DOWNLOAD PDF LEGAL MAXIMS DICTIONARY

Chapter 1 : Namium | Maxims | International Wiki Legal Encyclopedia

maxims. n. a collection of legal truisms which are used as "rules of thumb" by both judges and lawyers. They are listed in the codified statutes of most states, and include.

A witness may refuse to answer questions on the ground that a reply might incriminate him. A confession is not admissible unless it is made freely and voluntarily. It must not be induced through promise or threat. In case of injury to the person, if either party dies, no action can be supported either by or against the executors or other representatives. Thus, going by this maxim, it would be better for a motorist to kill rather than merely injure a pedestrian who is unemployed, unmarried, childless and an orphan. It does not apply to personal action founded on contract. The same principle applies to an appellant if the judges are equally divided in their decisions. See Famuroti v Agbeke and Awomuti v Salami. The loss from an injury caused thereby must be borne by the victim. It refers to an injury, inevitable as a result of an act of God, which no industry can avoid or policy prevent. The intent and the act must both concur to constitute a crime. Similar to Nemo cogitationis poenam patitur: No one shall be punished for his thoughts alone. The existence of a criminal mind may be negated with the defences of: Witnessed by a solicitor or a commissioner of oaths. It may not be admissible as evidence; must be backed up. The content should be only within the knowledge of the affiant. If discovered false, with the intent to deceive; may lead to a charge of perjury. The use of arms is only lawful if it is necessary as a form of self-defence, to prevent or repel the commission of a forcible entry or an atrocious crime. First enacted in the Magna Carta, No person shall be condemned, punished or have any property or legal right compromised by a law court without being heard. It includes habeas corpus, right to receive notice of hearing and to be given an opportunity to be represented or heard. It is a principle of fair-hearing; that both party shall respond to the evidence against them. It is considered a principle of fundamental justice or equity. Today, legal systems differ on whether a person can be convicted in absentia. Even God, it is said, allowed Adam to make his defence before passing judgment. Oyo state and Udemah v Nig. Mostly applied in insurance cases whereby the assured inflicts injury on himself, spouse or property to make a fraudulent claim. A principle that a crime must have been proven to have occurred before a person can be convicted of committing that crime. Out-of-court confession of a defendant is insufficient as evidence. In R v Hussay, the tenant was justified to have shot his landlord who tried to forcibly eject him after a quit-notice.

Chapter 2 : Legal maxim - Wikipedia

Maxim. A broad statement of principle, the truth and reasonableness of which are self-evident. A rule of Equity, the system of justice that complements the Common Law.. Maxims were originally quoted in Latin, and many of the Latin phrases continue to be familiar to lawyers in the early s.

In principle, the extent of the right of the owner. Much more, with stronger reason. After the manner of. It is a term used to describe a partial divorce in a case in which the marriage was just and lawful ; but, for some supervening cause, such as the commission of adultery or cruelty by the husband or wife it becomes improper or impossible for them to live together. The partial divorce was earlier effected by the Ecclesiastical Court. It only caused the separation of husband and wife ; but did not dissolve the marriage so that neither of them could marry during the life of the other. This is now substituted by section 22 of the Indian Divorce Act. From possibility to reality. From the effect to the cause Inductive reasoning; pertaining to the process of reasoning whereby principles or other propositions are derived from observations of facts. From cause to effect; deductive reasoning; pertaining to the line of reasoning based on specific assumptions, rather than experience. From an intestate Person ; Succession to property of a person who has not made a will. Plain language does not need an interpretation. There is no harm in being cautious The presumption that Parliament may be presumed not to make superfluous legislation, the presumption is not a strong presumption and the statutes are full of provisions introduced because abundans cautela non nacet there is no harm in being cautious Gokaraju Rangaraju v. Judicial or other act performed out of court and not a matter of record. The test what constitutes an act jure imperii is whether the act in question is of its own character a governmental act, as opposed to an act which any private citizen can perform. It follows that in the case of acts by a separate entity it is not enough that the entity should have acted on the directions of the State, because such an act need not possess the character of a governmental act. To attract immunity, what is done by a separate entity must be something which possesses the character of a governmental act, the entity will not be entitled to state immunity. Likewise, in the absence of such character the mere fact that the purpose or motive of the act was to serve the purposes of the State will not be sufficient to enable separate entity to claim immunity. It is clear, therefore, thatâ€" a it is first necessary to consider what is the relevant act of the separate entity which forms the basis of the claim of immunity; b to qualify for immunity, the act must be govenmental rather than commercial in character; c this is a question of the analysis of particular facts against the whole context in which they have occurred; d if the act in question is not governmental, the mere fact that the purpose or motive of the act was to serve the purposes of the State will not be sufficient to enable the separate entity to claim immunity. The authorities have held that: Bank of Zambia No. Banco Central de Nicaragua F 2d]; 4 The issue of promissory note by a central bank is a commercial activity [Cardinal Financial Investments Corpn. An action; the right of suing before a judge for what it is due; also proceedings or a form of procedure for the enforcement of such right.

Chapter 3 : The 12 Equitable Maxims â€“ Law is Cool

The word kelal, in one of its varied meanings, is the Hebrew equivalent of a legal maxim. Historical Periods The wealth of Jewish legal maxims is essentially talmudic. The great corpus of tannaitic and amoraic literature contains hundreds of maxims, i. These "biblical" maxims are of three types: They are cited in tannaitic literature, often anonymously and without their validity being challenged: Pisha 5 ; "Local custom decides everything" bm 7: A number of tannaitic rules and maxims, on the other hand, represent minority opinions and are not binding: Other tannaitic kelalim, although accepted, were disputed cf. Many are recorded in the Jerusalem Talmud; for example: A great wealth of maxims is found in the Babylonian Talmud; for example: All these are cited anonymously; many others are quoted in the name of the amora who first formulated them. Lakish, bb 5 aâ€”b ; and "A man is a kinsman unto himself, hence no man may incriminate himself " Rava, Sanh. The amoraim succeeded in introducing numerous Aramaic legal maxims: There appears to be no correlation between language and geography; Aramaic and Hebrew maxims were formulated by Babylonian and Palestinian amoraim equally. Post-talmudic authorities coined very few maxims of law. A few such legal maxims may be gleaned from midrashic and medieval works: They usually contain moral overtones: The Mishnaic Kelal Of special interest is the mishnaic kelal. The Mishnah often formulates a general statement which summarizes numerous particulars. Sometimes the general statement is found at the beginning of a bill of particulars; sometimes it is found at the end. In the former case, the general statement is introduced by the expression "A general rule have they [the rabbis] stated" kelal ameru, e. In the latter, the general statement is introduced by the expression, "This is the general rule" zeh ha-kelal; e. Like the Roman regula, the mishnaic kelal summarizes the law without being an authentic or complete expression of the law. The Roman jurist proclaims, "The law is not derived from the regula, rather the regula is deduced from the law" Paulus, D. Similarly, a basic rule of mishnaic exegesis is enunciated by the Babylonian Talmud, "We deduce nothing from general statements" Ein lemedin min ha-kelalot Kid. The Jerusalem Talmud expressed the same idea as follows, "The general statements made by Rabbi [Judah ha-Nasi , editor of the Mishnah] are not general statements" Leit kelalin de-Rabbi kelalan; Ter. A good illustration of the nonauthoritative nature of the mishnaic kelal is found in the talmudic analysis of Mishnah Kiddushin 1: These three exceptions apply to men, not to women. In "violation" of paragraph b , women are exempt from the commandments of Torah study Deut. Paragraph c , however, admits of no exceptions. This would lead one to assume that a general statement which limits itself by adding "except for" is indeed authoritative, for the very concern for exceptions would appear to indicate the accuracy of the general statement in non-excepted instances. Johanan, a Palestinian amora of the third century, was therefore careful to point out, "We cannot learn from general principles, even where exceptions are stated" see his proof from Er. Thus, even where exceptions are specified, the kelal is not a truly general statement. As a result, Maimonides Commentary on the Mishnah, Kid. Some would limit the rule, "We cannot learn from general principles," to general statements introduced by the word kol, as, for example, the mishnayot from Kiddushin and Eruvin cited in the previous two paragraphs R. Other authorities are of the opinion that the rule applies to statements formulated as a kelal as well Nov. The rule is limited in application, however, only to those statements whose general nature is challenged by facts adduced from authoritative sources: The Talmud itself never rejected a kelal except out of necessity or in deference to an oral tradition regarding the exception to the kelal; without such necessity or in the absence of an oral tradition, the accuracy of the general statement is to be accepted Pseudo-Rashba, Men. Although the rule, "We cannot learn from kelalot," was formulated by the amoraim concerning general statements found in the tannaitic sources, the matter is disputed whether the rule holds true regarding amoraic kalalim as well cf. Yad Malakhi, Kelalei Alef, A similar dispute exists as to whether the rule applies equally to general statements found in the codes R. Compilations of Maxims A bibliography of Hebrew works

containing legal maxims, rules, and general principles is found in P. The following works contain lists of Hebrew legal maxims, translated and explained in English: Mielziner, Legal Maxims and Fundamental Laws

Chapter 4 : What is MAXIM? definition of MAXIM (Black's Law Dictionary)

A legal maxim is an established principle or proposition of law in Western civilization, and a species of aphorism and general maxim.

A mensa et thoro - From bed and board. A vinculo matrimonii - From the bond of matrimony. Ab extra - From outside. Ab initio - From the beginning. 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 acciduunt jura adaptantur - The laws are adapted to those cases which occur more frequently. Ad hoc - For this purpose. Ad infinitum - Forever, without limit, to infinity. Ad perpetuam rei memoriam - For a perpetual memorial of the matter. Ad quaestionem facti non respondent judices; 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. Aequitas legem sequitur - Equity follows the law. Aequitas nunquam contravenit legem - Equity never contradicts the law. Alibi - At another place, elsewhere. Alienatio rei praefertur juri accrescendi - Alienation is preferred by law rather than accumulation. Aliunde - From elsewhere, or, from a different source 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. Amicus curiae - A friend of 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. Aqua currit et debet currere, ut currere solebat - Water runs and ought to run. Arbitrium est judicium - 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 impossibilii plurimum valet in lege - An argument from impossibility is very strong in law. Argumentum ad hominem - An argument directed a the person. Argumentum ad ignoratiam - An argument based upon ignorance i. Arma in armatos sumere jura sinunt - The laws permit the taking up of arms against the armed. Assentio mentium - The meeting of minds, i. Assignatus utitur jure auctoris - An assignee is clothed with rights of his assignor. Audi alteram partem - Hear the other side.

Chapter 5 : What is MAXIMS? definition of MAXIMS (Black's Law Dictionary)

MAXIM. An established principle or proposition. A principle of law universally admitted, as being just and consonant With reason.

An established principle or proposition. A principle of law universally admitted, as being just and consonant With reason. Maxims in law are somewhat like axioms in geometry. They are principles and authorities, and part of the general customs or common law of the land; and are of the same strength as acts of parliament, when the judges have determined what is a maxim; which belongs to the judges and not the jury. Terms do Ley; Doct. Maxims of the law are holden for law, and all other cases that may be applied to them shall be taken for granted. The application of the maxim to the case before the court, is generally the only difficulty. The true method of making the application is to ascertain bow the maxim arose, and to consider whether the case to which it is applied is of the same character, or whether it is an exception to an apparently general rule. The alterations of any of the maxims of the common law are dangerous. The following are some of the more important maxims. A communi observantia non est recedendum. There should be no departure from common observance or usage. No one is bound to do what is impossible. A verbis legis non est recedendum. From the words of the law there must be no departure. Absentia ejus qui reipublicae causa abest, neque ei, neque alii damnosa esse debet. The absence of him who is employed in the service of the state, ought not to be burdensome to him nor to others. Absoluta sentetia expositore non indiget. An absolute unqualified sentence or proposition, needs no expositor. Abundaans cautela non nocet. Abundant caution does no harm. Accessorius sequit naturam sui principalis. An accessary follows the nature of his principal. Accessorium non ducit sed sequitur suum principale. The accessory does not lead, but follow its principal. Accusare nemo debet se, nisi coram Deo. No one ought to accuse himself, unless before God. Actio exteriora indicant interiora secreta. External actions show internal secrets. Actio non datur non damnificato. An action is not given to him who has received no damages. Actio personalis moritur cum persona. A personal action dies with the person. This must be understood of an action for a tort only. Actor qui contra regulam quid adduxit, non est audiendus. He ought not to be heard who advances a proposition contrary to the rules of law. Actor sequitur forum rei. The plaintiff must follow the forum of the thing in dispute. Actore non probante reus absolvitur. When the plaintiff does not prove his case, the defendant is absolved. Actus Dei nemini facit injuriam. The act of God does no injury; that is, no one is responsible for inevitable accidents. See Act of God. Actus incaeptus cujus perfectio pendet, ex voluntate partium, revocari potest; si autem pendet ex voluntate tertia personae, vel ex contingenti, revocari non potest. An act already begun, the completion of which depends upon the will of the parties, may be recalled; but if it depend on the consent of a third person, or of a contingency, it cannot be recalled. Actus me invito factus, non est meus actus. An act done by me against my will, is not my act. Actus non reum facit, nisi mens sit rea. An act does not make a person guilty, unless the intention be also guilty. This maxim applies only to criminal cases; in civil matters it is otherwise. Actus legitimi non recipiunt modum. Acts required by law to be done, admit of no qualification. Actus legis nemini facit injuriam, The act of the law does no one an injury. Ad proximum antecedens fiat relatio, nisi impediatur sententia. The antecedent bears relation to what follows next, unless it destroys the meaning of the sentence. Ad quaestiones facti non respondent judices; ad quaestione legis non respondent juratores. The judges do not answer to questions of fact; the jury do not answer to questions of law. Aestimatio praeteriti delicti ex postremo facto nunquam crescit. The estimation of a crime committed never increased from a subsequent fact. Ambiguitas verborum latens verificatione suppletur; nam quod exfacto oritur ambiguum verificatione facti tollitur. A hidden ambiguity of the words is supplied by the verification, for whatever ambiguity arises concerning the deed itself is removed by the verification of the deed. The water yields or accompanies the soil. The grant of the soil or land carries the water. Aqua curit et debet currere. Water runs and ought to run. Aequitas agit in personam. Equity acts upon the person. Equity follows the law. Aequum et bonum, est lex legum. What is good and equal, is the law of laws. Affirmati, non neganti incumbit probatio. The proof lies upon him who affirms, not on him who denies. Aliud est celare, aliud tacere. To conceal is one thing, to be silent another. Alternatica

petitio non est audienda. An alternate petition is not to be heard. Animus ad se omne jus ducit. It is to the intention that all law applies. Animus moninis est anima scripti. The intention of the party is the soul of the instrument. Apices juris non sunt jura. Points of law are not laws. An award is a judgment. Argumentum majori ad minus negative non valet; valet converso. An argument from the greater to the less is of no force negatively; conversely it is. Argumentum divisione est fortissimum in jure. An argument arising from a division is most powerful in law. Argumentum ab inconvenienti est validum in lege; quia lex non permittit aliquod inconveniens. An argument drawn from what is inconvenient is good in law, because the law will not permit any inconvenience. Argumentum ab impossibili plurmum valet in lege. An argument deduced from authority great avails in law. Argumentum ab authoritate est fortissimum in lege. An argument drawn from authority is the strongest in law. Argumentum simili valet in lege. An argument drawn from a similar case, or analogy, avails in law. Augupia verforum sunt judice indigna. A twisting of language is unworthy of a judge. Bona fides non patitur, ut bis idem exigatur. Natural equity or good faith do no allow us to demand twice the payment of the same thing.

Chapter 6 : LEGAL MAXIMS AND THEIR SHORT EXPLANATIONS | ROVING THOUGHTS

P Ramanatha Aiyar's Concise Law Dictionary, which has been into publication for more than seven decades, is a handy and compact law dictionary, providing the meaning and interpretation of different legal terms, phrases and Latin Maxims, in a precise, accurate and unambiguous manner.

Chapter 7 : Latin legal phrases, maxims and writs with translations

legal maxims and their short explanations written & compiled by: chartaville download free e-book here! accusare nemo se debet [nisi coram deo]: no one ought to accuse himself [except to god].

Chapter 8 : List of Latin legal terms - Wikipedia

A number of Latin terms are used in legal terminology and legal calendrierdelascience.com is a partial list of these "legal Latin" terms, which are wholly or substantially drawn from Latin.

Chapter 9 : Tax Law Dictionary - With Legal Maxims, Latin Terms, and Words & Phrases, LexisNexis,

Namium Definition An old word which signifies the taking or distraining another person's movable goods. 2 Inst. ; 3 HI. Comm. A distress. Dalr. Feud. Prop.