

Legal Terms, Phrases and Maxims

LATIN EXPRESSIONS FREQUENTLY USED IN LEGAL VOCABULARY

A fortiori

'From stronger argument' – Used to express a conclusion for which there is stronger evidence than for a previously accepted one

Ab initio

'From the beginning' – If a contract is void (say for mistake) ab initio, this has the consequence that no innocent third parties can acquire rights under any subsequent contract (*Bell v Lever Bros* [1932] AC 161 (HL) (Lord Atkin)).

Actus reus

'A guilty act' – The prohibited conduct or behaviour that the law seeks to prevent. Although commonly referred to as the "guilty act" this is rather simplistic, as the actus reus includes all the aspects of the crime except the accused's mental state (see mens rea). In most cases the actus reus will simply be an act (e.g. appropriation of property is the act of theft) accompanied by specified circumstances (e.g. that the property belongs to another). Sometimes, however, the actus reus may be an omission to act (e.g. failure to prevent death may be the actus reus of manslaughter: *R v Stone and Dobinson* [1977] QB 354) or it may include a specified consequence (death resulting being the consequence required for the actus reus of murder or manslaughter). In certain cases the actus reus may simply be a state of affairs rather than an act (*Winzar v Chief Constable of Kent* (1983) *The Times* 28 March 1983).

A mensa et thoro

From bed and board.

A vinculo matrimonii

From the bond of matrimony.

Absoluta sententia expositore non indiget

An absolute judgment needs no expositor.

Abundans cautela non nocet

Abundant caution does no harm.

Accessorium non ducit sed sequitur suum principale

An accessory does not draw, but follows its principal.

Accessorius sequitur

One who is an accessory to the crime cannot be guilty of a more serious crime than the principal offender.

Acta exteriora iudicant interiora secreta

Outward acts indicate the inward intent.

Actio non accrevit infra sex annos

The action has not accrued within six years.

Actio non datur non damnificato

An action is not given to one who is not injured.

Actio personalis moritur cum persona

A personal action dies with the person.

Actiones legis

Law suits.

Actori incumbit onus probandi

The burden of proof lies on the plaintiff.

Actus nemini facit injuriam

The act of the law does no one wrong.

Actus non facit reum nisi mens sit rea

The act does not make one guilty unless there be a criminal intent.

Actus reus

A guilty deed or act.

Ad ea quae frequentius accidunt jura adaptantur — The laws are adapted to those cases which occur more frequently.

Ad hoc

'To this' – Created or done for a particular purpose as necessary:

Ad infinitum

Forever, without limit, to infinity.

Ad perpetuam rei memoriam

For a perpetual memorial of the matter.

Ad quaestionem facti non respondent iudices; ad quaestionem legis non respondent juratores

The judges do not answer to a question of fact; the jury do not answer to a question of Law.

Aedificare in tuo proprio solo non licet quod alteri noceat

It is not lawful to build on one's own land what may be injurious to another.

Aequitas legem sequitur

Equity follows the law.

Aequitas nunquam contravenit legem

Equity never contradicts the law.

Ad idem

'Towards the same' – Indicates that the parties to a transaction are in agreement.

Ad litem

'As regards the action'

- A grant ad litem is the appointment by a court of a person to act on behalf of an estate in court proceedings, when the estate's proper representatives are unable or unwilling to act.
- A guardian ad litem is the former name for a litigation friend responsible for the conduct of legal proceedings on behalf of someone else.

Ad referendum

'Subject to reference' – Denoting a contract or other matter that is subject to agreement by other parties and finalisation of the details.

Alibi

'Elsewhere' – A defence to a criminal charge alleging that the defendant was not at the place at which the offence was committed at the time of its alleged commission and so could not have been responsible for it.

If the defendant proposes to introduce alibi evidence, details of his alibi should be provided to the prosecution.

Alienatio rei praefertur juri accrescendi

— Alienation is preferred by law rather than accumulation.

Allegans contraria non est audiendus

— One making contradictory statements is not to be heard.

Allegans suam turpitudinem non est audiendus

— One alleging his own infamy is not to be heard.

Allegatio contra factum non est admittenda

— An allegation contrary to a deed is not to be heard.

Ambiguitas contra stipulatorem est

— An ambiguity is most strongly construed against the party using it.

Ambiguitas verborum patens nulla verificatione excluditur

— A patent ambiguity is never helped by averment.

Alieni juris

'Of another's right' – Describing the status of a person who is not of full age and capacity

Aliunde

'From elsewhere' – From a source outside the document currently under consideration. Evidence aliunde may be considered where the meaning of a document (e.g. a will) is otherwise unclear.

Amicus curiae

'Friend of the court or tribunal' – A non-party who gives evidence before the court so as to assist it with research, argument, or submissions. For example, in the House of Lords decision on whether to allow the extradition of General Pinochet their lordships sought an independent expert opinion on the matter of diplomatic immunity. For that purpose they called upon an expert in this field, David Lloyd Jones QC, to assist the court.

Angliae jura in omni casu libertati dant favorem

— The laws of England are favorable in every case to liberty.

Animo furandi

— With an intention of stealing.

Animo testandi

— With an intention of making a will.

Annus luctus

— The year of mourning.

Ante –

Before.

Aqua currit et debet currere, ut currere solebat

— Water runs and ought to run.

Arbitrium est iudicium

— An award is a judgment.

Arbor dum crescit; lignum cum crescere nescit

— A tree while it grows, wood when it cannot grow.

Argumentum ab auctoritate fortissimum est in lege

— An argument drawn from authority is the strongest in law.

Argumentum ab impossibili plurimum valet in lege

— An argument from impossibility is very strong in law.

Argumentum ad hominem

— An argument directed at the person.

Argumentum ad ignorantiam

— An argument based upon ignorance (i.e. of one's adversary).

Arma in armatos sumere jura sinunt

— The laws permit the taking up of arms against the armed.

Assentio mentium

— The meeting of minds, i.e. mutual assent.

Assignatus utitur jure auctoris

— An assignee is clothed with rights of his assignor.

Audi alteram partem

— Hear the other side.

Aula regis

— The King's Court.

Animus

'Intention' — The term is often used in combination; for example:

- animus furandi – the intention to steal;
- animus manendi – the intention to remain in one place (for the purposes of the law relating to domicile);
- animus donandi: – the intention to transfer property.

Ante

'Before'

Bona vacantia

'Empty goods' – Property not disposed of by a deceased's will and to which there is no relation entitled on intestacy. Under section 46 of the Administration of Estates Act 1925, such property passes to the Crown, the Duchy of Lancaster, or the Duke of Cornwall.

Bona fide

'With good faith' – Genuine; real

Benignior sententia in verbis generalibus seu dubiis est preferenda

— The more favorable construction is to be placed on general or doubtful words.

Bis dat qui cito dat

— He gives (pays) twice who pays promptly.

Boni iudicis est ampliare jurisdictionem

— It is the part of a good judge to enlarge his jurisdiction, i.e. remedial authority.

Boni iudicis est iudicium sine dilatione mandare executioni

— It is the duty of a good judge to cause execution to issue on a judgment without delay.

Boni iudicis lites dirimere est

— It is the duty of a good judge to prevent litigation.

Bonus iudex secundum aequum et bonum iudicat et aequitatem stricto juri praefert

— A good judge decides according to justice and right and prefers equity to strict law.

Breve iudiciale non cadit pro defectu formae

— A judicial writing does not fail through defect of form.

Cadit quaestio

— The matter admits of no further argument.

Cassetur billa (breve)

— Let the writ be quashed.

Casus fortuitus non est spectandus; et nemo tenetur divinare

— A fortuitous event is not to be foreseen and no person is bound to divine it.

Catalla reputantur inter minima in lege

— Chattels are considered in law among the minor things.

Causa proxima, non remota spectatur

— The immediate, and not the remote cause is to be considered.

Cepi corpus et est languidum

— I have taken the body and the prisoner is sick.

Cepi corpus et paratum habeo

— I have taken the body and have it ready.

Ceteris paribus

— Other things being equal.

Consensu

— Unanimously or, by general consent.

Consensus ad idem

— Agreement as to the same things.

Consuetudo loci observanda est

— The custom of the place is to be observed.

Contemporanea expositio est optima et fortissima in lege

— A contemporaneous exposition is best and most powerful in law.

Contra

— To the contrary.

Contra bonos mores

— Against good morals.

Contra non valentem agere nulla currit praescriptio

— No prescription runs against a person not able to act.

Contractus est quasi actus contra actum

— A contract is an act as it were against an act.

Conventio et modus vincunt legem

— A contract and agreement overcome the law.

Conventio privatorum non potest publico juri derogare

— An agreement of private persons cannot derogate from public right.

Coram Domino Rege

— In the presence of our Lord the King.

Coram non iudice

— Before one who is not a judge.

Corpus

— Body.

Corpus delicti

‘The body of the offence’ – The proof that the crime has been committed. Originally this referred literally to the corpse of a murdered person. It now refers to the factual evidence of the crime.

Corpus humanum non recipit aestimationem

— A human body is not susceptible of appraisal.

Crescente malitia crescere debet et poena

— Vice increasing, punishment ought also to increase.

Crimen omnia ex se nata vitiat

— Crime vitiates every thing, which springs from it.

Crimen trahit personam

— The crime carries the person.

Cujus est dare, ejus est disponere

— He who has a right to give has the right to dispose of the gift.

Cujus est solum, ejus est usque ad coelam; et ad inferos

— He who owns the soil owns it up to the sky; and to its depth.

Cum duo inter se pugnancia reperiuntur in testamentis ultimum ratum est

— When two things repugnant to each other are found in a will, the last is to be confirmed.

Cursus curiae est lex curiae

— The practice of the court is the law of the court.

Custos morum

— A guardian of morals.

Caveat

‘Let him beware’ – A notice, usually in the form of an entry in a register, to the effect that no action of a certain kind may be taken without first informing the person who gave the notice (the caveator).

Caveat venditor

— Let the seller beware.

Caveat emptor

‘Let the buyer beware’ – A common-law maxim warning a purchaser that he could not claim that his purchases were defective unless he protected himself by obtaining express guarantees from the vendor. The maxim has been modified by statute: under the Sale of Goods Act 1979 (a consolidating statute), contracts for the sale of goods have implied terms requiring the goods to correspond with their description and any sample and, if they are sold in the course of a business, to be of satisfactory quality and fit for any purpose made known to the seller.

Certiorari

‘To be informed’

Cf (confer)

‘Compare’

Compos mentis

'Possessed of mind' – Of sound mind: sane. A valid contract must be made by someone who is compos mentis.

Cor (coram)

'In the presence of the people'

Cur. adv. vult/Curia Advisari vult

The court wishes to consider the matter before giving judgment, as when time is needed to consider arguments or submissions made to it.

Damnum sine injuria

— damage without legal injury.

De bonis asportatis

— Of goods carried away.

De bonis non administratis

— Of goods not administered.

De die in diem

— From day to day.

De facto

'In fact' – Existing as a matter of fact rather than of right.

De jure

'Of law' – As a matter of legal right; by right.

De futuro

— In the future.

De integro

— As regards the whole.

De jure

— Rightful, by right.

De minimis lex non curat

— The law does not notice trifling matters.

De novo

— Starting afresh.

Debile fundamentum fallit opus

— Where there is a weak foundation, the work fails.

Debita sequuntur personam debitoria

— Debts follow the person of the debtor.

Debitor non praesumitur donare

— A debtor is not presumed to make a gift.

Debitum et contractus sunt nullius loci

— Debt and contract are of no particular place.

Debitum in praesenti, solvendum in futuro

— A present debt is to be discharged in the future.

Delegata potestas non potest delegari

— A delegated authority cannot be again delegated.

Derivativa potestas non potest esse major primitiva

— The power which is derived cannot be greater than that from which it is derived.

Deus solus haeredem facere potest, non homo

— God alone, not man, can make an heir.

Dies Dominicus non est juridicus

— Sunday is not a day in law.

Discretio est discernere per legem quid sit justum

— Discretion is to discern through law what is just.

Doli (in)capax

'(In) capable of wrong' – A child under the age of 10 is deemed incapable of committing any crime. Above the age of 10 children are doli capax and are treated as adults, although they will usually be tried in special youth courts (with the exception of homicide and certain other grave offences) and subject to special punishments.

Dominium

— Ownership.

Domus sua cuique est tutissimum refugium

— Every man's house is his safest refuge.

Dona clandestina sunt semper suspiciosa

— Clandestine gifts are always suspicious.

Dormiunt leges aliquando, nunquam moriuntur

— The laws sometimes sleep, but never die.

Doti lex favet; praemium pudoris est; ideo parcatur

— The law favors dower; it is the reward of chastity, therefore let it be preserved.

Dubitante

— Doubting the correctness of the decision.

Duo non possunt in solido unam rem possidere

— Two cannot possess one thing each in entirety.

De bene esse

'Of well-being' – Denoting a course of action that is the best that can be done in the present circumstances or in anticipation of a future event.

De lege ferenda

'Of (or concerning) the law that is to come into force' – A phrase used to indicate that a proposition relates to the law as it is.

De lege lata

'Of (or concerning) the law that is in force' – A phrase used to indicate that a proposition relates to the law as it is.

De minimis (non curat lex)

'The law is not concerned with trivial matters'

Dictum

'A saying' – An observation by a judge with respect to a point of law arising in a case before him.

Dissentiente

'Differing in opinion' – Dissenting from one's brother judges and making a speech to this effect. It is often abbreviated to 'diss' in citations of cases.

Ei incumbit probatio qui

— The onus of proving a fact rests upon the man.

Ei incumbit probatio qui dicit, non qui negat

— The burden of the proof lies upon him who affirms, not he who denies.

Error, qui non resistitur approbatur

— An error not resisted is approved.

Et cetera

— Other things of that type.

Ex cathedra

— With official authority.

Ex concessis

— In view of what has already been accepted/

Ex dolo malo actio non oritur

— A right of action cannot arise out of fraud.

Ex facie

— On the fact of it.

Ex gratia

Done as a matter of favour – An ex gratia payment is one not required to be made by a legal duty.

Ex nihilo nil fit

— From nothing nothing comes.

Ex nudo pacto actio non oritur

— No action arises on a contract without a consideration.

Ex parte

— Proceeding brought by one person in the absence of another.

Ex post facto

‘In the light of subsequent events’ – Describing any legal act, such as a statute, that has retrospective effect

Ex praecedentibus et consequentibus optima fit interpretatio

— The best interpretation is made from things preceding and following.

Ex turpi causa non oritur actio

— No action arises on an immoral contract.

Exceptio probat regulam

— An exception proves the rule.

Executio est executio juris secundum iudicium

— Execution is the fulfillment of the law in accordance with the judgment.

Executio est finis et fructus legis

— An execution is the end and the fruit of the law.

Executio legis non habet injuriam

— Execution of the law does no injury.

Extra legem positus est civiliter mortuus –

One out of the pale of the law (i.e. an outlaw) is civilly dead.

Erratum

An error in printing or writing.

Ex officio

By virtue of holding an office – Thus, the Lord Chief Justice is ex officio a member of the Court of Appeal.

Ex parte

1. On the part of one side only – An ex parte hearing is defined in the Glossary to the Criminal Procedure Rules as a hearing where only one party is allowed to attend and make submissions.
However, the term ex parte is no longer generally used in civil proceedings, having been replaced by the phrase without notice.
2. On behalf of – This term is used in the headings of law reports together with the name of the person making the application to the court in the case in question, for example in applications for judicial review.

Faciendum

— Something which is to be done.

Factum

— An act or deed.

Facultas probationum non est angustanda

— The right of offering proof is not to be narrowed.

Falsa demonstratio non nocet

— A false description does not vitiate.

Fatetur facinus qui iudicium fugit

— He who flees judgment confesses his guilt.

Felix qui potuit rerum cognoscere causas

— Happy is he who has been able to understand the causes of things.

Felonia implicatur in qualibet prodicione

— Felony is implied in every treason.

Festinatio iustitiae est noverca infortunii

— The hurrying of justice is the stepmother of misfortune.

Fictio cedit veritati; fictio juris non est, ubi veritas

— Fiction yields to truth. Where truth is, fiction of law does not exist.

Fides servanda est

— Good faith is to be preserved.

Fieri facias (abbreviated fi. fa.)

— That you cause to be made.

Filiatio non potest probari

— Filiation cannot be proved.

Firmior et potentior est operatio legis quam dispositio hominis

— The operation of law is firmer and more powerful than the will of man.

Forma legalis forma essentialis est

— Legal form is essential form.

Fortior est custodia legis quam hominis

— The custody of the law is stronger than that of man.

Fractionem diei non recipit lex

— The law does not regard a fraction of a day.

Fraus est celare fraudem

— It is a fraud to conceal a fraud.

Fraus est odiosa et non praesumenda

— Fraud is odious and is not to be presumed.

Fraus et jus nunquam cohabitant

— Fraud and justice never dwell together.

Fructus naturales

— Vegetation which grows naturally without cultivation.

Frustra probatur quod probatum non relevat

— That is proved in vain which when proved is not relevant.

Furor contrahi matrimonium non sinit, quia consensus opus est

— Insanity prevents marriage from being contracted because consent is needed.

Generale nihil certum implicat

— A general expression implies nothing certain.

Generalia praecedunt, specialia sequuntur

— Things general precede, things special follow.

Generalia specialibus non derogant

— Things general do not derogate from things special.

Generalis regula generaliter est intelligenda

— A general rule is to be generally understood.

Gravius est divinam quam temporalem laedere majestatem

— It is more serious to hurt divine than temporal majesty.

Habeas corpus

‘You shall have the body (in court)’ – A prerogative writ used to challenge the validity of a person’s detention, either in official custody (e.g. when held pending deportation or extradition) or in private hands. Deriving from the royal prerogative and therefore originally obtained by petitioning the sovereign, it is now issued by the Divisional Court of the Queen’s Bench Division, or, during vacation, by any High Court judge. If on an application for the writ the Court or judge is satisfied that the detention is prima facie unlawful, the custodian is ordered to appear and justify it, failing which release is ordered.

Habemus optimum testem confitentem reum

— We have the best witness, a confessing defendant.

Haeredem est nomen collectum

— Heir is a collective name.

Haeres est nomen juris, filius est nomen naturae

— Heir is a term of law, son, one of nature.

Haeres legitimus est quem nuptiae demonstrant

— He is the lawful heir whom the marriage indicates.

Homo vocabulum est naturae; persona juris civilis

— Man is a term of nature, person of the civil law.

Ibid

‘In the same place’ – Used to save space in textual references to a quoted work which has been mentioned in a previous reference.

Id est (i.e.) –

That is.

Id quod commune est, nostrum esse dicitur

— That which is common is said to be ours.

Idem

— The same person or thing.

Idem nihil dicere et insufficienter dicere est

— It is the same to say nothing as not to say enough.

Ignorantia juris non excusat

‘Ignorance of the law does not excuse’ – i.e. no defence against criminal or other proceedings arising from its breach.

Imperium in imperio

— A sovereignty within a sovereignty.

Impotentia excusat legem

— Impossibility is an excuse in the law.

Impunitas semper ad deteriora invitat

— Impunity always leads to greater crimes.

In aequali jure melior est conditio possidentis

— When the parties have equal rights, the condition of the possessor is better.

In alta proditione nullus potest esse accessorius; sed principalis solum modo

— In high treason no one can be an accessory; but a principal only.

In Anglia non est interregnum

— In England there is no interregnum.

In camera

‘In the chamber’ – In private. A court hearing must usually be public but the public may be barred from the court or the hearing may continue in the judge’s private room in certain circumstances; for example, when it is necessary in the interests of national security or to protect the identity of a witness unwilling to give evidence in public.

In curia

‘In open court’

In limine

‘Preliminary’ – Used, for example, to describe an objection

In loco parentis

‘In place of a parent’ – used loosely to describe anyone looking after children on behalf of the parents, e.g. foster parents or relatives. In law, however, only a guardian or a person in whose favour a residence order is made stands in loco parentis; their rights and duties are determined by statutory provisions.

In personam

‘Against the person’ – Describing a court action or a claim made against a specific person or a right affecting a particular person or group of people (compare in rem). The maxim of equity “equity acts in personam” refers to the fact that the Court of Chancery issued its decrees against the defendant himself, who was liable to imprisonment if he did not enforce them.

In re

‘In the matter of’ – A phrase used in the headings of law reports, together with the name of the person or thing that the case is about (for example, cases in which wills are being interpreted). It is often abbreviated to re.

In rem

‘Against the thing’

1. Describing a right that should be respected by other people generally, such as ownership of property, as distinct from a right in personam.
2. Describing a court action that is directed against an item of property, rather than against a person or group of people. Actions in rem are a feature of the Admiralty Court.

Inter alia

‘Among other things’ – The phrase is used to make it clear that a list is not exhaustive.

In situ

‘In the original place’

Intra

‘Inside’

Intra vires

‘Within the powers’ – Describing an act carried out by a body (such as a public authority or a company) that is within the

limits of the powers conferred on it by statute or some other constituting document (such as the memorandum and articles of association of a company).

Inter vivos

‘Between living people’ – If a trust is created *inter vivos* it is created during lifetime, as distinct from upon death.

Ipsa facto

‘By that very fact or act’

Judex est lex loquens

— A judge is the law speaking.

Judex non potest esse testis in propria causa

— A judge cannot be witness in his own cause.

Judex non potest injuriam sibi datam punire

— A judge cannot punish a wrong done to himself.

Judex non reddit plus quam quod petens ipse requirit

— A judge does not give more than the plaintiff himself demands.

Judiciis posterioribus fides est adhibenda

— Faith must be given to later decisions.

Judicis est judicare secundum allegata et probata

— It is the duty of a judge to decide according to the allegations and the proofs.

Judicium non debet esse illusorium, suum effectum habere debet

— A judgment ought not to be illusory; it ought to have its proper effect.

Judices non tenentur exprimere causam sententiae suae

— Judges are not bound to explain the reason of their judgment.

Jura naturae sunt immutabilia

— The laws of nature are immutable.

Jura publica anteferenda privatis juribus

— Public rights are to be preferred to private rights.

Juramentum est indivisibile et non est admittendum in parte verum et in parte falsum

— An oath is indivisible and it is not to be held partly true and partly false.

Jurare est Deum in testem vocare, et est actus divini cultus

— To swear is to call God to witness and is an act of divine worship.

Jus

— A right that is recognised in law.

Jus accrescendi praefertur oneribus

— The right of survivorship is preferred to incumbrances.

Jus ad rem; jus in re

— A right to a thing; a right in a thing.

Jus dicere, non jus dare

— To declare the law, not to make the law.

Jus est norma recti; et quicquid est contra normam recti est injuria

— The law is a rule of right; and whatever is contrary to a rule of right is an injury.

Jus naturale

— Natural justice.

Jus naturale est quod apud omnes homines eandem habet potentiam

— Natural right is that which has the same force among all men.

Jus scriptum aut non scriptum

— The written law or the unwritten law.

Jusjurandum inter alios factum nec nocere nec prodesse debet

— An oath made between third parties ought neither to hurt nor profit.

Justitia est duplex; severe puniens et vere praeveniens

— Justice is two-fold; severely punishing and in reality prohibiting (offences).

Justitia firmatur solium

— The throne is established by justice.

Justitia nemini neganda est

— Justice is to be denied to no one.

Leges posteriores priores contrarias abrogant

— Subsequent laws repeal prior conflicting ones.

Legibus sumptis desinentibus legibus naturae utendum est

— When laws imposed by the State fail, we must use the laws of nature.

Lex aliquando sequitur aequitatem

— The law sometimes follows equity.

Lex citius tolerare vult privatum damnum quam publicum malum

— The law would rather tolerate a private injury than a public evil.

Lex dabit remedium

— The law will give a remedy.

Lex dilationes abhorret

— The law abhors delays.

Lex est judicium tutissimus ductor

— The law is the safest guide for judges.

Lex est sanctio sancta jubens honesta et prohibens contraria

— The law is a sacred sanction, commanding what is right and prohibiting the contrary.

Lex indendit vicinum vicini facta scire

— The law presumes that one neighbor knows the acts of another.

Lex necessitatis est lex temporis i.e. instantis

— The law of necessity is the law of time, which is time present.

Lex neminem cogit ad vana seu impossibilia

— The law compels no one to do vain or impossible things.

Lex nil frustra facit

— The law does nothing in vain.

Lex non a rege est violanda

— The law must not be violated even by the King.

Lex non deficere potest in justitia exhibenda

— The law cannot fail in dispensing justice.

Lex non novit patrem, nec matrem; solam veritatem

— The law does not know neither father nor mother, only the truth.

Lex non oritur ex injuria

— The law does not arise from a mere injury.

Lex non requirit verificari quod apparet curiae
— The law does not require that to be proved which is apparent to the Court.

Lex non favet delicatorum votis
— The law does not favor the wishes of the dainty.

Lex plus laudatur quando ratione probatur
— The law is the more praised when it is supported by reason.

Lex prospicit not respicit
— The law looks forward, not backward.

Lex punit mendaciam
— The law punishes falsehood.

Lex rejicit superflua, pugnatia, incongrua
— The law rejects superfluous, contradictory and incongruous things.

Lex spectat naturae ordinem
— The law regards the order of nature.

Lex succurrit ignoranti
— The law succors the ignorant.

Lex tutissima cassis, sub clypeo legis nemo decipitur
— Law is the safest helmet; under the shield of the law no one is deceived.

Lex uno ore omnes alloquitur — **The law speaks to all through one mouth.**

Longa possessio est pacis jus
— Long possession is the law of peace.

Longa possessio parit jus possidendi et tollit actionem vero domino
— Long possession produces the right of possession and takes away from the true owner his action.

Locus in quo
‘The place in which’ – The place where an event took place. Fact finders may visit the locus in quo in order to understand the evidence and the judge and jury may inspect it as part of court proceedings.

Magister rerum usus; magistra rerum experientia — Use is the master of things; experience is the mistress of things.

Major continet in se minus
— The greater contains the less.

Majus est delictum se ipsum occidere quam alium –
It is a greater crime to kill one’s self than another.

Mala fide
— In bad faith.

Mala grammatica non vitiat chartam
— Bad grammar does not vitiate a deed.

Mala in se
— Bad in themselves.

Mala prohibita
— Crimes prohibited.

Malitia supplet aetatem
— Malice supplies age.

Malo animo
— With evil intent.

Mandamus
— We command.

Maximus magister erroris populus est
— The people are the greatest master of error.

Melior est conditio possidentis, ubi neuter jus habet
— Better is the condition of the possessor where neither of the two has the right.

Melior testatoris in testamentis spectanda est
— In wills the intention of a testator is to be regarded.

Meliorem conditionem suam facere potest minor deteriorem nequaquam
— A minor can make his position better, never worse.

Mens rea
‘A guilty mind’ – The state of mind that the prosecution must prove a defendant to have had at the time of committing a crime in order to secure a conviction. Mens rea varies from crime to crime; it is either defined in the statute creating the crime or established by precedent. Common examples of mens rea are intention to bring about a particular consequence, recklessness as to whether such consequences may come about (R v Cunningham [1957] 2 QB 396), and (for a few crimes) negligence. Some crimes require knowledge of certain circumstances as part of the mens rea (for example, the crime of receiving stolen goods requires the knowledge that they were stolen). Some crimes require no mens rea; these are known as crimes of strict liability.

Mentiri est contra mentem ire
— To lie is to act against the mind.

Merito beneficium legis amittit, qui legem ipsam subvertere intendit
— He justly loses the benefit of the law who seeks to infringe the law.

Minatur innocentibus qui parcit nocentibus
— He threatens the innocent who spares the guilty.

Misera est servitus, ubi jus est vagum aut incertum
— It is a miserable slavery where the law is vague or uncertain.

Mors dicitur ultimum supplicium
— Death is called the extreme penalty.

Multa exercitatione facilius quam regulis percipies
— You will perceive many things more easily by experience than by rules.

Nam nemo haeres viventis
— For no one is an heir of a living person.

Naturae vis maxima est
— The force of nature is the greatest.

Necessitas inducit privilegium quoad jura privata
— With respect to private rights necessity induces privilege.

Necessitas non habet legem
— Necessity has no law.

Necessitas publica est major quam privata
— Public necessity is greater than private necessity.

Negligentia semper habet infortuniam comitem
— Negligence always has misfortune for a companion.

Nemo admittendus est inhabilitare se ipsum
— No one is allowed to incapacitate himself.

Nemo bis punitur pro eodem delicto

— No one can be twice punished for the same offence.

Nemo cogitur suam rem vendere, etiam justo pretio

— No one is bound to sell his own property, even for a just price.

Nemo contra factum suum venire potest

— No man can contradict his own deed.

Nemo debet esse iudex in propria causa

— No one can be judge in his own case.

Nemo plus juris transferre ad alium potest quam ipse habet

— No one can transfer to another a larger right than he himself has.

Nemo potest contra recordum verificare per patriam

— No one can verify by the country, that is, through a jury, against the record.

Nemo potest esse tenens et dominus

— No one can at the same time be a tenant and a landlord (of the same tenement).

Nemo potest facere per alium, quod per se non potest

— No one can do through another what he cannot do himself.

Nemo potest mutare consilium suum in alterius injuriam

— No one can change his purpose to the injury of another.

Nemo praesumitur esse immemor suae aeternae salutis et maxime in articulo mortis

— No one is presumed to be forgetful of his eternal welfare, and particularly in the hour of death.

Nemo prohibetur pluribus defensionibus uti

— No one is forbidden to make use of several defences.

Nemo punitur pro alieno delicto

— No one is punished for the crime of another.

Nemo se accusare debet, nisi coram Deo

— No one should accuse himself except in the presence of God.

Nemo tenetur accusare se ipsum nisi coram Deo

— No one is bound to accuse himself except in the presence of God.

Nemo tenetur armare adversarium contra se

— No one is bound to arm his adversary against himself.

Nexus

— Connection

Nihil quod est inconueniens est licitum

— Nothing inconvenient is lawful.

Nil facit error nominis cum de corpore constat

— An error of name makes no difference when it appears from the body of the instrument.

Nisi

— Unless

Non compus mentis

— Not of sound mind and understanding

Non constat

— It is not certain

Non decipitur qui scit se decipi

— He is not deceived who knows that he is deceived.

Non definitur in jure quid sit conatus

— What an attempt is, is not defined in law.

Non est arctius vinculum inter homines quam jusjurandum

— There is no stronger link among men than an oath.

Non est factum

— It is not his deed

Non est informatus

— He is not informed.

Non facias malum ut inde veniat bonum

— You shall not do evil that good may come of it.

Non jus, sed seisin, facit stipitem

— Not right, but seisin makes a stock (from which the inheritance must descend).

Non refert quid notum sit iudici si notum non sit in forma iudicii

— It matters not what is known to the judge if it is not known judicially.

Non sequitur

— An inconsistent statement, it does not follow

Nullus commodum capere potest ex sua injuria propria

— No one can derive an advantage from his own wrong.

Nullus recedat e curia cancellaria sine remedio

— No one should depart from a Court of Chancery without a remedy.

Non est factum (suum)

'It is not my deed' – A plea that an agreement mentioned in the statement of case was not the act of the defendant. It may be applicable where the person signing a document had no real understanding of the character or effect of that document.

Obiter dictum

'A remark in passing' – Something said by a judge while giving judgment that was not essential to the decision in the case. It does not form part of the ratio decidendi of the case and therefore creates no binding precedent, but may be cited as persuasive authority in later cases.

Onus (probandi)

'Load or burden' – Something that is one's duty or responsibility (burden of proof).

Omne sacramentum debet esse de certa scientia

— Every oath ought to be of certain knowledge.

Omnia delicta in aperto leviora sunt

— All crimes (committed) in the open are (considered) lighter.

Omnia praesumuntur contra spoliatores — All things are presumed against a wrongdoer.

Omnis innovatio plus novitate perturbat quam utilitate prodeat

— Every innovation disturbs more by its novelty than it benefits by its utility.

Optima legum interpret est consuetudo

— The best interpreter of laws is custom.

Optimus interpret rerum est usus

— The best interpreter of things is usage.

Pacta privata juri publico non derogare possunt — Private contracts cannot derogate from public law.

Par delictum

— Equal fault.

Pari passu

‘With equal step’ – Proportionally, without preference. The principle that where there are competing claimants, (e.g. in bankruptcy proceedings) assets should be distributed on a pro rata basis, in accordance with the size of the claim.

Partus sequitur ventrem

— The offspring follows the mother.

Pater est quem nuptiae demonstrant

— The father is he whom the marriage points out.

Peccata contra naturam sunt gravissima

— Wrongs against nature are the most serious.

Pendente lite nihil innovetur

— During litigation nothing should be changed.

Per curiam

— In the opinion of the court.

Per minas

— By means of menaces or threats.

Per quod

— By reason of which.

Post mortem

— After death.

Prima facie

‘At first appearance’ – on the face of things

Prima impressionis

— On first impression.

Pro hac vice

— For this occasion.

Pro rata

— In proportion.

Pro tanto

— So far, to that extent.

Pro tempore

— For the time being.

Publici juris

— Of public right.

Per

‘Through, by means of’

Per curiam (per. cur.)

‘By the court’ – A proposition per curiam is one made by the judge (or, if there is more than one judge, assented to by all).

Per incuriam

‘Through lack of care’ – A decision of a court is made per incuriam if it fails to apply a relevant statutory provision or ignores a binding precedent.

Per se

‘By or in itself or themselves; intrinsically’

Post

‘Subsequent to; after’

Quasi

‘As if, almost’

Quaeritur

— The question is raised.

Quantum

— How much, an amount.

Qui facit per alium facit per se

‘He who acts through another, acts through himself’ – The traditional basis of vicarious liability. It means, for example, that an employer is liable for the consequences of any act done by employees in the ordinary course of their duties and responsibilities.

Qui haeret in litera, haeret in cortice

— He who sticks to the letter, sticks to the bark.

Qui in utero est, pro jam nato habetur, quoties de ejus commodo quaeritur

— He who is in the womb is considered as already born as far as his benefit is considered.

Qui non habet potestatem alienandi, habet necessitatem retinendi

— He who has not the power of alienating is under the necessity of retaining.

Qui non habet, ille non dat

— He who has not, does not give.

Qui non improbat, approbat

— He who does not disapprove, approves.

Qui non obstat quod ob stare potest facere videtur

— He who does not prevent what he is able to prevent, is considered as committing the thing.

Qui non prohibet quod prohibere potest assentire videtur

— He who does not prohibit when he is able to prohibit, is in fault.

Qui peccat ebrius, luat sobrius

— He who does wrong when drunk must be punished when sober.

Qui potest et debet vetare et non vetat jubet

— He who is able and ought to forbid and does not, commands.

Qui prior est tempore potior est jure

— He who is prior in time is stronger in right.

Qui sentit commodum, debet et sentire onus

— He who derives a benefit ought also to bear a burden.

Qui tacet consentire videtur

— He who is silent appears to consent.

Quid pro quo

— Consideration. something for something.

Quidquid plantatur solo, solo cedit

— Whatever is planted in or affixed to the soil, belongs to the soil.

Quod ab initio non valet, in tractu temporis non convalescit

— What is not valid in the beginning does not become valid by time.

Quod constat curiae opere testium non indiget

— What appears to the Court needs not the help of witnesses.

Quod necessarie intelligitur, id non deest

— What is necessarily understood is not wanting.

Quod necessitas cogit, defendit

— What necessity forces it justifies.

Quod non apparet, non est

— What does not appear, is not.

Quod non habet principium non habet finem

— What has no beginning has no end.

Quod per me non possum, nec per alium

— What I cannot do through myself, I cannot do through another.

Quod prius est verius est; et quod prius est tempore potius est jure

— What is first is more true; and what is prior in time is stronger in law.

Quod vanum et inutile est, lex non requirit

— The law does not require what is vain and useless.

Quoties in verbis nulla est ambiguitas, ibi nulla expositio contra verba expressa fienda est –

When there is no ambiguity in words, then no exposition contrary to the expressed words is to be made.

Ratio est legis anima, mutata legis ratione mutatur et lex

— Reason is the soul of the law; when the reason of the law changes the law also is changed.

Re

— In the matter of.

Reprobata pecunia leberat solventem

— Money refused releases the debtor.

Res

— Matter, affair, thing, circumstance.

Res gestae

— Things done.

Res integra

— A matter untouched (by decision).

Res inter alios acta alteri nocere non debet

— Things done between strangers ought not to affect a third person, who is a stranger to the transaction.

Res judicata accipitur pro veritate

— A thing adjudged is accepted for the truth.

Res nullis

— Nobody's property.

Respondeat superior

— Let the principal answer.

Rex est major singulis, minor universis

— The King is greater than individuals, less than all the people.

Rex non debet judicare sed secundum legem

— The King ought not to judge but according to the law.

Rex non potest peccare

— The King can do no wrong.

Rex nunquama moritur

— The King never dies.

Rex quod injustum est facere non potest

— The King cannot do what is unjust.

Ratio decidendi

‘The reason for deciding’ – The principle or principles of law

on which the court reaches its decision. The ratio of the case has to be deduced from its facts, the reasons the court gave for reaching its decision, and the decision itself. It is said to be the statement of law applied to the material facts. Only the ratio of a case is binding on inferior courts, by reason of the doctrine of precedent.

Res judicata

‘A matter that has been decided’ – The principle that when a matter has been finally adjudicated upon by a court of competent jurisdiction it may not be reopened or challenged by the original parties or their successors in interest. It is also known as action estoppel. It does not preclude an appeal or a challenge to the jurisdiction of the court. Its justification is the need for finality in litigation.

Res ipsa loquitur

‘The thing speaks for itself’ – A principle often applied in the tort of negligence. If an accident has occurred of a kind that usually only happens if someone has been negligent, and the state of affairs that produced the accident was under the control of the defendant, it may be presumed in the absence of evidence that the accident was caused by the defendant's negligence (Scott v London and St Katherine Docks Co (1865) 3 Hurl. & C. 596).

Salus populi est suprema lex

— The safety of the people is the supreme law.

Sciens

— Knowingly.

Scienter

— Knowingly.

Scire facias

— That you cause to know.

Scribere est agere

— To write is to act.

Se defendendo

— In self defence.

Secus

— The legal position is different, it is otherwise.

Semper praesumitur pro legitimatione puerorum

— Everything is presumed in favor of the legitimacy of children.

Semper pro matrimonio praesumitur

— It is always presumed in favor of marriage.

Sententia interlocutoria revocari potest, definitiva non potest

— An interlocutory order can be revoked, a final order cannot be.

Servitia personalia sequuntur personam

— Personal services follow the person.

Sic utere tuo ut alienum non laedas

— So use your own as not to injure another's property.

Simplex commendatio non obligat

— A simple recommendation does not bind.

Stare decisis

— To stand by decisions (precedents).

Stet

— Do not delete, let it stand.

Sub modo

— Within limits.

Sub nomine

— Under the name of.

Sub silentio

— In silence.

Sublata causa, tollitur effectus

— The cause being removed, the effect ceases.

Sublato fundamento, cadit opus

— The foundation being removed, the structure falls.

Subsequens matrimonium tollit peccatum praecedens

— A subsequent marriage removes the preceding wrong.

Suggestio falsi

— The suggestion of something which is untrue.

Sui generis

‘Of its own kind’ – Forming a class of its own; unique.

Summa ratio est quae pro religione facit

— The highest reason is that which makes for religion, i.e. religion dictates.

Suppressio veri

— The suppression of the truth.

Suppressio veri expressio falsi

— A suppression of truth is equivalent to an expression of falsehood.

Sic

‘So, thus’ – Used in brackets after a copied or quoted word that appears odd or erroneous to show that the word is quoted exactly as it stands in the original.

Stare decisis

‘To stand by things decided’ – A maxim expressing the underlying basis of the doctrine of precedent, i.e. that it is necessary to abide by former precedents when the same points arise again in litigation.

Sub iudice

‘In the course of trial’ – The sub iudice rule:

1. A rule limiting comment and disclosure relating to judicial proceedings, in order not to prejudge the issue or influence the jury. See contempt of court.
2. A parliamentary practice in which the Speaker prevents any reference in questions or debates to matters pending decision in court proceedings (civil or criminal). In the case of civil proceedings, he has power to waive the rule if a matter of national interest is involved.

Talis qualis

— Such as it is.

Terra firma

— Solid ground.

Testamenta latissimam interpretationem habere debent

— Testaments ought to have the broadest interpretation.

Traditio loqui chartam facit

— Delivery makes a deed speak.

Transit terra cum onere

— The land passes with its burden.

Ubi eadem ratio ibi idem jus, et de similibus idem est iudicium

— When there is the same reason, then the law is the same, and the same judgment should be rendered as to similar things.

Ubi jus ibi remedium est

— Where there is a right there is a remedy.

Ubi non est principalis, non potest esse accessorius

— Where there is no principal, there can be no accessory.

Ubi nullum matrimonium, ibi nulla dos es

— Where there is no marriage, there is no dower.

Ultima voluntas testatoris est perimplenda secundum veram intentionem suam

— The last will of a testator is to be fulfilled according to his true intentio.

Ut poena ad paucos, metus ad omnes, perveniat

— That punishment may come to a few, the fear of it should affect all.

Utile per inutile non vitiatur

— What is useful is not vitiated by the useless.

Ultra vires

‘Beyond the powers’ – Describing an act by a public authority, company, or other body that goes beyond the limits of the powers conferred on it. Ultra vires acts are invalid (compare intra vires). The ultra vires doctrine applies to all powers, whether created by statute or by a private document or agreement (such as a trust deed or contract of agency). In the field of public (especially administrative) law it governs the validity of all delegated and sub-delegated legislation. This is ultra vires not only if it contains provisions not authorized by the enabling power but also if it does not comply with any procedural requirements regulating the exercise of the power.

Verba chartarum fortius accipiuntur contra preferentem

— The words of deeds are accepted more strongly against the person offering them.

Verba debent intelligi cum effectu

— Words ought to be understood with effect.

Verba intentioni, non e contra, debent inservire

— Words ought to serve the intention, not the reverse.

Verbatim

— Word by word, exactly.

Vi et armis

— With the force and arms.

Via antiqua via est tuta

— The old way is the safe way.

Vice versa

— The other way around.

Vide

— See.

Vigilantibus non dormientibus jura subveniunt

— The laws serve the vigilant, not those who sleep.

Vir et uxor consentur in lege una persona

— A husband and wife are regarded in law as one person.

Visitationem commendamus

— We recommend a visitation.

Volens

— Willing.

Volenti non fit injuria

‘No wrong is done to one who consents’ – The defence that the claimant consented to the injury or (more usually) to the risk of being injured. Knowledge of the risk of injury is not sufficient; there must also be (even if only by implication) full and free consent to bear the risk (*Simms v Leigh Rugby Football Club*

Ltd [1969] 2 All ER 923). A claimant who has assumed the risk of injury has no action if the injury occurs. The scope of the defence is limited by statute in cases involving business liability and public and private transport.

Voluntas in delictis non exitus spectatur

— In offences the intent and not the result is looked at.

Voluntas reputatur pro facto

— The will is taken for the deed

EXERCISE

- What is the meaning of *actus reus non facit reum nisi mens sit rea*?
 - An act does not make a person guilty of a crime unless his mind be also guilty. The maxim that forms the basis for defining *actus reus* and *mens rea* as the two elements that must be proved before a person can be convicted of crime.
 - It means the action is sufficient to convict the person, intention is irrelevant.
 - The court can initiate any action against the guilty person and convict him on the basis of his action.
 - None of these
- When is a contract void *ab initio*?
 - It is void from the beginning.
 - Only the parties to the contract can claim their rights, if a contract is void *ab initio*.
 - If the contract is void *ab initio*, it is the discretion of the court to make specific performance.
 - None of these
- Who would be called an *amicus curiae*?
 - a friend of the court or the tribunal, i.e a non-party who gives evidence before the court so as to assist with research, argument, or submission.
 - he is a party to the case
 - he is a public prosecutor
 - none of the above.
- Volenti non fit injuria* is an expression that means which of the following?
 - no wrong is done to one who consents
 - when thing speaks for itself
 - an expression used in extradition law
 - None of the above
- What is meant by *Res ipsa loquitur*?
 - no one should be condemned unheard
 - when thing speaks for itself
 - an expression used in extradition law
 - None of the above
- What is the meaning of *Audi Alteram Partem*?
 - no one should be condemned unheard
 - thing speaks for itself
 - an expression used in extradition law
 - None of the above
- The burden of proof lies on
 - claimant
 - prosecution
 - Both (a) and (b)
 - defendant
- Aut punier aut dedere* means
 - Either punish or surrender. It is a doctrine of extradition law, that offenders must be either punished by the state of refuge or surrendered to the state that can and will punish them.
 - It is a principle of natural justice that when someone takes refuge in another stage, he cannot be punished at all and he deserves to be protected at any cost.
 - Neither (a) nor (b).
 - All of these.
- A Person incapable of wrong is known as
 - Doli Capax
 - Doli Incapax
 - Neither (a) or (b)
 - Both (a) and (b)
- What is the meaning of *Ratio est legis anima, mutata legis ratione mutatur et lex*?
 - Reason is the soul of the law when the reason of the law changes the law also is changed
 - Law accepts only reason but sometimes belief and faith
 - The three pillars of law are reason, belief, and faith
 - The only thing legal is also rational
- What is *Res nulis*?
 - No one's property is everyone's property
 - A property can never be no one's
 - No body's property
 - Abandoned property
- Which among the following maxims means ‘An act does not make a person guilty, unless the intention is also guilty’?
 - Actus non facit reum, nisi mens sit rea*
 - Bona fides non paitur, ut bis idem exigatur*
 - Debet esse finis litium*
 - Equity sequitur legem*
- Innuendo*, in legal terms, is:
 - Defamation
 - Nuisance
 - Trespass
 - Battery

14. The maxim 'ignorantia facit doth excusat, ignorantia juris non excuset' means:
- Ignorance of fact excuses, ignorance of law does not excuse
 - Ignorance of law excuses, ignorance of fact does not excuse
 - Ignorance due to which mistake occurs is excused if done in good faith
 - Ignorance due to which a vital mistake occurs, is not excused even if done in good faith
15. In legal terms, a 'Recidivist' is a/the:
- First time criminal
 - Believer
 - Atheist
 - Habitual Criminal
16. Latin maxim 'in criminalibus, probationes bedent esse luce clariores' means:
- In criminal cases, the proofs ought to be clearer than the light
 - An act does not make a person guilty, unless the intention i also guilty
 - No one shall take advantage of his own wrong
 - None of the above
17. Which of the following maxim means 'Let the punishment be proportioned to the crime'?
- Derogatur legi, cum pars detrahitur; abrogatur legi, cum prorsus tollitur
 - Culpa paena pae esto
 - Ex nudo pacto non oritur action
 - Generalia verba sunt generaliter intelligenda
18. Which of the following Latin maxims relates to the derogation and abrogation of law?
- Derogatur legi, cum pars detrahitur; abrogatur legi, cum prorsus tollitur
 - Culpa paena pae esto
 - Ex nudo pacto non oritur action
 - Generalia verba sunt generaliter intelligenda
19. Which among the following best expresses the meaning of the legal maxim de excommunicato deliberando?
- The assemblage of individuals
 - With the necessary skill
 - A cause that is necessary
 - Release of person excommunicated
20. Which among the following best expresses the meaning of the legal maxim securitatem inveniendi?
- With totality
 - The grant of exemption from serving
 - The getting of security by the subjects
 - Whence law, thence victory
21. Which among the following best expresses the meaning of the legal maxim action commodati contraria?
- An action for extraordinary expenses
 - The act of giving all mercy
 - The beginning areas of testimony
 - The commodities ordinarily spent
22. Which among the following best expresses the meaning of the legal maxim ignorantia elenchi?
- The fact of who was meant is clear
 - The conclusion has actually been ignored
 - The partitioning of property with held
 - With the substance intact
23. Which among the following best expresses the meaning of the legal maxim soit fait comme il est desire?
- The commodities ordinarily spent
 - Having the body required for prosecuting
 - A guarantee of the skill
 - As per desire
24. Which among the following best expresses the meaning of the legal maxim suspendaturper collum?
- Consideration paid but no act taken place
 - Whence law, thence victory
 - He be hung by neck
 - The precedent has been established
25. Which among the following best expresses the meaning of the legal maxim stricti juris?
- In accordance with the law that is there
 - Related to process of inheritance
 - With no substantial grounds
 - Exaction against will
26. Which among the following best expresses the meaning of the legal maxim heres suus etnecessarius?
- For division of something held in common
 - A heir that is actually necessary
 - With the substance intact
 - Nemo judex in causa sua
27. Which among the following best expresses the meaning of the legal maxim absque consideratione curiae?
- The absence of a writ
 - Without judgement
 - An act without any reason in law
 - Without any plausible method
28. Which among the following best expresses the meaning of the legal maxim si deventum sit ad actum maleficio proximum?
- If close to any criminal measure
 - Consideration paid but no act taken place
 - There has been miscarriage of justice
 - The judges are absent from chambers
29. Which among the following best expresses the meaning of the legal maxim series rerum judicatarum?
- Precedent may not be considered
 - The grant of exemption from serving
 - The establishment of a precedent
 - The total giving of authority
30. Which among the following best expresses the meaning of the legal maxim si vidua manserit et non nupserit?
- A guarantee of the skill
 - The commodities ordinarily spent
 - While she remains a widow
 - A cause that is necessary
31. Which among the following best expresses the meaning of the legal maxim tanquam optimum maximum?
- At the maximum level
 - The precedent has been established
 - Exaction against will
 - The act of giving all mercy

32. Which among the following best expresses the meaning of the legal maxim *addictio in diem*?
- The commodities ordinarily spent
 - The beginning areas of testimony
 - Postponing to some date or assignment for fixed time
 - The act of giving all mercy
33. Which among the following best expresses the meaning of the legal maxim *cum virginitas vel castitas corrupta restitui non possit*?
- A cause that is necessary
 - Having the body required for prosecuting
 - The things of the community
 - Because the restoration of virginity can't be done
34. Which among the following best expresses the meaning of the legal maxim *res repetundae*?
- The repercussions are predominant
 - The things that are still to be repaid
 - Without any substantial basis in law
 - The establishment of a precedent
35. Which among the following best expresses the meaning of the legal maxim *in lecto aegritudini*?
- Without any substantial basis in law
 - While lying sick or incapable
 - The other party not heard
 - A claim on grounds immoral
36. Which among the following best expresses the meaning of the legal maxim *ad levandam conscientiam*?
- Ownership by continuing possession
 - An action concerning fraud
 - The act of giving all mercy
 - For easement of the conscience
37. Which among the following best expresses the meaning of the legal maxim *constat de persona*?
- Consideration paid but no act taken place
 - Without any substantial basis in law
 - While the tenant serves the lord freely
 - The fact of who was meant is clear
38. Which among the following best expresses the meaning of the legal maxim *initialia testimonii*?
- Consideration paid but no act taken place
 - The beginning areas of testimony
 - The other party not heard
 - The initial talks
39. Which among the following best expresses the meaning of the legal maxim *trial in absentia*?
- Trial while accused absent
 - The act of giving all mercy
 - Exaction against will
 - The estate has been transferred
40. Which among the following best expresses the meaning of the legal maxim *condictio rei furtivae*?
- The act of giving all mercy
 - Claim for thing that has been stolen
 - With the substance intact
 - For division of something held in common

DIRECTIONS (Qs. 41-47): Given below is a statement of legal principle followed by a facts. Apply the principle to the facts given below and select the most appropriate answer.

41. **Principle:** *Injuria Sine Damnum* i.e. Injury (violation of legal right) without damage
Facts: X, who was the returning officer at a polling booth in Amethi, wrongly refused to register a duly tendered vote of 'V' in the recent UP elections, even though 'V' was an eligible voter. The candidate in whose favour 'V' wanted to vote, was declared elected. Give the appropriate answer:
- 'V' can sue X on the ground that 'X' denied the right to cast vote, which a fundamental right.
 - 'V' can sue X on the ground that 'X' denied the right to cast vote, which is a legal right
 - 'V' cannot sue X because there is no injury or damage caused to 'V'
 - 'V' cannot sue X because the candidate in whose favour he wanted to vote was declared elected.
42. **Principle:** *Qui facit per alium facit per se*, i.e., he who does things through others does it himself.
Facts: Nisha, the owner of a car, asked her friend Saurabh to take her car and drive the same to her office. As the car was near her office, it hit a pedestrian Srikant on account of Saurabh's negligent driving and injured him seriously. Now Srikant files a suit for damages against Nisha.
- Nisha is not liable as it was the negligence of Saurabh.
 - Saurabh is solely liable as Nisha was not driving the car.
 - Nisha is liable as Saurabh was driving under her authority and for her purpose.
 - Saurabh will be exempted from liability under the principle of inevitable accident.
43. **Principle:** *Res ipsa loquitur* i.e., the thing speaks for itself.
Facts: Seema got herself operated for the removal of her uterus in the defendant's hospital, as there was diagnosed to be a cyst in one of her ovaries. Due to the negligence of the surgeon, who performed the operation, abdominal pack was left in her abdomen. The same was removed by a second surgery
- Surgeon cannot be held responsible because it is merely a human error
 - Surgeon can be held responsible but Seema will have to prove in the court of law that the surgeon was grossly negligent
 - Surgeon will be responsible and Seema need not to prove surgeon's negligence because presence of abdominal pack in her abdomen is sufficient proof therefore.
 - None of the above
44. **Principle:** One of the principles of natural justice "*Nemo index in causa sua*", which means that no one should be a judge in his own cause. In other words, no person can judge a case in which he has an interest.
Facts: "X", a member of the selection board for a government service, was also a candidate for selection for the same service. "X" did not take part in the deliberations of the board when his name was considered and approved.

- (a) Selection of "X" is against the principle of natural justice.
 (b) Selection of "X" is not against the principle of natural justice.
 (c) Non-selection of "X" will be against the principles of natural justice.
 (d) Non-participation of "X" in the board deliberations will render his selection
45. A plaintiff brings a matter before the court of law. From the facts, as narrated in the petition, an inference can be drawn that the event would not have happened without negligence on the part of the defendant. Under such circumstances, which one of the following maxims can be invoked?
 (a) Volenti non fit injuria (b) Vis major
 (c) res ipsa loquitur (d) None
46. Plaintiff admitted herself in the Skylark Hospital, Delhi for removal of uterus. The doctors removed the uterus but left scissors and abdominal pack in her body. Later on, she developed complications. She brought an action for the tort of negligence? Under the facts, which one of the following maxims can be invoked?
 (a) Volenti non fit injuria (b) Damnum sine injuria
 (c) Res ipsa loquitur (d) None
47. **Principle:** The defence of *volent non fit injuria* that is consent of the plaintiff is not applicable in Tort of Nuisance.
Facts: Dr. M Prasad purchased a piece of land for constructing a nursing home. His neighbor has been running a brick grinding machine for the last five years. After opening the hospital, his profession and patient's treatment began to be severely impacted owing to smoke, noise and dust being discharged from the machine. He brings an action under Private Nuisance.
 The defendant (brick grinder) takes the plea that the plaintiff establish the nursing home after knowing about such activity in his neighbourhood. As such, he (plaintiff) consented to such nuisance by purchasing his neighbourhood's land.
 Is defendant's plea tenable?
 (a) Yes, the plaintiff purchased the land after knowing about brick grinding activity.
 (b) No, because the principle of Plaintiff's consent is inapplicable in such cases.
 (c) No, because the defendant has taken reasonable care to avoid the causes of inconvenience to the plaintiff
 (d) None
48. '*obiter dicta*' means- [CLAT 2016]
 (a) Basis of judicial decision.
 (b) Judgment of a court in the case before it.
 (c) An opinion given by the court not necessary for the decision.
 (d) Direction by a judge.
49. **Bona vacantia** [CLAT 2017]
 (a) Order of the court for eviction
 (b) Vacant land
 (c) Goods that have no owner
 (d) Vacant building
50. **In pari delicto** [CLAT 2017]
 (a) Where the lawyer is at fault
 (b) Where the judge is at fault
 (c) Where the petitioner is at fault
 (d) Where both parties to a dispute are equally at fault
51. '**Sine die**' means: [CLAT 2017]
 (a) Adjourned without fixing any date for the next meeting.
 (b) Adjourned for the day and scheduled to meet next day again.
 (c) Adjourned for the day and meet after one week.
 (d) Adjourned for the day and meet after one month.
52. **Malus animus** [CLAT 2017]
 (a) Good intention (b) Bad intention
 (c) Physical force (d) Animal farm
53. **Lis pendens** [CLAT 2017]
 (a) Pending suit (b) Decided case
 (c) No legal issues involved (d) Facts of case proved
54. **Per incuriam** [CLAT 2017]
 (a) Mistaken decision
 (b) Supremacy of law
 (c) Mistaken identity
 (d) Supremacy of the Constitution
55. **Autrefois convict** [CLAT 2017]
 (a) Formerly convicted (b) To be convicted
 (c) Failed prosecution (d) Doubtful conviction
56. **Lex loci** [CLAT 2017]
 (a) Law of a place (b) Latin regulations
 (c) Domestic laws (d) Italian laws
57. **Animus possidendi** means: [CLAT 2017]
 (a) Intent to contract (b) Intention to harm
 (c) Intention to return (d) Intention to possess
58. **Caveat venditor** [CLAT 2017]
 (a) Seller beware (b) Manufacturer beware
 (c) Transporter beware (d) Buyer beware
59. **Pari passu** [CLAT 2017]
 (a) On an unequal status (b) On equal footing
 (c) Diverse nature (d) Supremacy of law
60. **Faux pas** [CLAT 2017]
 (a) Cheating
 (b) Tactless mistake
 (c) Pausing for a while
 (d) Passage of time
61. '**Punctum Temporis**' means: [CLAT 2017]
 (a) Functional authority
 (b) Temporary position
 (c) Timely assistance
 (d) Point of time
62. '**Jus Gentium**' means: [CLAT 2017]
 (a) Global administrative law
 (b) Law of Societies
 (c) Law among Nations
 (d) Global justice
63. **Turpis arbiter** means: [CLAT 2017]
 (a) Inefficient lawyer (b) Inefficient judge
 (c) Corrupt prosecutor (d) Corrupt judge

64. **Legal Principle:** The Latin maxim *nemo bis punitur pro eodem delicto* means that nobody can be punished twice for the same offence. [CLAT 2018]

Fact Situation: Sajan, a petty thief, is caught and thrashed thoroughly by the people before being handed over to the police. Sajan pleads before the magistrate that since he was already thrashed by the people he should not be again punished by the State.

Which of the following statements is the most appropriate in relation to the legal principle stated above?

- (a) Sajan is right since nobody should be punished for the same offence twice.
- (b) Thrashing given by the people does not amount to legal punishment and so Sajan can be punished by the State.
- (c) Giving a good thrashing to the thief is the best form of punishment to prevent future theft.
- (d) The Magistrate should take into consideration the thrashing received by Sajan while fixing his punishment.

65. **Legal Principle:** The Latin maxim *qui facit per alium, facit per se* means that he who acts through another, acts himself. [CLAT 2018]

Fact Situation: Heema requests her minor sister Harika to purchase a bag for her from the local shop. Harika purchases the bag on credit telling the shop keeper that her sister will pay for it. Afterwards, Heema refuses to pay for the bag.

Which of the following statements is the most appropriate in relation to the legal principle stated above?

- (a) Since Heema has not purchased the bag herself she is not liable to pay for it.
- (b) Harika being a minor the shop keeper should not have sold the bag to her.
- (c) Since she purchased the bag through her sister, Heema is liable to pay for it.
- (d) Harika being a minor should not have been entrusted by Heema for the purchase of the bag.

66. **Legal Principle:** '*Audi alteram partem*' is a Latin phrase which means 'hear the other side'. It is the principle that no person should be judged without a fair hearing.

Fact Situation: Sanjay, in Delhi, is accused of theft and brought before the Court. The magistrate discovers that Sanjay is mute. [CLAT 2018]

Which of the following statements is the most appropriate in relation to the legal principle stated above?

- (a) The principle is not applicable to Sanjay since he is mute.
- (b) The principle is applicable to Sanjay even though he cannot speak since he can be asked to write down his defence.
- (c) The Magistrate has to take all measures to understand what Sanjay has to convey about the accusation against him.
- (d) Since it is a Latin principle it is not applicable in India.

Hints & Solutions

- 1. (a) The meaning of above expression is (in Latin) an act does not make a defendant guilty without a guilty mind.
- 2. (a) when a contract is void ab-initio, it void from the beginning which has the consequence that no innocent third parties can acquire rights under any subsequent contract..
- 3. (a) An amicus curiae (literally, "friend of the court"; plural, amici curiae) is someone who is not a party to a case and may or may not have been solicited by a party and who assists a court by offering information, expertise, or insight that has a bearing on the issues in the case; and is typically presented in the form
- 4. (a) Volenti non fit iniuria (or injuria) (Latin: "to a willing person, injury is not done") is a common law doctrine which states that if someone willingly places themselves in a position where harm might result, knowing that some degree of harm might result, they are not able to bring a claim against the other party
- 5. (b) In the common law of torts, res ipsa loquitur (Latin for "the thing speaks for itself") is a doctrine that infers negligence from the very nature of an accident or injury in the absence of direct evidence on how any defendant behaved.
- 6. (a) Audi alteram partem (or audiatur et altera pars) is a Latin phrase meaning "listen to the other side", or "let the other side be heard as well". It is the principle that no person should be judged without a fair hearing in which each party is given the opportunity to respond to the evidence against them.
- 7. (c) The burden of proof means the obligation to offer evidence that the court or jury could reasonably believe, in support of a contention, failing which the case will be lost. The obligation to establish a contention as fact by evoking evidence of its probable truth.
- 8. (a) It means either punish or surrender. Under extradition law, the state where the offender has taken the refuge must either punish the offender or handover the offender to the state that will punish him.
- 9. (b) Doli incapax means incapable of crime forming a defence for children that a child is incapable of crime. The basis of the presumption in doli incapax lies in theory of Criminal responsibility. Theory has been built upon theory that a person should be held criminally responsible only for acts he intends to commit.
- 10. (a) The reason for a law ceasing, the law itself ceases. ... "The same thought was enunciated by Lord Coke in

Milborn's Case: Ratio legis est anima legis, et mutata legis ratione, mutatur ex lex - the reason for a law is the soul of the law, and if the reason for a law has changed, the law is changed.

11. (c) Res nullius (lit: nobody's thing) is a Latin term derived from private Roman law whereby res (an object in the legal sense, anything that can be owned, even a slave, but not a subject in law such as a citizen nor land) is not yet the object of rights of any specific subject.
12. (a) [Latin: an act is not necessarily a guilty act unless the accused has the necessary state of mind required for that offence] The maxim that, generally, a person cannot be guilty of a crime unless two elements are present: the * actus reus("guilty act") and the mens rea.
13. (a) In law it means "an indirect hint." "Innuendo" is used in lawsuits for defamation (libel or slander), usually to show that the party suing was the person about whom the nasty statements were made or why the comments were defamatory
14. (a) (Ignorance of the fact excuses; ignorance of the law excuses not.) The maxim is often cited simply as Ignorantia legis [or juris] neminem excusat.
15. (a) One who commits a second (or higher number(d) crime; a repeat offender; a habitual criminal. Such a person is usually subject to extended confinement under habitual criminal statutes.
16. (a) The meaning of this Latin expression is In criminal cases the proofs ought to be cleared than the light.
17. (b) "Let the punishment equal the crime."A maxim of Roman law meaning that the punishment prescribed for a crime should be proportionate to crime.
18. (a) This Latin maxim means "A law is derogated when part of it is taken away, a law is abrogated when it is wholly abolished".
19. (d) A de excommunicato deliberando is a writ which issued out of chancery to release a prisoner from the county jail after the bishop had certified the prisoner's reconciliation with the Church, following his arrest and imprisonment under a writ de excommunicato capiando.
20. (b) An ancient writ, lying for the sovereign, against any of his subjects, to stay them from going out of the kingdom to foreign parts; the ground whereof is that every man is bound to serve and defend the commonwealth as the crown shall think fit.
21. (a) Actio commodati contraria means an action available for a borrower against a lender for the recovery of extraordinary expenses in connection with the loan or for the damages caused by the lender's mistake.
22. (b) Irrelevant conclusion, also known as ignoratio elenchi (Latin for 'ignoring refutation') or missing the point, is the informal fallacy of presenting an argument that may or may not be logically valid and sound, but (whose conclusion) fails to address the issue in question.
23. (d) [Law French] Let it be as it is desired? This is the phrase indicating royal assent to a private act of Parliament.
24. (c) Traditional meaning of suspendatur per collum in English (with some legal use of this latin concept in England and the United States in the XIX Century) [1]: (in Latin) Let him be hanged by the neck.
25. (a) This phrase means In strict accordance with the law or the rights of relevant parties, without variation or expansion.
26. (b) a family heir including a slave in the paternal power of a decedent at the latter's death who by Roman law becomes sui juris and succeeds to the decedent's property by intestacy or by will.
27. (c) absque means without, except, apart from; considerationae curiae means the consideration/ reason of the court/law.
28. (b) This phrase means "if it approaches an act bordering on crime". The phrase described the determination of a criminal attempt.
29. (c) The phrase means a succession of decisions deciding a particular principle, as a result of which a precedent has been established.
30. (b) Si vidua manserit et non nupserit is a Latin phrase which means "If she should remain a widow and not marry. This requirement was a common condition in a widow's provision.
31. (a) The phrase was often used in the conveyance of an estate. It means its best and fullest and undiminished.
32. (c) Addictio in diem is a Latin term which means "assignment for a fixed period" or Interest.
33. (d) This maxim means since chastity once violated cannot be restored. On this account, because no sufficient recompense can ever be made to a woman who has been violated, and who can never be restored to her inviolate condition, the punishment of rape is proportionately severe.
34. (b) This Latin phrase means "things due to be repaid".
 1. Money or things that can be reclaimed by a person who was forced to give them to a public official.
 2. The illegal act of forcing someone to give money or things; extortion. — Sometimes (erroneously) shortened to repetundae.
35. (b) The two words lecto and aegriudini when joined together mean sick bed.
36. (d) Ad levandam conscientiam means For the purpose of easing or disburdening the conscience. Confessions so made, when proved, are evidence against the person.
37. (d) This Latin Phrase means, it is evident what person was meant. A writing that misidentified a person was enforceable if the true identity of the person was evident from the remainder of the document.
38. (b) Before a witness can be examined in chief, he may be examined with regard to his disposition, whether he bear good or ill will towards either of the parties whether he has been prompted what to say whether he has received a bribe, and the like. This previous examination, is called initialia testimonii.
39. (a) Trial in absentia is a criminal proceeding in a court of law in which the person who is subject to it is not physically present at those proceedings. in absentia

is Latin for “in the absence”. Its meaning varies by jurisdiction and legal system.

40. (b) *Condictio furtiva* definition is “an action in quasi contract for the recovery of a specific stolen thing”; called also *condictio ex causa furtiva*, *condictio rei furtivae*.
41. (b) In this case, ‘V’ can sue ‘X’ on the ground that ‘X’ denied the right to cast vote. To cast vote is a legal right. It is illegal to refuse a duly tendered vote.
42. (c) On the recommendation of Nisha, Saurabh was driving her car, for her purpose. So Nisha will be liable for accident and responsible for damages.
43. (c) In this case, Surgeon will be responsible and Seema need not to prove the negligence of the surgeon. Here the proof is clear. The surgeon has done the act of negligence leaving the abdominal pack in her abdomen.
44. (a) ‘X’ cannot be selected since he is a member of selection board. It is against the law of natural justice. His selection is invalid.
45. (c) *Res ipsa loquitur* means the things speaks for itself. An inference can be found that the event would not have happened without negligence on the part of the defendant. The event does not normally occur unless some one has acted negligently.
46. (c) In this case, *Res ipsa loquitur* is expressed through event it is clear that the doctor has committed wrong leaving scissors and abdominal pack, it shows the event of *Res ipsa loquitur*.
47. (b) *Volenti non fit injuria* is a defence in tort that means where a person engages in an event accepting and knows the risk inherent in that event. In this way, he cannot complain of nuisance created.
48. (c) ‘*Obiter dicta*’ means. An opinion given by the court not necessary for the decision.
49. (c) Goods that have no owner.
50. (d) Where both parties to a dispute are equally at fault.
51. (a) Adjoined without fixing any date for the next meeting.
52. (b) Bad intention
53. (a) Pending suit
54. (a) Mistaken decision
55. (a) Formerly convicted
56. (a) Law of place
57. (d) Intention to possess
58. (a) Seller beware
59. (b) On equal footing
60. (b) Tactless mistake
61. (d) Point of time
62. (c) Law among Nations
63. (d) Corrupt judge
64. (b) *Nemo bis punitur pro eodem delicto* means no person shall be twice punished for the same offence, that ancient right of appeal was gone when the punishment had once been suffered. The protection against the action of the same court in inflicting punishment twice must surely be as necessary, and as clearly within the maxim, as protection from chances or danger of a second punishment on a second trial. However in the case presented before us thrashing given by people cannot be considered as legal punishment as it was not given by any court exercising its legal power, hence Sajan can be still punished by the court of law, leading option (b) is most appropriate.
65. (c) *Qui facit per alium facit per se* is a Latin legal term that means, “He who acts through another does the act himself.” It is a fundamental legal maxim of the law of agency. It is a maxim often stated in discussing the liability of employer for the act of employee in terms of vicarious liability.” The principle is in action or present in the duty that has been represented by the agent so the duty performed will be seen as the performance of the agent himself. Whatever a principal can do for himself, can be done through an agent. In reference to the case given to us Hrika communicates with the seller that she is buying the bag on behalf of her sister making her sister Heema liable to pay for the same ,the seller sold the bag only under the impression that Harika was working as an agent of Heema . Thus option (c) is the most appropriate .
66. (c) *Audi alteram partem* (or *audiatur et altera pars*) is a Latin phrase meaning “listen to the other side”, or “let the other side be heard as well”. It is the principle that no person should be judged without a fair hearing in which each party is given the opportunity to respond to the evidence against them. The essential point of above maxim is that every one should be given a chance to defend oneself , thus in the given case the Magistrate should make all arrangements to know the defence of Sanjay and understand what he wants to convey. Hence option (c) is the most appropriate