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JUDICIARY EXAMS QUESTION PAPER

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Maharashtra Higher Judicial Service

Mains Examination, 2012

Question Paper

Question Booklet

DJ : PW/LC

Booklet Series

Booklet No

A


Date: 9th December, 2012

Total Questions: 100

Time : 90 minutes.

Total Marks : 200

INSTRUCTIONS

1. The booklet contains 100 questions. All questions carry equal marks.
2. Immediately after the commencement of the examination, you should check that this booklet does not have any unprinted or torn or missing pages or items, etc. If so please get it replaced by a complete Booklet. Question booklet will not be replaced after marking answers in answer-sheet.
3. Encode clearly the booklet series A,B,C or D, as the case may be, and indicate the series of question booklet, by completely shadowing the appropriate circle, by **black ink ball pen**, in the appropriate place in the answer-sheet.
4. If the candidate shadows the circle in the answer sheet which does not match the series of his/her question booklet provided, no marks will be allotted to such answer-sheet.
5. You shall enter your Roll number on the Booklet in the box provided alongside.

6. You have to mark your choices **Only** on the separate answer-sheet provided for the same. Please see instructions on last page of the answer-sheet.
7. Penalty for wrong answer:

There will be penalty for wrong answers marked by candidate.

- (i) There are four alternatives for the answer to every question. For each question for which a wrong answer has been given by the candidate, one fourth of the marks assigned to that question (0.50) will be deducted as penalty.
- (ii) If a candidate gives more than one answer, it will be treated as a wrong answer, even if one of the given answers happens to be correct and there will be same penalty as above to that question.
- (iii) If a question is left blank, i.e., no answer is given by the candidate, there will be no penalty for that question.

1. Sentence of solitary confinement is imposed in respect of _____.
- an offence for which under the Indian Penal Code the Court has power to impose sentence of rigorous imprisonment.
 - offence punishable with simple imprisonment.
 - an offence for which under any statute the Court has power to impose sentence of rigorous imprisonment.
 - 'a' and 'b' above.
2. A garnishee is _____.
- the judgment debtor.
 - a debtor of a Judgment debtor.
 - a judgment debtor's creditor.
 - the banker of the judgment debtor.
3. If a tenant in possession of immovable property is dispossessed by a stranger, the suit under Section 6 of Specific Relief Act may be brought _____.
- by none other than tenant.
 - by none other than landlord.
 - jointly by the tenant and landlord.
 - by landlord and/or tenant.
4. A wrongful assumption of public office can be ordered to be vacated by writ of _____.
- Mandamus
 - Certiorari
 - Prohibition
 - Quo-warranto
5. A report made by a police officer in a case which discloses, after investigation commission of a non cognizable offence shall be deemed to be _____.
- police report
 - charge sheet
 - complaint
 - final report
6. Every Will, except a Will made in exercise of a power of appointment is revoked _____.
- by the marriage of the maker/testator.

- c. does not extend to causing any harm.
- d. is unrestricted in both extent and duration.
12. The expression "dying intestate" refers to _____.
- a. dying without making a will.
- b. dying without legal heirs.
- c. dying without any property.
- d. none of the above.
13. Every suit shall be instituted _____.
- a. in the Principal Court of Original Civil Jurisdiction.
- b. in any Court in the locality.
- c. in the Court of the lowest grade competent to try it.
- d. in the Court of Civil Judge, Senior Division.
14. In case of consecutive sentences to be passed in one trial, the aggregate punishment shall not exceed _____ the amount of punishment which the court is competent to inflict for a single offence.
- a. thrice
- b. one forth
- c. one half
- d. twice
15. Where a contract to give time to the Principal debtor is made by the creditor with a third person, and not with the Principal debtor, _____.
- a. the surety stands cancelled.
- b. the surety is discharged.
- c. the surety is not discharged.
- d. the surety stands suspended for limited period.
16. Which of the following gives the buyer right to repudiate the contract and claim damages?
- a. Warranty
- b. Condition
- c. Security
- d. Guarantee

17. The dismissal of a suit for specific performance of a contract operates as a bar _____.
- to sue for compensation for breach of such contract.
 - to sue for recovery of earnest money paid to the defendant.
 - to sue for any other relief to which the plaintiff is entitled, by reason of such breach.
 - 'a' to 'c' above.
18. When a Muslim husband and wife mutually consent to a divorce, it is known as _____.
- | | |
|------------|----------------------|
| a. Mubarat | b. Talaq |
| c. Khula | d. None of the above |
19. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except _____.
- where it has been obtained by fraud.
 - where it has not been given on the merits of the case.
 - where the proceeding in which the judgment was obtained are opposed to natural justice.
 - all the above.
20. Marriage according to the Mahomedan Law is _____.
- | | |
|-------------------------|---------------------|
| a. sacrament | b. formality |
| c. a religious ceremony | d. a civil contract |

Directions: The following 1 to 8 items consist of two statements, one labelled as the 'Assertion (A)' and the other as 'Reason (R)'. You are to examine these two statements carefully and select the answers to these items using the codes given below:

Codes:

- Both A and R are individually true and R is the correct explanation of A
- Both A and R are individually true but R is not the correct explanation of A

- c. A is true but R is false
- d. A is false but R is true

21. Statement I(A)

Under Article 311 of the Constitution of India, a person who is a member of a Civil Service of the Union or a State cannot be dismissed or removed or reduced in rank except after an enquiry.

Statement II(R)

After such an enquiry, where it is proposed to impose upon him any such penalty, it is obligatory to give such person an opportunity of making a representation on the penalty proposed.

22. Statement I(A)

The Constitution of India mandates that the Chairman and other members of a State Public Service Commission shall be appointed by the President.

Statement II(R)

The President may by order remove from office the Chairman or any other member of a State Public Service Commission.

23. Statement I (A)

In criminal proceedings, the fact that the accused person has a bad character is relevant.

Statement II (R)

A previous conviction is relevant as evidence of bad character.

24. Statement I(A)

The preamble of the Constitution starts with 'We, the people of India'.

Statement II(R)

It implies that the Constitution is created by the entire nation.

25. Statement I (A)

Right to education is a fundamental right.

Statement II(R)

Our Constitution had no provision for education before making right to education as fundamental right.

- c. Dispute relating to criminal cases involving murder.
- d. Dispute relating to civil matters.
32. Order under Section 357 of the Code of Criminal Procedure granting compensation to the victim can be passed by_____.
- a. the trial court only. b. the appellate court only.
- c. the revisional court only. d. all of the above courts.
33. A obstructs a path along which B has a right to pass. A not believing in good faith that he has a right to stop path. B is thereby prevented from passing. Here _____.
- a. A has the right to restrain B.
- b. A wrongfully restrains B.
- c. A wrongfully confines B.
- d. A infringes the fundamental right of B for free movement.
34. Continuous easement is one whose enjoyment is_____.
- a. one that needs the act of man for its enjoyment.
- b. continual without the act of man.
- c. one the existence of which is shown by some permanent signs.
- d. one which requires no signs as mentioned in option 'c'.
35. Presumption under Section 90 of Indian Evidence Act, as to due execution and attestation of document is attached to _____.
- a. registered document only.
- b. thirty year old document.
- c. any twelve year old document.
- d. any document obtained from the custody of Court.
36. When under the Will any benefit is given either by way of bequest or by way of appointment to any person attesting the Will_____.
- a. the bequest or appointment shall be void so far as concerns the person so attesting.
- b. the Will is void in its entirety.
- c. the Will stands revoked.
- d. the Will is valid in its entirety.

37. Pleading means _____.
- Plaint only.
 - Plaint and/or written statement.
 - Written statement only.
 - Plaint, written statement and applications for interim relief.
38. A discovery of fact pursuant to a disclosure statement made by accused person in custody of police (Sec. 27 Evidence Act) includes _____.
- the object found.
 - the place from which the object is produced.
 - the knowledge of the accused as to the place from which the object is produced.
 - all the above.
39. When a complaint is presented to a Magistrate, and the Magistrate proceeds to examine the complainant and the witnesses, the Magistrate is conducting _____.
- investigation.
 - an inquiry.
 - a trial.
 - a miscellaneous proceeding.
40. A witness who is not a party to a suit _____.
- can be compelled by a party to produce his title deeds to any property.
 - cannot be compelled to produce his title deeds to any property.
 - cannot be compelled to produce his title deeds to any property unless he agrees with the person seeking the production of such deeds in writing to produce them.
 - can be compelled to produce his title deeds to any property, if the Court so desires.
41. If the donee dies before the acceptance of the gift, the gift is _____.
- valid.
 - void.
 - voidable.
 - valid if acceptance is communicated by the donee's heirs.

42. 'X' puts jewels into a box belonging to 'Y' with the intention that they may be found in that box, and that this circumstance may cause Y to be convicted of theft. X has _____.
- prosecuted Y on the charge of theft.
 - fabricated false evidence.
 - charged Y for misappropriation of property.
 - none of the above.
43. An Easementary Right by prescription over the property belonging to the Government becomes absolute when it has been peaceably enjoyed there with for the period of _____.
- 25 years.
 - 30 years.
 - 20 years.
 - 22 years.
44. Period of limitation for suit against a person, in whom property has become vested in trust for any specific purpose, for the purpose of following in his hands such property is _____.
- 12 years.
 - 6 years.
 - 3 years.
 - no period of limitation.
45. Where duration of partnership is not specified in the contract, the partnership is called _____.
- partnership in extenso.
 - partnership pro tem.
 - partnership sine die.
 - partnership at will.
46. "Actionable Claim" means a claim to any debt, _____.
- secured by mortgage of immovable property.
 - secured by hypothecation or pledge of movable property.
 - other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property.
 - none of the above.
47. Which Constitution Bench decision of the Supreme Court issued the guidelines to decide a case of rarest of rare category for imposing death sentence?
- Bachan Singh's case
 - Kehar Singh's case
 - Baldev Singh's case
 - Tahasildar Singh's case

48. "Res gestae" is a phrase which relates to the provisions of _____.
- The Code of Civil Procedure.
 - Hindu Law.
 - The Evidence Act.
 - Interpretation of Statutes.
49. Accessory rights mean _____.
- right to access/way.
 - right to do acts necessary to secure the full enjoyment of an easement.
 - right to air and light.
 - all the above.
50. For creating a partnership, it is essential for the partners to agree _____.
- to share losses.
 - to share profits.
 - to share experiences.
 - to share privileges.
51. Under the Child Marriage Restraint Act, 1929 child means a person who, if a male, has not completed _____ years of age.
- 14
 - 21
 - 16
 - 18
52. Any agreement for giving or taking of dowry shall be _____.
- valid.
 - void.
 - voidable.
 - none of the above.
53. Under Hindu Succession Act, a person is disqualified from inheriting the property if _____.
- he suffers from any virulent disease.
 - he is disabled/handicapped.
 - he commits the murder of the person whose property is to be inherited.
 - he has been convicted for any other offence.

54. Juvenile in conflict with law means a juvenile who has not completed _____.
- eighteenth year of age at the time of commission of offence.
 - eighteenth years of age at the time of framing of charge.
 - twenty one years of age while he is produced before the Juvenile Justice Board in connection with offence he has committed.
 - twenty one years of age at the time he is convicted.
55. Abettor is a person _____.
- who actually commits the offence.
 - who instigates the commission of offence.
 - who merely remains present at the scene of offence.
 - who does not report the crime to police.
56. Article 361 of the Constitution exempts the following from operation of the Penal Code.
- Ministers
 - Judges
 - President and Governor /or Governor of a State
 - None of the above
57. 'Person' includes _____.
- Human beings only.
 - Living beings only.
 - Any company or association or body of individuals whether incorporated or not.
 - None of the above.
58. A carbon copy of a document is _____.
- primary evidence.
 - secondary evidence.
 - circumstantial evidence.
 - none of the above.
59. The Principal Court of Original Civil Jurisdiction in the District, is _____.
- the Court of Civil Judge, Senior Division.

- b. the Court of Civil Judge, Junior Division.
 - c. District Court.
 - d. all the above.
60. Which Act gives the general guidelines on legislative drafting?
- a. Limitation Act
 - b. Civil Procedure Code
 - c. Court Fee and Suit Valuation Act
 - d. General Clauses Act
61. Under Hindu Succession Act when two or more heirs succeed together to the property of an intestate, they shall take the property as _____.
- a. joint tenants.
 - b. tenants in common.
 - c. tenants.
 - d. 'a' and 'b' above.
62. When an accused seeks pardon from the court and offers to give evidence against all others involved in a crime, he is called _____.
- a. Approver.
 - b. Accomplice.
 - c. Witness.
 - d. none of the above.
63. Within the meaning of the Section 2(s) of Protection of Women from Domestic Violence Act, 2005, shared household includes _____.
- a. the house belonging to or taken on rent by the husband.
 - b. the house which belongs to the joint family of which the husband is not a member.
 - c. the house which belongs to the joint family of which any of the parents only of the husband are members.
 - d. the house belonging to or taken on rent by any of the parents of the husband.
64. No one can be convicted twice for the same offence. This doctrine is called _____.
- a. Estoppel.
 - b. Double jeopardy.
 - c. Burden of proof.
 - d. Corpus delicti.

65. Who of the following is incapable of making Will?
- a. Deaf and dumb person
 - b. Blind person
 - c. A married woman
 - d. A minor.
66. Under Section 306 of the Code of Criminal Procedure a tender of pardon to accomplice may be granted _____.
- a. in respect of any offence triable exclusively by the Court of Session.
 - b. in respect of any offence punishable with imprisonment which may extend to 7 years or with more severe sentence.
 - c. in respect of any offence.
 - d. 'a' and 'b' above.
67. The offence punishable under Section 31 of the Protection of Women from Domestic Violence Act shall be _____.
- a. cognizable and non bailable.
 - b. cognizable and bailable.
 - c. Non-cognizable and bailable.
 - d. Non cognizable and non-bailable.
68. Section 5 of the Limitation Act is applicable to _____.
- a. suits.
 - b. counter claims.
 - c. all kinds of applications.
 - d. appeals and applications, other than those filed under Order XXI of Civil Procedure Code.
69. A mortgagee who has obtained a decree for the payment of money in satisfaction of a claim arising under the mortgage _____.
- a. is entitled to bring the mortgaged property to sale in execution of such decree.
 - b. is not entitled to bring the mortgage property to sale otherwise than by instituting a suit for sale in enforcement of the mortgage.
 - c. cannot file a suit for sale of such property in view of bar of Order II, Rule 2 C.P.C.
 - d. none of the above.

70. As per Section 48 of Negotiable Instrument Act, subject to the provisions of Section 58, a promissory note, bill of exchange or cheque payable to order, is negotiable by the holder by _____.
- delivery to the payee.
 - indorsement and delivery thereof.
 - presentment and indorsement.
 - indorsement and presentment.
71. Cruelty to a woman by husband or relatives of husband is defined under _____.
- 306 I.P.C.
 - 309 I.P.C.
 - 304B I.P.C.
 - 498A I.P.C.
72. What does 'ab initio' refer to?
- Towards the end.
 - From the beginning.
 - Initial burden.
 - None of the above.
73. At the determination of the period of limitation under the "Limitation Act, 1963" to any person for instituting a suit for possession of any movable property.
- his right to such property shall be extinguished.
 - his right to such property shall not be extinguished.
 - his remedy to recover such property shall be extinguished.
 - 'a' and 'c' above.
74. Ossification test is done to determine.
- Age
 - Sex
 - Blood group
 - Finger print
75. When an offence is committed outside India by a citizen of India he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found provided that _____.
- the Central Government grants previous sanction for inquiry into or trial of such offence in India.
 - the State Government grants previous sanction for inquiry into or trial in India.

84. Which one of the following is one of the principles of Natural Justice.
- Ubi jus ibi remedium
 - Nemo judex in causa sua
 - Res ipsa loquitur
 - injuria sine damnum
85. Every warrant of arrest issued by a court shall remain in force, until _____.
- it is cancelled by the court which issued it, or until it is executed.
 - the expiry of one year from the date of issuance.
 - the date on which it is made returnable.
 - expiry of maximum period of imprisonment prescribed for the offence.
86. Where without delivering possession of the mortgaged property the mortgagor binds himself personally to pay the mortgage money and agrees that in the event of his failing to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of the sale to be applied in payment of the mortgage money, the transaction is called _____.
- mortgage by condition sale.
 - an English mortgage.
 - a simple mortgage.
 - an anomalous mortgage.
87. Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, valuable security or anything signed or sealed which may be converted into a valuable security commits _____.
- dacoity.
 - robbery.
 - cheating.
 - extortion.
88. Rule making power granted to the executive by the Legislature is called _____.
- Delegated legislation.
 - Colourable Legislation.
 - Administrative legislation.
 - None of the above.

89. Defamation by means of writing, print etc. is legally called ____.
- Innuendo.
 - Slander.
 - Libel.
 - none of the above.
90. The maximum monthly maintenance allowance that can be granted is _____.
- Rs. 1500
 - Rs. 1000
 - Rs. 500
 - according to the discretion of the court.
91. In a suit for specific performance of contract to transfer immovable property, it shall be presumed that _____.
- the breach of contract cannot be adequately relieved by compensation in money.
 - the breach of contract can be adequately relieved by compensation in money.
 - the breach of contract cannot be adequately relieved by compensation in money where the property is held by the defendant as the agent of the plaintiff.
 - the breach of contract cannot be adequately relieved by compensation in money where the property is held by the defendant as the trustee of the plaintiff.
92. Decree shall be deemed to include _____.
- the rejection of a plaint and the determination of any question within section 144 of Civil Procedure Code.
 - any order of dismissal for default.
 - any order directing return of plaint.
 - all the above.
93. What is meant by 'Court of Record'?
- The court that is competent to give directions and issue writs.
 - The court that can punish for its contempt.
 - The court that preserves all its records.
 - 'b' and 'c' above.

94. Which right has been deleted from the list of Fundamental Rights and has become a constitutional right?
- Right to Equality
 - Right to Freedom
 - Right to Property
 - Right to Constitutional Remedies
95. A gift deed not attested by at least two witnesses is _____.
- void.
 - valid.
 - voidable.
 - 'a' or 'c' above.
96. X introduces water into an ice-house belonging to Y and thus causes the ice to melt intending to cause wrongful loss to Y. X has committed the offence of _____.
- mischief.
 - cheating.
 - nuisance.
 - wrongful loss.
97. An order of the court directing a person to do something or refrain from doing a particular thing is called _____.
- Decree.
 - Execution.
 - Injunction.
 - none of the above.
98. A final judgment of a competent Court, in exercise of matrimonial jurisdiction is _____.
- a judgment in rem.
 - a judgment in personam.
 - a judgment simplicitor.
 - all the above.
99. The maxim "Res Ipsa Loquitor" means _____.
- Res gestae.
 - Res integra.
 - the thing that does not speaks for itself.
 - the thing speaks for itself.
100. When one person is held liable for the wrongful act of another, the liability is called _____.
- Strict liability.
 - Vicarious liability.
 - Tortuous liability.
 - none of the above.
