

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli, and an adjunct professor here at McGeorge School of Law and its Capital Lawyering program.

Today, I wanted to cover California Law and Its Maxims of Jurisprudence. While California statutes don't provide general canons of statutory construction or interpretation, we can look at the California Civil Code for the so-called maxims of jurisprudence. They are found in Division 4, part 4 of the California Civil Code. What are these maxims? Well, I looked up the word maxim, and it's generally defined as a short, pithy statement expressing a general truth or rule of conduct.

I think, indeed, after reading these, they are often short, pithy statements. Part 4 was primarily enacted in 1872. A few of these maxims were added in 1965, but the bulk of them, again, were placed in statute in 1872. There are 38 separate code sections. In Civil Code Section 3509, it explains that these maxims of jurisprudence as set forth are intended not to qualify any of the foregoing provisions of this code, but to aid in their just application. I'm not sure that that's particularly clear. Anyways, so here are the following jurisprudential maxims that are in California Civil Code, Sections 3510 to 3548.

They are: When the reason of a rule ceases, so should the rule itself. Where the reason is the same, the rule should be the same. One must not change his purpose to the injury of another. Anyone may waive the advantage of a law intended solely for his benefit, but a law established for a public reason cannot be contravened by a private agreement. One must so use his own rights as not to infringe upon the rights of another.

He who consents to an act is not wronged by it. Acquiescence in error takes away the right of objecting to it. No one can take advantage of his own wrong. He who has fraudulently dispossessed himself of a thing may be treated as if he still had possession. He who can and does not forbid that which is done on his behalf, is deemed to have bidden it. No one should suffer by the act of another. He who takes the benefit must bear the burden.

One who grants a thing is presumed to grant also whatever is essential to its use. For every wrong, there is a remedy. Between those who are equally in the right or equally in the wrong, the law does not interpose. Between rights, otherwise equal, the earliest is preferred. No man is responsible for that which no man can control. The law helps the vigilant before those who sleep on their rights. The law respects form less than substance. That which ought to have been done is to be regarded as done in favor of him to whom and against him from whom performance is due. That which does not appear to exist is to be regarded as if it did not exist. The law never requires impossibilities. The law neither does nor requires idle acts. The law disregards trifles.

Particular expressions qualify those which are general. Contemporaneous exposition is, in general, the best. The greater contains the less. Superfluity does not vitiate. That is certain which can be made certain. Time does not confirm a void act. The incident follows the principle, and not the principle the incident. An interpretation which gives effect is preferred to one which makes void. Interpretation must be reasonable. Where one of two innocent persons must suffer by the act of a third, he by whose negligence it happened must be the sufferer. Private transactions are fair and regular. Things happen according to the ordinary cause of nature and the ordinary habits of life. A thing continues to exist as long as is usual with things of that nature. The law has been obeyed.

Those are the Maxims of Jurisprudence found in the California Civil Code. Hope you enjoyed hearing them. Thanks for joining.