

Law of the Land

The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The U.S. Constitution is the supreme law of the land, and any statute, to be valid, must be in agreement. It is impossible for both the Constitution and a law violating it to be valid. One must prevail. This is succinctly stated as follows:

“The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it. An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted.

“Such an unconstitutional law is void, the general principles follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it. . .

“A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby.

“No one is bound to obey an unconstitutional law and no courts are bound to enforce it.”

Sixteenth AMERICAN JURISPRUDENCE
Second Section; § 177

THE CONSTITUTION OF THE UNITED STATES.

ARTICLE SIX; Section two:

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the SUPREME LAW OF THE LAND; and the JUDGES IN VERY STATE SHALL BE BOUND THEREBY, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”