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# **Jurisdiction**<sup>®</sup>

*Presents*

# **Maxims of Common Law**

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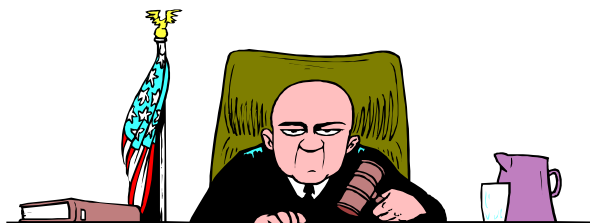
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## Maxims – The Light of Liberty’s Lamp



Maxims are brief statements of self-evident truth.

Maxims of common law explain what's "fair" and “right” and therefore “just”.

Maxims are self-evident truth that control our courts, our legislatures, and every consideration of mankind that seeks what’s fair and best for all. Courts that do not honor or consider these maxims are not just. Indeed, whether and to what extent these common law maxims are honored by public leaders is how we test the way they administer the law to govern us. We the people are protected by the fundamental principles of justice and fair dealing set forth in these simple statements that every schoolchild should be taught to practice for the sake of peace.

Common law is built on these truths that promote the spirit and practice of fair-dealing and the unbiased administration of justice. Without the legal enforcement of these truths, there can be no justice or right dealing between us ... of hope of getting our courts to do what’s right by enforcing our contracts or making those who injure us pay damages. Our courts are established *primarily* to enforce these principles of common law.

It is the common law that’s common to us all.

This is the law that never changes and never should be changed by legislation or the arbitrary rule of tyrants motivated by what’s good for the interests of a favored few. This is the law that’s all for one and one for all, the American way.

The common law expressed by these maxims is for the common good.

It is, after all, the common good that is the heartbeat of our American heritage.

The simple sayings of common law maxims evolved over many centuries as men and women of good will struggled against the hateful tyranny of monarchies and pirates to establish governments dedicated to protect them from the abuses of those who would use the law to their own, private ends. With the advent of printing presses, people were

better able to communicate across political boundaries, and there began to develop an increasing general awareness that governments had duties to the governed. Interests of individuals needed to be protected. Partiality toward persons with power needed to be removed. Law to protect the common welfare needed to be established, not only in the form of philosophies but in the very offices of government where the force of military might was seated.

Gradually, over a period of many centuries and at the expense of many lives and private fortunes, government power was required to submit to the common law of the people ... i.e., the people's law.

This book is about that law.

Simple law. Self-evident law.

Principles we all should embrace and teach our children.

For example, one maxim states: "A thing similar is not exactly the same." Who could disagree? It's "self-evident" ... as are all maxims.

Another says, "Water does not run uphill of its own accord, nor should courts believe otherwise."

These statements set essential limits on truth and are essential to the fair and efficient administration of justice according to the common law of mankind.

No right-thinking person can disagree with a maxim.

Every court is bound by the common law rules of equity established by the never-changing maxims.

Maxims are among the self-evident truths Thomas Jefferson mentioned in our Declaration of Independence.

Maxims are the light of liberty's lamp.

Maxims test those who judge and put an absolute limit on those who rule.

If everyone knew the maxims of common law, our world would be a far better place. Maxims are our common law heritage. Their truths bind us together as a people.

Here the hope of happiness for future generations will survive, for here are bedrock truths upon which we can all agree and by which we can secure for ourselves and our posterity the blessings of "liberty and justice for all".

Use these maxims to get your way in court and to command your legislators and other officers of government to do *what's right!*

Maxims are truth on which justice must forever stand to lift her precious lamp.

Let their light shine.

# Primary Principals of Common Law

## *Liberty to all but preference to none.*

This maxim explains that liberty belongs to each of us equally.

As stated in our Declaration of Independence we each have God-given rights to life, liberty, and the pursuit of happiness. But, none has more of these rights than any other. God gives to each by the same measure. There is no preference to any.

This being so, our courts are obligated to protect our liberties accordingly.

Each of us is entitled to equal treatment under law.

None is entitled to any privilege denied to others ... absolutely *none!*

This maxim is the soul of our American legal heritage, for it was in America the concept was first given its fullest recognition. None has a greater claim to live free. No king, no priest, no celebrity, no judge, not any person has any greater right to walk free than any lowly carpenter, plumber, or law-abiding street minstrel.

We are all equals in the sight of our law.

Of course, if we violate the obligations and responsibilities that arise from the privileges our laws provide, then we may lose our liberties. If we murder, lie, or steal we are in violation of law, and the law has a remedy. Our courts can take our liberty away. If we refuse to love our neighbors as ourselves, the law can limit our liberties or even to take our life if the crime is sufficiently outrageous.

But, so long as we obey the law we are at liberty to love, to live, to laugh, and to enjoy all the benefits life has to offer any other human soul, regardless of our heritage, financial circumstance, or political advantage.

The right to liberty does not grant a right to take what others have. The right to liberty does not grant a right to demand material wealth. The right to liberty is a power to do with our own lives whatever we may choose to do, using whatever we have at hand to accomplish our goals, but it does not give us the right to take from others. It does not give us the right to lie about others. It does not give us the right to limit the liberties of others just because we don't like their opinions or the way they dress or the things they say. The right to liberty is the right to obey laws and while obeying laws to live free from interference by the state or others.

Liberty is a great privilege, so the obligations and responsibilities that go with liberty are also great.

We in this nation risk losing our liberties because we too often are unwilling to fight for the liberties of others and too quick to grant special privileges.

We share an obligation and responsibility to protect our neighbors from the exercise of unlawful power. Justice for all. Privilege for none.



***The safety of the people is the supreme law.***

One problem societies face is not knowing how to judge their laws.

What is the principal principle?

How do we recognize good laws as good, and bad laws as bad?

The maxims give us answers. Man's laws must submit to higher laws. The supreme law is that all laws must promote the people's safety. Any law that fails to promote the safety and well-being of the people is a bad law.

For example, suppose your state passed a law that authorized a particular company to transport dangerous substances in flimsy containers, and as a result people were injured. Such a law does not promote the people's safety. According to this maxim, such a law would be illegal pursuant to the *supreme* law.

Since good laws promote the people's safety, any law that fails to promote the people's safety is an illegitimate exercise of state power.

The people's safety comes first.

The prosperity of any particular industry, individual, or minority subculture within society is never more important than the safety of all peoples, and any law that promotes the prosperity of a single industry, individual, or subgroup within society to the detriment of the people themselves is illegal because it violates the supreme law that the people's safety comes first!

Too many private interest groups, political action committees, and lobbyists succeed in getting legislatures to enact laws that favor a few but are bad for people in general. The proponents of these laws argue that their private interests deserve a break or that the selected few are somehow more important than the many. These arguments violate the maxim. Laws these people seek to enact are illegal, because the people's safety is the supreme law.

All laws that violate this maxim are bad laws and should be repealed.

***The safety of the people cannot be judged but by the safety of every individual.***

This maxim teaches us where individual rights come from. Since the safety of the people is the supreme law, this maxim tells us how to judge the safety of the people. It's not just the safety of the majority that counts. It is the safety of every single one of us ... individually.

If a law is bad for any innocent individual it is bad for all.

Suppose your state passed a law making it a crime to have blue eyes. Brown-eyed people are in the majority (about 3:1), so the majority could conceivably pass a law making it unlawful to have blue eyes. Some scientific evidence might prove that blue-eyed people are more likely to commit crime, so brown-eyed folks could condemn blue-eyed people to death. After all, majority rules ... or does it?

In civilized societies where maxims are upheld, the majority is prevented by the principles of maxims from wounding the minority.

Maxims teach us that every individual must be safe or society itself is not safe. This principle protects minorities from the majority.

These truths need to be taught to every generation. They protect us all from the abuse of law that always results where such truths are hidden from the people.

The maxims teach that only by evaluating the safety of every individual can we gauge the safety of society itself. It's good to support legislation to protect minority groups and individuals from being invidiously discriminated against by society's laws, but until we use our maxim power we are merely fighting political battles.

Politics alone cannot make the world safe for individuals.

The needs of individuals and minorities must be protected not only for the sake of individuals and minorities but for the sake of society in general.

This is self-evident truth, and it is expressed by this maxim. The safety of society cannot be judged but by the safety of every individual. If anyone, however insignificant he or she may seem, is being unfairly wounded by our laws, then those laws are wrong and should be repealed at once.

The power of maxims outweighs the imperatives of the majority. If any law unfairly wounds just one innocent person, that law violates this maxim ... and the law should be changed.

# Legitimacy of Government

*Unjust is State power where the law is either uncertain or unknown.*

It has been said the power of the state arises from the consent of those whom the state governs, however the truth is that all state power derives from laws alone.

Laws create the state and justify state action.

In a very real sense, laws *are* the state.

To the extent people know the laws of a state and consent to their enactment and enforcement, the state is just because it is truly consensual. If laws are either uncertain or unknown, however, the state is unjust and should be altered.

For this reason, Public Legal Education is a moral imperative, for only by Public Legal Education can laws be known and their exercise by the state be just. Unless people know the laws that give the state power to control their lives, the consent that would validate the state's power is not informed consent.

Consent by force or ignorance is not consent at all; it is coercion.

Government rule by laws that are uncertain or unknown is not consensual.

Therefore, unless the state teaches its people the fundamental laws upon which it predicates its exercise of power over them, the state's power is unjust.

Many today seek to reform the world based solely on an unstructured vision of future happiness. They don't realize the path to that future depends on abiding by principles. Since they are unacquainted with the maxims of law, they often act without regard to the self-evident truths set forth for us by maxims such as this, and the result is repeated failure. In their well-intentioned search for peace and prosperity, they fail to see the consequence of acting outside the self-evident truth that ultimately determines every outcome. They believe they can enforce their new world vision by enacting laws without regard to maxims. Being goal oriented, they miss the method needed to achieve their goal. They are too focused on the outcome and too willing to accept whatever means are offered as expedients. Rather than resorting to the wisdom of the past to chart their course into the future, they forge ahead with novel experiments that ignore the self-evident truth that always controls outcome. Visions of future happiness and peace cannot replace tested truths taught by the maxims of law.

We need to revisit the maxims, so we can effectively change our governments ... and make life better for everyone.

This maxim teaches that state power can only be justified where the people understand the laws by which that power is exercised.

The corollary of this maxim is that state power can only be just where the state makes a reasonable effort to educate its people in the things of law.

***The State should be subject to the law, for the law creates the State.***

Without law no state could exist. No nation. No county government. No international force. No state of any kind can exist without laws, for it is by laws that states are created.

This maxim teaches us that, just as the state is created by laws, so the state must be subject to law.

And, of course, every state should be subject to these principles of law ... for only by the principles of law can we judge the state as just or unjust, wise or foolish, strong or weak.

The old saying, “What’s good for the goose is good for the gander,” comes to mind. Only the government willing to submit to law is justified to require others to submit to its power ... for its power derives solely from law.

A government that proclaims itself entitled to do completely as it pleases, while requiring its people to rigidly obey every precept of its legislation, violates this maxim of law. Such governments are unjust, and their leadership should be changed immediately for the sake of the people whom they are charged by these maxims of law to protect.

How can the exercise of power be justified in the hands of a government that is, itself, lawless? It cannot. The exercise of state power is only legitimate to the extent that the state itself submits to legal principles, of which the maxims of law are supreme. No state has a lawful right to act outside its own laws – nor does any state have the right to create laws that violate the maxims of law. This should be obvious.

The legal maxims are self-evident to everyone but those who for selfish reasons refuse to submit their private interests to the good of all.

It is self-evident that states should be subject to the law, yet news reports today are too frequently peppered with stories about government action that is contrary to the most fundamental laws of the land ... and clearly contrary to these maxims!

***The judge who decides a case without hearing both parties, though his decision be just, is himself unjust.***

This is the first principle of due process.

This is the bedrock of justice and fair play.

Everyone should be heard. Fully. Completely. Under oath.

If a party has witnesses, those witnesses should be heard. If a party has evidence to present, the evidence should be examined. If the witnesses are not trustworthy or the evidence is inadmissible according to law, the party should nonetheless have a chance to offer the testimony and evidence until they are shown to be improper. Under no circumstance should a party be denied the opportunity to at least offer witness testimony and evidence.

And, certainly, under no circumstance should the cause of any person be judged until that person has been heard by the court explaining his or her side of the story.

Many people today are so anxious to see "justice done" they are unwilling to acknowledge what justice really is. Some believe it is so important to punish evil that it doesn't matter how the punishment comes about, so long as evil doers are required to pay for their crimes. The maxims teach us that punishment of an evil doer without affording due process of law (e.g., without allowing the person to be heard and present witnesses and evidence in his behalf) is itself an evil deed ... a wrong performed by the court itself.

Even where the court is convinced of a party's guilt, if the judge does not give that person an opportunity to be heard and to present witness testimony and other evidence in his or her behalf, the judge is not just – and an order of the court entered in such circumstances violates the rule of law. Indeed, no matter what the party's guilt may be, the unjust act of a court of law is an even more guilty crime.

Only when the people understand these fundamental principles of law – once revered and generally upheld and honored by civilized people throughout the world – can we hope to reestablish justice and liberty for all.

## ***Courts are for the people to command the power of the State.***

Our courts belong to everyone. They belong to you. They belong to your family and loved ones. Our courts exist for one purpose only – so the people have a place where they can command the state to keep its promises to the people. Our courts belong to the people not the state. They are ours. They offer hope for the oppressed, relief for victims, justice for those who are wounded. They serve no other purpose.

Our courts exist solely to give people a voice whereby we can command the power of the state directly. The polling booth is only one of our powers over government. Our courts are another ... and, in many ways, are far more powerful than the popular vote. The power of people is nowhere stronger than in our courts where the people themselves command the state to obey law by granting remedies justice demands for those who come to court with grievances.

Our courts are operated by the state. Our courts are run by state employees (judges, bailiffs, clerks, and judicial assistants) but the courts belong to us! They are there to protect our interests, not to advance the causes of the state nor to favor the cause of special interest groups or powerful political action committees.

You have power over your courts. That's right. You have power to command your courts to obey the law. That power is contained in the rules of court, rules of evidence, rules of procedure, rules of judicial administration, and the maxims – laws that control every judge, lawyer, officer of the law, and every party who comes before its bar. The courts are subject to the law, and your knowledge of the law commands your power over the courts.

Too many complain about injustice, refusing to see that injustice is merely the natural consequence of not knowing how to enforce the law. Since courts are subject to their own rules, the power to control the courts is in our knowledge of those rules. Surprisingly, the rules of court are fairly easy to learn. In many states the fundamental rules of court are quite simple and concise. For example, the official rules of evidence in Florida comprise less than 30 pages! These are rules your courts must obey.

When more people know the rules, fewer will complain that justice was denied by their courts. Courts give people power to control the state.

# The Burden

*The burden of proof lies on him who asserts the fact, not on him who denies it, because from the very nature of things a negative cannot be proof.*

This is the law in every court of our land.

It is also a key to winning in a court of law, for decisions courts are called upon to make are always subject to this maxim. The burden of proof is a critical issue in every dispute.

The burden is always on the person who seeks to prove his point.

The other party does not have a burden to disprove his opponent's point.

It is remarkable how few people are aware of this simple truth, yet every victory in court depends on it. If the other side says you did something wrong, you don't have to prove you didn't do it. The other side has to prove you did.

Put the burden where it ought to be.

The burden may shift from one party to the other in a dispute. For example, the first party may complain that the second party failed to pay a bill. At this point the first party has the burden to prove his point. The second party may then say he did pay the bill. At this point the second party now has the burden to prove the bill was paid. The burden may shift back and forth at various times, depending on who is claiming what, but always the burden is on the party who must prove his point.

The burden never shifts to require a party to prove the other party is wrong.

Maxims such as this protect the innocent. They are an important part of our American legal heritage. They deserve public attention and should be taught in all our schools, for by the wisdom of these maxims and the self-evident truths they teach our people are protected from adversity, and justice is preserved for all.



## Testimony and Evidence

*No one should be believed in court except upon his oath.*

This maxim must never be ignored nor overruled, for justice is found in truth and truth alone. Every person who seeks assistance from our courts should promise the people whose assistance he seeks (the courts belong to the people in America) that he will tell the truth or be subject to criminal penalties for perjury. It's really that simple.

A party who will not promise to speak truth is not worthy of the court's help. A witness who will not promise to speak truth should not be believed. We require everyone who speaks in court to promise to tell the truth and to give this promise on their oath solemnized by reference to God. God is Truth. The God of the courtroom oath is not defined by any religious denomination. The God of the oath is nothing but the Truth ... truth that is, truth that was, truth that will always be. The God of the oath is not subject to man's interpretations. The oath does not require a witness to subscribe to religion. The oath is a solemn promise to honor the Truth at all times while speaking before the court.

The promise is made not to God but to us who are the government in America. We the People have a right to require those who come to us for relief to honor Truth, and we have a right to punish those who dishonor Truth with lies, subterfuge, and legal chicanery at our expense. It really is this simple!

Life, liberty, and pursuit of happiness may be inalienable rights belonging to every human soul, however the right to demand assistance from our courts carries with it a responsibility to honor the rest of us who make the courts possible by presenting only truth. Legal relief for alleged injuries is not a God-given right. It is a privilege provided by the People acting through governments, and accordingly this privilege (like all privileges) has obligations and responsibilities. The privilege to complain of injuries and seek help in our courts by judgments and enforcement of law rests on the requirement that one promise to bring no lie before the court or be subject to the penalties of perjury if the oath is violated.

This maxim, like all maxims, is a statement of self-evident truth intended to protect you and your loved ones from falsehood and deceit. Liberty is impossible without justice, and justice is impossible without truth.

***Courts should not believe water runs upward of its own accord nor that impossibilities exist.***

One of the great stories of American justice is a case in which Abe Lincoln (as a young lawyer before he was elected president) was defending a man named Armstrong accused of killing a man in a nighttime brawl. State witnesses claimed to recognize the accused from a great distance in the darkness. Lincoln convinced the jury to acquit his client by referring to an almanac for the year of the crime. It turned out the moon was new on that particular night, so it would be impossible to recognize the murderer from such a great distance on a dark moonless night.

Impossibility having been established, Lincoln's client went free.

Too often people tend to think of court proceedings somewhat like a family squabble where "anything goes". Too often the party who shouts loudest or brings the most impressive exhibits or parades the best-dressed attorney before the jury is the party who wins, and too often truth is obscured by wishful thinking or merely by unwillingness to demand clear proof.

Water does not run upward of its own accord.

Things that are impossible do not exist outside fables and movie theatres.

To judge a case by believing in the impossible is to deny justice.

On occasion miracles do take place. However, maxims were given to us so we would not permit the unusual or bizarre from outweighing common sense in our courts. If a miracle actually takes place, then let the party asserting the miracle meet his burden to *prove* the miracle took place.

Never is it just for a court to believe impossibilities exist. Never!

To allow such divergence from our legal maxims is to undermine our entire legal system and open the door to all sorts of travesties and crimes against justice.

It is better to set one guilty man free than to destroy the very fabric of our legal system by permitting courts to believe in things that cannot be proven true ... better to release 100 hardened criminals than to punish one innocent soul without sufficient lawful evidence.

Truth is the essence of justice. Without truth justice cannot exist.

Hold fast, America. Let the self-evident truth of our legal maxims guide you in your quest for justice. Ignore the parades of charlatans and cheats who seek to turn your heads with fables and dark mysteries ... especially in your courts where Truth must forever be sought above all else.

***The certainty of a thing arises only from making the thing certain in court.***

Of all requirements of justice none is more sacred than proof. Upon proof and proof alone decisions are justified. Where there is no proof there is no justice.

Proof depends on establishing certainty. A thing made certain is proved.

Too many are willing to consider a thing made certain based solely on the reputation of a witness or the appearance of a party's lawyer or the way an accused man fidgets with his hands. There is no certainty in such things.

To prove a thing it must be made certain, not merely probable or possible.

The credibility of a witness may be relied on in giving weight to what a witness says, but unless the point is proven by being made certain beyond doubt then proof has not been established, and justice has no place to stand. Justice stands solely on Truth.

Truth, on the other hand, is certain ... or it is no truth.

The maxims of law put wise limits on the power of our courts. These limits are good things, for they protect innocence far more often than they fail. Too many good people suffer injury in our courts because a proof was not made certain at all but depended on an intentional accumulation of innuendo, unfounded accusation, or an emotional outpouring of rhetoric that goes beyond proof courts should require. Far too often passionate expressions of hatred or contempt for an accused person result in convictions while no certainty was ever established. Upon such unfounded judgments rest the greatest crimes of mankind against mankind.

Only where a proof is made certain can it truly be called a proof, and only by proof can justice be established.

No citizen should be deprived of the benefits of this maxim, however low his station in life may be, however heinous his past deeds may seem, however ugly or distorted by life's trials the countenance of such person may appear to us who are called to judge that person for a crime or injury to others. Regardless of our personal feelings, if a thing must be shown to be certain before just judgment can be rendered, then the certainty of the thing should only be considered when it is, indeed, made certain (testable, provable, true) for there is no other way to make a thing certain.

To enter judgment on an uncertainty is to subvert and deny justice.

## Civic Duty of Citizens

*Each should use his own powers and property so as not to unjustly injure others.*

Each of us possesses an inalienable right given by God our creator to enjoy the benefits of life, liberty, and the pursuit of happiness. Powers afforded by law, such as the right to own property with law's protections, however, are privileges with obligations and responsibilities that attach to all such privileges.

The first obligation attached to power and ownership of property is that no person has the right to use his power and property to cause injury to others without cause.

If an innocent passer-by walking down a county road outside the fence of your farmland is kicked by a mule that escaped from your farm because you did not keep your fence in good repair, then you are responsible for his injuries. On the other hand, if the passer-by takes a shortcut through your fields and is chased by a bull, injury to that person is not unjust. The passer-by is a trespasser. His injury is not your responsibility.

In a great majority of cases before our courts, the question to be decided is to what extent an injury to one party was justly or unjustly caused by the other. This maxim teaches us that no one has a right to use his powers or property to cause harm to an innocent person under any circumstance whatsoever. There are no exceptions.

This maxim is part of our legal heritage in America. He who causes injury to an innocent person through exercise of his powers or use of his property is subject to the judgment of our courts to remedy the injury. It doesn't matter if the injury results from negligence or not knowing. If the use of one's power or property injures another who is without guilt, our courts owe a duty to provide the injured person with a judgment for his injury, even if the injury was only accidental.

If you intend injury to another, you may be found guilty of a crime (perhaps a felony that results in your being sent to prison or put to death). Our courts take very seriously the responsibilities of privilege. Each of us is obligated to all others.

When more people know our maxims of law, there will be fewer injuries.

The power of our courts should act quickly and decisively to preserve justice and grant remedies to those who without any fault of their own suffer injuries.

# Private Property

*There is nothing more sacred, more inviolate, than the house of every citizen.*

Fortunately in most jurisdictions this maxim is still enforced by codified law. Search warrants are usually required before officers of the state can enter a man's home.

Of course, if officers have a reasonable good faith belief a crime threatening bodily harm or death is being committed in a crime, they need no warrant. If a man or woman is peaceably abiding in his or her home, however, this maxim secures the right to enjoy life secure from unreasonable search and seizure.

Due process is nowhere more critical than when it requires officers of the state to have good cause before entering a home. It doesn't matter if you live in a mansion or a two-room flat up three flights of stairs, if it's your home the maxims offer you protection from others.

Before entering a home, therefore, officers of the state should have warrants signed by a judge of competent jurisdiction, and the warrants should be supported by affidavit, i.e., facts alleged in writing under oath setting forth why the warrant is needed, what crime is believed to be taking place in the home, giving a reasonable description of the known facts giving rise to this belief. No warrant should issue except upon sworn written testimony.

A man's house is his castle, thus within his home he should be respected by his neighbors and by officers of the government in the same way a king's palace would be respected, equal in right to the highest power of the land (unless he is abusing this right by causing harm to others within his home).

Maxims such as this protect us from unreasonable exercises of state power.

***Every home is a castle; though the winds of heaven blow through it, officers of the State cannot enter.***

This maxim is basic to our American concept of liberty, for although the streets and thoroughfares belong to others who have a right to protect themselves from what you do in public, your home is protected by this maxim from invasion of force for any reason not specifically authorized by legal process. It doesn't matter if your home is a mansion on the bay or a rented one-room apartment. It is your home and, without proper authority given by law, no officer of the state has any right to enter.

The teaching of this maxim has never been more needed in America, for in recent years legislatures have made it easier for government officials to enter your home at any hour of the day or night for purposes that would have been illegal in past generations. Proponents of this modern thinking claim they are protecting the public's welfare, but the welfare of the public can only be judged by the welfare of each individual. Where one has no sanctuary from abuse of power, the welfare of every one of us is at stake.

Hold fast to this maxim, for it protects you and your family from abuse.

If a person is making dynamite in his basement or holding innocent children hostage at gunpoint, the right to be secure in his home is outweighed by the rights of those who are threatened by his activities. In such circumstances, officers of the state not only have a legal authority to enter but the moral duty to do so. No person should be permitted to use privilege to injure others, therefore no person should be permitted to harbor harm in his home without being subject to the arm of the law.

Officers of the state should never be permitted to enter a home without due process of law, a warrant founded on an oath supporting probable cause to believe a crime is being committed or is about to be committed in the home.

Without such due process and requisite oath, the invasion of our homes is a violation of our right to liberty ... a right not given by government but by God.

The enumeration of our God-given rights is the purpose for legal maxims.

By publishing the maxims of law we learn to agree what our fundamental rights truly are and can work together to preserve them for future generations.

***Title is the right to enjoy possession of that which is our own.***

One of the principles of liberty upheld by our American heritage of law is the right to hold title to private property.

Property can be land or things, money or securities, promises or judgments. All these are forms of property in which we are given the right by government to hold title.

But what does title mean? This maxim tells us title is the right to enjoy. Title is the right to possess. Title is the right to say such and such a thing belongs to us and to no other. If we hold title to a particular property, whether it's a home or a collection of rare heirlooms, we have the right (protected by our courts) to enjoy the exclusive possession of that property. If we hold title we can call the property our own.

If another takes possession of our property without title, we can appeal to the court for a remedy. If we can prove our title, the court is required to restore to us our possession and enjoyment of the property. In some cases the person who took possession of our property may be required to pay money to compensate us for our loss of possession and enjoyment. Without title, however, we cannot prove our right to enjoy possession.

Title is a form of proof. Title to land, for example, is usually proven by a deed. Title to such things as cars or furniture may be proven by bills of sale. In some cases title may be proven by a simple cash register receipt or a scribbled note signed by the previous title holder. In every case of ownership, however, there must be some form of title – even if only word of mouth. Proving title, of course, is easier where proof is in documentary form, writing that meets requirements of law. For example, in Florida, most forms of title to real property require a document signed by the person conveying the property and also by at least two witnesses.

Failure of provable title divests the court of authority to establish the right of ownership, possession, and enjoyment.

This maxim teaches that the right to enjoy possession of property we claim to be our own must be proven by some form of title, and that enforcement of our right and title depends upon that proof. This protects the rightful owners from the claims of those who have no right or title.



## Civil Rights

*No one should be required to betray himself, i.e., no one should be made to testify against himself.*

This maxim is the foundation for our Fifth Amendment, that none of us be required to give testimony against ourselves. It derives in part from the maxim that requires a party asserting truth to be required to prove the truth asserted, thus the state in charging a citizen with crime bears the burden to prove the crime without getting any help from the accused. The burden should be entirely on the accuser.

Where this maxim is upheld, an accused person may remain silent before his accusers without guilt being imputed to him in any way. It is an American point of law worthy of our continued support. Other nations do not agree with us about it.

This maxim protects our liberty. Before the state can lawfully deny liberty to any citizen, it must meet its burden to prove that person broke the law. The citizen does not need to prove his innocence. The state must prove his guilt. The state cannot lawfully require an accused person to confess his guilt nor present any argument in defense of the charges against him. The burden is entirely on the state to prove its case.

Many people believe this principle lets guilty people “get off”. Too many of these otherwise reasonable folks favor abandoning this maxim. They would require a person accused of crime to submit to examinations that might tend to incriminate him. It should be understood by all of us, however, that breaching this maxim will in the long run do more damage to society than allowing one or two guilty persons to go free, for by breaking the maxim we open the door to abuse of state power by divesting innocent people of the right to remain silent. This we should never do.

By preserving the maxims we preserve our American legal heritage.

Always in society there is a struggle between those who wish justice at any cost and those who realize state power can be misused, a force that must be kept under control by principles. Maxims such as this keep us from veering off course.

This maxim is so important our nation’s founders wrote its self-evident truth into our Fifth Amendment so all states would be required to keep its teachings. Like all maxims, it should be scrupulously enforced. Hold fast! Allow no compromise.

***Everyone should be presumed innocent until his guilt is established beyond a reasonable doubt.***

Tension exists between promoting a safe society by punishing wrongdoers and preserving a just society by requiring courts to obey maxims such as this. In every age there are those who believe it doesn't matter if a few innocent people are punished now and then so long as evil doers are locked up or executed. These people have good intentions but fail to see that it is more important for our courts to protect innocent people from injustice.

To insure justice for the innocent (at the expense of failing to punish every evil doer) this maxim requires our courts to prove guilt beyond a reasonable doubt or acquit the accused. Better to release a few wrongdoers than to allow a system of laws that is itself unjust, capricious, and cruel.

This maxim teaches us that it is more important to have a just system of laws that occasionally fails to punish than to have an evil system of laws that is permitted to punish the innocent.

Many today wish to destroy the principles of due process and ignore the rule of law fought for by our forefathers so the state can punish every soul they believe worthy of punishment. Yet this maxim wisely values mercy more than judgment and forgiveness more than condemnation.

America was born as a reaction to the abusive practices of European courts where the innocent were routinely punished without the protections our maxims provide. All power was given to the king, in whose courts people were routinely condemned to death without benefit of counsel or even an opportunity to be heard or present witnesses in defense. America was born out of the abuses of justice that were commonplace in Europe when our Declaration of Independence was signed in 1776. In its birth principles were set forth by legal maxims. On these principles our laws and constitutions have been erected.

To preserve our American republic we must preserve the maxims on which our legal system is built.

The state must bear a burden to prove its citizens in error, and this burden must never be discounted nor set aside. In this maxim is protection for the innocent, and by this maxim the greater cause of justice is preserved.

***No one should be twice harassed for the same offense.***

This maxim is similar to others that put a burden on the state to prove crimes with certainty or set the accused person free.

The state is required by principles of justice to meet its burden of proof. It can present evidence in the form of witnesses and exhibits, but it must permit the accused to present evidence that discounts state evidence. Each side presents its case in accordance with strict rules, the state going first and the accused person following with his defense. If the state fails to carry its burden to prove the crime beyond a reasonable doubt, the accused goes free. Once an accused person is set free, the state cannot again try that person for the same crime. The state had its chance and failed to carry its burden.

To give the state another “bite at the apple” would be to deny the accused his right to justice, for justice requires the state to carry its burden or acquit.

Both sides have one chance and one chance only to make their story clear. If the state fails to carry its burden of proof in the first attempt, the accused person goes free and cannot again be tried for the same offense.

The point of this maxim is common sense when viewed in light of the other maxims, for only if the state is required to carry its burden in the initial proceeding can justice be secured. Otherwise an accused person could be dragged back into court repeatedly until the state finally found a jury willing to convict. That is contrary to the principles of justice that require the accusing party to bear its burden of proof.

This maxim is embodied in the Fifth Amendment to our Constitution.

Only by adhering to maxims of law and understanding the self-evident truths on which they are based can we preserve liberty and justice for future generations, because the very nature of liberty and justice are found in maxims that are the very expressions of those virtues.

Without liberty there can be no justice.

Without justice there can be no liberty.

Without maxims we have no way of knowing which is which.

## Administration of Justice

### *He who slices the pie should be last to take a piece.*

Here's a maxim that should be observed more often. Too often those who divide property or hand out favors are first in line to receive the benefits.

Clearly, if the person who is allowed to cut the pie is also allowed to take the first piece, in some cases there won't be much left for others! This maxim points out the error in such thinking and protects those who might be abused by selfish people.

Fairness is secured by principles like this. The maxims teach us what fairness is and how it can be enforced for the good of all.

In our courts, this maxim is used to determine who goes first (i.e., which party gets to address the court before the other) and who goes last (i.e., which party gets to have the final word). The first is last. The last is first. Normally, the complaining party (plaintiff in civil cases, state in criminal cases) goes first, putting on witnesses, offering exhibits, doing the best it can to prove the facts it needs to win. The complaining party has only this one chance to demonstrate its entitlement to a judgment. It gets one bite at the apple, and then it must sit down, i.e., it must state its case, then it must rest. The defending party is then permitted its turn after the complaining party has done its best. The defendant may move the court right then for judgment based on the complaining party's failure to meet its burden of proof. If the defense cannot prove the other side failed to meet its burden of proof, it presents counterbalancing evidence in an effort to outweigh the merits of the complaining party's case. The complaining party gets to cut the pie, the defending party gets to take the last piece. If there are opening and closing arguments, this same rule applies so the complaining party opens first and defending party closes last. The complaining party gets to make the first impression, but the defending party gets to have the last word.

The goal is always the same: to make the process as fair as can be. Whether cutting pies or making case arguments before the court, this maxim promotes fairness. It wouldn't be fair to let a complaining party go first on opening statement and also have the last word at closing.

# Judicial Reasoning

*Words should be considered only as commonly understood and not with a meaning others construe to their own purpose.*

Suzie doesn't have quite enough money to buy a piece of candy. She needs only three pennies more. Johnny has six pennies. Suzie asks, "Do you have three pennies, Johnny?"

"No, Suzie," Johnny answers, construing his words to his own purpose. He has six pennies. As Johnny sees it, Suzie didn't ask her question precisely enough. He thinks to himself, "It's not a lie. I do not have three pennies. I have six." Though Johnny chooses to construe these words to his own selfish purpose, this maxim makes clear that he is wrong, and our courts should not give in to such deceitful tactics.

Secretly using words while holding to a private interpretation is lying. Anytime we use words to deceive others we are lying ... whether or not the words have a secret meaning only explained by a private interpretation or not. The goal of maxims is to bring light to the darkness, to hold up truth as the standard of fairness and thereby insure justice for everyone. Without the maxims we have no guides, no standards to promote peaceful understanding. Purposely using words with a hidden meaning, hoping others will depend on the common meaning reasonable people would expect the words to mean, thereby gaining an advantage over others, is dishonest. It is fraudulent. In extreme cases it is a crime. Using words in a particular way to take advantage of others who can be expected to believe the words mean something else, is wrong.

Therefore, when our courts interpret a contract or witness testimony or other words that affect the outcome of some dispute between parties, they are reminded by this maxim to give words common meanings and not to allow one party to insist that any word means something special. Courts routinely uphold this maxim.

When making agreements with others, therefore, we should use words in an ordinary sense, the way most reasonable people would be expected to understand the words, and not in any special way that might be misunderstood by others, for if the matter goes to court, this maxim will be upheld in order to establish justice.

Maxims such as this help us discern between right and wrong.

***Words should be interpreted most strongly against him who uses them.***

This maxim controls the outcome of many contract cases. One party usually prepares the written contract between parties. The other party usually assents to the wording by signing the contract (sometimes unwisely without even reading it). In the event of any dispute over what the contract means, however, this maxim tells us how to apply justice to resolve the dispute. When there is an ambiguity, i.e., a term or phrase that could mean more than one thing, the courts will interpret the contract against the party who wrote it. This is what the maxim demands.

The same principle applies, of course, to witness testimony or anywhere that one party makes a representation with words intending that another rely on them. If there is a question what words mean or how they affect the outcome of a case, this maxim requires that the words be interpreted against the person using the words.

It is very common for this maxim to be applied by courts, often without reference to the maxim itself, as if the principle were too obvious to argue.

Every principle of justice should be written out plainly so we can all agree. That is the purpose of maxims, so we can agree what justice is and what it is not. Only in agreement can we maintain our form of government and pass it on to our children.

Suppose you sign a contract prepared for you by a man who is selling you a house. You find that the house was not as he represented it in his contract, and he attempts to hide behind ambiguities in his contract (terms that could be mean more than one thing). If you sue, the court will construe the ambiguities in a light most favorable to you and against the seller who drafted his own contract.

Maxims promote fairness without which justice is impossible. Indeed, maxims define the limits courts must put on judgments so justice is served. Courts are not free to rule any way the judge pleases. Judges must obey the law and stay within the boundaries established by maxims such as this.

## Crime and Punishment

### *He who acts in pure defense of his own life or limb is justified.*

This is the old self-defense defense, but please take note of the word "pure" and realize that if the action of self-defense was necessitated by a bad act, such as robbing a bank, and the self-defense was shooting back at policemen, the maxim does not apply.

Only those acting purely in self-defense are excused for their actions. If you are attacked by a knife-wielding fiend who is attempting to take your life, you are justified in killing him with a pistol ... but you must truly be in fear of your life. If a man pulls a knife to show you its pearl handle, for example, and you shoot the poor fellow dead, you are not acting in self-defense.

Similarly, if you set a trap by which you arrange for a 12-gauge shotgun to go off if anyone jiggles your doorknob late at night, you are not acting in pure self-defense, and if someone is injured you will be held responsible.

Only if you are in present danger of mortal injury or serious physical harm are you permitted by this maxim to repel your attacker with force. Please also note that the force you use must be reasonable in light of the force being threatened against you. For example, if someone attacks you with a feather pillow you may be justified in snapping him on the legs with a wet towel to make him stop, but you cannot throw acid in his face nor stab him through the heart with a dagger. That would not be using reasonable force in light of the threat.

On the other hand, if you are threatened with severe bodily harm or death at the hands of someone who has the present means to inflict such injury on you, e.g., a man at close range with a loaded pistol aimed at your chest, you are justified to use any force at your disposal to defend yourself from the threatened harm. But the threat must be reasonable, and if you are required to explain to the court why you did what you did the burden will be on you to prove your acts were reasonable under the circumstances, i.e., that the force you used in self-defense was reasonable in light of the threat.

Being permitted to act in self-defense is one of the blessings of liberty that is secured for us by laws that abide by maxims like this. Just remember the maxim is quite

clear that your acts of self-defense must be "pure", motivated only by a desire to avoid injury to yourself and not by any hateful or retaliatory motive.

So long as you act in pure self-defense you will be justified by the law.



***Crimes are more effectually prevented by the certainty than by the severity of punishment.***

This ancient truth should be more widely published in the world today, for it is as true today as it was hundreds of years ago when it was recognized by jurists of old.

Anyone with children knows this to be true.

When a child knows he will be punished for stealing from the cookie jar, he is much more likely to count the cost than if he thinks he can get away with it.

Whether the punishment is being grounded for a month or merely losing the right to enjoy dessert with the rest of the family, if the child believes there's a good chance he can steal a cookie without being caught, he will be much more likely to commit the "crime".

It's not the severity of punishment that dissuades criminals so much as the probability of paying the price. So long as there's a chance of escaping punishment altogether, most people who consider committing crimes are more likely to risk the possibility. If circumstances are such that it is highly likely that one will be caught red-handed in the act, however, most people will not take the chance.

Severity of punishment is a factor, of course. If stealing a cookie means only that one must go without dessert at supper, the value of the cookie might be worth the risk. A child might think, "I'd rather have a cookie now and go without apple pie later." The possibility exists, of course, that the child can have the cookie now and still have pie later ... if he doesn't get caught.

On the other hand, if stealing a cookie means amputation of a hand, as might be the case in certain mid-Eastern nations where thievery is taken seriously, most of us would consider a mere cookie not worth the risk.

Of the two factors – severity and certainty of punishment – the wisdom of our maxims teaches it is certainty that tends most to discourage crime. A moment of reflection will reveal that this is self-evidently true.

***Perjured witnesses should be punished for perjury and for the crimes they falsely accuse against others.***

This ancient maxim is nowhere codified in American law, however wisdom might be better served if it were, for one of the worst abuses of our legal system is perjury.

Unless we enforce the truth in our public proceedings, we cannot possibly expect to secure justice for those who are entitled to our courts' protections.

Truth and justice are inseparable. Justice cannot exist where false testimony is permitted. He who perjures himself to injure another commits a very grave crime, and it is fitting that he should pay for his perjury by serving the sentence he hoped to impose on someone else by his lies. One of the Ten Commandments instructs us not to bear false witness against our neighbor.

Perjuries injure people all too often in our courts. Therefore, when liars are detected in our courts they should be severely punished to dissuade others from lying under oath, and especially where by doing so another person is put in jeopardy of paying for a crime he did not commit.

Perhaps a compromise is to create sentencing guidelines for perjury, just as there are sentencing guidelines for other crimes, and adjust the punishment to fit the injury to others intended by the perjurer. A man who lies about his neighbor to extract a small sum of money in small claims court might receive a mild sentence, while one who intentionally misrepresents facts to cause another to pay for a crime of great consequence should be required to pay a greater debt to society.

Keep in mind that perjury is a crime against the People who provide courts to dispense justice. Where perjury threatens the welfare of another, it is clearly a crime against that other person, but first it is a crime against all of us, because it is the highest form of disrespect for those who sacrifice to provide courts of justice where the truth should be honored. We who try to uphold justice should not allow others to disregard the sacred oath with impunity, for our security and the security of our children depends on our continuing to work together to provide courts to redress the people's grievances by enforcing the truth according to law.

Oppose perjury.

## Conclusion

There are such things as self-evident truths.

Contrary to popular philosophies of the day, truth does exist.

Some truths are self-evident.

Truth exists outside you and me or our private perceptions of the universe around us. Truths are true whether we wish to admit them as true or not. Truth doesn't depend on our opinions or the opinions of any multitude of authorities. That's what real truth is.

That's the kind of truth this nation was built upon ... for the good of all mankind.

Truth is not imaginary substance. Only irrational persons believe otherwise.

The self-evident truths expressed by the maxims of common law are true today. They were true yesterday. They were true at the beginning of time and will undoubtedly be true tomorrow and forevermore. They are self-evidently true and accepted as such by all reasonable persons.

The maxims of common law have been published in old law books for centuries, yet they're no longer taught today. Law schools ignore them. Religious organizations are more interested in spiritual teachings about life after death and angels. Our public schools *should* be teaching the maxims, but they aren't. So, we live in an age of legal ignorance that could so easily be uplifted by the simple truths contained within these memorable sayings that guided our forefathers to build a nation predicated on their common-sense principles of fairness and justice for one and all alike.

Our Declaration of Independence is dedicated to the "truths we hold self-evident", and our Constitution would never have been born and could not have long survived without their guiding wisdom that continues to promise this nation will remain the greatest ever to appear on our tiny planet.

Self-evident truths are an essential part of our jurisprudential heritage. They are the heart of equity, the hope of future generations.

Secure liberty and justice for yourselves and your posterity by discovering and sharing these self-evident truths of the common law on which legitimate governments are built and by which corrupt governments will eternally be judged.

The trust of keeping justice alive is in your hands and the hands of those to whom you entrust it. Promote public awareness of these self-evident truths by telling others that the maxims of common law should be upheld by all our leaders.

This is the best way to promote truth and equity in our courts and in the world.

Thanks for passing the word.

Only the truth is true.

Nothing else is.

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