Legal terminology, Maxims and Brocards is an important topic for all law school entrance exams and forms the basis for numerous questions. On an average, there are at least 3-5 questions from this topic.

Though the number of direct questions may vary from year to year and test to test, many of the principles are used for constructing legal problems (Principle and Fact questions) in these tests. Therefore, a thorough understanding of these legal terms is a must. Do couple your sincere reading of this booklet with classroom notes given.

Best wishes!
MAXIM

Legal Maxim: A Legal Maxim is an established principle or proposition. A principle of law universally admitted as being a correct statement of the law, or as agreeable to natural 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. 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 how 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.

For example: ubi jus ibi remedium
When seeking an equitable relief, the one that has been wronged has the stronger hand. The stronger hand is the one that has the capacity to ask for a legal remedy (judicial relief). In equity, this form of remedy is usually one of specific performance or an injunction (injunctive relief). These are superior remedies to those administered at common law such as damages.

BROCARD

Brocard is a Legal principle expressed in Latin (and often derived from past legal authorities or Roman law) which is traditionally used to express concisely a wider legal concept or rule.

For example: Nemo dat quod non habet
The basic rule that a person who does not own property (e.g. a thief) cannot confer it on another except with the true owner’s authority (i.e. as his agent). Exceptions to this rule include sales under statutory powers and cases in which the doctrine of estoppel prevents the true owner from denying the authority of the seller to sell.
Ab extra: from without; from outside.

For example:
1. Concerning a case, a person may have received some information from a third party
2. The assistance may have been considered ab extra.

Ab initio: = from the beginning

Actus reus: guilty act; the objective element of a crime; the external element of a crime

Actus non facit reum nisi mens sit rea: the act does not make a person guilty unless the mind is also guilty

Ad coelum/cuius est solum, eius est usque ad caelum et ad inferos: for whoever owns the soil, it is theirs up to Heaven and down to Hell

Ad colligenda bona: to collect the goods

Ad damnum: According to the harm; appropriate to the harm; a measure of damage inflicted, and implying a remedy if one exists that ought to correspond specifically and only to the damage suffered.

Ad hoc: for this (purpose); composed or designed for a particular purpose only

Ad hominem: argument against the man; argument to the man: also see argumentum ad hominem

Ad idem/consensus ad idem: mutual assent; of the same mind; meeting of the minds: the situation where there is a common understanding in the formation of the contract

Ad infinitum: to infinity; continue forever; without limit

Ad litem: for the suit; a party appointed by a court to act in a lawsuit on behalf of another party

Administrator de bonis non cum testamento annexo: administrator of goods not administered with the will annexed

Ad nauseam: repeated continuously or continuing to the point of boredom

Ad quod damnum: According to the harm; appropriate to the harm; a measure of damage inflicted, and implying a remedy if one exists that ought to correspond specifically and only to the damage suffered.

Affidavit: declaration upon oath; a formal sworn statement of fact.

Alter ego: the other

A mensa et thoro: divorce a mensa et thoro; divorce from bed-and-board; a de facto separation while remaining legally married

Amicus curiae/amici curiae: friend of the court/friends of the court

Animus nocendi: animus-mind, noceo-to harm: the subjective state of mind of the author of a crime,

Ante: before For ex. Reverting to the situation ante-bellum

Arguendo: for the sake of argument

A posteriori: after the fact; (logic) Involving deduction of theories from facts.

A priori: known ahead of time

Argumentum a fortiori: even more so; from the stronger; with even stronger reason.

For example:
1. If it is illegal to steal one apple then it is also illegal to steal ten apples (from smaller to bigger, a minore ad maius):
2. If you can drink ten sodas then it follows that you can drink five (from bigger to smaller, a maiore ad minus).

Argumentum ad hominem: argument against the man; argument to the man; attacking the person; replying to an argument or factual claim by attacking or appealing to a characteristic or belief of the source making the argument or claim, rather than by addressing the substance of the argument or producing evidence against the claim.

Audi alteram partem: hear the other side
bona fide/bona fides: good faith; in good faith; A Bona Fide agreement is one entered into without attempt to fraud; It is a state in which the person is cognitively and morally committed to

confer: bring together

consuetudo est altera lex: custom is another law

consuetudo pro lege servatur: custom is kept before the
*corputio optimi pessima*: the corruption of the best is the worst

*corputus in extremis*: corrupt to the extreme

*cur. adv. vult*: the court wishes to be advised: abbreviation for curia advisari vult

*curriculum vitae*: course of life
**de minimis non curat praetor**: The commander does not bother with the smallest things.

**de mortuis aut bene aut nihil**: about the dead, either well or nothing

**et ux**: and wife

**Exempli Gratia (eg)**: For example: Used when explaining a statement through a relevant example.
**forum non conveniens**: inappropriate forum: when a court refuse to hear a case that has been brought before it

**fructus naturales**: plants and trees which grow naturally without cultivation

person: an "admiralty action" in personam would be issued against the owner of a ship

**In Re**: In the matter of: Concerning............: A heading in legal documents which introduces the title of the matter or proceedings
**locus delicti** or **lex loci delicti commissi**: law of the place where the tort was committed

**novus actus interveniens**: Newly intervening act: a principle in criminal law; an act that breaks the chain of causation

**Nulla Bona**: No effects: The defendant has no goods of any value to remove; usually a notice of a sheriff to a High Court writ of execution indicating that the defendant possesses nothing of
Once a case has been finally decided upon by a Court, the onus of proof would not be on the plaintiff. Thus standing, The principles of law applied by a Court upon which judicial decisions are based include the rationale for the decision; the point in a case which is performed following an agreed manner; Pro Forma procedure As per form; A matter of form: Pro Forma procedure. The investor will receive his dividend Pro Rata to his investment. An act that falls outside or beyond the powers: An act that falls outside or beyond the jurisdiction of the court: Opposite: intra vires = within the one who acts through the thing itself speaks; the thing speaks for itself as much as he has deserved; reasonable consideration. Proceedings are open indefinitely without a further hearing having been decided temporärly; For the time being: A thing already judged; A thing standing.

**Pro Forma**: As per form; A matter of form: Pro Forma procedure is performed following an agreed manner; Pro Forma procedure is executed subject to a prescribed set of rules.

**pro rata**: proportional; In proportion: The investor will receive his dividend Pro Rata to his investment.

**res publica**: public issue; public matter

**res publica christiana**: the worldwide community of Christianity
some more useful Latin phrases and terms:

**A**

*a fortiori*: with yet stronger reason

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**uberrima fides/fidei**: utmost good faith; most abundant faith

**uno fiat** : in one breath. Used in criticism of inconsistent pleadings, i.e. "one cannot argue *uno fiat* both that the person is dead and also that he is responsible for wrong actions"
agenda: things to be done (used especially for a list of items to be discussed at a meeting)

alea iacta est: the die is cast (Caesar)

carpe diem: seize the day

casus belli: the circumstances justifying war

cave canem: beware of the dog
**deo gratias**: thanks be to God

**deo volente**: God willing

**deus ex machina**: a god from a machine, a contrived, artificial event

**ex libris**: from the library of

**ex nihilo**: out of nothing

**ex officio**: by virtue of his office
in absentia: while absent  
inter alia: among other things 

in camera: in private session Ex. A court hearing in camera  
inter se: among themselves 

in casu: in this case  
inter vivos: during life
multi multa; nemo omnia novit: many know many things; no one knows everything

multum in parvo: much in a small compass

opere citato (op. cit.): in the work just quoted

pari passu: equally
**pro bono publico**: in the public good

**pro bono**: done without charge in the public interest

**pro forma**: for the sake of form

**requiescat in pace**: rest in peace

**res ipsa loquitur**: the thing speaks for itself

**res tantum valet quantum vendi potest**: a thing is worth what it will bring
**sub verbo:** under the word, heading

**sui generis:** of its own kind

**supra:** above or on an earlier page

**verbum sat sapienti (verb.sub):** a word to the wise is sufficient

**versus:** against
PRACTICE EXERCISE

Suggested Time: 30 min  Total questions: 50

1. The fundamental principle of law where there is a remedy is reflected in the maxim
   (A) lex non­cogit ad impossibilia
   (B) actus curiae neminem gravabit
   (C) ubi jus ubi remedium
   (D) volenti not fit injuria

2. What does the maxim mean?
   (A) act of court shall prejudice no one
   (B) act of God hurts no one
   (C) act of law hurts no one
   (D) act of government hurts no one

3. Which among the following maxims literally means that 'let health of the people be the paramount law'?
   (A) Scienti et volenti non­fit injuria
   (B) Sacramenta puberum sunt sarvanda
   (C) Salus populi suprema lex
   (D) Ultra volorem

4. What does the maxim mean?
   (A) concerning the law
   (B) concerning the fact
   (C) concerning the whole
   (D) concerning the future

5. A friend of court appointed to assist the court in a certain proceeding, in legal terminology, is referred to as
   (A) alieni juris
   (B) affinitas
   (C) amicus curiae
   (D) animo furandi

6. What does the maxim mean?
   (A) Let the purchaser beware
   (B) Other things being equal
   (C) Let the seller beware
   (D) None of these

7. Which of the following phrase means 'something for something'?
   (A) quo jure
   (B) quid juris
   (C) quid pro quo
   (D) quo warranto

8. What does the maxim mean?
   (A) So far, to that extent
   (B) Things done
   (C) In self defense
   (D) On the face of it

9. Temporary postponement of the execution of a criminal sentence, i.e. the death sentence, is called
   (A) reprieve
   (B) respite
   (C) remission
   (D) pardon

10. What does the maxim mean?
    (A) Proceedings brought by one person
    (B) You shall have the body
    (C) At fault
    (D) No action arises on a contract without a consideration

11. What does the maxim mean?
    (A) A guilty state of mind
    (B) A guilty state of body
    (C) A guilty state of soul
    (D) A guilty state of mind, body and soul

12. 'Theft' is defined as
    (A) dishonest removal of poverty
    (B) removal of one's property without consent
    (C) dishonest removal of movable property
    (D) None of these

13. A type of writ seeking judicial review is
    (A) Certiorari
    (B) Compos Mentis
    (C) Caveat
    (D) Prohibition

14. Misappropriation of funds by one entrusted with them refers to
    (A) Defalcation
    (B) De nobo
    (C) De minimus
    (D) Derogation

15. What does the maxim mean?
    (A) in blazing offense
    (B) at fault
    (C) in the extreme
    (D) in existence

16. What does De ju stand for? What does it stand in contrast to?
    (A) concerning the whole, de latte
    (B) concerning the law, de facto
    (C) concerning the proof, de amicus
    (D) concerning the justice, de juris
17. The term res-subjudice means that
(A) a case has been decided by the court
(B) a case is pending before the court
(C) a case has been dismissed by the court
(D) None of these

**DIRECTIONS for Q.26 to 30:** Given below are some commonly used legal maxims. Select the correct answer from the four options given below.

26. Ex gratia
   (A) other things being equal
   (B) an observation made by a judge
   (C) we command
   (D) an observation made by the court which goes beyond the requirement of the case

   **Answer:** (B)
33. What does *Gratia dictum* mean?
   (A) Out of court, friendly
   (B) Tactless mistake, obligatory
   (C) As mark of esteem
   (D) Mere assertion, not obligatory

41. The principle that the owner of a parcel of a land also owns the air above and the ground below the parcel, is known as
   (A) *Ad Coelum*
   (B) Quantum meruit
   (C) *Ad Hoc landus*
   (D) *Ad idem*
49. What does the maxim *Quid pro quo* mean?
   (A) So far, to that extent
   (B) The very words
   (C) The place in which
   (D) Consideration, something for something else

50. Who is an 'amicus curiae'?
   (A) A friend of court
   (B) A supporter of court
   (C) A prosecutor working for a court
   (D) A party to some very important case