

IAS Mains Law Science 1993

Paper I

Section A

1. Answer any three of the following (each answer should be in about 200 words):
 - a. Point out the contingencies under which the President may promulgate Ordinances. Discuss the limitations on this power
 - b. Explain how fundamental right to education was evolved. What limitations are now placed on this right by the Supreme Court
 - c. Explain the doctrine of pith and substance in relation to distribution of legislative powers between the Centre and the States.
 - d. State arguments for and against advisory jurisdiction of the Supreme Court.
2. Answer the following questions
 - a. Critically discuss the financial relations between the Centre and the State. What measures have been suggested to strengthen financial position of State?
 - b. Are provisions relating to preventive detention undemocratic and harsh? Discuss briefly the safeguards available to a person detained under law of preventive detention.
3. Answer the following questions
 - a. Explain the doctrine of pleasure incorporated into the Indian Constitution in respect of civil servants.
 - b. Enumerate the various procedures of amending the Constitution. Discuss the limits of the amending power.
4. Answer any two of the following:
 - a. The state education rules provide for compulsory singing of national anthems in schools every morning. X, a student, whose religion does not permit singing in praise of anyone other than God refuses to sing but stands in respect when national anthem is sung. The school authorities expel X for violating the rules. Write the ground on which the expulsion can be challenged.
 - b. The Green party routs the White party in a general election to Parliament. The Whites do not get even a single parliamentary seat in the nine states where they had the majority of seats in the State Assembly by virtue of an election in the past. The President dissolves the assemblies of these States on the advice rendered by the Green party's Cabinet at the Centre. The nine states challenge the action before the Supreme Court. Will they succeed?
 - c. An independent member joins the ruling party. After a few months he disobeys the whip and abstains from voting. He was disqualified. He challenges the constitutional amendment providing for disqualification on the grounds that it restricts his freedom of speech and expression, interferes with his discretion to act according to the demands of his voters and excludes judicial review of the act of disqualification. Decide.

Section B

5. Answer any three of the following (each answer should be in about 200 words):

- a. Decisions of courts and tribunals are a subsidiary and indirect source of international law. Discuss this statement and explain how far decision of judicial institutions lead to the formulation of the rules of international law.
- b. _____ the law of nations and the municipal law of several states are essentially different from each other. Explain and show how a reconciliation of the conflict is made by state practice.
- c. Boundaries are one of the most significant manifestations of State territorial sovereignty. Explain.
- d. Not every State possesses the right of legation. Explain the right of legation and point out the conditions under which the right is exercised.

6. Answer the following questions

- a. Now the central feature of distinction between occupation and prescription was this, that one act of animus and factum sufficed to complete the legal act designated by the term occupation; whereupon res ceased to be nullius, but the possession which required the factum of physical control to be continuous for a longtime, was the basis of prescription. O'Connell. Explain and bring out the importance of occupation as a mode of acquisition of territory in international law.
- b. Distinguish between de jure recognition and de facto recognition.
- c. Distinguish between territorial asylum and extra territorial asylum.

7. Answer any two of the following:

- a. A treaty between United States and Switzerland was signed in 1850 providing for inheritance rights to aliens. The treaty was ratified by the United States only in 1855. The Swiss heirs of a former Swiss who was naturalised in the United States and died in the 1853 sued for inheritance of the property. Decide.
- b. A municipal court allows extradition of a person who murdered his wife in his country. The same court did not allow extradition of a foreigner who took part in political uprisings in his country. Examine the legal questions involved and bring out the distinction.
- c. An Australian ship collided with a Cuban vessel on high seas and caused the death of five

Cuban officials on board the Cuban vessel. The Australian captain was prosecuted in Cuban court for manslaughter. He challenges the jurisdiction of the Cuban court. Discuss the rules of international law on the question.

8. Write short notes on any three of the following:

- a. Exclusive Economic Zone.
- b. Methods for the acquisition of nationality with special reference to the implication of the ICJ in Nottebohm case.
- c. Right and duties of a subjacent state in the use of outer space.
- d. Jus cogens.