

SETTING CLICKER CHANNEL

1. Press MENU.
2. Highlight “Change Channel” (use the YES button for down and the NO button for up).
3. Press ENTER.
4. The next screen will display the currently programmed channel. Use the numeric keys to enter the new channel: 19.
5. Press ENTER.
6. You will then automatically be taken into Presentation Mode.

Constitutional Law

Government has limited powers

Enumerated powers: coining money

Implied powers: chartering national bank

Rights limit government powers

Enumerated rights: Speech, Assembly

Implied rights: Association, Privacy

Natural Law

Religious conception, also Deist

–“endowed by their Creator”

Pre-exists state & inherent: “inalienable”

Beyond human choice and universal – not dependent on nationality

Requires acceptance of premise and thus poorly defined

–“hold these truths to be self-evident”

Customary Law

Specific to a single society – not universal

– “the rights of Englishmen”

Fills in natural rights

– due process comes to include jury trial

Often relies on invented history

– “ancient constitution,” Magna Carta

Best understood as tradition, not history

Positive or Statutory Law

Law created by sovereign (people, legislature, or king)

Applies only within single state

May be **foundational** (Constitution) or **ordinary** (regular statutes or regulations)

Most clearly defined, codified

Governed by legislative intent

Judicial Precedent

Judge-made

**Non-democratic, may be
countermajoritarian**

**Dependent on other forms of law,
texts**

Driven by specific disputes

Mostly incremental

Judicial Precedent

Stare Decisis: “Stand by the thing decided”

Precedent is only binding so long as it is persuasive, otherwise it may be “distinguished,” ignored or overturned

Judicial Precedent

“The labor of judges would be increased to the breaking point if every past decision could be reopened in every case.”

Justice Cardozo

Rules versus Standards

Because many legal provisions apply to wide ranging situations, courts tend to use standards to guide their decisions

Standards are questions or “tests” which are used to provide greater consistency but are not nearly so precise as rules

Cases for Thursday

Barron v. Baltimore

Palko v. CT

Yick Wo v. Hopkins

Civil Rights Case