

# *Letter and spirit of the law*

---

is article needs additional citations for verification.

[Learn more](#)

The **letter of the law** versus the **spirit of the law** is an idiomatic antithesis. When one obeys the letter of the law but not the spirit, one is obeying the literal interpretation of the words (the "letter") of the law, but not necessarily the *intent* of those who wrote the law. Conversely, when

one obeys the spirit of the law but not the letter, one is doing what the authors of the law intended, though not necessarily adhering to the literal wording.

"Law" originally referred to legislative statute, but in the idiom may refer to any kind of rule. Intentionally following the letter of the law but not the spirit may be accomplished through exploiting technicalities, loopholes, and ambiguous language.

## Shakespeare

Shylock and Portia (1835) by Thomas Sully

William Shakespeare wrote numerous plays dealing with the letter versus spirit antithesis, almost always coming down on the side of "spirit", often forcing villains (who always sided with the letter) to make concessions and remedy. In one of the best known examples, The Merchant of Venice, he introduces the quibble as a plot

device to save both the spirit and the letter of the law. The moneylender Shylock has made an agreement with Antonio that if he cannot repay a loan, he will have a pound of flesh from him. When the debt is not repaid in time Portia at first pleads for mercy in a famous speech: *"The quality of mercy is not strain'd, It droppeth as the gentle rain from heaven Upon the place beneath. It is twice blest: It blesseth him that gives and him that takes."* (IV,i,185). When Shylock refuses, she finally saves Antonio by pointing out that Shylock's agreement with him mentioned no blood, and therefore Shylock can have his pound of flesh only if he sheds no blood.

# U.S. Constitutional law

Interpretations of the U.S. Constitution have historically divided on the "Letter versus Spirit" debate. For example, at the founding, the Federalist Party argued for a looser interpretation of the Constitution, granting Congress broad powers in keeping with the spirit of the broader purpose of some founders (notably including the Federalist founders' purposes). The Federalists would have represented the "spirit" aspect. In contrast, the Democratic-Republicans, who favored a limited federal government, argued for the strict interpretation of the Constitution,

arguing that the federal government was granted only those powers enumerated in the Constitution, and nothing not explicitly stated; they represented the "letter" interpretation.

Modern Constitutional interpretation also divides on these lines. Currently, Living Constitution scholars advocate a "spirit"-esque interpretative strategy, although one grounded in a spirit that reflects broad powers. Originalist or Textualist scholars advocate a more "letter"-based approach, arguing that the Amendment process of the Constitution necessarily forecloses

broader interpretations that can be accomplished by passing an amendment.

## The Bible

The Christian Bible references the letter and the spirit of the law in 2 Cor 3:6 NASB. Though it is not quoted directly, the principle is applied using the words "spirit" and "letter" in context with the legalistic view of the Hebrew Bible. This is the first recorded use of the phrase.

In the New Testament, Pharisees are seen as people who place the letter of the law above the spirit (Mark 2:3–28, 3:1–6).

Thus, "Pharisee" has entered the language

as a pejorative for one who does so; the Oxford English Dictionary defines *Pharisee* with one of the meanings as *A person of the spirit or character commonly attributed to the Pharisees in the New Testament; a legalist or formalist*. Pharisees are also depicted as being lawless or corrupt (Matthew 23:38); the Greek word used in the verse means lawlessness, and the corresponding Hebrew word means fraud or injustice. However, the Hebrew word "Perushim" from which "Pharisee" is derived, actually means "separatists", referencing their focus on spiritual needs versus worldly pleasures.



In the Gospels, Jesus is often shown as being critical of Pharisees. He is more like the Essenes than the other Jewish groups of the time (Sadducees, Pharisees, Zealots); however, the Pharisees, like Jesus, believed in the resurrection of the dead, and in divine judgment. They advocated prayer, almsgiving and fasting as spiritual practices. The Pharisees were those who were trying to be faithful to the law given to them by God. Not all Pharisees, nor all Jews of that time, were legalistic. Though modern language has used the word Pharisee in the pejorative to describe someone who is legalistic and rigid, it is not an accurate description of all

Pharisees. The argument over the "Spirit of the Law" vs. the "Letter of the Law" was part of early Jewish dialogue as well .<sup>[1]</sup>

The Parable of the Good Samaritan (Luke 10:25-37) is one of the New Testament texts to address this theme. The passage concerns a dialogue between Jesus and an "expert in the law" or "lawyer". As described in verse 25 ("a certain lawyer stood up and tested Him saying, Teacher what must I do to inherit eternal life?," NKJV), the intent of the dialogue was to trap Jesus into making statements contrary to the law. Jesus responds by posing the question back to the lawyer, as

already having knowledge of the law, ("What is written in the law?" verse 26) The lawyer quotes Deuteronomy 6:5 "You shall love the LORD your God with all your heart, with all your soul, with all your strength, and with all your mind and your neighbor as yourself.", NKJV) and Leviticus 19:18. The question "Who is my neighbor?", that follows in verse 29, is described as being asked with the goal of self-justification.

It is then that Jesus responds with the story of a man beaten by robbers who is ignored by a Priest and a Levite, but then rescued and compassionately cared for by a Samaritan. Priests and Levites were

Israelites whose qualifications and duties were very meticulously set forth in Mosaic law, (Leviticus 10, and Numbers 5-8) while Samaritans were descended from Israelites who had intermarried with their Babylonian captives and had been forced to establish a sect with an alternative interpretation of the Law. In the story, both the Priest and Levite follow their prescribed regulations dutifully, yet do not help the injured traveler, even crossing to the other side of the road to avoid possible rule violations. The Samaritan, whose very existence is based on a refutation of Jewish law, (specifically those post-Pentateuchal biblical books that identify

Mount Moriah as the proper place of worship specified in Deuteronomy 12; the Samaritans considered only the Pentateuch canon, and worshipped Yahweh in their temple on Mount Gerizim) goes above and beyond simply tending to the injured man. He takes him to an inn and gives money for the man's care, promises and then actually does return to inquire about the man, and pay any overage incurred. Jesus concludes by asking the lawyer which of the men was a "neighbor" to the beaten traveller, to which the reply was "the one who showed compassion".<sup>[2]</sup> Then Jesus says to him "go and do likewise".

According to Jeremiah, "the qualities of the new covenant expounded upon the old are : a) It will not be broken; b) Its law will be written in the heart, not merely on tablets of stone; c) The knowledge of God will deem it no longer necessary to put it into written words of instruction."<sup>[3]</sup>

According to Luke (Luke 22:20), and Paul, in the first epistle to the Corinthians (1 Corinthians 11:25), this prophecy was fulfilled only through the work of Jesus Christ,<sup>[3]</sup> who said "This cup is the new covenant in my blood, which will be shed for you." Christ did not come to abolish the law but to fulfill it. His purpose was to encourage people to look beyond the

"letter of the law" to the "spirit of the law"...the principles behind the commandments and the law's intention. Jesus quotes the book of Deuteronomy and Leviticus: "All the Law can be summed up in this: to love God with all your heart, all your mind and all your soul, and to love your neighbor as yourself" (paraphrased).

## Gaming the system

this section does not cite any sources.

[Learn more](#)

Gaming the system, also called "rules lawyering", is a pejorative phrase applied to someone who follows the letter of the

law to obtain an outcome the speaker finds immoral or contrary to the spirit of the law. There are two reasons why this can be possible. A body of law may have been formulated in a way that permits ambiguity, or else there may be limitations in the law's scope or jurisdiction. For example, an offshore bank account can be used to reduce domestic tax obligations in some countries.

## See also

### **Law**

- Judicial activism § Debate
- Expounding of the Law



- Golden rule (law) • Literal rule • Mischief rule • Purposive approach
- Legal abuse
- Legal fiction
- Legal opportunism
- Legal technicality
- Original intent • Original meaning • Textualism
- Statutory interpretation § Meaning
- *The Spirit of the Laws*, the 1748 political theory treatise by Montesquieu

## **Language**

- Sense and reference

## **Others**

- Gaming the system

- Loophole
- Malicious compliance • Work-to-rule
- Positive law • Natural law

## References

1. *Babalonian Talmud Tractate Baba Metzia 115a, Sanhedrin 21a.*
2. *The Holy Bible, New King James Version, 1982 by Thomas Nelson, Inc.*
3. *"The New American Bible"*  
*Confraternity of Christian Doctrine,*  
*Nashville, Tennessee, 37202, 1976*  
*(1970) p.949 (Jeremiah 31:31-34).*  
**Note:** *This bible has interpretations*  
*and references as footnotes.*

Retrieved from

"[https://en.wikipedia.org/w/index.php?title=Letter\\_and\\_spirit\\_of\\_the\\_law&oldid=898036994](https://en.wikipedia.org/w/index.php?title=Letter_and_spirit_of_the_law&oldid=898036994)"

---

**Last edited 1 month ago by JohnTh...**

Content is available under CC BY-SA 3.0 unless otherwise noted.