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## UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, May 2018

Program: B.A.,LL.B. (Energy Law), B.Com.,LL.B. (Taxation), B.A.,LL.B. (Hons.) Criminal Law,  
B.B.A.,LL.B. (BFSI/ITIL/CL)

Semester – IV

Subject (Course): Constitutional Law II

Max. Marks : 100

Course Code :LLBL222

Duration : 3 Hrs

No. of page/s: 3

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### Section A

(Short Answer type Memory Based general Questions) (2X5=10)

**1. Explain the following**

- a) Doctrine of Colorable Legislation
- b) Functions of the Vice President
- c) Attorney General of India
- d) Delegated Legislation
- e) Doctrine of Repugnancy
- f) Comptroller and Auditor General of India

### Section B

Short answer type Conceptual Questions (2X10=20)-  
Attempt Any Two

**2. Write a Short note on the following-**

- a. Panchayati Raj Institutions
- b. Composition and Function of Election Commission of India

3. Examine the process of passing of a bill? What are the powers of the Rajya Sabha regarding the Money Bill?
4. Explain the freedom of trade, commerce and intercourse with the help of relevant provisions of Indian Constitution.

**Section C**  
**Analytical Questions (2x10=20)- Attempt Any Two**

**5. Analyze the following-**

- a. Analyze the nature of curative petition.
- b. Analyze the suspension of Fundamental Rights During Emergency

**(10 Marks)**

6. Since 1951 questions have been raised about the scope of the Constitutional amending process contained in Article 368. The basic question raised has been whether the Fundamental Rights were amendable so as to dilute or take away the Fundamental Rights through a Constitutional Amendment. Explain with the help of leading cases right from Shankari Prasad Singh and aftermath the stern stand taken by the Hon'ble Supreme Court relating to the amending powers of the Parliament.

**(10 Marks)**

7. The question whether Government of a State cannot be carried in accordance with the provisions of Constitution is to be decided by President on his satisfaction without much scope of judicial review. Critically examine this view in light of constitutional provisions and judicial pronouncement.

On the recommendations of the governor, President rule is imposed in the State on following grounds-

- a. The State Government has failed to maintain law and order.
- b. The state Government has not complied with certain directions issued by the Union Government.

To what extent Supreme Court has put a check on motivated and arbitrary dismissal of State Governments by the Centre under Article 356? Discuss.

**(10 Marks)**

**8. Explain the following;**

- a. The doctrine of pleasure does not take away rights of a civil servant to be heard but this right is excluded in some cases. Critically examine it.
- b. President is the nominal head of the Government?

(10 Marks)

9. Examine the legislative and judicial power of the President of India? Does the Governor enjoy the same legislative and judicial power? (10 Marks)

### Section D

#### Application based Case Study Questions (50 Marks)

(Q. No. 10 is mandatory and solve any two from the remaining)

10. Governor of the State of Uttarakhand has convened a session of the legislative assembly for passing the State budget. Accordingly, the session was convened and on 25<sup>th</sup> April, 2018 house is discussing the budget. While the discussion is going on a MLA belonging to the opposition party has raised serious allegations of corruption against one of the Ministers. Accordingly, Speaker has passed an order stating that these allegations should not be part of record and should be deleted from the records of proceedings. Mr Mehta who runs a newspaper published the same allegations in the next day in his paper. This was brought in the notice of the Speaker as it is considered as a breach of the privilege of the House. Accordingly, Speaker summoned Mr. Mehta and ordered him to present before the Assembly on 30<sup>th</sup> April, 2018. Mr Mehta did not go to the Assembly on 30<sup>th</sup> April, 2018 which is considered by the house as its contempt and then the speaker ordered the arrest of Mr Mehta and accordingly issued an arrest warrant. After receiving the warrant Mr Mehta files a writ petition in the High Court challenging his arrest on the ground that it violates his Freedom of Press which is recognized by the Supreme Court as a Fundamental Right itself. High Court after hearing the petitioner put a stay on the arrest of Mr Mehta and granted him Bail. State Assembly consider the act of Judges of High Court in granting the bail to Mr Mehta as Contempt of the House and Speaker ordered the arrest of the Judges of the High Court.

**In the light of above fact answer the following questions:**

- a. What are the privileges of the Legislature?
- b. Can a Parliamentary privilege violate a Fundamental Right? Substantiate your answer with the help of decided cases
- c. Can a Speaker of a House issue an arrest warrant against a Judge for the Contempt of House? (20 Marks)

11. The Collegium System invented by the Courts was appreciated for ensuring exclusion of political interference in the appointment of judges. But it was also criticized for rewriting or amending the Constitution establishing monopoly of the judges in the appointment of the Supreme Court and High Court Judges and transfer of the latter from one High Court to another. For removing these criticisms Parliament amended the Constitution of India and established a National Judicial Appointment Commission which in 2015 is struck down by the Supreme Court on the ground that it violates Independence of Judiciary. Keeping the above facts in mind answer the following.

- c. What was the Composition of the NJAC?
- d. Critically examine the process of appointment of the Judges in the Supreme Court and High Courts with the help of decided cases?

**(15 Marks)**

**12.** “Our Constitution is considered to be both Unitary as well as Federal according to the requirement of time and circumstances.” Explain the above statement with the help of provisions of the Constitution. **(15 Marks)**

**13.** State of Uttar Pradesh on 20<sup>th</sup> April, 2018 passes an Act named as Prohibition on Sale and Possession of Liquor Act, 2018 which came into force on 1<sup>st</sup> May, 2018. The main object of this act is the prohibition on sale and possession of Liquor in the State of U.P and whoever found selling or purchasing of liquor shall be punished for an imprisonment up to 10 years and the offence is non-bailable. Mr James who is having a business of import and export of liquor in Lucknow challenges, this law on the basis that Import and Export is a subject matter of the Union List, in the Supreme Court of India by filing a Special Leave Petition. The counsel of the State says before the Court that selling and purchasing of liquor is a matter of State list therefore State is having the competency to enact the law.

In the light of above fact, examine the constitutionality of this act with the help of decided cases. **(15 Marks)**

**14.** On 20<sup>th</sup> April, 2018 the four senior Judges of the Supreme Court of India convene a press conference at New Delhi where they raised certain questions on the working of the present Chief Justice of India (CJI) mainly relating to allotment of cases to the various judges of the Supreme Court in an arbitrary manner. After the press conference of four senior Judges, the opposition parties convened a press conference where they decided that allegations against the CJI is of very serious nature therefore he should be impeached.

**In the light of above fact answer the following questions-**

- a. What is the process of impeachment of the Chief Justice of India?
- b. Whether the grounds mentioned by the four Judges are sufficient to impeach the CJI or not?
- e. What are the qualification which a person need to fulfill before he or she can be appointed as a CJI?

**(15 Marks)**



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### Section A

**(Short Answer Type /Memory Based general Questions) (2X5=10)**

- 1. Explain the following**
  - a. Constituent Power of Parliament
  - b. Basic Structure of the Constitution
  - c. Residuary Power of legislation
  - d. Court of Record
  - e. Panchayat

### Section B

**Short answer type Conceptual Questions (2X10=20)**

- 2. What is the Function of Finance Commission constituted under Article 243-I of the Indian Constitution? (10 Marks)**
- 3. Critically analyze the Constitution, Composition and abolition of National Judicial Appointment Commission. (10 Marks)**
- 4. Analyze the Doctrine of Pith and Substance with the help of leading cases. (10 Marks)**

**Section C**  
**Analytical Questions (2x10=20)**

5. The Constitution of India provides for the freedom of trade, Commerce and Intercourse throughout the territory of India. Perhaps the freedom is subjected to certain Constitutional limitations. With the help of leading cases highlight the freedom guaranteed and the limitations imposed under Part XIII of the Indian Constitution. **(10 Marks)**
6. Which doctrine explains the principle that “What one cannot do directly cannot be done indirectly. Explain with the help of leading cases.
7. **Explain the following;**
  - a. The doctrine of pleasure does not take away rights of a civil servant to be heard but this right is excluded in some cases. Critically examine it.
  - b. President is the nominal head of the Government?
8. Explain and analyze the doctrine of basic structure with respect to its applicability to recent National Judicial Appointments case. **(10 Marks)**

**Section D**

**Application based Case Study Questions (50 Marks)**

**(Q. No. 9 is mandatory and solve any two from the remaining)**

9. Since 1951 questions have been raised about the scope of the Constitutional amending process contained in Article 368. The basic question raised has been whether the Fundamental Rights were amendable so as to dilute or take away the Fundamental Rights through a Constitutional Amendment. Explain with the help of leading cases right from *Shankari Prasad Singh* and aftermath the stern stand taken by the Hon'ble Supreme Court relating to the amending powers of the Parliament. **(20 Marks)**
10. The Collegium System invented by the Courts was appreciated for ensuring exclusion of political interference in the appointment of judges. But it was also criticized for rewriting or amending the Constitution establishing monopoly of the judges in the appointment of the Supreme Court and High Court Judges and transfer of the latter from one High Court to another. With the help of leading cases critically analyze and evaluate the constitutional provisions for the appointment and transfer of judges **(15Marks)**
11. “Our Constitution is considered to be both Unitary as well as Federal according to the requirement of time and circumstances.” Explain the above line with the help of Emergency Provisions? Explain the conditions under which emergency can be proclaimed

under Art. 352 of the constitution. Point out the safeguard against undue prolongation of the emergency. **(15 Marks)**

**12. Discuss and analyze following problem with respect to a federal Constitution:**

The governor of State X sends a report to the President recommending the imposition of President's rule in the state. The report states that there is complete breakdown of law and order in the State and administration has completely failed to check growing violence, corruption and destruction of public property. Although the government is enjoying the confidence of legislature, the President accepts the report and proclaim emergency in the State under Article 356 of the Constitution. The State government is dismissed and assembly is dissolved. The dismissed chief minister seeks to challenge the constitutional validity of Presidential action. Advise the Chief Minister. **(15 Marks)**