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Rhetoric I.15

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Rhetoric **(Excerpts)**

by Aristotle

Translated by Michael Pakaluk

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Let us first speak about how law might be appealed to in persuading and in dissuading, and in making accusations and in defending against accusations.

Clearly, if the written law counts against the thing done, one ought to appeal to the law which is common to everyone, and which is binding upon those who are the more equitable and more just, as follows:

- “The juror’s oath, ‘by my best judgment,’ means that one should not appeal only to the written law and no more than that.”

- “What is equitable always remains the same; it never changes: neither then does that law which is common to everyone – because it conforms to nature – but the written laws often change. That is why Antigone says what she does in Sophocles’ play. She defends herself by saying that she buried her brother contrary to Creon’s law but not contrary to the unwritten law:

  “Not belonging to today or tomorrow, it lives eternally …
  I wasn’t about (to risk the punishment of the gods) for fear of a mere man …”

- “Justice, of course, is true and beneficial, not what people merely *believe* to be just. Hence the written law in this case is not law, since it does not fulfill the purpose of law. A judge is like someone assaying silver: he has to distinguish spurious justice from true justice.”

- “The better man is the one who looks to the unwritten law and keeps that law, in preference to the written law.”

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