BLOGS

Passage-Based Questions on Legal Reasoning for CLAT UG [Part 23]

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Passage 1 (P.1)

The doctrine of election is a well-established principle in equity which operates in situations where a person is required to choose between two inconsistent rights. The underlying idea is rooted in fairness, preventing a person from simultaneously accepting and rejecting the same instrument. In essence, a person cannot approbate and reprobate, meaning they cannot accept the benefits under a legal document while rejecting the burdens that arise from it. This doctrine most commonly arises in the context of wills and transfers of property. For instance, where a person purports to transfer property that does not belong to them, while at the same time conferring a benefit on the true owner of that property, the true owner is put to an election.

They must either accept the benefit and allow the transfer to stand, or reject the benefit and retain their original rights over the property. The doctrine is not based on strict legal ownership but on equitable considerations. It assumes that a person who knowingly accepts a benefit under a transaction must also accept the entirety of that transaction. However, for an election to be valid and binding, it must be made with full knowledge of the material facts and the rights involved. If a person accepts a benefit in ignorance of the fact that their own property rights are being affected, such acceptance does not amount to a binding election.

Additionally, the election must be clear and unequivocal. Conduct that indicates acceptance of benefit, such as enjoying the fruits of a transaction over a period of time, may amount to an implied election. However, courts may allow withdrawal of such election if it is shown that the person acted under a mistake or without proper awareness. It is also important to note that the doctrine does not apply where the two rights are not truly inconsistent. If it is possible for a person to enjoy both the benefit and their original right without conflict, then no election is required. The essence of the doctrine lies in preventing unfair advantage arising from contradictory conduct.

1. A, by will, transfers B’s property to C and also gives B a large monetary benefit. B, knowing all facts, accepts the money and later claims his property back. What is the correct position?

a. B can claim both money and property

b. B must return the money to claim his property

c. B automatically loses ownership of property

d. The will is void

2. If B had accepted the monetary benefit without knowledge that his own property was being transferred, what would be the likely outcome?

a. B is bound by election

b. B can retain both benefit and property

c. B can revoke the election upon discovering the facts

d. The transfer becomes void automatically

3. Which of the following situations would NOT require an election?

a. Two rights that can coexist without conflict

b. Acceptance of benefit and rejection of burden

c. Transfer of another’s property with benefit to owner

d. Acceptance of benefit under a will

4. A accepts benefits under a will for several years without objection, despite knowing his rights. What is the likely inference?

a. No election has taken place

b. Implied election through conduct

c. Election is invalid

d. Election requires written proof

5. Which of the following best weakens the application of the doctrine?

a. Clear acceptance of benefit

b. Knowledge of facts at the time of acceptance

c. Lack of awareness about the impact on one’s rights

d. Passage of time after acceptance

Passage 2 (P.2)

The doctrine of res extra commercium represents a significant limitation on the otherwise broad right to trade and profession. It is based on the premise that certain activities, by their very nature, are outside the scope of legitimate commerce and may therefore be regulated or prohibited by the State. These activities are considered inherently harmful, immoral, or injurious to public welfare, and thus do not enjoy constitutional protection in the same manner as ordinary trades. Traditionally, activities such as gambling, liquor trade, and trafficking in harmful substances have been treated as falling within this category.

The State, therefore, possesses wide discretion to regulate, restrict, or even completely prohibit such activities in the interest of public health, safety, and morality. This discretion includes the power to impose licensing regimes, restrict entry, and control the manner in which such trades are conducted. However, the doctrine does not grant absolute immunity to the State. Even where an activity falls within res extra commercium, State action must still conform to basic principles of non-arbitrariness and reasonableness. If the State chooses to permit such activities under a regulated framework, it cannot act in a manner that is discriminatory, capricious, or lacking in rational basis.

A nuanced issue arises where the State itself engages in or derives revenue from such activities. While the State may justify its involvement on grounds of regulation and control, questions may be raised about the consistency of its stance in simultaneously treating such activities as undesirable while profiting from them. Thus, while the doctrine excludes certain trades from the protection of fundamental rights, it does not place State action beyond judicial scrutiny.

6. A challenges a State law completely banning gambling, claiming violation of his right to trade. What is the most accurate conclusion?

a. Ban is unconstitutional

b. Ban depends on economic impact

c. Ban is valid only if compensation is provided

d. No fundamental right exists in such trade

7. The State allows liquor trade but grants licences only to select individuals without clear criteria. What is the likely position?

a. Valid due to res extra commercium

b. Cannot be challenged

c. Always valid

d. Invalid due to arbitrariness

8. Which of the following situations raises the strongest challenge against State action?

a. Complete prohibition of harmful trade

b. Regulation of liquor sales

c. Arbitrary denial of licence in permitted trade

d. High taxation on such goods

9. If the State itself runs liquor shops while restricting private players, what issue arises?

a. Conflict between regulation and profit motive

b. No issue

c. Automatic invalidity

d. Absolute State immunity

10. Which assumption best underlies the doctrine?

a. All trades deserve equal protection

b. Some trades are inherently harmful to society

c. State cannot regulate commerce

d. Profit determines legality

Passage 3 (P.3)

The law relating to finders of lost goods occupies a unique position within the framework of quasi-contractual obligations. Although there is no express agreement between the finder and the owner of lost property, the law imposes certain duties and confers certain rights upon the finder, treating them in a position analogous to that of a bailee. A finder who takes possession of lost goods is under a duty to exercise reasonable care in preserving them. This obligation arises not from consent but from the voluntary act of taking control of the property. If the finder fails to exercise such care and the goods are lost or damaged due to negligence, they may be held liable. At the same time, the finder is not without rights.

They are entitled to retain the goods against all persons except the true owner, and in certain circumstances, even against the owner until reimbursed for lawful expenses incurred in preserving the goods. This right of lien ensures that the finder is not unfairly burdened for acting in good faith. However, the finder does not acquire ownership merely by finding the goods. The rights of the true owner remain paramount.

If the owner is identified, the finder must return the goods, subject to their right to reimbursement. Where a reward has been announced, the finder may have a claim to such reward, provided they have fulfilled the conditions attached to it. The law seeks to strike a careful balance. It encourages honesty and responsibility on the part of the finder while ensuring that the true owner's rights are not unjustly displaced. Misuse or dishonest conduct by the finder, however, may result in loss of their rights and imposition of liability.

11. A finds a lost laptop, spends money to repair it, and refuses to return it until reimbursed. The owner demands immediate return. What is the correct legal position?

a. Finder must return without compensation

b. Owner's claim overrides all rights

c. Finder becomes owner

d. Finder can retain laptop until reimbursed

12. A finds lost jewellery and uses it for personal purposes before returning it. What is the legal implication?

a. Finder is protected

b. No legal consequence

c. Finder loses rights and may be liable

d. Finder becomes owner

13. A reward is announced for lost goods. Finder returns goods but owner refuses reward. Which is legally correct?

a. Finder has no claim

b. Finder can claim reward

c. Reward depends on owner's will

d. Finder becomes owner

14. If the finder negligently loses the goods, what is the likely result?

a. No liability

b. Liability due to failure of reasonable care

c. Ownership transfers

d. Owner loses rights

15. Which of the following best weakens the finder's claim to retain goods?

a. Expenses incurred

b. Announcement of reward

c. Misuse of goods by finder

d. Good faith conduct

Answers

1. B – Accepting benefit binds B, so he must return it if he wants to reclaim property.
2. C – Lack of knowledge allows B to revoke the election later.
3. A – Election is needed only when rights are inconsistent.
4. B – Long acceptance with knowledge implies election.
5. C – Lack of awareness weakens binding election.
6. D – No fundamental right exists for such trade.
7. D – Even then, State action must not be arbitrary.
8. C – There is tension between regulating and profiting.
9. A – Doctrine assumes some trades are harmful.
10. B – Doctrine assumes some trades are harmful.
11. D – Finder has the right to retain goods until reimbursed.
12. C – Misuse leads to liability and loss of protection.
13. B – Finder can claim reward if conditions are met.
14. B – Finder must exercise reasonable care.
15. C – Misuse defeats finder's equitable claim.