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Subject: Jurisprudence  
Interpretation and  
General Laws.

[Unit Test 1]

①

You can do better. try to avoid cancellation and make your present better. Also try to write in details. You might lose marks if your answer is not properly detailed. Avoid spelling mistakes and frame your sentences correctly. Practice case law properly. Write proper provisions and explanation. All The best

→ Law is organic in nature. Like language it varies with people and age.

→ Law is the source of common consciousness (Volkgeist) of the people.

→ Legislation is the last stage of law making therefore the legislator or jurist is more important than the law maker.

law is Not the source of common consciousness... LAW HAS ITS SOURCE IN COMMON CONSCIOUSNESS.

This is a very silly mistake. A simple word can change the meaning of the whole sentence. Kindly make sure to avoid the same.

Therising's theory of law. says that.

↳ Law is a form of guarantee given to the conditions of life of society and was predominating and prevailing in the 20th century.

- Law deals with various forms of assurance given to people living in society and deals with improving present condition of the society which is poor in certain aspects.

You need to write the historical significance. Write keeping in mind the question.

Legislation is the last stage of law making, and, therefore, the lawyer or the jurist is more important than the legislator.

Ans (B) → Kelsen and Austin's theory of law deals with the positivist theory of law. Austin first contended in his theory of law that law is a superior rule of authority which is backed up by command and sanction.

→ He also contended that the word positivism should be dealt with order and proper command to the rules of justice made in the law.

→ Kelsen like Austin was a positivist, he focused on the positive aspects of law and laid down that law is concerned with two aspects i.e. 'science of law' and 'law of science'. Kelsen like Austin dealt that for positivism to be associated in law it is very important that there is a fundamental norm (Grundnorm) for dealing with positive aspects of law.

You need to list down the meaning associated with the term 'positivism'. Read the question properly and answer accordingly. Prof. HLA Hart British Legal Philosopher listed many meanings associated with the term 'positivism'.

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c The theory which derives its legal authority from being passed by Parliament and after receiving assent of the President and on the basis of Grundnorm is 'Kelson's theory of law'.

Kelson's theory of law deals with formation of Grundnorm. i.e. fundamental norm.

The opprobrium of Kelson's Theory of Law is as follows:

- Kelson's theory did not provide yardstick for measure of laws i.e. Grundnorm.
- It did not provide effective means and measure for measurement and adoption of law as a social justice. It serves means and not the ends.

Avoid spelling mistakes.

This shall not be included in the critical evaluation of Kelson's theory.

You need to write all the opprobrium of the theory.

Good attempt. Just try not to repeat sentences.

- D. Article 12 of the Constitution of India defines the term state as:
- Any authority or <sup>territory</sup> ~~entity~~ within the control of Government of India.
  - Any local authority i.e. municipalities, district boards etc. within territory of India.
  - Any authority under control of Central or State Act, Government and Parliament of India.

For the purposes of Article 12 in famous case of Cricket Association of West Bengal, it was held and decided that for the purpose of Article 12 BCCI cannot be called as a state entity as per Article 12 <sup>which</sup> ~~and~~ defines the state as BCCI is considered to be an independent cricket association and a private body forming its own rules and regulations so being a private entity it does not come under the definition of Article 12. Case of Zee Telefilms Ltd v. Union of India specifies that BCCI was not state for purpose of Article 12 as it was not shown to be financially, functionally under control of Government of India.

Avoid cancellation. Try to work on your presentation as it May help you to get an advantage in scoring better marks.

Q1-

c

Ans [E] → As per Article 20(2) of Constitution of India deals with the doctrine of double jeopardy. Doctrine of double jeopardy states that → no person can be prosecuted and punished twice and vexed for the same cause. It is to be noted that the conjunction 'and' is used between words prosecuted and punished which means that if one person has been let off <sup>without</sup> being prosecuted, then he can be prosecuted again for the same cause.

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In the given case Mr X, a citizen of India on his arrival at airport did not declare that he had brought gold with him and after research ~~was~~ it, was held that he was carrying 107 talas of gold in contravention of law in which custom authorities took suitable action of confiscating his gold and even complaint was raised for having committing an offence under FEMA Act 1999.

So as per above facts of case and Article 20(2) of Constitution being mentioned above the doctrine of double jeopardy the contention of Mr X in accordance with Article 20(2) of the Constitution is not tenable as he has committed an offence under both laws so he can be prosecuted for both laws.

Q. 2.

Ans [2] Article 32 of Constitution of India deals with remedies of enforcement of fundamental rights provides for five writs in case of enforcement on any violation of justice in fundamental rights i.e. Writ of Habeas Corpus, Prohibition, Mandamus, Certiorari and Quo-Warranto.

In the given case vice chancellor of Gujarat University refused to allow university senate to discuss an important matter within his power. In which university senate approached the court. The writ to be issued in manner against vice chancellor of Gujarat University is writ of prohibition.

The persons against whom such writ is not available  
(a) Against a public officer who is not vested with judicial functions

The writ that can be issued in this case is 'mandamus'. The writ of mandamus is a high prerogative writ of a most extensive remedial measure. You need to know every writ in detail as practical questions may confuse you. Make a summary of all the writs for better understanding. Also refer answer sheet for better clarification.

Do not write points on basis of the marks.

A[B] → The word 'Noscitur a sociis' means 'known by its associates'.

→ In other words meaning of a word should be known in association or accompanying words.

→ A word in a statutory provision should be read in collocation or its companion words.

→ A pristine principle based on the maxim 'noscitur a sociis' has much relevance in understanding import of words in statutory provision.

→ This rule states that when two words which are susceptible of their analogous meaning are understood in their cognate sense.

Do not write answer on basis of the marks in case of short notes.

(eg. 5 points for 5 marks) You need to elaborate your answer. Avoid writing point wise. Use point system only when needed.

Q.2.

c. [I] Month - Month means a month as reckoned in British calendar.

[II] Oath - Oath shall mean declaration or affirmation in case of persons by law allowed to affirm or declare instead of swearing.

[V] Swear - Swear with its grammatical variations and cognate expressions means and shall include persons affirming and declaring by in case of persons allowed by law allowed to affirm and declare instead of swearing.

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Do not repeat the points. You might lose marks for repetition.

Q-3

(a) [1] → As per the provisions of Constitution a parliamentary committee meet for a common purpose and makes certain rules and regulations.

→ These rules and regulations are drafted and made in form of bill. For eg. provisions as in draft or bills made related to Motor Vehicles Act, 1934 etc.

you need to write what comes before the president's assent. Write the whole procedure.

→ This bill is for making an act is agreed from and amongst all the members of Parliamentary committee and it is sent to the President for getting its assent.

→ Till the time, bill receives President's assent the Act does not come into force.

→ If, after the bill receives the assent of the President then the bill becomes an Act, i.e. with the effect Act comes into the force from that day itself retrospectively and all the provisions are applicable itself from that day onwards. So on receiving President's assent the bill becomes an act.

No marks shall be given for incomplete answers.

Q. 3(a)

[2] → The Literal Rule of Interpretation is laid down in the Sussex Peerage case.

→ ~~If~~ The Literal Rule of Interpretation states that if Parliament has made certain exposition of words and has made alteration of words then the words in a statute shall be deemed to give same meaning as it was.

Which Act? Specify.

→ The ~~stated~~ reason for the enactment of the Act of the Parliament is to lay down the rule which is to suppress the mischief and advance the remedy. If there are certain ~~of~~ exposition of words in a statute then the ~~alterative~~ change in words should be done to provide and fulfil common purpose of the act and society's needs.

you need to improve your formation of sentences. You have changed certain aspects of the rule. Try to avoid that.

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