

DEPARTMENTAL EXAMINATION FOR OFFICERS OF THE
DIRECTORATE OF COMMERCIAL TAXES

May, 2014

LAW-PAPER-II (GENERAL AND MERCANTILE LAW) (WITH BOOKS)

Time Allowed : 3 Hours

Full Marks : 100
Pass Marks : 50

Answer any five questions

1. (a) Write short notes on :

(i) "Free Consent" P-16

5 x 2

(ii) "Undue Influence" P-18

(b) State when communication and revocation is complete under Indian Contract Act, 1872. P-10 ¹⁰ *P-10*

2. What are the effects of non-registration of a Partnership Firm? P-274 (ND) ²⁰

3. (a) (i) How Stoppage in transit is effected?

(ii) What are the effects to Sub-sale or pledge by buyer?

5 x 2

(b) Can a contract of sale be rescinded by lien or stoppage in transit? ¹⁰

4. (a) State cases in which disclosure of identity of the victim is prohibited under Indian Penal Code? What is the penal provision for violation of the condition? ¹⁰

(b) What are the penal provisions for harbouring offender who had escaped from custody or whose apprehension has been ordered, - if a capital offence; if punishable with life imprisonment or with imprisonment? ¹⁰

5. (a) (i) When a Certificate can be executed? - *Sec-13, 14 (P-13, 14)*
(ii) What are the modes of its execution? ^{5 x 2}

(b) How a petition by a Certificate debtor denying liability is to be disposed of by a Certificate Officer? ¹⁰ *Sec-10*

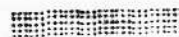
6. (a) Define "Fact" under Indian Evidence Act, 1872. - P-577 ⁵

(b) Explain with illustration 'estoppel of tenants' and 'licencee in possession'. P-576-76 ¹⁵

7. (a) What are the rights of parties to a contract made by agent and not disclosed? ¹⁰

(b) Discuss with illustration the effect of misrepresentation or fraud by an agent on the agreement between the parties. ¹⁰

8. What procedures are to be followed in case of offences affecting administration of justice under Cr. P.C., 1898? ²⁰



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26

DEPARTMENTAL EXAMINATION FOR OFFICERS OF THE DIRECTORATE OF
COMERCIAL TAXES
MAY-2013

LAW-Paper II (GENERAL AND MERCANTILE LAW)
(With Books)

Answer the following questions (any five):-

1. a) Discuss with illustrations the consequences of breach of contract. 10 P. 129
b) Write short notes on: - 5+5
i) Fraud 66 ii) Contingent contract 95
2. a) "An agreement in restraint of legal proceedings is void"--- Discuss. 10
b) What are the ways in which an agent's authority may be terminated? 10
3. a) What are the rights and liabilities of a partner in a partnership business? 268, 267.
12
b) What is the effect of insolvency of a partner? 8 274
4. a) What are the rules as to the delivery of goods under Indian Sales of Goods Act, 232
1930? 15 232
b) What is the effect of part delivery? 5
5. a) Define:-- 5+5
i) Shall presume ii) Conclusive proof
b) State five facts of which the court must take judicial notice. 10
6. a) Define:-- 5+5
i) Certificate debtor ii) Certificate officer
b) What are the grounds on which a civil court may cancel or modify a certificate? 10
7. a) Define:-- 5+5
i) Bailable offence ii) Complaint
b) What is the effect of non-appearance or death of the complainant in a criminal case? 10 143
8. Discuss elaborately the term 'public servant' as provided in the 'Indian Penal Code, 1862'. 20 375

DEPARTMENTAL EXAMINATION FOR OFFICERS OF THE DIRECTORATE OF
COMMERCIAL TAXES
November 2013

LAW PAPER II – (GENERAL AND MARKENTILE LAW) (WITH BOOKS)

Time- 3 hrs

Full marks-100

Pass marks- 50

Answer any FIVE Questions

1. a) Explain: i) "misrepresentation" ii) "Coercion" 5+5
b) When an agreement without consideration is not void? 10
2. Who may be an agent? What is the extent of an agent's authority? 20
3. Define 'estoppel' with illustration. Discuss the scope and principle of estoppel of acceptor of bill of exchange, bailey or licensee. I. E. A Sec 117 20
4. a) State the 'duration of transit' of goods under the Indian Sales of goods act 1932. 15
b) What are the effects of 'part-delivery'? 5
5. a) Discuss the penal provision for resistance or obstruction of lawful apprehension of Another person. 10
b) What do you understand of the term 'false evidence' and its penal provision? Give an Example of false evidence. 10
6. a) State the grounds on which a court may dissolve a partnership firm. 10
b) What are the modes of settlement of accounts between the partners after dissolution of Partnership? 10
7. a) What step is to be taken by a Magistrate on receipt of a complaint? 10
b) When a Magistrate can convict an accused on his pleading guilt? Can a Magistrate convict an accused on the plea of guilty, in his absence? 10
8. a) What is public demand? Pg 5
b) When a 'certificate officer' can order arrest of a 'certificate debtor'? Pg 22. 15

B.P. 50

DEPARTMENTAL EXAMINATION FOR OFFICERS OF THE DIRECTORATE OF
COMERCIAL TAXES
MAY-2013

LAW-Paper II (GENERAL AND MERCANTILE LAW)
(With Books)

Answer the following questions (any five):-

- 128 1. a) Discuss with illustrations the consequences of breach of contract. 10
b) Write short notes on: - 5+5
i) Fraud ii) Contingent contract
2. a) "An agreement in restraint of legal proceedings is void"--- Discuss. 10
b) What are the ways in which an agent's authority may be terminated? 10
3. a) What are the rights and liabilities of a partner in a partnership business? 12
b) What is the effect of insolvency of a partner? 8
4. a) What are the rules as to the delivery of goods under Indian Sales of Goods Act, 1930? 15
b) What is the effect of part delivery? 5
5. a) Define:-- 5+5
i) Shall presume P-529 ii) Conclusive proof IEV P-529
b) State five facts of which the court must take judicial notice. 10
IEV P-552
6. a) Define:-- 5+5
i) Certificate debtor ii) Certificate officer P-8, 12
b) What are the grounds on which a civil court may cancel or modify a certificate? 10
BADR P-8
P-26
7. a) Define:-- 5+5
i) Bailable offence P-33 ii) Complaint P-33
b) What is the effect of non-appearance or death of the complainant in a criminal case? 10
S-250
8. Discuss elaborately the term 'public servant' as provided in the 'Indian Penal Code, 1862'. 20
IPC P-389

DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

November, 2012

LAW-PAPER II (GENERAL AND MERCANTILE LAW) (WITH BOOKS)

Time Allowed : 3 Hours

Full Marks : 100
Pass Marks : 50

Answer any five Questions:-

S&M

Page 95, 97

(1.) a) What is a contingent contract? Discuss the rules relating to a contingent contract. 15

Page 97

b) A agrees to pay B a sum of Rs. 200 if a certain ship does not return. The ship is sunk. A refuses to pay. Advise B. 5

S&M

(2.)

What is an offer to Perform? Discuss requisites of a valid tender. 20

S&M

Page 958, 959

(3.) Discuss the procedure for registration of a firm and also state the effects of non-registration. 20

S&M

Page 248

(4.) a) Define partnership and discuss its essential Characteristics. 15

b) A trading firm, each having 15 partners, amalgamate their business. Can contracts entered into by the amalgamated firm be enforced by or against the firm? 5

S&M

5. a) State the doctrine of caveat emptor and exceptions to it. 15

b) A, a farmer simply exhibits oats in his farm. B buys the oats in the belief that they are old oats. In fact, they are new oats. B wants to return the oats and refuses to pay the price. Is the action of B valid? Decide giving reason. 5

BPDR

De 22
Page -18

(6.) Discuss the provisions of the Bengal Public Demands Recovery Act, 1913 relating to application to set aside sale of immovable property on deposit. 20

IPE/CPD

Dec 192

Page 438

(7.) State the ingredients of the offence of fabricating false evidence giving illustrations. 20

S&M

8. a) Explain and illustrate the 'Estoppel' of tenant and of licensee or person in possession. 15

b) Explain estoppel of acceptor of bill of exchange, bailee or licensee. 5

BPDR

IEVA

DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

May, 2012

LAW-PAPER II (GENERAL AND MERCANTILE LAW)(WITH BOOKS)

Time Allowed : 3 Hours

Full Marks : 100
Pass Marks : 50

Answer any five questions

- Q2 M. 1. (a) Explain the term 'Consideration' and state the exceptions to the rule, "No consideration, no contract". 15
AJ (35)
- (b) A being in dire need of money, sells his new car for Rs. 25000. This car was purchased one month ago by him at a cost of Rs. 2 lakh. Afterwards he wants to set aside the contract on the ground of inadequacy of consideration. Will he succeed? 5
2. "Impossibility of performance is, as a rule, not an excuse for non-performance". Discuss. 20
- Q2 M. 3. (a) Distinguish between Partnership and Co-ownership. 15
S2 M. 3. (35) (15)
- (b) A, a publisher, agrees to publish at his own expense, a book written by B and to pay B half the net profits. Do A and B constitute partnership in the above transaction? 5
- Q2 M. 4. (a) Discuss the rights and liabilities of a minor partner. 15
- (b) A, B and C are partners. C is a sleeping partner. He retires without giving a public notice. Is he liable for the subsequent debts incurred by A and B? 5
- S2 M. 5. Distinguish between sale and agreement to sell. 20
- BPDR (6) Discuss the provisions of the Bengal Public Demands Recovery Act, 1913 relating to power to arrest and detention of a certificate-debtor. 20
108 (22) BPDR
7. Discuss the law relating to -
- (a) Obstruction to public servant in discharge of public functions. 5
- (b) Omission to assist public servant when bound by law to give assistance. 5
- (c) Threat of injury to public servant. 5 IPC
- (d) Threat of injury to induce person to refrain from applying for protection to public servant. 5
8. (a) Discuss the presumption of law relating to legitimacy of the child. 15
- (b) Ram married Keya. The wife Keya was living in adultery. She delivered a child. Decide Paternity of the child. 5

(78)

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Ints

DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

May, 2011

LAW-PAPER II (GENERAL AND MERCANTILE LAW) (WITH BOOKS)

Full Marks: 100
Pass Marks: 50

Time Allowed: 3 Hours

Answer any five questions

B.P.D.R.

Q.P. 111

S2M

Q.P. 112

S2M

Q.P. 113

S2M

S2M

S2M

S2M

S2M

I.P.C.

1. How or when the movable or immovable property is released by the Certificate Officer? 20
2. (a) What are the rights of unpaid seller? 5
(b) What is unpaid seller's lien? 5
(c) How does the unpaid seller lose lien? 10
3. (a) Point out the ingredients of sale. 5
(b) What are the formalities of sale? 5
(c) What is the effect of sale if the subject is found destroyed? 5
(d) Explain agreement to sell at valuation. 5
4. (a) On what ground or grounds court can dissolve a partnership firm? 10
(b) Discuss the mode of settlement of accounts between partners on dissolution of a partnership firm. 10
5. (a) When a consideration object is regarded as lawful? Cite, at least, two illustrations in support of your reply. 10
(b) Every agreement in restraint of trade is void. Does it include also sale of good will? Discuss. 10
6. (a) 'May presume', 'Shall presume', and 'Conclusive proof' - signify the meaning of the above words. 6
(b) Define :- Fact, 'Relevant', Document. 6
(c) What is estoppel? What is estoppel of tenant and licensee? 8
7. What are the penalties provided for following cases? Discuss. 4
(a) Non-attendance in obedience to an order from public servant. 4
(b) Refusing to sign a statement. 4
(c) False statement on or affirmation to public servant. 4
(d) Obstructing sale of property by authority of a public servant. 4
(e) Obstructing public servant in discharge of public function. 4

CRPC. 8. (a) Describe the procedure related to conviction or no conviction on plea of guilty in absence of accused in petty cases. 14

(b) What happens in case of non appearance or death of complainant? 6

DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

November, 2011

LAW-PAPER II (GENERAL AND MERCANTILE LAW)
(WITH BOOKS)

Time Allowed : 3 Hours

Full Marks : 100

Pass Marks : 50

Answer any five questions

- Q & A* 1. (a) What are the modes of execution of certificate ? 6
(b) How the interests, costs and charges in proceeding of execution of certificate are recoverable ? 6
(c) On what grounds sale of immovable property can be set aside ? What is limitation ? 8
- Q & M* 2. (a) What is retirement of a partner ? How does it take effect ? 10
(b) What is the consequence if a partner is adjudicated an insolvent ? 5
(c) Discuss the right of an outgoing partner to carry on competing business ? 5
- S & M* 3. (a) What are the effects of non registration of a firm ? 15
(b) What is the penalty for furnishing false particulars ? 5
- S & M* 4. (a) State when finder of goods can sell the goods ? 10
(b) Where does sale by mercantile agent convey a good title ? 10
- S & M* 5. (a) Define fraud as per Indian contract Act, citing, at least, two illustrations. 10
(b) Is an agreement obtained without free consent void or voidable ? Give, at least two illustrations. 10
- Evidence Act* 6. (a) When a person is said to give false evidence ? Give two illustrations. 7
(b) When a person is said to fabricate evidence ? Give two illustrations. 7
(c) What is the punishment for false evidence ? 6
- IPC & CrPc* 7. (a) What are facts of which the court shall take judicial notice ? 10
(b) What can be proved by oral evidence ? "Oral evidence must be direct", Explain in detail. 10
8. (a) Discuss the provisions relating to prosecution for contempt of lawful authority or offences against public justice or regarding documents given in evidence. 15
(b) What shall a Magistrate do upon taking cognizance of an offence on complaint initially? 5

DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

May, 2010

LAW-PAPER II (GENERAL AND MERCANTILE LAW) (WITH BOOKS)

Time Allowed : 3 Hours

Full Marks : 100
Pass Marks : 50

Answer any five questions.

16. **CRP**
(a) How the movable or immovable property is released by the certificate officer ? 20
- BP** **Sec 95**
(a) In which manner the delivery of immovable property in occupancy of tenant and other person is made ? 10
- BP** **Sec 95**
(b) State any three examples of money which can be taken as public demand. P/34. Schedule 1 10
- S&M** **Sec 233**
(a) In what circumstances the finder of goods can sell the goods ? 10
- S&M** **Sec 233**
(b) Where sale by mercantile agent conveys a good title ? 10
- S&M** **Sec 45**
(a) In what ways contract can be discharged ? 10
- S&M** **Sec 45**
(b) What is consideration ? When consideration is not an essential ingredient for a valid contract ? 10
- S&M** **Sec 5**
(a) How can a partner retire ? P/223 10
- S&M** **Sec 5**
(b) Whether partnership business will continue or cease on retirement of a partner ? 10
- CRP**
(a) Facts admitted need not be proved, whether such principle is applicable to both civil and criminal cases ? 10
- CRP**
(b) Define any two of the following :
(i) Fact in issue. 10
(ii) Evidence. P/103 (iii) SM 233, 359. 10
(iii) Document. P/10
- CRP**
(a) Whether in absence of the accused plea of guilt in petty cases can be accepted ? 10
- CRP**
(b) How can a summons case can be converted into warrant case ? 10
- IPC (2)**
(a) A being legally bound to appear before a District Judge, as a witness, in obedience to a summons issued by that District Judge, intentionally omits to appear. What offence the person has committed under the Indian Penal Code ? 10
- IPC (2)**
(b) Whether a juryman, assessor or member of a Panchayat who assisting a Court of Justice is a Public Servant ? 10

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Janta

DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

November, 2010

LAW-PAPER II (GENERAL AND MERCANTILE LAW) (WITH BOOKS)

Time Allowed : 3 Hours

Full Marks : 100
Pass Marks : 50

Answer any five questions.

1. What are the procedure for service of notices where certificate debtor refuses to accept service or cannot be found ? 20
2. (a) What is the procedure of attachment of debt, share and moveable, not in possession of certificate debtor ? 10
(b) In what circumstances re-sale of immoveable property is held ? Whether fresh proclamation is necessary for such re-sale ? 10
3. What are the essentials of a valid contract ? 10
4. (a) How liability of a person getting benefit under mistake or coercion is adjusted ? 10
(b) What are the various modes of termination of agency ? 10
(c) What is the liability of the principal for premature revocation without justification ? 10
5. (a) State the meaning of expression 'Burden of proof'. On whom it lies ? 10
(b) From which facts the Court should presume - (a) as to abetment of suicide of married woman, (b) as to Dowry death. 10
6. (a) Define any two of the following as per Sale of Goods Act, 1930 10
(i) Document of title of goods.
(ii) Goods.
(iii) Future goods.
7. (a) State sale of goods by person not the owner is dealt with in Sale of Goods Act. 10
(b) How the cases in which Judge or Magistrate is personally interested be dealt with ? 10
(c) What should be the procedure when complainant does not appear during trial of a summons case ? 10
8. (a) The accused made a statement, he was required to sign such statement by a public servant, such public servant was legally competent to require him to sign it, accused refuses to sign the statement. What offence the accused has committed under the Indian Penal Code. 10
(b) What are the ingredients of S 183 of Indian Penal Code ? 10

EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

May, 2009

PAPER II (GENERAL AND MERCANTILE LAW)
(WITH BOOKS)

Time allowed: 3 Hours

Full Marks: 100
Pass Marks: 50

Answer any five questions

1. (a) What are the modes of execution of certificates? 14
5
- (b) How interests, costs and charges in proceedings of execution of certificate are recoverable? 14
5
- (c) On what grounds sale of immovable property in execution of certificate can be set aside? Is there any period of limitation in filing the application? 18 + 20 (15 for para & 2 for period of 5)
- (d) What special care a certificate officer will have to take in setting aside the sale? 5
2. (a) When a person can be charged with the offence of giving false evidence? 425 - 191 - 11C
5
- (b) What is fabricating false evidence? 425 - 192(b) - 11C
5
- (c) A in support of just claim of B against Z for one thousand rupees on oath said that he heard Z admitting the claim of B. What offence A committed? 425 - 191 - 11C
5
- (d) A put jewellers into a box belonging to Z with the intention that they may be found in the box and the circumstances may cause Z to be convicted. What offence A has committed? 426
5
3. (a) What are the facts of which the Court will take judicial notice? 111(a) - P-120 (12)
10
- (b) What is burden of proof? 5 P-563 - 2PC - 101
5
- (c) On whom burden of proof lies? Explain with at least two illustrations. P-563-564 3PC S-10
5
4. (a) Point out the ingredients of sale. 5
- (b) What are the formalities of sale? 5
- (c) What is the effect of sale if the subject is found destroyed? 5
- (d) Explain agreement to sell at valuation. 5

P.T.O.

Q. 2

- 26
- 2 -
- Q. 5. (a) What procedure is followed by a Magistrate in taking cognizance of an offence when a complaint is lodged before him ? 10
- (b) What procedure is followed in dealing with offences affecting administration of justice ? 10
- S & M Q. 6. (a) On what ground or grounds Court can dissolve a partnership firm ? 10
- (b) Describe mode of settlement of accounts between partners on dissolution of a partnership firm. 10
- S & M Q. 7. (a) Define fraud as per Indian Contract Act citing at least two illustrations. 10
- (b) Agreement obtained without free consent. Is the agreement void or voidable ? Cite at least two illustrations. 10

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DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

November, 2009

LAW PAPER II (GENERAL AND MERCANTILE LAW) (WITH BOOKS)

Time Allowed : 3 Hours

Full Marks : 100
Pass Marks : 50

Answer any five questions.

- APDR*
- Y.* 1. (a) What procedure is to be followed by the certificate-debtor in applying to set aside sale of immovable property ? 5
- 22, 23*
- 34* (b) What procedure is to be followed by certificate-debtor in filing application for cancelling or modifying certificate ? 10
- 42* (c) State the procedure to be followed on death of certificate-debtor. 5
- S&M* 2. (a) What are the rights of unpaid seller ? 194 5
- (b) What is unpaid seller's lien ? 194 5
- (c) How the unpaid seller loses lien ? 194 10
- S&M* 3. (a) What is retirement of partner ? How it takes effect ? 10
- (b) What is the consequence if a partner is adjudicated insolvent ? 5
- (c) Discuss the rights of outgoing partner to carry on competing business. - 223 5
- S&M* 4. (a) When a consideration or object regarded as lawful ? Cite at least two illustrations in support of your reply. 10
- (b) Every agreement in restraint of trade is void. Does it also include sale of goodwill ? Discuss. 10
- S&M* 5. (a) What is estoppel ? 5
- (b) What is estoppel of tenant and estoppel of licensee ? 5
- S&M* (c) What is fact in issue ? 5
- (d) When a fact becomes relevant ? 5
- Supp* 6. (a) Which officials you can regard as public servant ? 10
- 20* (b) What do you understand by causing disappearance of offence ? Quote the punishments involved in each case. 10
- S&M* 7. (a) Is it necessary for a Magistrate to frame charge in a summons case ? 5
- CRP* (b) If the accused pleads guilty in a summons case u/s 242 Cr. P.C. is the Magistrate bound to convict him ? 5
- (c) What procedure the Magistrate will follow in summons case if the accused is not convicted on his plea of guilty ? 10

26

Indra

DEPARTMENTAL EXAMINATION FOR OFFICERS OF THE
DIRECTORATE OF COMMERCIAL TAXES

May, 2008

LAW - PAPER II (GENERAL AND MERCANTILE LAW)
(With Books)

Time Allowed - 3 Hours

Full Marks - 100
Pass Marks - 50

Answer question no.1 and any five from the rest.

1. (a) Distinguish between a void and a voidable contract. → P-46, 47 of Sen Mitra
(b) What is meant by mutual consent in an agreement?
(c) A, on board an English ship on the high seas, causes B to enter into an agreement by an act amounting to criminal intimidation. What defence is available to B for a subsequent breach of contract by him and at which place?
P-60, Sen & Div
B is not bound by A's promise. 6+6+8
2. Are the following persons servant or agent? Cite court decisions.
(a) Managing Director of a company. A has ample scope this must be seen. 8+8
(b) Secretary of a Society who was a promoter.
3. (a) A consigns provisions to B at Bombay with direction to send them immediately to C at Calcutta. The consignment is likely to be spoilt during journey. → P-183 Sen. M.
Has B the option to sell the provisions in Bombay? If so, under what provisions of the laws on contract?
(b) A, without B's authority, lends B's money to C. B accepts interest on the money from C. 180
Can B later on deny the transaction and make A liable? If not, under what provisions of the laws on contract? 8+8
4. (a) Distinguish between 'may presume' and 'shall presume' under the Indian Evidence Act. → Q.11, Pg. of IEV (AL)
(b) A is a tenant of a flat belonging to B as landlord. C later on came to occupy the flat as a licensee of A. Can C deny the title of B as landlord at the time the licence was given to him? Quote the relevant provision of the law in this behalf. → P-186, 8-97 of IEV (1) 8+8
5. (a) A, a police officer, intentionally suffers a criminal to escape and such criminal was charged with an offence punishable with imprisonment for a term which may extend to ten years.
What offence the police officer commits and under what section of the Indian Penal Code? What may be the maximum punishment for such police officer? 1 PC.
(b) A intentionally omits to attend a Court of Justice either in person or by agent in obedience to a summons served upon him.
What is the maximum punishment he is exposed to? Which section of the Indian Penal Code applies in his case? 8+8
- Can not deny*
- P.T.O.

6. What are the liabilities that a retiring partner is relieved of and what liabilities continue after retirement under the Indian Partnership Act, 1932 ? → P-273 Sen Mid

What happens when a partner is adjudicated an insolvent ? → P-274 Sen Mid

7. (a) Distinguish between a condition and a warranty. → P-211, Sen Mid

(b) What are the provisions for instalment delivery under the Sale of Goods Act, 1930 ? → P-234 8+8 Sen Mid

8. What are the grounds on which a sale of immovable property may be set aside under the Bengal Public Demands Recovery Act, 1913 ? → BPDR, Pg-18

What are the items of deposit for an application to set aside sale ?

(11) Swrajit 35
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DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

November, 2008

LAW-Paper II (GENERAL AND MERCANTILE LAW)
(With Books)

Time Allowed: 3 Hours

Full Marks: 100
Pass Marks: 50

Answer question No.1 and any five from the rest

1. (a) What is meant by acceptance of an offer by conduct? SM 17.

A circular by a Bank raising Bank rate on overdraft is notified and a constituent keeps alive his overdraft and makes further borrowings. Is he bound by the circular in the absence of a proposal in this behalf? SM 12-13

- (b) State the doctrine of undue influence according to the Indian law of contract. Is it different under the common law of England? SM 48.

A, a patient, is asked by B, a doctor, to pay him an unreasonable sum towards his professional services rendered. In which circumstances it may amount to an undue influence? SM 48

10+10

2. (a) State the authority of a person exercising power of attorney. SM 141

- (b) What is meant by a del credere agent? Is it different from a contract of indemnity? SM 44

8+8

3. (a) X gives authority to Y to sell X's land and to pay himself, out of the proceeds, the debts due to him from X. Can X later on, repudiate or terminate the agency? If not, under what provisions of the laws on contract? SM 152

- (b) X authorises Y to buy 500 bales on account of X, and pay for it out of X's money remaining in Y's hands. Y, accordingly, buys 500 bales of cloth in X's name without making himself personally liable. Can X revoke Y's authority to pay for the same? Quote the provision of law in this context. 8+8

4. State if any offence under the Indian Penal Code has been committed in the following cases, quoting the section where applicable.

- (a) A person not legally bound, intentionally omits to produce a document before a District Court. 181

- (a) A falsely informs the public servant that X secretly carries explosive weapons in violation of the laws that he administers, knowing fully well that it would lead to search and harassment to X. 182

- (c) A gives false evidence before a Court of Justice intending thereby B's conviction for an offence punishable with imprisonment for life. 195

- (d) A agrees to give B, Rupees one thousand in consideration of concealing an offence committed by A which may lawfully be compounded. 213

4x4

P.T.O.

5. (a) Distinguish between a fact 'not proved' and 'disproved' under the Indian Evidence Act.

(b) Ranjan prosecutes Rabin for theft and wishes the Court to believe that Rabin admitted the Commission of the offence by him to Akbar. On whom the burden of proof lies to prove the admission? Quote the relevant provision of the law.

8+8

6. What are the incidents that follow a minor becoming a partner on attaining majority, or when he elects not to become a partner under the Indian Partnership Act, 1932? What are his entitlements during minority? *SM 203 SM*

16

7. What are the modes of attachment of a movable property under the Bengal Public Demands Recovery Act, 1913? What difference it makes when such movable is agricultural produce?

16

8. (a) What is 'delivery' under the sale of Goods Act, 1930? What is meant by 'symbolic delivery'? *SM 168*

(b) What is sale by description? *173*

8+8

(65) Swrajit
26 Mishra

DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

MAY, 2007

LAW - PAPER II (GENERAL AND MERCANTILE LAW)
(WITH BOOKS)

Time Allowed : 3 Hours

Full marks : 100

Pass Marks : 50

Answer any five questions

Sanjiv Mishra (Mercantile Law)

- S&M [1. (a) Explain briefly the doctrine of 'Public Policy'. Give examples of agreement contrary to public policy.
(23) (b) A makes an offer to B. B regrets by letter. Before letter arrives, B accepts over the phone. Is there a contract?
17 (c) What are the requisites of valid tender - Discuss.
(d) A owes B Rs.1000/- on August 1 with interest. A offers to pay July 1 the amount with interest upto July 1. Is the tender valid?
7+3+7+3
- S&M [2. 16 (a) Distinguish between sale and agreement to sale.
(b) A prints 100 copies of book for E. B gives manuscript of the book and also paper and ink to be used for printing. Is it contract for sale?
(c) What are the remedies for breach of contract of sale.
(194) (151) (11.172) (d) A sold to B 130 shares. B did not pay the price. B pledges the share to C. Can A sue C to recover the shares as also for damages?
(106) 7+3+7+3
- S&M [3. 20 (a) Mention restrictions on the implied authority of a partner.
(b) A and B carry on business in partnership as bankers. A sum of money is received by A on behalf of firm. B does not know of the receipt. A appropriates the money to his own use. Is partnership liable to make good the money?
(c) State the cases in which a person receiving share of profit is not called a partner.
(d) A B & Co. carried on a business and incurred debts. E, a creditor of the company, sued A, B and two other persons C and D as members of partnership. C contributed labour and used to receive one-third in net profit. D deposited certain amount and used to receive one-third of net profit. The remaining one-third was taken by both A & B. Discuss the respective liabilities to E.
7+3+5+5

P.T.O.

What offence, if any, has been committed under the Indian Penal Code in the following cases :

- (a) A removes standing crop from the field which he knows under attachment in execution of a certificate under Public Demands Recovery Act.
- (b) A lost his cow from a grazing field. Later he heard B had it. A went to him. B took Rs.100/- and promised to return in ten days' time. B did not keep the promise and refused to return either the cow or the money.
- (c) A instigated B to personate C to purchase in C's name some stamped paper and in consequence stamp vendor endorsed C's name on such paper as purchaser of it. A acted with the intention such endorsement might be used against C in a Judicial Proceeding.
- (d) A surveyor in effecting partition of lands under an order passed by a Civil Court much beyond the period stated in the order was obstructed and assaulted by B when proceeding to take measurements.

5x4

5.

I.E.A.

- (a) What are the conditions that must be satisfied to bring a case within the scope of Estoppel under the Indian Evidence Act.
- (b) What are different kinds of Estoppel recognised by the Indian Evidence Act? Explain.

10+10

6.

- (a) What are the main points of difference between evidence in Civil and in Criminal Proceeding?
- (b) State the difference between -
 - (i) Presumption of Law and presumption of fact;
 - (ii) Presumption and proof.

10+5+5

What is a Complaint? Mention procedure to be followed in cases instituted on a complaint under Code of Criminal Procedure. 5+15

Cr.P.C.

See vol. 10 p. 100

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[Signature]

DEPARTMENTAL EXAMINATION FOR OFFICERS OF THE
DIRECTORATE OF COMMERCIAL TAXES

November, 2007

LAW—PAPER II (GENERAL AND MERCANTILE LAW)
(With Books)

Time Allowed—3 Hours

Full Marks—100

Pass Marks—50

Answer any five questions.

1. (a) State the extent of the agent's duty to his principal in conducting his principal's business. 189.
(b) X gives authority to Y to sell X's land and to pay to himself out of the proceeds, the debts due to him from X. Thereafter X becomes insane. What is the effect of X's insanity on the authority conferred on Y? 189 + 192
(c) What are the various cases in which a proposal stands revoked? 19
(d) A proposes by a letter sent by post to sell his house to B. B accepts the proposal by a letter sent by post. Can A and B revoke the proposal or acceptance? If so, at what point of time? 30
7+3+7+3
2. (a) Critically examine the rule 'Nemo dat Quod non habet'. State the exceptions to the rule. 224, 124, 257
(b) A the owner of a motor-bus leaves the certificate of registration in the bus (the certificate is equivalent to a document of title). B the driver of the bus, procures, by forgery, its alteration in his own name, sells the bus to C a bona fide purchaser for value. Is C entitled to the bus? 257
(c) State the cases in which unpaid seller of goods loses his lien thereon. 249
(d) A sells B 100 kilos of grain out of larger quantity. B sells 60 kilos out of these to C. C having delivery order from B forwards it to A who informs C that he will send the grain in due course. B subsequently becomes insolvent. Can A refuse delivery of 60 kilos of grain to C? 7+3+7+3
3. (a) Discuss the ways by which a partnership firm may be dissolved. 278
(b) A & B partners in a trade agree to dissolve the partnership and executed a deed for that purpose declaring partnership dissolve from 1st January, 2007 but do not discontinue the business of the firm or give notice of dissolution. On 1st February, 2007 A endorses a bill in partnership's name to C. Is the firm liable? 281 (24, 1 & 3)
(c) Discuss the liabilities of partners towards third party. 267
(d) X, Y and Z were partners in a firm of ^{banker}hawker of whom Z was not an active partner. C a customer deposited his ornaments with the bank for safe custody. X and Y sold the ornaments without authority from C. What are the rights of C against the bank? What is the liability of Z? 167 + 267
7+3+7+3
4. Whether any offence the Indian Penal Code has been committed in the following cases:
(a) A intentionally obstruct lawful sale by a Public Officer. 5184
(b) A finding in her house dead body of a girl who had been murdered by her son without moving the corpse or concealing it.
(c) A refuses to sign a panchnama drawn by a forest officer with reference to certain wood alleged to have been illegally cut in a reserved forest. 5/178
(d) A landholder knowing of the commission of a murder within the limits of his estate wilfully misconforms the police officer that death has occurred by accident in consequence of bite of a snake. 5x4

Please Turn Over

Evidence Act
Sec 133

5. (a) Who is an accomplice? "An accomplice is unworthy of credit unless his evidence is corroborated in some material particular."—Comment.
 (b) Who is not an accomplice?
 (c) A police officer lays a trap and receives gratification with the intention of bringing to book B who has offered him the gratification. Can A be called an accomplice? (3+7)+5+

Ind. Ev. Act 6. What are the different types of evidence under the Indian Evidence Act—discuss.

7. As a rule anybody can set a criminal court in motion.—Discuss pointing out exception if any.

Chap. 47/ Evid 190

DEPARTMENTAL EXAMINATION FOR OFFICERS OF
THE DIRECTORATE OF COMMERCIAL TAXES

NOVEMBER, 2006

LAW - PAPER II (GENERAL AND MERCANTILE LAW)
(WITH BOOKS)

Time Allowed : 3 Hours

Full Marks : 100

Pass Marks : 50

Answer any five questions.

1. (a) Examine the legal position of (i) minor promisor →
(ii) minor agent. → P-283/53
- (b) A applies to a banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on this term. Is contract induced by undue influence? Give reason.
- (c) Discuss the effect when time is the essence of a contract and when it is not. P-111
- (d) What happens to a contract where both the parties to it are under a mistake as to a matter of fact essential to the agreement? P-71 7+3+7+3
2. (a) Distinguish between a condition and a warranty. - P-210.
- (b) A purchases a car from B and uses it for some time. It turns out that the car sold by B to A was a stolen one and had to be returned to the rightful owner. A brings action against B for the return of the price. Will he succeed? Give reason. P-213.
- (c) What are the rules laid down in the Sale of Goods Act for ascertaining the intention of parties as to the time at which the property in the goods is to pass to the buyer? - 121-125
- (d) A, a jeweller, was entrusted with a diamond by P with instructions that A should obtain offer for it, and if any such was approved by P, A should sell it to the offeror. Acting contrary to P's instructions A sold the diamond to S who bought it in good faith. Thereafter A absconded with the price money. Can P recover the diamond from S? Give reason for your answer. 7+3+7+3
3. (a) Although sharing of profit is an essential element of partnership, it is not the sole test. Comment. P-270.
- (b) A and B are co-owners of a house. They let it to a paying guest. They divide the net rent between them. Do A and B constitute partnership? Give reason. P-252
- (c) A and B are partners in a stationery business. A orders in the firm's name and on the firm's letterhead to be supplied with two bags of wheat at his residence. Is the firm liable to pay the debt? Give reason. P-265
- (d) A and B are partners in a business, the term having been agreed at 10 years. After 3 years A is convicted of travelling on a railway without a ticket with intent to defraud. Will the court dissolve the firm on the application of B before the expiry of the term? Give reason for your answer. P-6 will it (under) - 279. 8+4+4+4

4. (a) What facts need be proved to establish that a person has fabricated false evidence?
- (b) Where a man in obedience to a summons attended a Magistrate's court at 10 A.M., but finding the Magistrate not present at the time mentioned in the summons, departed without waiting for a reasonable time. State what offence, if any, committed by him under provisions of the Indian Penal Code.
- (c) A person chaining from within the door of the house at the approach of an official charged with execution of a warrant to attach his moveable property. Has he committed any offence u/s 186 IPC for having obstructed public servant in discharge of public function? Give reason for your answer.
- (d) Can an IAS Officer working on deputation as General Manager in a co-operative society (Super Bazar) which is registered under a state Act, namely Co-operative Societies Act, be regarded as public servant? What would be the position if subsequently he becomes posted as Managing Director of State Financial Corporation established under a State Act? 8+4+4+4
5. Describe the procedure laid down in the Cr. P.C. for dealing an application made to a court in relation to offences mentioned in clause (b) of sub section (1) of section 195 Cr. P.C. and committed in or in relation to that court. 20
6. Discuss briefly doctrine of estoppel citing illustration drawn from the Indian Evidence Act. 20
7. (a) How assets realized in execution of a certificate shall be disposed of?
- (b) Does the certificate cease to be in force by reason of the death of the certificate holder? Discuss the course of action to be adopted by Certificate Officer on the death of certificate debtor when the certificate has not been fully satisfactory. 10+10
6. 7-9
115
116 117
47