too, the statutes of England are not to be understood to be included, except so far as they have been recognized by colonial legislation, but the course pursued has been rather to re-enact such English statutes as were deemed applicable to our case.

By reason of the modifications arising out of our different condition, and those established by American statutes and by the course of American adjudication, the common law of America differs widely in many details from the common law of England; but the fact that this difference has not been introduced by violent changes, but has grown up from native vigor of the system, identifies the whole as one jurisprudence.
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Court of Star Chamber:

... It was ov very ancient origin, was new-modeled by the 3 Hen. VII *** and was finally abolished, after having become very odious to the people, by the 16 Car. I. C. 10. **The name star chamber** is of uncertain origin. It **has been thought to be** ... **because the roof was originally studded with stars, because the Jewish covenants (called starrs or stars,** & which, by a statute of Richard 1., were to be enrolled in three places, one of which was near the exchequer) **were originally kept there.** 4 Blackstone, Comm. 266, n. The derivation of Blackstone receives confirmation from the fact that this location (near the exchequer) is assigned to the star chamber the first time it is mentioned. The word star acquired at some time the recognized signification of inventory or schedule. ... It acted without the assistance of a jury.

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Habeas Corpus:

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"Infidel":

"One who does not believe in the existence of a God who will reward or punish in this world or that which is to come. One who professes no religion that can bind his conscience to speak the truth. ... Under the term infidel Lord Coke comprises Jews & Heathens ... . A witnesses belief is to be presumed till the contrary appear. "

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Intention. A design. Resolve, or determination of the mind. 2. In Criminal Law. To render an act criminal, a wrongful intent must exist. (Multitude of citations not typed in here.) ... And with this mist be combined a wrongful act, a mere intent is not punishable. (Another multitude of citations not typed in here.) ...

International Law:

The system of rules which Christian states acknowledge to be obligatory upon them in their relations to each other and to each other's subjects. It is *jus inter gentes*, as distinguished from the *jus gentium* .

The scientific basis for these rules is to be found in Natural Law, or the doctrine of rights and of the state; for nations, like smaller communities and individuals, have rights and correlative obligations, moral claims and duties. Hence it might seem as if the science consisted simply of deductions from certain fundamental propositions of natural right ...

It would be true to say that this science, like every department of moral science, can require

nothing unjust ... . a great part of the modern improvement is in this code are due to the spirit of humanity ... leading the circle of Christian nations freely ... for the sake of mutual convenience or good will.

The excellent works of Ward and of Wheaton are of the highest use to all who would study the science as it ought to be studied, as the offshoot and index of a progressive Christian civilization. ... It can only be said that the practice of Christian states is growing more and more liberal, both as admitting foreigners into their territories and to the enjoyment of those rights of persons and property which the natives posses, and as regards domiciling them, or even incorporating them, afterwards, if they desire it, into the body politic.

The answers ... are given in *private international law*, or the *conflict of law*, as it is sometimes called, - a very interesting branch of law, as showing how Christian nations are coming from age to age nearer to one another in their views of the private relations of men. ... Councils have almost none of the privileges of ambassadors, except beyond the pale of Christianity.

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Mandamus:

"This is a high prerogative writ, usually arising out of the highest court of General Jurisdiction in a state, in the name of the sovereignty, directed to any natural person, corporation, or inferior jurisdiction, requiring them to do some particular thing therein specified, which appertains to their office or duty. ...

Its use is well defined by Lord *Mansfield* ... "It was introduced to prevent disorder from a failure of justice & defect of police. Therefore it ought to be used upon all occasions when the law has established no specific remedy, and where in justice and good government there ought to be one." "If there be a Right, & no other specific *remedy*, this should not be denied."

The same principles are declared by Lord *Ellenbourough* ... . The writ of *mandamus* is the supplementary remedy when the paerty has a clear right, and no other appropriate redress, in order to prevent a failure of justice.

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Obstructing Process:

The act by which one or more persons attempt to prevent, or do prevent, the execution of lawful process.

2: The Officer must be prevented by actual violence, or by threatened violence accompanied by the exercise of Force, or by those having capacity to employ it, by which the officer is prevented from executing his writ. The officer is not required to expose his person by a physical conflict with the offender. 2 Wash. C.C. 169. See 3 Wash. C.S. 355; 12 Ala. N.s. 199.

3: This is an offence against public justice of a very high and presumptuous nature; and more particularly so where the obstruction is of an arrest upon criminal process. A person opposing an arrest upon criminal process becomes thereby *particeps criminis* ; that is, an accessory in felony, and a principal in high treason. 4 Blackstone, Comm. 128; 2 Hawkins, Pl.Cir.c.17, s.1; 1 Russell, Crimes, 360. See 2 Gal. C.C. 15; 2 Chitty, Crim. Law, 145, note *a* ; 3 Vt. 110; 25 *id.* 415; Strobh. So. C. 73; 15 Mo. 486.

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Positive Law:

Law actually ordained or established, under human sanctions, as distinguished

from the law of nature or natural law, which comprises those considerations of justice, right, & universal expediency that announced by the voice of reason or of revelation. Municipal law is chiefly, if not essentially, positive; while the law of nations has been deemed by many of the earlier writers as merely an application of the law of nature.

That part of the law of nations which rests on positive law may be considered in a threefold point of view :--

first, the *universal voluntary law*, or those rules which become law by the uniform practice of nations in general, and by the manifest utility of the rules themselves;

second, the *customary law*, or that which from motives of convenience, has, by tacit but implied agreement, prevailed, not necessarily among all nations, nor with so permanent a utility as to become a portion of the *universal* voluntary law, but enough to have acquired a *prescriptive* obligation among certain states so situated as to be mutually benefitted by it, 1 Taunt. 241 ;

third, the *conventional* law, or that which is agreed upon between particular states by *express treaty*, a law binding on the parties among whom such treaties are in force. 1 Chitty, Com. Law, 28.

Quo Warranto: ... The action of *quo warranto* was prescribed by the Statute of Gloster, 6 Edw. I., and is a limitation upon the royal prerogative. Before this statute, the king, by virtue of his prerogative, sent commissioners over the kingdom to inquire into the right to al franchises ... ; and as they were grants from the crown, if those in possession of them could not show a charter, the franchises were seized into the kings hands without any judicial proceeding. Like all other original civil writs, the writ of *quo warranto* issued out of chancery, and was returnable alternatively before the kings bench or justices of eyre. ...

The writ of *quo warranto* has given place to an *information in the nature of quo warranto*. This, though in *form* criminal, is in *substance* civil, proceeding, to try the mere right to a franchise or office. ...

2. *Pleadings* in *quo warranto* are anomalous. In ordinary legal proceedings, the plaintiff, whether he be the state or a person, is bound to show a case against the defendant. But in an information of *quo warranto*, as well as in the writ for which it substituted, the order is reversed. The state is not bound to show anything, but the defendant is bound to show that he has a right to the franchise or office in question; and if he fail to show authority, judgement must be given against him.
(More, nice, not enuff time)

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Right:

A well founded claim. ... Men are by their inherent nature moral and social beings: they have therefore mutual claims upon one another. Every well grounded claim on other is called a right ... Right and obligation are correlatives. ... if we understand by government a coherent system of laws by which a state is ruled, and if we understand by state a sovereign society, with distinct authorities to make and execute laws, then rights precede government, or the establishment of states … .

3. As rights precede government, so we find that now rights are acknowledged

above government and their states, in the case of international law. International Law is founded on rights, that is, well grounded claims which civilized states, as individuals, make upon one another.

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"State": (Lat: *stare*, to place, establish).

In Governmental Law. A self-sufficient body of persons united together in one community for the defense 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*; and the state, and the people of the state are equivalent expressions.

...

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 …

In Society: 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. ...

The civil or municipal laws of each people have added to these natural qualities distinctions which are purely civil & 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 & aliens, ... freemen & slaves, & those which exist in some countries between nobles & plebeians, which differences are either unknown or contrary to natural law.

Although these later distinctions are more particularly subject to the civil or municipal law, because to it they owe their origin, it never the less extends its authority over the natural qualities, not to destroy or weaken them, but to confirm them & to render them more inviolable by positive rules & by certain maxims. The union of the civil or municipal & natural law forms among men a third species of differences, which may be called mixed, because they participate in both, & derive their principles from nature & the perfection of the law; for example, infancy, or the privileges which belong to it, have their foundation in natural law; but the age & the term of these prerogatives are determined by the civil or municipal law.

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, & those which are composed of the natural & civil or municipal law.