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B.B.A

Third Year

(Osmania University)

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2018

BUSINESS AND CORPORATE LAW

- ☞ **STUDY MANUAL**
- ☞ **SHORT NOTES**
- ☞ **SOLVED QUESTION PAPERS**

- by -

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B.B.A

Third Year

(Osmania University)

BUSINESS AND CORPORATE LAW

Study Manual, Short Notes & Solved Question Paper

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UNIT - I

Indian Contract Act 1872: Essential elements of Contract - Definition, offer and acceptance. Consideration, capacity to contract, free consent, legality of object, performance of contract, discharge of contract and breach of contract, quasi contracts. Special Contracts: indemnity and guarantee bailment and pledge, contract of agency.

UNIT - II

Sale of Goods Act 1930: Contract of Sale of goods, Definition, formation of contract, sale and agreement to sell, conditions and warranties - transfer of property in goods - rights of an unpaid seller. The Partnership Act 1932 - Definition, Characteristics of Partnership Deed - Definition, Characteristics and Format of Partnership deeds.

UNIT - III

The Negotiable Instruments Act 1881: Definition, Types of Negotiable Instruments, Promissory Notes, Bills of Exchange, Cheques,- Characteristics of Negotiable Instruments holder and holder in due course, transfer of negotiable instrument, presentment, dishonor and discharge, hundis, banker and customer - crossing of cheques.

UNIT - IV

The Companies Act 1956: Definition, Formation of Company, Memorandum and Articles of Association, Types of Companies, Share Capital and Debentures, Management and Administration, Appointment of Directors and Managing Director, Powers of Board, Meetings of Board, Remunerations of Director, Company meetings, Statutory Meeting, Annual General Meeting and Extra Ordinary General Meeting, Minutes of the Meeting and resolutions, corporate reporting. Winding up of Corporation.

UNIT - V

The Consumer Protection Act 1986: Scope, Consumer Protection Councils, Consumer Disputes Redressal Agencies - Rights of Consumers - Consumer Awareness . Intellectual Property Rights: Definition, Types of IPR, Importance of IPR, intellectual Property Protection and Enforcement, Carriage of Goods Act - Right to information Act, 2005.

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UNIT I

Indian Contract Act 1872: Essential elements of Contract - Definition, offer and acceptance. Consideration, capacity to contract, free consent, legality of object, performance of contract, discharge of contract and breach of contract, quasi contracts. Special Contracts: indemnity and guarantee bailment and pledge, contract of agency.

1.1 Introduction to Law

Law is essential to any society in that it provides the rules by which people and businesses interact. Law affects almost every function and area of business. The authors of one business law text go so far as to say that "the difference between winning and losing in the business world often depends upon the ability to make good choices from a legal perspective." This is because almost every business decision has legal repercussions, including deciding whether to incorporate a business, obtaining financing, protecting proprietary knowledge used to develop products/services, entering into contracts to purchase raw materials, ensuring that products meet safety standards, disposing of plant wastes, promoting and pricing products/services, entering into contracts to sell products/services, and providing product warranties and after-sales service.

At all stages of business, running afoul of the law can hurt a business, while playing within the boundaries of the law can help the business to succeed. For this reason, accountants, who play a key role in almost every aspect of operations, must have a solid working knowledge of the law.

1.1.1 Meaning of Law

Simply stated, 'law' operates to regulate the actions of persons with respect to one another and entire group or society and the State.

Business law deals with rights and obligations arising out of mercantile transactions among mercantile persons. Business law denotes the aggregate body of legal rule connected with trade, industry and commerce.

1.1.2 Definitions of Law

Law is defined by different authors in different ways. The various definitions of law are as follows :

According to Salmond Says, "The body of principles recognized and applied by the state for the administration of Justice".

According to Holland "A Law is a general rule of external behaviour enforced by a sovereign political authority."

According to John Austin "A body of rules fixed and enforced by a sovereign political authority."

1.1.3 Features of the Law

The following are the some of the feature of the Law :

- Law is a body of rules
- External acts of human beings are governed by rules.
- Law presupposes existence of state or sovereign political authority for enforcing rules.
- Law is generally imposed by some authority.
- Law can be enforced in a court of law.

1.1.4 Branches of Law

Law can be broadly classified into two branches namely - National Law and International Law. The National Law can be reclassified into two types namely - Civil Law and Criminal Law. The Civil Law includes - Constitutional, Administrative, Personal, Property Laws and Business as well as Industrial Laws.

1. **National Law :** The law passed by the Government of a country to regulate various activities of the people in the country is known as "National Law". This law applies to all citizens of the country.
2. **International Law :** The principles of law approved by various nations of the world to regulate the relations between them are known as principles of "International Law".
3. **Civil Law :** Civil Law is that part of National law of a country which shows the rights and duties of the citizens of the country. It shows how to live in the country. This Law includes the Constitution of India, Transfer of Property Laws, Personal Laws etc.

4. **Criminal Law :** Criminal law is that part of National law of a country which shows what the people of the country should not do. It restricts the citizens of the country from committing a number of offences or criminal activities. It imposes capital punishments for the offenders.
5. **Business Law or Mercantile Law** : It is a branch of civil law of a country which regulates the relations between mercantile persons or businessmen of the country between themselves and with other citizens of the country. This Law includes the Indian Contract Act, the Sale of Goods Act, the Consumers' Protection Act, the Information Technology Act etc,.
6. **Industrial Law** : It is a branch of civil law of a country which regulates the relations between employees and employers engaged in the industries of the country. This Law includes the Factories Act, the Industrial Disputes Act, the Trade Unions Act etc.

1.1.5 Sources of Law

Various principles and rules available in India, under Mercantile or Business Law are based upon different sources. The most important sources are as under.

1. **English Mercantile Law :** Many laws in force in our country were passed by the British Government during their regime in India. Those principles were developed in England from times immemorial. They were based on (a) Principles of Common Law of England, (b) Principles of Equity, (c) Lex Mercatoria or Law of Merchants, (d) Customs and usages of English Merchants (e) Principles of Roman law and (f) British Parliamentarian Legislation.
2. **Customs and Usages of Indian Merchants :** A number of trade customs and usages familiar with Indian Merchants are approved and recognised by courts of law and such principles became a part of Indian Mercantile law such as, the rule of Dandupat (Restricting a creditor from collection of interest more than the principal amount) and Account Payee crossing of cheques etc.
3. **Judicial Precedents or Decided cases :** The Judgements given by various courts of law are used as rules of law for giving judgements in later cases. This is known as Judicial Precedency System (Cases decided in England before 1947 & Cases decided In India before and after 1947 are taken as judicial precedents).

4. **British Government Laws in India :** Various Laws passed by British Government in India were adopted by the Indian Government after becoming independent Country in 1947 through a Governmental order namely Adoption of British Laws 1947.
5. **Laws passed by Indian Parliament:** A number of laws are passed by the Parliament of India after independence. These laws constitute a strong source of Indian Mercantile Law or Business Law. All the laws passed in India after 1947 come under this category.
6. **Laws passed by State Governments :** State Government also passed various Laws regarding subjects under their control. Such laws also become a part of Mercantile Law.

1.1.6 Constitution of Business Law of our Country

The following are the constituents of Business law of our country.

1. The Indian Contract Act, 1872
2. The Negotiable Instruments Act, 1881
3. The Sale of Goods Act, 1930
4. The Indian Partnership Act, 1932
5. The Essential Commodities Act, 1955
6. The Companies Act, 1956
7. The Consumer Protection Act, 1986
8. The Information Technology Act 2000

1.2 Indian Contract Act 1872

Introduction

The Indian Contract Act came into existence in September 1872. The first part of the Act (Sections 1 to 75) contains the general principles of the law of contract, and the next part (Sections 124 to 258} contains provisions regarding special contracts like indemnity and guarantee (Sections 124 to 147) bailment and pledge (Sections 148 to 181) and agency (Sections 182 to 238). Sections 73 to 123 and 239 to 266 have been repealed and merged into Indian Sale of Goods Act and Indian Partnership Act.

Meaning of Contract

A contract is an agreement made between two or more parties which the law will enforce, Sec. 2 (h) defines a contract as an agreement enforceable by law.

Definitions of Contract

Salmond says, "Contract is an agreement creating and defining obligations between the parties."

Sec 2(h) of Indian Contract Act defines contract as "An agreement enforceable by law."

1.2.1 Nature of Contract

The law of contract is that branch of law which determines the circumstances in which promise made by the parties to a contract shall be legally binding on them. All of us enter into a number of contracts everyday knowingly or unknowingly. Each contract creates some right and duties upon the contracting parties.

Indian contract deals with the enforcement of these rights and duties upon the parties. Indian Contract Act, 1872 came into effect from 1st September, 1872. It extends to the whole of India except the state of Jammu and Kashmir.

1.2.2 Elements of Contract

Thus from the above definitions there are two essential elements of a contract

(a) Agreement

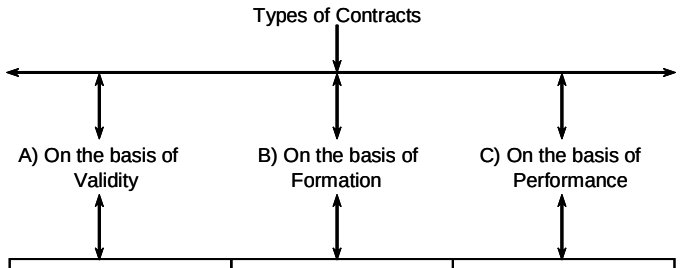
(b) Enforceability law

(a) Agreement : According to Sec 2(E) of Indian Contract Act agreement is "Every promise or every set of promises forming the consideration for each other." A promise is defined in Sec 2(B) as "A proposal when accepted becomes a promise."

An agreement involves proposal or offered by one party and acceptance of the same by the other party. It requires existence of two or more persons.

(b) Enforceable by law : An agreement to become a contract must give rise to legal obligations. The common acceptance formed and communicated between the two parties must create legal relations.

1.2.3 Types of Contracts



1. Valid contract	1. Express contract	1. Executed contract
2. Void contract	2. Implied contract	2. Executory contract
3. Voidable contract	3. Quasi contract	3. Unilateral contract
4. Void agreement		4. Bilateral contract
5. Un enforceble contracts		
6. Illegal Agreement		

A) Contract on the Basis of Validity

1. Valid contract

An agreement which has all the essential elements of a contract is called a valid contract. A valid contract can be enforced by law.

2. Voidable contract [Section 2(i)]

An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of other or others, is a voidable contract. If the essential element of free consent is missing in a contract, the law confers right on the aggrieved party either to reject the contract or to accept it. However, the contract continues to be good and enforceable unless it is repudiated by the aggrieved party.

3. Void contract [Section 2(j)]

A void contract is a contract which ceases to be enforceable by law. A contract when originally entered into may be valid and binding on the parties. It may subsequently become void.

4. Void agreement

An agreement not enforceable by law is said to be void. Such agreement does not confer any right to any of the parties to it. The agreement, in such a case, is void-ab-initio (from the very beginning). Such an agreement does not result in a contract at all.

In addition to the above there are some agreements

5. Unenforceable contracts

Where a contract is good in substance but because of some technical defect cannot be enforced by law is called unenforceable contract. These contracts are neither void nor voidable.

6. Illegal agreement

An agreement is illegal if it is forbidden by law; or is of such nature that, if permitted, would defeat the provisions of any law or is fraudulent; or involves or implies injury to a person or property of another, or court regards it as immoral or opposed to public policy. These agreements are punishable by law. These are void-ab-initio.

"All illegal agreements are void agreements but all void agreements are not illegal."

B) Contract on the basis of Formation

1. Express contract

Where the terms of the contract are expressly agreed upon in words (written or spoken) at the time of formation, the contract is said to be express contract.

2. Implied contract

An implied contract is one which is inferred from the acts or conduct of the parties or from the circumstances of the cases. Where a proposal or acceptance is made otherwise than in words, promise is said to be implied.

3. Quasi contracts

A quasi contract is created by law. Thus, quasi contracts are strictly not contracts as there is no intention of parties to enter into a contract. It is legal obligation which is imposed on a party who is required to perform it. A quasi contract is based on the principle that a person shall not be allowed to enrich himself at the expense of another.

C) Contract on the basis of Performance

1. Executed contract

An executed contract is one in which both the parties have performed their respective obligation.

2. Executory contract

An executory contract is one where one or both the parties to the contract have still to perform their obligations in future. Thus, a contract which is partially performed or wholly unperformed is termed as executory contract.

3. Unilateral contract

A unilateral contract is one in which only one party has to perform his obligation at the time of the formation of the contract, the other party having fulfilled his obligation at the time of the contract or before the contract comes into existence.

4. Bilateral contract

A bilateral contract is one in which the obligation on both the parties to the contract is outstanding at the time of the formation of the contract. Bilateral contracts are also known as contracts with executory consideration.

1.2.4 Differences between Agreement and Contract

Agreement	Contract
1. Proposal plus acceptance plus consideration becomes an agreement.	1. Agreement plus enforceability at law becomes a contract.
2. Agreement is the foundation for a contract.	2. Contract is the final stage of an agreement.
3. All agreements are not contracts	3. All contract are agreements
4. Agreement becomes a contracts only when its is enforceable law.	4. Agreements which are not enforceable at law will not become contracts.
5. Agreement will not create legal obligation.	5. Contract creates legal obligation between parties.

1.3 Essential Elements of Contract/Valid Contract

According to Section 10, "All agreements are contracts if they are made by the free consent of the parties competent to contract, for a lawful consideration and with a lawful object and are not hereby expressly declared to be void."

The analysis of the provisions of Section 10 shows that a valid contract must have the following essential elements:

1. Proper Offer and Acceptance

There must be at least two parties-- one making the offer and the other accepting it. Such offer any acceptance must be valid. An offer to be valid must fulfil certain conditions, such as it must intend to create legal relations, its term, must be certain and unambiguous, it must be communicated to the person to whom it is made, etc. An acceptance to be valid must folds certain conditions, such as it must be absolute and unqualified, it must be made in the prescribed manner, it must be communicated by an authorised person before the offer lapses.

2. Intention to Create Legal Relationship

There must be an intention among the parties to create a legal relationship. In case of social or domestic agreements, the usual presumption is that the parties do not intend to create legal relationship but in commercial or business agreements, the usual presumption is that the parties intend to create legal relationship unless otherwise agreed upon.

Example

X invited Y to a dinner Y accepted the invitation. It is a social agreement. If X fails to serve dinner to Y, Y cannot go to the courts of law for enforcing the agreement. Similarly, if Y fails to attend the dinner, X cannot go to the courts of law for enforcing the agreement.

But even a business agreement may not be enforceable by law where the agreement so provides e.g. in Rose & Frank Co. v. Crompton Bros. (1925) A.C. 445, the agreement entered into stated that it will not be subject to legal jurisdiction in the law courts, the agreement was not enforceable by law as the parties never agreed to create legal obligations despite being a business agreement.

3. Capacity of Parties

The parties to an agreement must be competent to contract. In other words, they must be capable of entering into a contract. According to Section 11 of Indian

Contract Act, 1872. "every person is competent to contract who is of the age of majority according to the law to which he is subject and who is of sound mind and is not disqualified from contracting by any law to which he is subject."

In other words. The person must be major, must be of sound mind and must not be declared disqualified from contracting by any law to which he is subject. If the parties to agreement are not competent to contract, then no valid contract comes into existence.

Example

X, a minor borrowed Rs 8,000 from Y and executed mortgage of his property in favour of the lender. This was not a valid contract because X is not competent to contract. Therefore, the mortgage was not valid and the money advanced to minor could not be recovered.

4. Lawful Consideration

An agreement must be supported by lawful consideration. Consideration means something in return. According to Section 23 of the Indian Contract Act, 1872, "the consideration is considered lawful unless it is forbidden by law or is fraudulent or involves or implies injury to the person or property of another or is immoral or is opposed to public policy."

Example

X agrees to sell his car to Y for Rs. 1,00,000. Here Y's promise to pay Rs. 1,00,000 is the consideration for X's promise to sell the car and X's promise to sell the car is the consideration for Y's promise to pay 1,00,000.

5. Free Consent

There must be free consent of the parties to the contact. According to Section 14, "Consent is said to be free when it is not caused by (i) coercion, (ii) undue influence, (iii) fraud, (iv) misrepresentation, or (v) mistake". If the consent of the parties is not free, then no valid contract comes into existence.

Example

X threatens to kill Y if he does not sell his house to X. Y agrees to sell his house to X. In this case, Y's consent has been obtained by coercion and therefore, it cannot be regarded as free.

6. Lawful Object

The object of an agreement must be lawful. According to Section 23 of the Indian Contract Act, 1872, "the object is considered lawful unless it is forbidden by law or is fraudulent or involves or implies injury to the person or property of another or is immoral or is opposed to public policy."

Example 1

X, Y and Z enter into an agreement for the division among them of gains acquired or to be acquired by them by fraud. The agreement is void because its object is unlawful.

Example 2

X lets a flat on hire to Y a prostitute, knowing that it would be used for immoral purposes. The agreement is void because its object is for immoral purposes.

7. Agreement not Expressly Declared Void

The agreement must not have been expressly declared void under the provisions of Sections 24 to 30 of the Indian Contract Act, 1872. Under these provisions, agreement in restraint of marriage, agreement in restraint of legal proceedings, agreement in restraint of trade and agreement by way of wager have been expressly declared void.

Example

X promised to marry none else except Y and in default pay her Rs 1,00,000. X married to Z and Y sued X for the recovery of Rs 1,00,000. It was held that Y was not entitled to recover anything because this agreement was in restraint of marriage and as such void.

8. Certainty of Meaning

The terms of the agreement must be certain and unambiguous. According to Section 29 of the Indian Contract Act, 1872, "agreements the meaning of which is not certain or capable of being made certain are void." Example: X a dealer in different types of oils agreed to sell 100 tonnes of oil to Y. This agreement is void on the ground of uncertainty because it is not clear what kind of oil is intended to be sold. If, however, the meaning of the agreement could be made certain from the circumstances of the case, it will be treated as a valid contract. Example: X who is a dealer in mustard oil, agreed to sell 100 tonnes of oil to Y. This agreement is valid because the meaning of the agreement could be easily ascertained from the circumstances of the case.

9. Possibility of Performance

The terms of the agreement must be such as are capable of performance. According to Section 56, "an agreement to do an impossible act is void."

Example

X agrees with Y to discover treasure by magic and Y agrees to pay Rs 1,000 to X. This agreement is void because it is an agreement to do an impossible act. Example II: X agrees with Y to enclose some area between two parallel lines and Y agrees to pay Rs 1,000 to X. This agreement is void because it is an agreement to do an impossible act.

10. Legal Formalities

The agreement must comply with the necessary formalities as to writing, registration, stamping etc. If any required in order to make it enforceable by law.

Example

An oral agreement for arbitration is unenforceable because the law requires that arbitration agreement must be in writing.

1.4 Offer and Acceptance

Introduction

Offer and acceptance analysis is a traditional approach in contract law used to determine whether an agreement exists between two parties. An offer is an indication by one person to another of their willingness to contract on certain terms without further negotiations. A contract is then formed if there is express or implied agreement. A contract is said to come into existence when acceptance of an offer has been communicated to the offer or by the offeree.

The offer and acceptance formula, developed in the 19th century, identifies a moment of formation when the parties are of one mind. This classical approach to contract formation has been weakened by developments in the law of estoppel, misleading conduct, misrepresentation and unjust enrichment.

The person making the proposal is called the 'offeror' or 'promisor'. The person to whom the offer is made is called the 'offeree' or 'promisee'.

A offers to sell his scooter to B for Rs. 5,000. This is a proposal. A is the offeror or promisor and B is the offeree.

1.4.1 Proposal or Offer

Offer is one of the components of agreement. It's status is equal to that of question. Offer is otherwise known as proposal. The person who is making the offer is called offerer or promissory or proposer.

Definition of Offer

When a person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the ascent of that other to such act or abstinence he is said to make a proposal. - Section 2 (a) of Indian Contract act.

Kinds of Proposal

1. General Proposal

When proposal is made with the entire world it is called general proposal. But contract is made only with the person who performs the conditions of the proposal.

2. Specified Proposal

It is made to specific person or specific class. It is also accepted by specific person.

3. Express Proposal

When the proposal is expressed in words or in writing it is called express proposal.

4. Implied Proposal

When the proposal is conveyed by the contract of the offerer, it is called implied proposal.

Essential of Valid Proposal

Following are the important conditions

1. Legal Relationship

It is essential for a valid proposal that it must be made with the intention of creating legal relationship otherwise it will be only invitation. A social invitation may not create legal relationship.

Example

Mr. John invites Mr. Robbin to dinner and he accepts. It does not create any legal relations.

2. Clear Terms and Conditions

Proposal should be certain clear, understandable and simple. It may not create any confusion in the mind of propose should be precised and definite.

Example

Mr. Agha offers to sell his house to Miss. Peenu for Rs. 10 lacks she agrees. It is a contract and create legal relationship.

3. General and Specific Offer

When proposal is opened to the general public it is called general proposal on the other hand when it is made to the specific person, it is called specific offer. In case of general proposal contract is made with person who accepts the offer.

4. Must be Communicated

It is also an important rule for the validity of proposal. Without communication acceptance of proposal by the propose is not possible. How an offer can be accepted unless it has been bought to the knowledge of a person to whom it is made.

5. Assent Must be an Object

Proposal without object will not be valid. The object of the proposal must be to get the assent of the other party to whom the offer has been made.

6. Distinction Between Proposal and Invitation

Proposal is different than the invitation of tenders. Price list of goods and quotation. These are only invitation of an offer and not the proposal.

7. Communication Method

There are three methods of communication proposal can be made orally, in writing or by conduct. Generally proposals are made orally or writing.

8. Acceptable Proposal

If the acceptance of the proposal is not possible then it will not be a valid proposal. It is essential that acceptance must be possible.

1.4.2 Acceptance

Acceptance means giving consent to the offer. It is an expression by the offeree of his willingness to be bound by the terms of the offer. According to Section 2(b) of the Indian Contract Act, 1872, "A proposal is said to be accepted when the person to

whom the proposal is made signifies his assent thereto. A proposal when accepted becomes a promise." In other words, an acceptance is the consent given to offer. Example X offers to sell his car to Y for Rs 1,00,000. Y agrees to buy the car for Rs 1,00,000. Y's act is an acceptance of X's offer.

Essentials of Valid Acceptance

Essentials or rules relating to valid acceptance are following :

1. Acceptance by Authorized Person

Communication of acceptance should be made by a person who has the authority to accept it. If unauthorized person provides the information it is ineffective.

Example

Mr. Akram sold his company to Mr. Nawaz for Rs. 10 million. Mr Ashraf now gives the supply order for the goods to Mr. Akram by name. Mr. Nawaz received the order and supplied. There was no contract between Mr. Nawaz and Mr. Ashraf because offer was not made to Mr. Ashraf.

2. Specific Time

If time limit is specified then acceptance must be given within that period. Otherwise within a reasonable time it must be given.

3. Acceptance Before Offer Lapses

If the acceptance is made after the withdrawn or lapses of offer, then it is not a valid acceptance. Acceptance must be made before the offer lapses.

4. Acceptance After Communication

Before the communication of offer, acceptance cannot be given. Acceptance cannot be valid if it is given before the communication of offer.

Example

Mr. Awan is thinking to sell his car to Mr. Ram. But Mr. Ram writes him a letter of acceptance. The acceptance is not valid as it has been given before offer.

5. Particular Manner

Acceptance must be given according the particular manner prescribed in the offer, if acceptance is not given according to that then it can be rejected by the offer. If there is no such type of any condition then it can be made in a reasonable way.

6. Intention Must be Shown

Acceptance must show the intention of the acceptor to accept the offer. Intention to accept the offer can be shown by words, or by conduct. Silence does not show acceptance.

Example

Mr. Rana offers to sell his house to Mr. Jhon. If Mr. Jhon accepts it by writing a letter. This is an express acceptance.

7. Acceptance Informed

When acceptance comes to the knowledge of the proposer it becomes irrevocable and it becomes a valid acceptance.

8. Complete Acceptance

All the terms and conditions of the offer should be accepted by the acceptor. If any part of the offer is rejected then acceptance can not be called valid.

Example

Mr. Farid offers to sell his three horses for Rs. 3 lac to Mr. Khan. Mr. Khan agrees to purchase one horse only. It is not a valid acceptance.

9. Case of Refusal

If once the offer is rejected by the acceptor, then it can not be accepted by the acceptor. Unless it is renewed by the proposer. Renewal is necessary for a valid acceptance.

10. According to Act

Acceptor must accept the proposal according to the requirements of the act. If he ignores the requirements of act then it is not a valid acceptance.

1.4.3 Rules of Communication and Revocation of Proposal and Acceptancy

For the proposal and acceptance, communication plays the central role. Without communication proposal and acceptance is not possible without bringing proposal in the notice of the acceptor, proposal cannot be completed. On the other hand if the acceptance is not communicated to the proposer, it cannot be completed. So we can say that without communication agreement is not possible between the two parties.

A) Rules of Communication of an Offer

The communication of an offer is completed when it comes the knowledge of the person to whom it is made.

Example

Suppose Mr. Warn proposes by letter to sell his factory to Mr. Anderson for Rs. 10 million. When Mr. Anderson receives the letter, the communication is completed.

In the above example this proposal is not completed as long as Mr . Anderson does not receive the letter of Mr. Warn containing the above proposal. If a proposal makes the proposal face to face to the acceptor completes, as the acceptors hears it.

B) Rules of Communication of Acceptance

1st : The communication of acceptance is completed as against the proposer when it is put in a course of transmission to him, so as to be out of the power of the acceptor.

2nd : As against the acceptor, when it comes to knowledge of the proposer.

Example

Suppose Mr. Anderson accepts the proposal of Mr. Warn in the above case by letter. The communication of the acceptance is completed against Mr. Warn when the letter is posted. While communication of the acceptance is completed against Mr. Anderson when letter of acceptance is received by Mr. Warn (Proposer).

Revocation or Cancellation

It is defined in the following words : " Revocation means "Cancellation". It may be revocation of offer or acceptance. The communication of revocation is completed against the person who makes it. When it is put into a course of transmission so as to be out of the power of the person who makes it as against the person to whom it is made, when it comes to his knowledge".

C) Rules of Revocation of an Offer or Proposal

At any time an offer can be revoked before the communication of its acceptance is completed as against the offer but no afterwards.

Example

Suppose Miss. Reema proposes by letter sent by post to sell her plaza to Mr. Chand accepts the proposal by a letter sent by post.

Now Miss. Reema may revoke her proposal at any time before or at the moment when Mr. Chand posts his letter of acceptance, but not afterwards.

D) Rules of Revocation of Acceptance

The acceptor promisee can revoke the acceptance before it reaches to the proposer. If the letter of acceptance is received by the proposer then it will be not revokable.

Example

In the above example proposal of Mis. Reema to sell her plaza to Mr. Chand is opened for revocation as long as Mr. Chand does not post his letter of acceptance. As Mr. Chand has posted the letter of acceptance. Miss. Reema cannot revoke his proposal.

On the other hand Mr. Chand can revoke his acceptance as long as the letter of acceptance does not reach to Miss. Reema. But as the letter of acceptance reaches to Miss Reema, it finishes the revocation power of Mr. Chand.

1.5 CONSIDERATION

Consideration is the foundation of every contract. The law enforces only those promises which are made for consideration. Where one party promises to do something, it must get something in return. This 'something in return' is called consideration. Consideration is the very life-blood of every contract. In the absence of consideration a promise or undertaking is purely gratutious. However, sacred and binding in honour, it creates no legal obligation.

Consideration is one of the essential elements of a valid contract. In general an agreement without consideration is void. Consideration may be defined as something in return.

Section 2(d) defines consideration as "When at the desire of the promisor, the promisee or any other person, has done or abstained from doing, or does or abstains from doing, or to promises to do or to abstrain from doing something, such act or abstinence or return promise is called a consideration for the promise".

1.5.1 Essentials of Consideration

1. By Promisee

Consideration by the promisee or any other person.

2. Desire of the Promisor

It should be given at the desire of the promisor.

Example 1

Mr. Shah agrees to sell his "house for Rs. Twenty lac to Mr. Amit. Now Mr. Amit promises to pay the such amount is the consideration for Mr. Shah's promise.

Example 2

Mr. Donalnd a promisor agrees with Mr. Kim that if he will abstain himself from filling a suit then he (Mr. Donald) will pay him Rs. Ten thousand. In this situation Mr. Kim abstained from filling suit is a consideration for Mr. Donald.

3. Consideration May Be Past, Present or Future

Consideration is an act which has already been done or in progress or to be done in future at the desire of the promisor.

i) **Past Example :** Mr. Nash lost his car and Mr. Frank a finder delivers it to him. Mr. Frank can not demand payment of his services due to the past consideration.

ii) **Present Example :** Mr. Ali sells a house to Miss Sana. She pays its price immediately. It is called present consideration.

iii) **Future Example :** Mr. Shah promises to deliver a shop to Mr. Khan after a one month for Rs. 1 lac upon the promise of Mr. Khan to pay the agreed price at the time of delivery. It is called future consideration.

4. Must be Real

Consideration must be realistic and competent. If consideration is physically impossible, illegal and uncertain, it will be not valid.

5. Needs Not To Be Adequate

The law only insists on the presence of consideration and not on its adequacy. Inadequacy may create the doubt about the free consent of two parties but it is valid if free consent is proved.

Example

Mr. Kullo agrees to sell his house for Rs. 25 lac. If the consent of Mr. Kullo is free then agreement is valid contract, without consideration.

6. Lawful Consideration

Consideration should be unlawful because it can not form a valid contract. It should not be against the public policy.

1.5.2 Doctrine of Stranger to Contract and Its Exceptions

A) Meaning and Explanation of the Doctrine

According to the definition of consideration .given in sec 2(d) of the Indian Contract Act 1872, the consideration in a contract can be given either by the promisee or by any other person. Such person who gives consideration on behalf of the promisee is called the "stranger to contract". He cannot enforce the contract in the Court of law. Similarly the benefit of a consideration can be received by a third party. Such person is also called "stranger to contract". Such person also cannot enforce the contract. A person who is a stranger to contract is not allowed to enforce the contract because there will be no contractual relation between the stranger and the other- party to contract, although he is not a stranger to consideration. Therefore, this rule is popularly known as "The Doctrine of Privity of Contract"

Case Example : Dunlop Pneumatic Tyre Co., Vs. Selfridge Co.,

In this case, Dunlop Co., supplied some tyres to a wholesale dealer with instructions that they should not be sold at a price less than the maximum retail price fixed by the company. Otherwise 5 pounds per tyre should be paid as damages to Dunlop Company. The wholesale dealer supplied the tyres to Selfridge Co. with the same instructions. But they sold two tyres at a lower price, so Dunlop Co. field a suit for damages. The Court of law held that a stranger to contract cannot enforce the contract. So the suit was dismissed.

B) Exceptions to the Doctrine

The rule of stranger to contract is having some judicial exceptions wherein the Courts of law have allowed the strangers to enforce the contract validly. They are as under:

1. **Separate agreement with the stranger:** When a separate agreement is drafted between the stranger and the party of the contract empowering him to enforce the contract in the Court of law, he can enforce it. Separate consideration is not necessary for the second agreement. This rule was laid down in the following case

   Chinnayya Vs. Ramayya***

   In that case, a person transferred all his property to his son Chinnayya and instructed him to pay Rs. 1,000 annually to Mr. Ramayya, the younger brother of the transferrer. Mr. Chinnayya also agreed to pay the money to Ramayya

by a separate written agreement. But he discontinued payment after the death of his father. Therefore his uncle filed a suit. The Court of law held that he can enforce the contract on the basis of the second agreement although he was a stranger to the first contract.

2. **Family settlement agreements between the members of a family:** When agreements are made between the members of a family for the purpose of division of their ancestral property or for distributing the benefits from the property among the members of the family, such agreements are called "Family settlement agreements". Such agreements can be enforced by any member of the family eligible to receive the benefits whether he was a party to the contract or not. This ruling was given by the Hon'ble High Court of Andhra Pradesh in the following case

   Suppu Ammal Vs. Subramanyam***

   In that case, two brothers agreed to divide their parental property between them equally and pay Rs.200 p.m. to their mother for her maintenance. Later, after the death of one brother, the other one also discontinued the payment. So, the mother filed a suit.. The Court of law held that she can enforce the contract although she was a stranger to the contract. (Because a mother can not be treated as a stranger to her own son).

3. **Marriage agreement can be enforced by the bride :** As per the Indian traditions, marriage agreements are made not between the bride and the bridegroom but between their parents or elders of their families. Therefore, the bride and bridegroom become strangers to their own marriage agreement in the eyes of law as per the existing rules. However, in case of breach of such agreements, the bride can enforce the contract being the beneficiary in the eyes of law. This ruling was given by the Hon'ble High court of Kerala in the following case Rose Fernandez Vs. Joseph Gonglaves.

   In that case, a marriage agreement was made between Mr. Fernandez, the father of Miss. Rose and Mr. Joseph Gonglaves, the bride groom himself. Later on the death of Mr. Fernandez, Mr. Joseph refused to marry Miss. Rose. So, she filed a suit for payment of damages for the breach of contract. The Court of law held that she can enforce the contract although she was a stranger to that contract, as she was the beneficiary of the marriage agreement.

4. **Trust deeds can be enforced by the beneficiaries :** When a trust is created in favour of a person for the benefit of another, such beneficiary can enforce the contract although he was not a party to the trust deed: This rule was given in the case of Gundy Vs. Gundy.

   In that case, Mr. Gundy gave divorce to his wife Mrs. Gundy and agreed with the Sarpanch of the village to deposit her maintenance charges with the Panchayat. After some time he failed to pay the amount to the Sarpanch. So, his wife filed a suit. The Court of law held that she can enforce the contract although she was not a direct party to the contract, but she was its beneficiary.

   Case Example: Khaja Mohammad Khan Vs. Hussaini Begum***

   In this case, Mr. Khan agreed to transfer certain property to his daughter-in-law, Hussaini Begum for meeting her pan expenses when the marriage agreement was made. But he was requested to become trustee for the property and pay the benefits to his daughter-in-law. Later due to some differences in the family, he stopped payment of the rents from the property to his daughter-in-law. So she filed a suit in the Court of law. The court of law held that she can enforce the contract although she was a stranger to the marriage agreement and the Trust deed. But she was the beneficiary.

1.5.3 Differences between Stranger to Contract and Stranger to Consideration

Stranger to Contract	Stranger to Consideration
1. A person who gives or receives consideration on behalf of a party to contract is called a stranger to contract	1. A party of a contract who neither gives or receives consideration is called a Stranger to Consideration
2. He cannot enforce the contract because though he will not have any relation with a party to contract.	2. He can enforce the contract even he do not give or receive consideration
3. The rule of Privacy of contract will apply to a stranger to consideration	3 The rule of Privacy of contract will not apply to a stranger to contract

1.5.4 Doctrine of No Consideration No Contract

A contract without consideration is void. That is if there is no consideration there can be no contract. However there are cases where even without consideration, the contract is binding on the parties. These are exception, to the rule 'No Consideration No Contract'. These cases are,

1. **Love and Affection**

   Where an agreement is made because of natural love and affection, expressed in writing and registered under the law, and if the parties are in close relation to each other, then it is enforceable even if there is no consideration. In simpler words, a written and registered agreement based on natural love and affection between near relatives is enforceable even if it is without consideration.

   Example

   Y, out of natural love and affection, promises to give his son L, Rs. 10,000. Y puts his promise to L in writing and registers it. This is valid contract

2. **Compensation for Past Voluntary Services**

   A promise to compensate in part or in full, a service rendered by person voluntarily is enforceable even though there is no present consideration. In simpler words, a promise to pay for a past voluntary service is binding.

   Example

   A finds B's purse and returns it to him. B promises to pay Rs. 100 to A. This is a valid contract even though there is no consideration.

3. **Promise to Pay a Time-barred Debt**

   A debt is said to be a time-barred if it remains unpaid or unclaimed for a period of three years. Such a debt becomes irrecoverable and it is called a time-barred debt. But a promise by a debtor to pay a time-barred debt is enforceable, provided it is made in writing, and is signed by the debtor or by his agent.

   Example

   P owes C Rs. 1000, but since the debt has become time barred by the Limitation Act, P signs a written promise to pay C Rs. 500 on account of the debt. This is a contract.

4. **Completed Gift**

   A completed gift is a gift between a donor and a done after all the legal formalities are fulfilled. The rule 'no consideration no contract' does not apply to the completed gifts.

5. Creation of Agency

Consideration is not necessary to create agency. Agency is bound to the principle and the agent even though there is no consideration moving between the parties.

6. Charitable Subscriptions

Charitable subscriptions are binding on the parties even in the absence of consideration.

Thus the above are exceptions to the rule 'no consideration no contract' or 'Contracts without Considerations are void'.

1.6 Capacity to Contract

Capacity of a party is an essential element of a valid contract, Capacity means competence of the parties to enter into contract.

1.6.1 Definition and Meaning of Competent Parties

An agreement between two persons can be enforced in a Court of law when both of them are competent to contract. According to section 11 of India Contract Act, 1872 "Every person is competent to contract, who is of the age of majority, according to the law to which he is a subject and who is of sound mind and who is not disqualified from contracting by any law to which he is a subject". A person is said to be a major by age subject to the rules of Indian Majority Act, 1875. Soundness of mind of a person is decided by section 12 of Indian Contract Act, 1872. Some persons are disqualified from contracting by laws of Insolvency and Indian Penal Code. The following persons can be said to be competent to contract.

1.6.2 Parties Competent to Contract

As per the Provisions of sec.11 of the Indian Contract Act, the following persons can be said to be competent to contract.

1. Majors by age

According to Sec. 5 of the Indian Majority Act 1875, a person who completes 18 years of his age is called " a major by age ". In case of persons whose parents are not alive and who are governed by a legally appointed guardian or a Court of law (Court of wards), 21 years of age should be completed to become majors by age. This rule applies to both male and female persons equally. A person who does not attain the age of majority is called a "minor" by age.

2. Persons of sound mind

A person is said to be of sound mind for the purpose of entering into contracts, if he is capable of understanding the terms of the agreement at the time when he is entering into it and is capable of forming a rational judgement about the effect of the agreement on his own interest. A person who is not having soundness of mind is called a "person of unsound mind" or insane person.

3. Persons not disqualified from contracting

Some persons are disqualified or prohibited from entering into agreements during specified periods of time even after having the age of majority and soundness of mind. Such persons are known as Persons disqualified from contract. Insolvents and convicts come under this category of persons.

1.6.3 Special Rules Regarding Minors' Agreements

Meaning of minor as per the Law

Minors is a person who has not completed eighteen years of his or her age because a person becomes major by age only after completing eighteen years of age as per law (The Indian Majority Act 1875) A minor is not competent to contract as per sec.11 of the Indian Contract Act 1872. Any agreement made with a minor or by a minor or between two minors will become void and cannot be enforced in the courts of Law. However, certain agreements made by minors were declared as valid and enforceable by the Courts of Law in India under certain special circumstances which are as under.

1. Agreements with minors are void

An agreement with a minor is not only void, but it is void from the very beginning (void-ab-initio). Any agreement to enter into an agreement with a minor also becomes void. Any amount paid to the minor cannot be recovered. Because the consideration given to a minor is considered as no consideration in law.

Case Example : Mohiri Bibi Vs. Dharmodas Ghose***

In this case, a lady agreed to give a loan of Rs. 20,000/- to a minor by mortgaging his property. She paid Rs.8,000/- as advance. The mortgage was agreed to be executed after the payment of balance amount. But the minor did not take the balance. So she filed a suit. The Court of law held that the minor cannot be forced to mortgage his property. Moreover, the amount paid to him cannot be recovered.

2. Agreements made for the benefit of minors can be enforced by them

When an agreement is made between a major person and a minor in which the minor is the beneficiary it can be enforced by the minor but not by the major person. This ruling was given by the Honourable High court of Kerala to protect the innocent minors from the experienced actions of the majors.

Case Example : Abdul Ghaffar Vs. Piyarelal

In this case, a major person purchased goods on credit from a minor who was running a provisions stores of his deceased father. When he claimed the amount, the Court of law held that it should be paid as the promisee is a minor.

3. Agreements for the supply of necessaries of life to minors can be enforced

According to the rule of Quasi contracts, if a person supplies necessaries of life to another person who is incompetent to contract, the value of the goods or services can be recovered from his private property. This rule applies to minors also. Necessaries of life include not only the bare essentials of life like food, clothing and shelter but they also include a number of essential services and expenses such as education, medical service, professional training, marriage expenses, funeral expenses, any loans taken to meet any of these expenses. But they should be suitable to the standard of living of the minor.

Case Examples

(a) Robert Vs. Gray

In this case, an expert billiards player gave training to a minor from a royal family so as to make him a professional player. The Court of law allowed him to claim the training fees from the minor's property, as it was of professional training and comes under the necessaries of life.

(b) Nash Vs. Inman***

In this case, a minor purchased eleven fancy waist coats from a ready-made garments shop on credit basis and the seller filed a suit to recover the price. The Court of law held that although clothing is necessary of life, fancy waist coats are not necessaries of life. So the amount cannot be claimed from the minor.

4. Minor's agreement cannot be ratified

If an agreement made by a minor during his minority is revised or confirmed or ratified by him after becoming major, such agreement will not become valid, because the consideration given to a minor is void and it cannot become a valid consideration for the fresh or ratified agreement.

Case Example : Indran Rama swamy vs. Anthiappa Chettiar

In this case, a person gave a loan of Rs.5,000/- to a minor and obtained a promissory note. Later he obtained another promissory note for the same amount from the minor after he became a major. The Court of law held that the second note is also invalid. So the amount cannot be recovered.

5. Minor can plead minority at all times

If a minor enters into an agreement with a major person by-wrongly representing his age as major, such agreement also becomes void. Because a minor cannot be held liable for misrepresentation of his age.

Case example: Leslie Vs. Sheill

In this case, a minor took a loan of 400 Pounds from a major person by representing his age as full age (major) on account of his physical personality. The Court of law held that the amount cannot be recovered from the minor as far as he was a minor, although he had misrepresented his age.

6. Minor not liable for any civil torts

When a minor causes a loss to a major person by not following his instructions or committing a civil tort, the minor cannot be held liable to compensate the loss or pay damages. Even his parents cannot be held liable.

Case Example: Jennings Vs. Rundoll

In this case, a minor took a pony (small horse) on hire at a hill station. He was instructed by the owner of the pony not to take it to the top of the hill. But the minor took it, so it fell down and died. The Court of law held that the damages cannot be claimed either from the minor or from his parents, because minors can not be held liable for civil torts.

7. A minor can become a partner

According to the rules of Indian Partnership Act, 1932, a minor can be admitted as a partner in a firm. There should be atleast two major partners in such firm. He will be eligible to share profits but not liable for any losses.

His liability is limited to the extent of capital contributed by him. He may or may not continue as partner after becoming major. He should give a notice of his choice within six months of becoming major. Otherwise he is deemed as continuing as a major partner from the date of becoming major.

8. A minor can become a share holder

A company should not allot shares to minors and other incompetent persons. But if shares are allotted to a minor by mistake, the agreement cannot be avoided by the company, because the minor becomes beneficiary. He can receive dividends. If the company goes into winding up, the arrears of calls on shares if any cannot be claimed from the minor or his parents.

Case Example

Liquidator of Pasupathi Bank Ltd. Vs. Palaniappa Mudaliar

In this case, a Banking Company allotted shares in the name of a minor daughter of Mr. P. Mudaliar. It went into liquidation without declaring any dividends. When the liquidator claimed arrears of calls from her father, the Court of law declared that the amount cannot be claimed.

9. Minor can become an agent of a major person

A major principal can appoint a minor as his agent. Agreement made by minor agents with Third parties on behalf of their major principals will become valid but the agent will not become personally liable.

10. Any money paid to a minor cannot be recovered

Any amount paid to a minor or any goods delivered to a minor cannot be recovered except in the case of necessaries of life because any consideration given to a minor becomes nullity as per law.

1.6.4 Persons unsound MIND

One of the essential conditions of competency of parties to a contract is that they should be of sound mind. Sec. 12 lays down a test of soundness of mind. It reads as follows :

"A person is said to be of sound mind for the purpose of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests.

A person, who is usually of unsound mind but occasionally of sound mind, may make a contract when he is of sound mind.

A person who is usually of sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind.

Examples

(a) A patient in a lunatic asylum, who is at intervals of sound mind, may contract during those intervals.

(b) A sane man who is delirious from fever, or who is so drunk that he cannot understand the terms of a contract, or form a rational judgment as to its effect on his interests, cannot contract whilst such delirium or drunkenness lasts.

Soundness of mind of a person depends on two facts: (i) his capacity to understand the contents of the business concerned, and (ii) his ability to form a rational judgment as to its effect upon his interests. If a person is incapable of both, he suffers from unsoundness of mind. Whether a party to a contract is of sound mind or not is a question of fact to be decided by the Court. There is a presumption in favour of sanity. If a person relies on unsoundness of mind, he must prove it sufficiently to satisfy the Court.

Unsoundness of Mind May Arise From

(i) Idiocy

An Idiot is a person with no intervals of saneness. He is incapable. His mental powers of understanding even ordinary matters are absent because of lack of development of brain. The agreement with an idiot is void.

Example

A property worth about ` 25,000 was agreed to be sold by a person for f 7,000 only. His mother proved that he was a congenital idiot, incapable of understanding the transaction. The sale was held to be void. (INDER SINGH V. PARMESHWARDHARI SINGH [1957])

(ii) Lunacy or Insanity

It is a disease of the brain. A lunatic loses the use of his reason due to some mental strain or disease. He may have lucid Intervals of sanity. He can enter into contract during that period when he is of sound mind.

(iii) Drunkenness

It produces temporary incapacity till the man is under the effect of intoxication creating impotence of mind. He stands on the same footing as a lunatic.

(iv) Hypnotism

It also produces temporary incapacity till the person is under the impact of artificially induced sleep.

(v) Mental decay

It is on account of old age etc.

So, an agreement with person of unsound mind is void. But under section 68, the property of such person is always liable for necessaries supplied to him or to anyone whom he is legally bound to support.

1.6.5 Persons Disqualified from Contracting by any Other Law

It refers to statutory disqualifications imposed on certain persons in respect of their capacity to contract.

1. Alien enemies

An alien is competent to contract with citizens of India living in India. He can maintain an action on a contract entered into by him during peace time. But if a war is declared, an alien enemy cannot enter into any contract with an Indian citizen. Contracts entered into before the declaration of war are either stayed or terminated but contracts entered into during the war are unenforceable.

2. Foreign sovereigns and minors

These persons are immune from the jurisdiction of local courts, unless they voluntarily submit to its jurisdiction. These persons have a right to contract but can claim the privilege of not being sued. The rules regarding suits by or against foreign sovereigns are laid down in sections 84 to 87 of Civil Procedure Code.

3. Insolvents

An insolvent cannot enter into a contract as his property vests in the official receiver or official assignee. This disqualification of an insolvent is removed after he is discharged.

4. Convict

A convict while undergoing imprisonment is incapable of entering into a contract. But this disability comes to an end on the expiry of the sentence.

5. Corporations

A corporation is an artificial person recognised by law. It exists only in the eyes of law. It is competent to enter into a contract only through its agents.

6. Married Women

A woman is competent to enter into a contract. Marriage does not affect the contractual capacity of a woman. She can even bind her husband in cases of pressing necessity. A married woman may sue or be sued in her own name in respect of hereparate property.

7. Professional persons

Doctors and advocates are included in this class. In England banisters are prohibited by the etiquettes of their profession from suing for their fees. So are members of the Royal College of Physicians. In India these personal disqualifications do not exist. According to the Bar Council Act 1927 an advocate of the High Court can enter into a contract with his client and can also bring a suit against him for his fees.

1.7 Free Consent

Meaning of consent

It means an act of assenting to an offer. According to section 13, "Two or more persons are said to consent when they agree upon the same thing in the same thing in same sense." Thus, consent involves identity of minds in respect of the subject matter of the contract. In English Law, this is called '*consensus-ad-idem'.*

Meaning of Free consent

It is one of the essential elements of a valid contract as it is evidenced by section 10 which provides that all agreements are contracts if they are made by the free consent of the parties... according to section 14, consent is said to be free when it is not caused by (a) Coercion, or (b) Undue influence, or (c) Fraud, or (d) Misrepresentation, or (e) Mistake.

Definition of Free Consent

According to Section 13, " two or more persons are said to be consented when they agree upon the same thing in the same sense (Consensus-ad-idem).

A consent is said to be free when it not caused by coercion or undue influence or fraud or misrepresentation or mistake.

Elements of Free Consent

1. Coercion (Section 15)

"Coercion" is the committing, or threatening to commit, any act forbidden by the Indian Penal Code, or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement.

2. Undue influence (Section 16)

"Where a person who is in a position to dominate the will of another enters into a contract with him and the transaction appears on the face of it, or on the evidence, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in the position to dominate the will of the other."

3. Fraud (Section 17)

"Fraud" means and includes any of the following acts committed by a party to a contract, or by his agent, with intent to deceive another party thereto of his agent, or to induce him to enter into the contract.

4. Misrepresentation (Section 18)

"causing, however innocently, a party to an agreement to make a mistake as to the substance of the thing which is the subject of the agreement".

5. Mistake of fact (Section 20)

"Where both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void".

1.7.1 Coercion as an Error in Consent

In simple words, coercion is threat or force used by one party against another for compelling him to enter into an agreement.

According to Sec. 15 "Coercion is the committing or threatening to commit any act forbidden by the Indian Penal Code or unlawfully detaining or threatening to detain any property to the prejudice of any person what so ever, with the intention of causing any person to enter into an agreement". Meaning and scope of coercion can be clearly understood by analysing the above definition as under:

1. Committing any act forbidden by the IPC

When a person obtains consent of another by committing any act forbidden by the Indian Penal Code 1860, the consent can be said to have been obtained by coercion. The IPC has forbidden the Indian citizens from committing a number of offences like murder, suicide, kidnapping, unlawful detentions, stopping a dead body from cremation etc. So when a person obtains consent of a party to a contract by committing any of these acts, the consent is said to have been obtained by coercion. Such agreement becomes voidable.

Case Example : Ranganayakamma Vs. Aiwar Chetty***

In this case, R was married in her age of 13 years and her husband died within 6 months in an accident. So her father-in-law forced her to adopt a boy of his relative as her son. The dead body of her husband was stopped from cremation until she adopted the boy. Later the Court of Law allowed her to avoid the agreement of adaptation of the boy on the ground of coercion.

2. Threatening to commit any act forbidden by IPC

If a person obtains the consent of another to a contract by threatening him that an act forbidden by the IPC would be committed, it also becomes equivalent to coercion. Such agreement can also be avoided on the ground of coercion.

Case Example : Seshamma Vs. Ch. Amiraju

In this case, the consent of Seshamma was obtained on a document of transfer of property by her husband to his younger brother threatening her that he would commit suicide, unless she gives her consent to the transfer of property. The property was transferred to his brother. Later Seshamma wanted to avoid the agreement of transfer on the ground of coercion. The Court of law allowed her.

3. Unlawfully detaining the property of another

When a person obtains the consent of another to a contract by detaining the property of any other person unlawfully, it will also become coercion, although such act is not forbidden by the IPC.

Case Example : Muttaiar Vs. Muttu Karuppa

In this case, an accountant of a trader obtained his consent on a No Objection Certificate for relieving him from the job unconditionally by detained the books of accounts of his business and threatening him that the books would be destroyed unless the NOC is given. The Court of Law held that the consent can be treated as obtained by coercion. So it can be avoided.

4. Threatening to detain the property of another

If a person obtains the consent of another to a contract by threatening him that his property would be detained or attached unless consent is given to an agreement, it also becomes coercion.

Case Example: Bansraj Vs. Secretary of state of Madhya Pradesh

In this case, a business man agreed to discharge the tax arrears of his son to the State Government because secretary of the State threatened him to attach his property unless the arrears are paid. The Court of law held that the agreement was made by coercion. So it can be avoided.

5. Coercion may be direct or indirect

Coercion may be committed by one party of the contract against the other party or through a third party. Therefore, it can be direct or indirect. But as per British Law of Contracts it should be direct only but not indirect. It is known as Duress under that law.

6. Coercion may be committed any where in the world

The Indian Penal code - 1860 applies to Indian land only. Any offence committed outside the Indian boundaries is not punishable under IPC. But coercion committed either in India or outside India can make the agreement voidable if a suit is filed in India. This ruling is given in the explanation u/s 15 of the Indian Contract Act 1872.

7. Effect of Coercion

When the consent of a party to a contact is proved to have been obtained by coercion, the contract becomes voidable. It can be avoided only by the weaker party but not by the strong party. However, the ' burden of proof' falls up on the weaker party. If he fails to produce sufficient evidence through witnesses, he cannot avoid the agreement.

1.7.2 Effects of Undue Influence on Consent

Obtaining consent of a party to a contract by using moral influence or the power of position of a party over the other is called " undue influence". This can be used only between those parties who are already having some relationship before entering into the contract.

According to Sec 16 (1) of the Indian Contract Act., "A Contract is said to be induced by undue influence where, the relations subsisting between he parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other".

Therefore, the following conditions are to be satisfied to prove that a consent in a contract was obtained by undue influence.

1. Existence of previous relationship

The consent of a party to contract can be obtained by the other party by undue influence only when a relationship exists between those parties before entering into the contract. It may be a real relationship such as the relation between parents and their children, brothers and sisters etc. or an apparent relationship such as the relation between employer and employee, master and servant, lender and borrower, etc. It may also be a fiduciary relationship such as the relation between a doctor and patient, a lawyer and client, a religious guru and his follower, a promoter of a company and his company, etc.

2. One party standing in a dominating position

A person can use undue influence over the other when he stands in a position to dominate the will of the other. Otherwise undue influence cannot be used. According to Section 16(2)," A person is deemed to be in a position to dominate the will of another where he holds a real or apparent authority, over the other or where he stands in a fiduciary relation to the other or where he makes an agreement with a person whose mental capacity is temporarily affected by reason of age, illness or mental or bodily distress ". Therefore, having a dominating position on account of any of the above mentioned relations should be proved.

3. Taking undue advantage

The Court of law accepts that the consent of a party is obtained by undue influence only if it is proved that the dominating party had tried to obtain or had obtained an unfair advantage over the other party by using his position. If the agreement appears to be reasonable, undue influence is not suspected by the Courts of law.

4. Agreement appearing to be unreasonable

Some agreements clearly appear to be unreasonable on their faces or on the evidence produced before the Court of law. In such cases the Court of law may declare the agreement as voidable.

Case Examples (a) Rani Annapurni Vs. Swaminath***

In this case, a lady approached a money lender for a loan as she was very badly in need of money. The money lender gave a loan to her at 100% interest per annum. Later she filed a suit to reduce the rate of interest. The Court of law held that the consent of the lady was obtained by undue influence. So reasonable rate of interest should be charged but not 100% p.a.

(b) Sri Ram Vs. Mandhari

In this case, a religious preacher obtained the consent of his disciple to sell his house for Rs.70, only telling him thai he will get Moksha (Salvation). The Court of law declared that the agreement can be avoided on the ground of undue influence.

(c) Sunder Kumari Vs. Kishore

In this case, a lady agreed to sell her house to her family doctor for Rs.7000/- which was having double of that value in the market. The Court of law allowed her to avoid the agreement on the ground of undue influence, on account of the relation existing between the parties and unreasonablity of the consideration.

5. Agreements with "Pardanashin Women"

The law of contracts in India has provided a special place for pardanashin women. They are considered to be innocent women. Therefore, when any agreement is made with such women, the terms of the agreement should be explained to them in the presence of atleast two adult male witnesses of their family. Otherwise the agreement becomes voidable at the option of the women. According to law a 'pardanashin woman' is a woman who practices the system of seclusion strictly. Such woman will not talk to male persons outside their family and if any such situation araises, they use parda while talking to them. They concentrate on their domestic matters. They will not involve in commercial or political matters. Such women are recognised in India from some Brahmin families of Uttar Pradesh, Marwadi families of Rajasthan, Parsi families of Bombay, besides the Muslim families. (for whom parda is compulsory as per Islam).

Case Example : Hafeez Boo Vs. Ismail Moosaji

In this case, a lady filed a suit to avoid an agreement of sale of property on the ground of Pardapashin women's rule. But the Court of law held that a woman who fixes and collects rents, manages the property, makes purchases, appoints lawyer, goes to court of law etc. cannot be considered as a "Pardanashin woman" in the true sense of the term. So she was not allowed to avoid the agreement under the rule of pardanashin woman.

6. Effect of undue influence : An agreement induced by undue influence becomes voidable at the option of the party against whom the undue influence was used. The "burden of proof" falls upon the dominating party to prove that he had not used undue influence. If he fails to prove it, the agreement becomes voidable and the Court declares it as void.

1.7.3 Differences Between Coercion and Undue Influence

Coercion	Undue Influence
1. It is a physical force or violence	1. It is a moral force or force of position
2. Committing or threatening to commit an act for bidden for the IPC amounts to coercion	2. Dominating the will of a person by another person amounts to undue influence.
3. It is a type of offence or crime under the Indian Penal Code.	3. It is not considered as an offence under the Indian Penal code, 1860
4. It can be direct or indirect or it can be used against a party or any other person	4. It should have been used by one party against the other party of the contract
5. Its not necessary to prove that there was a previous relationship between the parties	5. It should be proved that there was a real or apparent authority or a fiduciary relation between the parties.

1.7.4 Fraud as an Error in Consent

The term 'Fraud' includes all acts committed by a person with an intention to deceive another person.

Fraud is the wilful representation made by a party to a contract with the intent to deceive the other party or to induce such party to enter into a contract. It means a false statement made knowingly or without belief in its truth or recklessly without caring whether it is true or false.

Example

A person aged over 60 years and thus beyond insurable age, deliberately makes a false statement that he is 48 years old in order to take out an insurance policy. This amounts to fraud, and the insurer is entitled to avoid the policy.

According to Sec. 17 of the ICA "Fraud means and includes any of the following acts committed by a party to a contract or with his convince or by his agent, with intent to deceive another party thereto or his agent and to induce him to enter into a contract.

a) The suggestion as a fact of that which is not true, by one who does not believe it to be true,

b) Active concealment of a fact by one having knowledge of the fact,

c) A promise made without any intention of performing it,

d) Any other act fitted to deceive,

e) Any such act or omission which the law specially declares to be fraudulent.

Therefore, the following acts are considered as fraudulent acts under the Law of Contracts.

1. False Suggestion

When a person gives untrue statement about the subject matter of the contract knowing that his statement is untrue and obtains consent of the other party, the consent can be said to have been obtained by fraud. The agreement can be avoided by the other party on the ground of fraud.

Case Example : Ram Agra Singh Vs. Bapuji & Others

In this case, a person quoted the age of his son as 24 years while entering into a marriage agreement where as the age was more than 40 years. Therefore, the bride's father filed a suit to avoid the agreement on the ground of fraud. The Court of law allowed it.

2. Active concealment of facts

When a person obtains the consent of another to a contract by hiding some important facts or defects about the subject matter, which are very essential for giving consent, it also becomes fraud.

Case Example : Rex Vs. Lord Kylsant

In this case, a company issued a prospectus stating that it was a profitable company and it declared dividends at the rate of 5% per annum in last 5 years of great trade depression (1929-34) when no other company in England declared any dividends. The fact was that the dividends were declared out of previous reserves but not from the profits of those years and this fact was concealed. Therefore the Court of law declared that the statement in the prospectus was fraudulent. So the allotment of shares was allowed to be avoided.

3. A promise made without any intention of performing it

When a person obtains consent of another person to an agreement promising to do something where as he does not have any intention to do it, such promise also becomes fraudulent.

Case Example : Shireen Mull Vs. John James Taylor

In this case, an English Merchant promised his personal secretary, an Indian Lady that he would marry her. Later she came to know that he was already married in England. So she filed a suit to avoid the agreement on the ground of fraud. The Court of law allowed her to avoid the marriage agreement.

4. Any other act fitted to deceive

When a person obtains consent of another to a contract by doing any other act suitable for deceiving the other, it also becomes a fraud under law.

5. Any act specially declared as fraudulent

Various laws in India have declared different acts as fraudulent. If a person does any one of such acts, to obtain consent of a party to a contract, it becomes fraud such as:

a) Issue of shares by directors of a company without issuing prospectus.

b) Selling immovable property without disclosing all the facts about the property.

c) Taking up a life insurance policy hiding any information about health of the insured.

d) Entering into a marriage agreement, hiding vital facts about the bride or bride groom.

The above three agreements (b,c,d) are also known as agreements of "utmost good faith" or uberrimae fedie (Latin). In such cases all the facts should be disclosed whether asked or not asked by the other party.

6. Silence is not a fraud

According to the explanation u/s 17, mere silence of a person regarding facts of a contract will not become fraud except in the following two circumstances.

a) When the silence is equivalent to speech, which is equivalent to fraud and

b) When it was the duty of the person to speak out but he did not do so.

Example

Mr. Awas selling a mad horse in a village market and his son Mr. B came to buy the horse. It becomes the duty of Mr. A to disclose the defect of the horse to Mr. B to whom he stands in a fiduciary relation. If he does not speak out, it becomes fraud.

7. Effect of fraud

When the consent of a party to a contract is proved to have been obtained by fraud, the agreement becomes voidable at the option of the party who was defrauded. Moreover, the party who is guilty of deceiving the other party becomes liable to pay damages. He can also be punished by the Court of law u/s 420 of the Indian Penal Code.

1.7.5 Misrepresentation as an Error in Consent

When a person obtains the consent of another to a contract by making a false suggestion without any intention of deceiving the other party, it is known as misrepresentation.

According to section 18 of the Indian Contract Act., "Misrepresentation means and includes (i) the positive assertion in a manner not warranted by the information of the person making it, of that which is not true although he believes it to be true, (ii) any breach of duty without an intention to deceive but gains an advantage to the person omitting it (iii) innocently causing a party to an agreement to make a mistake as to the substance of the agreement".

Therefore, the following acts can be considered as acts of misrepresentation.

1. Positive Assertion

When a person makes a positive statement about the subject matter of a contact which is not true but the person making the statement believes it to be true, it becomes a misrepresentation but not fraud, because there will be no intention of deceiving the other party.

2. Breach of duty

When a person makes a breach of duty tripwires his responsibility without any - intention to deceive the other party but gains an advantage over the breach, it also becomes misrepresentation but not fraud.

3. Causing a person to make a mistake

Sometime person may innocently cause another person to make a mistake regarding subject matter of a without any intention to deceive him. It also becomes equivalent to misrepresentation but not fraud.

Examples

(a) Mr.Awants to buy the hotel of Mr.B and enquired from a friend of Mr.B regarding daily sales. He told that the sales any be around Rs.30,000 but the actual sales were Rs. 10,000 only. The statement given by Mr.B's friend becomes misrepresentation.

(b) Mr X wanted to buy Mr. Y's car and met his driver to know about the worth of the car who innocently said that it may be worth Rs. 1,00,000 but its worth was Rs.60,000. It is also a misrepresentation.

4. Effect of misrepresentation

The agreement made by misrepresentation can also be avoided by the party who was misrepresented. But no damages can be claimed as in the case of fraud.

Note

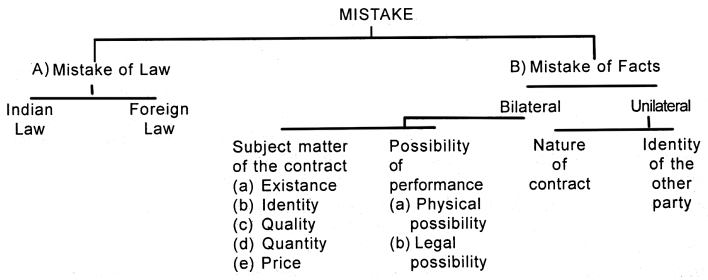
There are very few case examples on misrepresentation because any such case will be filed as a case of fraud but later it is proved as a case of misrepresentation. Therefore no direct cases are found on misrepresentation.

1.7.6 Differences between Fraud and Misrepresentation

Fraud	Misrepresentation
1. Making a false suggestion to deceive a party becomes fraud	1. Making an untrue suggestion without any intention to deceive becomes misrepresentation
2. The person making the false suggestion should have knowledge that it is untrue	2. The person making the suggestion should be believing that it is true
3. Damages can be claimed for the loss suffered besides avoiding the contract	3. Contract can be avoided but no damages can be claimed for loss
4. The person involving in a fraud can be punished under section 420 of the Indian Penal Code.	4. The party making a misleading statement cannot be punished under Indian Penal Code.

1.7.7 Mistake in Contract - as an Error in Consent

The term mistake is used in law of contract to mean - "Improper understanding about the agreement". When an agreement is made with a mistake regarding terms and conditions of agreement, there will be no consent between the parties. So the agreement becomes totally void. The mistake can be reclassified into various types as shown in following chart.



1. Mistake of law

When a person enters into an agreement without understanding the rules of law of contracts prevailing in his country, it is known as a mistake of national law. It is not excusable because of the rule "Ignorance of law is not excusable". Sometimes a person enters into an agreement with a foreign national or citizen without knowing the law of that country. It becomes a mistake of foreign law. It may be excused if it is of civil nature.

2. Mistake of Facts

When an agreement is made between two parties without understanding the terms and conditions of the agreement, it is known as a mistake of facts. It may be either bilateral mistake or unilateral mistake.

A) Bilateral mistake of facts : When an agreement is made without proper understanding in the minds of both the parties, it is known as "bilateral mistake". In such cases there will be no consent. So, it cannot be enforced in any Court of law. The bilateral mistake may be committed in respect of identity, quality, quantity, price, existence etc. of the subject matter of the contract. It may also be made regarding possibility of performance of the agreement. The impossibility may be either physical or legal. In all cases the agreement becomes void.

Examples

(a) Mr.A agreed to sell his horse to Mr.B. for Rs.5,000 but unknown to both of them the horse had died before the formation of the contract. Thus it becomes void.

(b) Mr. X supplied 100 kgs. of rice to Mr. Y telling that it is Basmati rice but the rice was not basmati. The agreement becomes void provided Mr.X was also innocent regarding quality of the subject matter.

(c) Mr. P sold a T.V. set to Mr.Q for Rs.8,000 where as its company price was Rs. 18,000. The agreement becomes void on account of bilateral mistake regarding price.

Case Example: Hankel Vs. Pape***

In this case, a trader takes a quotation for the supply of 50 rifles. But he places order by telegram "to send three rifles" but the telegraph clerk sends the message as "send the rifles". So, the seller sent 50 rifles. It was rejected by the buyer. The Court of law declared that agreement as void on the ground of bilateral mistake regarding quantity of subject matter.

B) Unilateral mistake of fact : When a person gives his consent to a contract without understanding the terms of an agreements it is called " unilateral mistake". Such agreement can be avoided if the mistake is relating to (a) identification of the other contracting party or (b) the nature of the contract In other cases, the contract cannot be avoided.

Case Examples

(a) Baladevi Vs. Shantimuzundar

In this case, an old illiterate woman having lot of property appointed a person to manage her property but he prepared a Sale Deed as if she was selling the property to him and obtained her signature telling that it was a Letter of Authorisation. He declared himself as owner. The Court of Law allowed the woman to avoid the agreement (sale deed) on the ground of unilateral mistake regarding nature of contract.

(b) Syed Vs. Bhatt

In this case the Manager of a Cinema theatre instructed his employees not to sell ticket to a Cinema critic Mr. Syed but a ticket was sold to him by mistake. Later, he was not allowed into the theatre. So, he filed a suit. The Court of Law held that the manager can avoid the agreement on the ground of unilateral mistake regarding identification of the contracting party.

Effects of mistake on contract

If the contract is made under a mistake of Indian Law, it becomes not excusable on account of the doctrine of "Ignorantia Juris non excusat". However, a mistake of foreign law may be excused if it is a civil tort in nature. A bilateral mistake makes the agreement completely void as there will be no consent of parties when no one has understood what the other party is having in his mind. However in case of unilerteral mistake, one party can either avoid the contract and claim compensation or damages.

1.8 Legality of Object and Consideration

A contract must not only be based upon mutual assent of competent parties but must also have a lawful object. If the object of an agreement is the performance of an unlawful act, the agreement is unenforceable. Sec. 23 declares that the 'object' or the 'consideration' of an agreement is not lawful in certain cases. The words 'object' and 'consideration' in Sec. 23 are not used synonymously. They' are distinct in meaning. The word 'object' means' purpose or design. In some cases, consideration for an agreement may be lawful but the purpose for which the agreement is entered into may be unlawful. In such cases the agreement is void. As such both the object and the consideration of an agreement must be lawful, otherwise the agreement is void

1.8.1 Unlawful Considerations and Objects

1. Forbidden by any law

Any agreement between two persons to do some thing which is forbidden by any law of the country becomes unlawful and void, such as trading in smuggled goods etc. Such agreement can not be enforced in Courts of Law.

Case Example : Biggs Vs. Lawrence

In this case, an agreement for the supply of smuggled goods made between two persons was declared as void because smuggling is forbidden in India.

2. Defeating the provisions of any law

When a person does something under an agreement which is against the rules of any law, the Court of law will not permit him to do so even though it is not forbidden by any other law. Such agreement will not be permitted to be performed. Because if it is permitted, it will defeat the rules of another law.

Example

Mr A. who failed to pay municipal taxes on his own house entered into an agreement with his friend Mr. B to buy Mr. A's house in auction and return it to him because Mr A was not allowed to participate in the auction as per the Municipal Law. Mr. B bought the house in the auction and refused to return it to Mr. A. The Court of law will not allow Mr. A. to claim the house from Mr. B. because if it is permitted it would defeat the rules of Municipal law.

Case Example : Nandlal Vs. Thomas

In this case, a State Govt, granted a license to a person to run a wine shop. As per the provisions of the Excise Law of the state, the license should not be sold or leased or transferred to any other person and no other person should be directly or indirectly allowed to enjoy the benefit of license. The licensee entered into a partnership agreement with another person for obtaining more capital. The Court of law declared the partnership agreement as unlawful and invalid. Because if the partnership is permitted, it would defeat the provisions of the Excise Law.

3. Fraudulent Consideration and object

When a person agrees to deceive another person for some consideration, the agreement becomes unlawful. Because the act of deceiving a person is unlawful.

Example

Mr. M. a mechanic agreed to sell Mr P's car to Mr. Q for Rs. 1,00,000 by making a false suggestion about its condition for which Mr P agreed to pay Rs. 10,000 to Mr M. The agreement between P and M becomes unlawful.

4. Involving or implying injury

An agreement between two persons for causing injury to a person or his property directly or indirectly becomes unlawful. Injury to the person of another means, the physical personality or body of a person. Injury to property means damaging or destroying the property.

Example

Mr A. offered to pay Rs. 5,000 to Mr. B for causing injury to the legs of Mr C so that he should not be able to participate in running competitions. The agreement becomes unlawful.

5. Immoral Consideration

The activities involving physical or sexual immorality are considered as immoral acts. Any agreement involving such acts is regarded as immoral by the Courts of law. So, such agreements become void. Prostitution, concubinage and illegal cohabitation are regarded as immoral acts. Any other agreement collateral or connected to an immoral agreement also becomes void.

Case Example : Pears Vs. Brookes

In this case, a person let out a horse carrier to a prostitute on hire, which was used by her for attracting customers for her immoral business. She did not pay hire for some period. So, a suit was filed. The Court of law dismissed the suit as it was connected with immoral activity.

6. Opposed to public policy

Doing something which is harmful to the health or welfare of the people of the society is considered as opposed to public policy. Such acts are not approved by the public in general. So, any agreement to do any such act becomes unlawful. Many acts come under this category but the Court of law should regard it as opposed to public policy to declare the agreement as void. According to Justice L. Lindley, the Doctrine of opposed to public policy is very difficult to be defined

correctly " It is like riding a mad horse". The rider cannot know where it takes him. So many acts can be regarded as acts opposed to public policy depending upon the circumstances of the case. The following are some of the acts which were regarded as opposed to public policy by the Courts of law in various cases.

a) Trading with alien enemies (Citizens of rival countries)

b) Sale of national titles (like Padmashree, Padmabhushan, Arjun Award etc)

c) Sale of seats in educational institutions, (Ignoring merit)

d) Providing jobs in public offices (for money or bribe)

e) Hiding an information from reporting by newspaper agencies

f) Interference with parental duties (giving an young girl in marriage to a old man)

g) Interference with marital duties (making a married couple to divide by taking divorce)

Case Examples

i) Pandyan Vs. Roy

In this case, a person paid Rs. 15,000 to another for providing a seat in a medical college but he could not provide the seat. So a suit was filed for repayment of the amount. The Court of law dismissed the suit. Because the object of the agreement was unlawful.

ii) Novelle Vs. Dominion of Canada News Co.

In this case a businessman agreed to pay certain amount to a newspaper agency for not reporting a criminal case against him. But it was reported even after receiving money from him. So, he filed a suit. The Court of law dismissed it.

iii) Tikyat Vs. Manohar

In this case a person paid Rs. 10,000 to a married woman for taking divorce from her husband and there after agreeing to marry him. The lady did not take divorce, so he filed a suit. The Court of law dismissed it.

7. Unlawful in Part

When the consideration or object of an agreement is partially lawful and partially unlawful, the agreement becomes totally void. If the unlawful part can be separated, the lawful part can be enforced in a Court of law.

1.9 Performance of Contract

Performance of contract is one of the different methods of fulfilling the contract. The contract is said to be performed when the two parties a contract either performs or aims to perform their respective promises.

As per the Section 37 of the Indian Contract Act, the obligation of the parties about the performance is, "the parties to a contract must either perform or offer to perform their respective promises, unless such performance is dispensed with or excused under the provisions of this act or of any other law".

1.9.1 Types of Performance

The following are the two different types of performances,

(A) Actual Performance

If an offeror/promisor has made an offer of performance to the offeree/promisee and if the (offeree) accepts the offer, then it is referred to as actual performance.

Example

If a textile manufacturer promises to a retail textile seller that he (manufacturer) would provide ten varieties of qualitative garments by the end of month, and if he delivers the promised varieties and the retailer accepts it, then it is an actual performance.

(B) Attempted Performance (Tender) [Section 38]

If an offeror makes an offer of performance to the offeree/promisee but if the offeree does not accept the promise, then it is called as an attempted performance (Section 38).

Example

In the above example, if the promisee does not accept the delivered goods, (i.e., garments) then it becomes an attempted performance as the promisor or offeror has completed his duty as per the contract.

In this case, i.e., in attempted performance, the promisor is neither responsible for nonperformance of the contract nor he will loose his rights under the contract.

Types of Tender

There are two types of tenders as follows,

1. Tender of Goods or Services

When an offeror/promisor makes an offer to deliver goods and services to the offeree/promisee but if the promisee/offeree does not accept the offer of delivery, then such tender is referred to as tender of goods or services.

Effects

(i) There is no need of offering the goods and services again.

(ii) As promisee is responsible for the non-performance of the contract, the promisor can sue him.

(iii) The promisor can be relieved from his responsibilities.

2. Tender of Money

If an offeror makes an offer to pay some money to the offeree, but if the offeree does not accept it, then it is referred to as tender of money.

Effects

(i) The offeror cannot get rid of his responsibility to pay money.

(ii) The offeror is not responsible to pay the interest from the date of a valid tender.

Essentials of a Valid Tender

The following are the essentials required by a valid tender.

(a) Unconditional: Any tender should be unconditional i.e., they should not be confused by any type of conditions.

A tender is considered to be unconditional if it made as per the terms of the contract.

Example

If a farmer 'F' offers to provide one ton of rice to a manufacturer of rice 'M', on a condition that if he (manufacturer) sells one of his machine to him. As this is a conditional tender and is therefore found to be invalid.

(b) At Appropriate Time: The tender should be made at an appropriate time, i.e., as per the time specified in agreement. If the time is not specified in the agreement then it should be made during the business hours.

Tender of goods or money becomes invalid, if it is made before the due date.

(c) At Appropriate Place: The tender should be made at an appropriate place, i.e., as per the agreement or at promisee's business place which is specified in the articles of association.

If there is no such business place, it can be done at promisee's house.

(d) Reasonable Chance to Promisee : Tender should facilitate the promisee with a reasonable chance to determine as to whether the goods offered are as the promisor was supposed to deliver.

(e) For Complete Obligation: The tender should not be for a part of obligation but it should be for the complete obligation. Anyhow, the tender does not become invalid, if there is only a small deviation from the terms of contract.

But if the tender goes beyond act or goes very less from the terms of contract, then it becomes invalid.

Example

If the contract between *'P'* and *'Q'* is to deliver 100 kgs of black gram by 'P' to '£'. If the delivery is made for only 98 kgs or 102 kgs then it is a valid tender, but if the delivery is of 80 kgs or 130 kgs, then it is an invalid tender.

(f) To an Appropriate Person : The tender should be made to an offeree or his duly authorized agent but it becomes invalid if it is made to an unauthorized person or a stranger. If the tender is made to any one of the several joint promisees, then it has the same effect as a tender to all of them.

(g) Of Exact Amount and in Legal Tender

The tender of money should be of exact amount and it should be a legal tender.

1.9.2 Persons who can Perform Contracts

A contract may be performed by any of the following,

1. Promisor himself
2. Agent
3. Legal representatives
4. Third persons
5. Joint promisors

1. Promisor Himself

If there is something in the contract to show that it was the intention of the parties that the promise should be performed by the promisor himself, such promise must be performed by the promisor. This means that the contracts which involve the exercise of personal skill, or diligence of the promisor or which are founded on personal confidence between the parties.

2. Agent

Where personal consideration is not the foundation of a contract, the promisor, or his representative may employ a competent person to perform it.

Example: A promises to pay B a sum of money. A may perform this promise either by personally paying the money to B, or by causing it to be paid to B by another.

3. Legal Representatives

A contract which involves the use of personal skill or is founded on personal considerations comes to an end on the death of the promisor. The rule of law is 'A personal action dies with the person'.

As regards any other contract the legal representatives of the deceased promisor are bound to perform it unless a contrary intention appears from the contract. But their liability under a contract is limited to the value of the property they inherit from the deceased.

Example: A promises the delivery of goods to B on a certain day on payment of Rs. 1000. A dies before that day. As representatives are bound to deliver the goods to B and B is bound to pay Rs. 1000 to A's representatives.

A promises to paint a picture for B by a certain day, at a certain price. A dies before that day. The contract cannot be enforced either by A's representatives or by B.

4. Third Persons

When a promisee accepts performance of the promise from a third person, he cannot afterwards enforce it against the promisor

5. Joint Promisors

If suppose many promisors are present, and if no contradictory intentions rises up, then the promise can be performed by the following persons,

(i) If all the promisor are alive, then they can perform the promise mutually.

(ii) If any of the joint promisors expires, then the representatives of expired promisors along with the promisors survival can perform the promise.

(iii) If all the joint promisor expires, then all their representatives can perform the promise jointly.

Example

P, Q, R together entered into a contract of constructing a house within a specific time with 'S'.

But expires in the middle of contract, then his representative along with the 'P' and '£' are supposed to carry out the promise within the prescribed specified time.

1.9.3 Who can Demand Performance

It is only the promisee who can demand performance of the promise under a contract. It makes no difference whether the promise is for the benefit of the promisee or for the benefit of any other person.

Example

A promises B to pay C a sum of Rs. 500. A does not pay the amount to C. C cannot take any action against A. It is only B who can enforce this promise against A.

In certain cases, a third party can also enforce a promise under a contract even though he is not a party to the contract. These cases have already been discussed in the Chapter on "Consideration".

Death of promisee. In case of death of the promisee, his legal representatives can demand performance.

1.9.4 Appropriation of Payments

When a person who has to pay different sums to another person makes a single payment which is not sufficient to discharge all the debts, it should be adjusted against any one or more of the debts. This is called "Appropriation of payments". The Indian Contract Act. 1872 has given certain rules in this regard in its sections 59, 60 and 61. They are as under:

i) As intimated by the debtor

When the debtor making payment intimates or directs expressly as against which debt the payment is to be appropriated, the creditor should apply it accordingly (sec.59).

ii) As implied by the circumstances

When the debtor does not intimate as against which debt, the payment is to be appropriated, the creditor should see the circumstances of the payment. He should apply the amount in accordance with the indication given by the circumstances (sec.59).

iii) As per the desire of the creditor

When the debtor has omitted to intimate and the circumstances also do not indicate as to which debt, the payment is to be appropriated, the creditor can apply the amount against any debt of his choice (sec.60).

iv) As against a time barred debt

While using the discretion of the creditor in appropriation of a payment; he can even apply it against any old debt which had become time barred as per the law of Limitations and not claimable through the Court of law.

v) As per the due dates of the debts

When the debtor failed to indicate, the circumstances fail to imply, the creditor has no special choice regarding appropriation and there was no time barred debt due by the debtor, the payment should be appropriated against the debts in the chronological order of their due dates. (Sec.61).

vi) As against the interest

If the debts are carrying interest, any payment made against such debts should be first applied against interest and the balance against the principal amount, (as per the note under Sec. 60).

vii) As per the Clayton's rule

In case of bankers and their customers where current accounts are maintained, any payment made by a customer against an overdraft or cash credit granted to him need not be adjusted or appropriated against interest or principal. It should be directly credited to the current account of the customer. It gets automatically appropriated. This rule was laid down by a Court of law in a famous case filed by a customer against a bank. The learned Judge Justice Clayton gave this judgement. Therefore this rule is known as Clayton's Rule'.

1.9.5 Reciprocal Promises

Promises which form the consideration or part of the consideration for each other are called 'reciprocal promises' [Sec. 2(f)]. Where, for example, A promises to do or not to do something in consideration of B's promise to do or not to do something, the promises are reciprocal.

These promises have been classified by Lord Mansfield in Jones v. Barkley, 4 Doug. 659, as follows:

1. Mutual and independent

Where each party must perform his promise Independently and irrespective of the fact whether the other party has performed, or is willing to perform, his promise or not, the promises are mutual and independent.

Example

In a contract of sale, B agrees to pay the price of goods on 10th instant. S promises to supply the goods on 20th instant. The promises are mutual and independent.

2. Conditional and dependent

Where the performance of the promise by one party depends on the prior performance of the promise by the other party, the promises are conditional and dependent.

Example

A promises to remove certain debris lying in front of B's house provided B supplies him with the cart. The promises, in this case, are conditional and dependent. A need not perform his promise if B fails to provide him with the cart.

3. Mutual and concurrent

Where the promises of both the parties are to be performed simultaneously, they are said to be mutual and concurrent. The example of such promises may be sale of goods for cash.

1.10 Discharge of Contract

Discharge of contract refers to ending up of the contractual relationship that exists between two parties. When the rights and obligations of a contract is terminated then contract is said to be discharged and its operations tends to discontinue. Sometimes, discharge of contract results in some other rights and obligations but they are completely independent of the original contract.

1.10.1 Modes of Discharge of Contract

A contract may be discharged in the following ways:

1. Discharge by performance
2. Discharge by agreement or consent
3. Discharge by impossibility
4. Discharge by lapse of time
5. Discharge by operation of law
6. Discharge by breach of contract.

1. Discharge by performance

Discharge by performance takes place when the parties to the contract fulfill their obligations arising under the contract within the time and in the manner prescribed. In such a case, the parties are discharged and the contract comes to an end. Performance of a contract is the most usual mode of its discharge. It may be,

a) **Actual performance**: when both the parties perform their promises, the contract is said to be actually performed.

b) **Attempted Performance**: When tender is not actually performed but is only an offer to perform the obligation, but the promises refuses to accept the performance. Tender is equivalent to actual performance.

2. Discharge by agreement or consent

A thing may be destroyed in the same manner in which it is constituted. Since a contract is formed by an agreement, it can be discharged by an agreement. This agreement may be expressed or implied. The various cases of discharge of a contract by agreement are as follows:

a) **Novation:** Novation takes place when a new contract is substituted for an existing one between the same parties as the contract between the two parties is rescinded (cancelled) in consideration for a new contract being entered into on the same terms between one of the parties and a third party

Example: A owes money to B under a contract. It is agreed between A, B and C that B shall here forth accept C as his debtor, instead of A. The debt of A to B is at an end and a new debt from C to B has been contracted.

b) **Rescission**: Rescission of a contract takes place when all or some of the terms of the contract are cancelled. Rescission may be total or partial. Total rescission is the discharge of the entire contract. Partial rescission is the variation of the original contract by adding or removing some terms in it. It may occur:

i) By mutual consent of the parties

ii) Where one party fails to perform its obligations. In such case the other party may rescind the contract.

Example: A and B enter into a contract that A shall deliver certain goods to B by the 15th of the next month and that B shall pay the price within 15 days from the date of delivery of goods. A does not supply the goods. B may rescind the contract and need not pay the price.

c) **Alteration:** Alteration of a contract may take place when one or more of the terms of the contract are altered by the mutual consent of the parties to the contract. In such case the old contract is discharged.

d) **Remission**: remission means acceptance of a lesser fulfillment of the promise made. E.g. Acceptance of a lesser sum than what was contracted for, in discharging the whole of debt.

e) **Waiver**: Waiver takes place when the parties to a contract agree that they shall no longer be bound by the contract. This is similar to the mutual abandonment of rights by the parties to the contract. Consideration is not necessary for waiver.

f) **Merger:** Merger takes place when an inferior right accruing to a party under a contract merges into a superior right accruing to the same party under some other contract.

Example: X holds a property on rent. He later buys the property, his rights as a tenant merge into his rights as a owner.

3. Discharge by impossibility of performance

If the agreement consists of terms which are impossible to be performed, the agreement is void-ab-initio. This is based on two rules

a) Law does not recognize what is impossible and

b) What is impossible does not create legal obligation

The impossibility of performance may fall into categories

a) **Impossibility Existing at the Time Agreement**: Impossibility may be known to the parties or unknown to the parties. If the impossibility of performance is known to both the parties, the agreement is void. This is known as absolute impossibility. For example: when A agrees with B to discover treasure by magic, or undertakes to put life into the dead wife of B, the agreement is void.

Whereas at the time of making the contract both the parties are ignorant of the impossibility. The contract is void on the grounds of mutual mistake.

b) **Impossibility Arising Subsequent to the Formation of the Contract:** Impossibility that occurs subsequent to the formation of the contract is called post-contractual impossibility or supervening impossibility. It occurs in the following cases.

i) **Destruction of Subject Matter of Contract**: When the subject matter of a contract is destroyed subsequent to the formation of the contract, without any fault of the parties, the contract is discharged.

ii) **Non-existence of a Particular State of Things**: Contracts are entered into, on the basis of occurrence of a particular state of things. If there is any change in the state of things which form the basis of the contract, the contract is discharged.

Example: A and B contract to marry each other. Before the time fixed for marriage, A goes and the contract becomes void.

iii) **Death or Incapacity for Personal Service**: Whenever the performance of the contract depends on the skill or qualification of a party, the contract is discharged in case of illness, incapacity or death of the party.

iv) **Change of Law or Stepping in of a Person with Statutory Authority**: After the contract has been formed if a change of law takes place, so that the performance of the contract becomes impossible, the contract is discharged.

v) **Outbreak of War**: A contract entered into with an alien enemy during war is unlawful and therefore impossible to be performed.

4. Discharge by lapse of time

Contract must be performed within a specified period called the period of limitation. If the contract is not performed and if no action is taken by the promise with in the period of limitation, he cannot approach the court of law for remedy. The contract gets terminated.

5. Discharge by operation of law

A contract may be discharged by operation of law, independent of the wishes of the parties. In the following cases a discharge by operation of law occurs.

a) **By Death**: If the contract involves personal skill or ability of a person, the contract gets terminated in the event of the death of the promisor. In cases other than these involving the personal skill of the promisor, the rights and obligations are passed on to the legal representatives of the deceased person.

b) **By Merger:** Merger occurs when an inferior right merges with superior right for example, when a tenant purchases the house which he had earlier taken on rent, his rights as an owner are superior to those of a tenant. Due to the merging of rights, his rights and obligations as a tenant are automatically discharged.

c) **By Insolvency**: When a person is adjudged, insolvent all his prior liabilities are discharged.

d) **By Unauthorized Alterations of the Terms of a Written Agreement**: When a party to a contract makes a material alteration to the contract without the consent of the other party. The other party can avoid the contract.

e) **Because of Rights and Liabilities, Being Vested in the Same Person:** Whenever the rights and liabilities under a contract get vested in the same person, the contract gets discharged, e.g., A bill getting into hands of the acceptor the other parties are discharged.

6. Discharge by breach of contract

If one of the parties breaks as an obligation which the contract imposes, breach of contract occurs. Breach of contract may be actual breach or anticipatory breach. Actual breach occurs at the time of the performance of the contract where as anticipatory breach occurs before the performance becomes due.

1.11 Breach of Contract

Breach of contract means a breaking of the obligation which a contract imposes. It occurs when a party to the contract without lawful excuse does not fulfill his contract and obligation or by his own act makes it impossible that should perform his obligation under it. Then the aggrieved party has a right to claim for damages.

1.11.1 Types of a Breach Contract

Breach of contract may be :

1. Actual Breach of contract
2. Anticipatory Breach of contract

1. Actual Breach of Contract: Actual Breach of contract occurs when the performance is due and one party fails or refuses to perform his obligation under the contract.

2. **Anticipatory Breach of Contract**: It occurs when a party to the executor contract declares his intention of not performing the contract before the performance is due.

1.11.2 Remedies for a Breach of a Contract

Some of the remedies are as under:

i) Suit for Rescission

ii) Suit for Specific Performance

iii) Suit for Injunction (Stay order)

iv) Suit for Quantum Meruit (as much as merited)

v) Suit for Damages (monetary compensation)

1. Suit for Rescission

When one party informs other party about his inability to perform the contract, the other party can close the contract, by filing a suit for rescission or by giving a legal notice to the other party, then the other party will not have any chance to revoke his notice of anticipatory breach on the due date. This remedy is suitable in case of anticipatory breach only.

2. Suit for Specific Performance

When a party gives a notice of anticipatory breach or causes an actual breach, the other party can file a suit for specific performance of the contract. Thus the Court of law passes an order to perform the contract without fail at any cost. However, this type of orders are not passed on the breach of contract based on personal skills (singing, dancing etc.) or personal considerations (marriage agreements) or the contracts which are very difficult to be verified (such as construction contracts). In such cases the aggrieved party would be advised to go for any other remedy (Such as claiming damages).

3. Suit for Injunction

When a party has agreed not to do something under a contract but he is doing it or attempting to do it, then the other party can file a suit and obtain a stay order. It is called "injunction". In such cases the party is restrained from doing what he had agreed not to do.

Case Example : Warner Bros. V. Nelson (Actress)

In this case an actress agreed with a film production company that she will not act in any other film until their film is released But she started acting in some other film before the release of their film. The Court of law granted Injunction Order in favour of the film producers restraining her from acting in the other film.

4. Suit for Quantum Meruit (as much as earned)

When a party stops other party from doing a work after it is partially performed, he should pay consideration for the work already done, otherwise the other party can file a suit for Quantum Meruit or as much as merited or earned. This remedy is available only in the contracts which are partially performed.

Case Example : Cort Vs. Ambergate Railway Company

In this case a railway company placed order for the supply of 3,000 chairs but they stopped the supplier from supplying the chairs after receiving delivery of 1400 chairs. Moreover they refused to pay price of the chairs already supplied. Therefore the Court of law ordered that the price of the chair should be paid (i.e. as much as due)

5. Suit for Damages

Claiming Monetary compensation for the loss suffered by the aggrieved party on the breach of a contract, is known as 'Damages'. Every party who is put to loss on account of breach of contract will have a legal right to claim damages. However the Court of law awards damages only when a loss is shown and it is assessable in terms of money. No damages can be claimed for inconvenience or reasonable delay or hurting the feelings of the other party.

Types of Damages : The damages claimable on breach of contracts can be classified into five types as under:

a) Ordinary Damages : When one party suffers a loss due to breach of contract by the other party, he can file a suit for damages. The amount of damages should be equivalent to the actual loss. In case of supply of goods, the difference between agreed price and the market price on the date of breach becomes ordinary damages. The right to claim ordinary damages need not be mentioned in the agreement. Separate agreement also not necessary, because it is a general legal right given by the Indian Contract Act, 1872 under its Section 73.

b) Special Damages : Claiming agreed amount of damages on the breach of a contract is called " Special damages ". The amount of such damages is fixed between the parties at the time of entering into the contract. It may be more than the ordinary damages. However very high amount of special damages is not allowed, because such unreasonable damages will become a type of punishment or fine or penalty on the other party. Therefore special damages should be fixed reasonably. Special damages cannot be claimed in the absence of separate agreement or a special clause in the agreement. In case the ordinary damages are more than special damages, the aggrieved party can opt for ordinary damages.

c) Vindictive Damages or Exemplary Damages : When the reputation or goodwill of a person or his family or business is damaged due to breach of a contract, any amount of damages can be claimed. Such damages are called "vindictive damages" or "Exemplary damages". But the Court of Law allow a reasonable amount of damages after verifying the facts of the case. This type of damages are allowed in India only in the following two cases :

i) Breach of marriage agreement (By the bridegroom or his party)

ii) Dishonour of a cheque by a Banker even after having sufficient balance in the account of the customer

d) Nominal Damages : Sometimes one party claims damages in a Court of Law on the breach of agreement caused by the other party, even though he suffered no loss. In such cases the Court of law may either dismiss the suit or award nominal amount of damages such as Rs. 10 or 20. Such damages are known as " Nominal Damages ".

e) Remote Damages : Damages can be claimed only for the loss suffered due to direct reasons but not for indirect reasons. Any damages claimed for distant reasons are called " Remote Damages ". Such damages are not awarded by the Courts of law.

1.12 Quasi Contracts

Under Indian Contract Act, "A contract is defined as an agreement which is enforceable by law" where it comes into existence from the action of the parties. But under certain special circumstances the law creates and enforce legal rights and obligations on the part of the parties, eventhough they have never entered into a contract.

Such obligations imposed or created by law are known as quasi contracts.

In other words, quasi contract is not a contract at all but it is a legal obligation imposed by law in the absence of any agreement, which puts both the parties in the same position as if there is a contract between them.

Law of quasi contract is also recognized as the law of restitution. Quasi contract rests on the doctrine of "unjust enrichment" where it restricts the person who lifts himself unjustly at the expenses of another.

Kinds of Quasi Contracts

1. Claims for necessary supplies
2. Payment by an interested person
3. Obligation to pay for non-gratuitous acts
4. Responsibility of finder of goods and
5. Mistake or coercion.

1. Claims for Necessary Supplies

Under section 68, if necessaries are supplied to any person who is incompetent to contract in such case, that supplier is entitled to recover the price from the property of such incompetent person. For instance, minor and lunatics are incompetent to contract.

Example

Mr. X supplies necessary goods to Mr. Y who is lunatic in nature and here Mr. X is liable to recover his price from the property of Mr. Y.

2. Payment by an Interested Person

If interested person makes the payment of another person who is bound by law to pay it. But, later under section 69, he is entitled to recover his money from that person.

Example

'Q' takes a house on lease from 'R' where 'R' has to pay some revenue to the government. But his payment was in arrears due to which the house was advertised for sale by the government 'Q' inorder to prevent the sale and consequent cancellation of lease, pays the sum due from Y to the government later 'Q' is entitled to recover his money from 'R'.

3. Obligation to Pay for Non-gratuitous Acts

Section 70 deals with the obligation of a person enjoying benefit of a Non-gratuitous Act. Where one person lawfully does something for another person but without any gratuitous intention to do so. But other person enjoys the benefit of it. Thats why that person is liable to compensate for the benefit received or restore back the benefit received.

Example

In a village Mr. 'S"s tank was damaged and water was leaking from it. Mr. 'T' saw the leakage and repaired the tank without any gratuitous intention to do so but Mr. 'S' has enjoyed the benefit of it and he is liable to make the payment for such Non-gratuitous Act.

4. Responsibility of Finder of Goods

Section 71 deals with the responsibility of finder of goods where finder of goods is not only responsible to retain the goods but also proper care of goods must be taken as bailee does and all necessary measures must be taken to trace the real owner.

In the following situations the finder of goods can sell the goods,

(a) If goods consist of perishable nature.

(b) If owner of goods is not found even after making all deligence efforts to find.

(c) If owner refuses to pay the legal charges

(d) If legal expenses exceed 2/3rd value of the found goods.

5. Mistake or Coercion

Under Section 72, if a person paid or delivered anything by mistake or under coercion then the person is liable to repay or return it to the person who has paid it.

Example

'P' borrowed 500 rupees note from 'Q' but by mistake he repaid 1000 rupees. 'Q' is bound to pay the additional amount to 'P'.

1.13 Special Contracts

1.13.1 Indemnity

Indemnity means making a loss good. It is just like compensating a loss suffered by another person by the actions of a person. Agreements made for such purpose are known as Contracts of Indemnity. According to Section 124 of the Indian Contract Act under VIII Chapter, "A contract by which one party promises to save the other from a loss caused by the conduct of the promisor himself or by the conduct of any other person is called a "Contract of Indemnity".

Essential of a Contract of Indemnity

A valid contract of indemnity should fulfill the following conditions :

a) There must be two parties called the indemnifier and the Indemnified.

b) There must be a promise to save the other party from some loss.

c) The loss may be due to the promise himself or any other person.

d) The contract of indemnity may be express or implied.

e) Contracts of indemnity must fulfill all the essentials of a valid contract like free consent, competence of parties, lawful object, lawful consideration etc.

Right of Indemnity Holder

Section 125 enumerates the rights of an indemnity. Holder in a contract of indemnity. The various rights' of indemnity holder are :

a) Right to Recover Damages : The indemnity holder is entitled to recover from the indemnifier all damages which he is compelled to pay in any suit in respect of any matter covered by the contract of indemnity.

b) Right to Recover Costs : The indemnified is entitled to recover all costs he may be compelled to pay in any such. But the indemnity holder can recover such cost if he had acted prudently and did not contravene the orders of the indemnifier.

c) Right to Recover Sums paid under Compromise : The indemnity holder is entitled to recover all sums which he may have paid under the terms of any compromise of any such suit, provided such compromise is not contrary to the orders of the promise and was one which it would have been prudent for the indemnity holder can only recover the amount that he had to pay to the third party.

But it has been held that an indemnity holder is entitled to sue the indemnifier even before he has suffered any damage, provided an absolute liability has been incurred by him. It is, thus, not necessary that he should have also discharged the liability before the claim to enforce liability can arise.

d) Right to Sue for specific Performance: The indemnity holder is entitled to sue the indemnifier for the specific performance of the contract if he has incurred absolute liability and the contract covers such liability.

e) Rights of the Indemnifier: The Indian contract Act is silent regarding the rights which the indemnifier has, on carrying out his promise to indemnify. It has been held, however, that his rights, in such cases are similar to the rights of a surety under section 141 of the contract Act.

1.13.2 Contract of Guarantee

A 'contract of guarantee' is a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the 'surety', the person in respect of whose default the guarantee is given is called the 'principal debtor', and the person to whom the guarantee is given is called the 'creditor'. A guarantee may be either oral or written (Sec. 126). It may be express or implied and may even be inferred from the course of conduct of the parties concerned.

Essential features of a contract of guarantee

1. Concurrence

A contract of guarantee requires the concurrence of all the three parties to it, viz., the principal debtor, the creditor, and the surety.

2. Primary liability in some person

There must be a primary liability in some person other than surety. The word 'liability' as used in the definition of guarantee (Sec. 126) means "a liability which is enforceable at law". If that liability does not exist, there cannot be a contract of guarantee. But a guarantee given for the debt of a minor is an exception to this rule.

3. Essentials of a valid contract

A contract of guarantee must have all the essential elements of a valid contract. But the following two points should be noted.

(i) All the parties must be capable of entering into a valid contract, though the principal debtor may be a person suffering from incapacity to contract. In such a case, the surety is regarded as the principal debtor and is liable to pay personally even though the principal debtor (e.g., a minor) is not liable to pay [Kashiba v. Shripat, (1895) 19 I.L.R. Born. 697],

(ii) Consideration received by the principal debtor is sufficient for the surety, and it is necessary that it must necessarily result in some benefit to the surety himself. It is sufficient' if something is done or some promise is made for the benefit of the principal debtor. Sec. 127 lays down this rule as follows: "Anything done, or promise made for the benefit of the principal debtor may be a sufficient consideration to the surety for giving the guarantee."

4. Writing not necessary

A guarantee may be either oral or written (Sec. 126). It may be express or implied. Implied guarantee may be inferred from the course of conduct of the parties concerned. But in England a guarantee must be in writing and signed by the party to be charged.

1.13.3 Bailment

The word bailment is derived from the French word bailer which means to deliver. Bailment is the delivery of goods by one person to another from some purpose, when the purpose is accomplished, the goods is returned to or otherwise disposed off according to the direction of the person delivering them.

The transfer of possession of something (by the bailor) to another person (called the bailee) for some temporary purpose (eg. repair or storage) after which the property is either returned to the bailor or otherwise disposed of in accordance with the contract of bailment.

Essentials and Legal Rules as to Bailment

1. **Contract :** A bailment is usually created by agreement b/w the bailer & bailee
2. **Delivery of Goods** : In bailment, the possession of goods must be delivered by the bailer to the bailee.
3. **No Transfer of Ownership :** In bailment, possession is transferred from one person to another but ownership of goods remains with the bailer.

4. **Delivery of Goods for Some Purpose** : The delivery of goods must be for some specific performance.
5. **Return of Specific Goods** : Goods are delivered to the bailee with the condition that the same goods will be returned to the bailer after the accomplishment of purpose.
6. **Movable Goods** : In bailment, the goods bailed must be movable.
7. **Deposit of Money Into Bank – It is Bailment**: Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits.

Classification of Bailment

1. **On the basis of benefit**
   - i) Bailor
   - ii) Bailee
   - iii) Both
2. **On the basis of Rewards**
   - **i) Gratuitous :** Where neither the bailer nor the bailee get any remuneration, then, it gratuitous.
   - **ii) Non-Gratuitous :** When either the bailer or bailee get remuneration, then it is known as non-gratuitous bailment.

Right and Duties of Bailer

A) Right of Bailer

- **i) Right of Termination :** Bailer has right to terminate the contrite of bailment, if the bailee does any inconsistent act with regards to goods.
- **ii) Right to Demand Return of Goods :** Any time in case of gratuitous bailment. The bailer can demand back goods bailed at any time even if he had lend it for a specific goods. Period or for a specified purpose.
- **iii) Enforcement of Rights :** The duties of bailee are the rights of bailer & bailer can enforce those rights by filing a suit against bailee.

B) Duties of Bailer

- **i) Duty to disclose known defects**: A bailer is bound to disclose all the defects relating to goods of which he is known.
- **ii) Duty to Bear Extraordinary expenses :** Where the bailment is gratuitous & the bailee is not to receive any remuneration, the bailer shall pay bailee all the necessary expenses.
- **iii) Bear Risk for Loss :** Bailer is to bear risk of loss or destruction of the thing bailed if the bailee had taken prudent care of the goods.

Rights and Duties of Bailee

A) Rights of Bailee

- **i) Right to Interplead :** If the person other than bailer claims the goods, bailee may apply to court to stop the delivery.
- **ii) Right Against 3rd Party :** If a 3rd person wrongfully deprive bailee to use the goods or cause any injury, then bailee is entitled to such remedies which are available to real owner.
- **iii) Right of Particular Lien :** When the bailee has rendered some services or skills on the goods he had right of particular lien unless he is paid.
- **iv) Right of General Lien :** Banker, factors, attorney of High Court, policy broker will be entitled to retain as a security for a general balance of account any goods bailed to then.

B) Duties of Bailee

- Duty of Reasonable care.
- Duty not to make unauthorized use of goods.
- Duty not to mix bailer's goods with his own.
- Duty to return any profit out

1.13.3.1 Law Relating to Lien

1. **Particular Lien :** It is available to the bailee against such goods in respect of which he has rendered some servicing involving the excise of labour or skills.
2. **General Lien :** It entitles a person to retain the position of goods belonging to another for general balance of account.

1.13.3.2 Finder of Goods

A person who comes by an article is not obliged to pick it up, but if he does so or take charge of it becomes a bailee. Such person is called finder of goods. Finder of goods is in position of bailee & enjoys all the rights & duties of bailee.

Rights of Finder of Goods

1. **Right of Lien :** He is entitled to lien, i.e. a right to retain the goods found even against the true owner until he receives compensation for trouble and expenses voluntarily incurred by him to preserve the goods and find out the owner. However, the finder of goods is not entitled to sue for such compensation, though he is entitled to retain the goods until he receives such compensation.
2. **Right to sue of reward** : The finder of goods can sue to real owner for the reward, if any, has been offered by the owner of goods.
3. **Right to Sale** : The finder of goods generally cannot sell the goods, he found but in following cases he can do so :
   - When true owner of goods cannot be find after reasonable search.
   - They where the true owner refuses to pay the lawful charges to finder of goods.
   - When the goods are perishable in nature.
   - Where the lawful charges exceeds 2/3rd of the value of goods.

Duties of Finder of Goods

- To take due care of the goods.
- To find the true owner.
- Must not use the goods of his personal purpose.
- He should not mix the goods with his own goods.
- Must return the goods to the real owner if he is found.

1.13.3.3 Termination of Bailment

A bailment is ended when its purpose has been achieved, when the parties agree that it is terminated, or when the bailed property is destroyed. A bailment created for an indefinite period is terminable at will by either party, as long as the other party receives due notice of the intended termination. Once a bailment ends, the bailee must return the property to the bailor or possibly be liable for conversion.

- On the expiry of the stipulated period
- On the accomplishment of the specified purpose
- By bailee's act inconsistent with conditions
- Termination of gratuitous bailment.

1.13.4 Pledge

It is defined in the following words, "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge."

Bailor is called pledgor or "Pawnor" and Bailee is called "Pawnee" or pledgee.

Example

Mr. Shukla borrows Rs. Ten thousands from Mr. Pritam and keeps his motor cycle as security for payment of the debt. The bailment of motor cycle is called pledge.

Note : In this example Mr. Shukla is a Pawnor and Mr. Pritam is a Pawnee.

Basic Essentials of Pledge

Following are the important essentials of pledge :

1. Moveable Property

The pledge is concerned with the moveable property. All types of goods and valuable documents are included in it.

2. Transfer of Possession

In case of pledge only possession of goods transferred by the pawnor to the pawnee.

Example

Mr. Nelson ledges car with Mr. Mcculan and gets Rs. 100,000. He gives the possession of car to Mr Mcculan.

3. Ownership Right

In case of pledge, the ownership of the goods remains with the pawnor. It is not transferred to pawnee.

Example

Mr. Wali pledges the plot with Mr. Raffel and gets 10 lac. The ownership of the plot remains with Mr. Wali.

4. **Case of Mere Custody :** Those people who have only mere custody of the goods cannot pledge them.

Example

A custodian cannot pledge his masters banglow. It will be invalid pledge.

5. **Limited Interest**

Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to the extent of that interest only.

Example

Mr. Nelson gives car to Mr. Andre for repair, but does not pay Rs. 20,000 repair charges. Mr Andre pledges the car with Mr. Smith and borrows Rs. fifty thousands. This pledge is valid only up to ten thousands.

1.13.5 Contracts of Agency

A person, who is capable of doing something, can do it either by himself or get it done through some other person on his behalf. When the person selects the second way of doing things it is known as " Agency". The person who appoints another to do something on his behalf is called the" Principal". The person who does something on behalf of principal or represents him in transactions is called the "Agent". The third person with whom the agent makes contract on behalf of the principal is called the "Third Party". The relation between Principal and agent is known as agency and the contract between them is called "Special Contract of Agency".

The Indian Contract Act has not defined the agency but gave the meaning of the parties. According to Sec. 182 under Chapter X of the Act, " An agent is a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done or who is so represented is called the principal". The following features should be present in a valid contract of agency.

1 . Three parties are involved in a transaction of agency namely the Principal, the Agent and the Third Party. However, the Principal and the Agent are the main parties in agency.

2. Every person who is competent to contract can become a Principal, he can appoint another person who is either competent to contract or not as his Agent at his own risk. The Third party should also be competent to contract.

3. The Principal may pay consideration to the Agent either in the form of salary or commission or remuneration for his services performed on behalf of the Principal. An agent may also be appointed without any consideration, such agency is also valid. Eg. wife of a person, son of a person, a friend in some cases etc.

4. The principal can appoint an agent either by words spoken or by words written i.e., expressly. He may also appoint agent by his actions or on account of relations existing between the principal and the agent i.e. impliedly. Both expressed and implied agencies are valid.

5. A special contract of agency should posses all the other features of valid contracts besides the above mentioned special features, so as to be enforced in Court of law. They include proposal, acceptance, free-consent, lawful consideration and object etc.

Creation of Agency

A contract of agency may be created by an express agreement or by implication (implied agreement) or by ratification. Thus, there are different kinds of agency.

1. **Express Agency (s.187):** A person may be appointed as agent, either by word of mouth or by writing. No particular form is required for appointing agent. The usual form of a written contract of agency is the power of attorney on a stamped paper.

2. **Implied Agency (s. 187):** Implied agency arises from the conduct, situation or relationship of parties. Implied agency, therefore, includes agency by estoppel, agency by holding out and agency of necessity.

3. **Agency by Estoppel (s. 237):** When a person has, by his conduct or statements, induced others to believe that a certain person is his agent, he is estopped from subsequently denying it. The principal is precluded from denying the truth of agency which he himself has represented as a fact, although it is not a fact.

4. **Agency by Holding Out:** Though part of the law of estoppel, some affirmative conduct by the principal is necessary in creation of agency by holding out.

Example. Puran allows his servant Amar to buy goods for him on credit from Komal and pay for them regularly. On one occassion. Puran pays his servant in cash to purchase the goods. The servant purchases good on credit pocketing the money. Komal can recover the price from Puran since through previous dealings Puran has held out his servant Amar as his agent.

5. **Agency by Ratification (Ss. 196-200)**

Where agent does an act for his principal but without knowledge of authority, or where he exceeds the given authority, the principal is not held bound by the transaction.

1.14 Difference between Contract of Indemnity and Guarantee

Contract of Indemnity	Contract of Guarantee
Nature of Liability	
The person giving an indemnity is primarily liable. In a contract of indemnity there is no such obligation; promisor merely takes upon himself to indemnify the promise for loss caused to him by the acts of the promisor or anybody else.	The surety's liability is secondary, arising on the default of another person. In a contract of guarantee, there is an undertaking on this part of the surety to be answerable for the debt or default of another.
Number of Contracts	
A contract of indemnity is a single contract between two parties only, i.e., indemnifier and indemnified. It is an original and direct engagement which may be made independently of the existence of a third party.	In a contract of guarantee, there are three parties- the creditor, the principal debtor and the surety and there are three contracts – one between the creditor and the principal debtor, second between the surety and the creditor and the third between the surety and 'the principal debtor, by means of which the surely is entitled to recover from the principal debtor whatever sums he may have rightfully paid under the contract of guarantee to the creditor.
Purpose of Contracts	
A contract of indemnity is made for the reimbursement (repay) of loss. But the indemnifier need not necessarily act only on the request of the debtor.	A contract of guarantee is to provide necessary security to the creditor against his advance. Surety gives guarantee only on the request of the debtor.
Rights of Parties	
In the case of contract of indemnity, indemnifier can bring the suit against third part only in the name of the indemnified and unless he has obtained the assignment of the claim in his favour, he cannot file a suit in his own name.	In contract of guarantee surety becomes entitled in law to proceed against the principal debtor in his own right after he has discharged the debt payable by the principal debtor to the creditor.
Existence of Risk Liability	
Indemnifier promises to save the indemnity-hold from a contingent risk.	The surety agrees to discharge the liability of the principal debtor which is not contingent but subsisting.
Parties' Interest	
A person giving an indemnity may have some other interest in the contract. E.g., a del credere agent gets commission for his promise to indemnify his principal against bad debts.	The person giving the guarantee should have no other interest in the transaction apart from his guarantee.

SHORT NOTES

1. Contract

Contracts are the basis of most business transactions. The Indian Contract Act as passed in the year 1872. It is most important and basis of mercantile law. A contract is an agreement to do or not to do an act it is a legally binding agreement which is enforced by law.

2. Indian Contract Act 1872

The law relating to contracts in India is contained in Indian Contract Act, 1872. The Act was passed by British India and is based on the principles of English Common Law. It is applicable to all the states of India except the state of Jammu and Kashmir. It determines the circumstances in which promises made by the parties to a contract shall be legally binding on them. All of us enter into a number of contracts everyday knowingly or unknowingly. Each contract creates some rights and duties on the contracting parties. Hence this legislation, Indian Contract Act of 1872, being of skeletal nature, deals with the enforcement of these rights and duties on the parties in India.

3. Agreement

According to Sec 2(E) of Indian Contract Act agreement is "Every promise or every set of promises forming the consideration for each other." A promise is defined in Sec 2(B) as "A proposal when accepted becomes a promise."

4. Acceptance and Rules regarding acceptance?

Acceptance is an essential element of a valid contract like offer. Offer and acceptance are foundation and the first step of agreement. Every agreement beings with offer and acceptance when offer is accepted by the other for whom it was made it is called acceptance. All terms and conditions of the offer must be accepted by the other (offeree) without acceptance agreement is not possible. If the offer is refused and rejected by the other there is no question of agreement so like offer acceptance is also equally important for making an agreement while accepting offer all the terms and conditions must be accepted and understand is the same way and sense taken by offeree.

Rules

(a) Acceptance only by offeree (party for whom it is made)

(b) Acceptance within the time.

(c) Acceptance before cancellation of offer.

(d) Communication of acceptance.

(e) Unconditional acceptance.

(f) Acceptance according to condition.

(g) Express or Implied acceptance.

(h) Rejected offer can't be accepted.

5. Consideration

Consideration is an essential element for the formation of a contract. It may consist of a promise to perform a desired act or a promise to refrain from doing an act that one is legally entitled to do. In a bilateral contract - an agreement by which both parties exchange mutual promises - each promise is regarded as sufficient consideration for the other. In a unilateral contract, an agreement by which one party makes a promise in exchange forthe other's performance, the performance is consideration forthe promise. while the promise is consideration forthe performance.

Consideration must have a value that can be objectively determined. A promise, for example, to make a gift or a promise of love or affection is not enforceable because of the subjective nature of the promise.

6. Capacity to Contract

The legal ability to enter into a binding contract. Those who lack the capacity to contract include minors (with limited exceptions) and individuals who are so mentally impaired that they cannot understand the terms of the contract. If an individual who lacks the capacity to contract enters an agreement, that person may under most circumstances back out later. For example, if a 15-year-old signs a contract for cell phone service, the cell phone company won

7. Free consent

Free consent is one of the most important essential elements of a valid contract. The term free consent refers to meeting of free and fresh minds of two parties of an agreement when two parties take and understand, purpose, subject matter

and terms and conditions of the agreement in the same sense it is free consent. Both of them must take things in the same way. They must not understand it in different way. An agreement which is made freely it becomes a valid contract due to presence of free consent of both the parties. In any of the free consent of both there will no free consent in the agreement.

(a) Coercion: threading.

(b) Undue influence: pressure and misuse of power for unfair advantage.

(c) Fraud, deceiving on cheating the other.

(d) Misrepresentation: false statement without an intention to deceive the other.

(e) Mistake error

8. Legality of Object

Legality of object section 23 of the Indian Contract Act has specified certain considerations and objects as unlawful. The consideration or objects of an agreement is lawful, unless- it is forbidden by law; is of such a nature that, if permitted, it would defeat the provision of any law; or is fraudulent; or involves injury to the person or property of another; or the court regards it as immoral or opposed to public policy.In each of the above mentioned cases the consideration or object of an agreement is deemed to be unlawful. Every agreement in which the object or consideration is unlawful is void.

9. Performance of a Contract

Performance is actually completing the deal according to the terms given in the contract. For example, you want to buy that snazzy looking 1998 Ferrari at your local dealer's clearance sale. Your dealer, Mr. X, offers to sell you that slick-looking Italian car if you pay him $97,000. After a bit of bargaining, you agree to the terms and get the car at a reduced price of $96,995, signing on the dotted line. A contract has been accepted. Mr. X, your car dealer, will deliver the 1997 Ferrari and then you pay him the balance due. The dealers delivery of the car and your payment of $96,995 are the performance of the contract.

Both parties must live up to their end of the bargain in the contract to have closure. In other words, until both parties have properly performed under the contract, the contract remains open.

10. Discharge of a Contract

Discharge of a contract relates to the circumstances in which the contract is brought to an end. Where a contract is discharged, each party is freed from their continuing obligations under the contract. A contract may be discharged in one of the following ways

- Discharge by Performance
- Discharge by repudiatory Breach
- Discharge by Agreement
- Discharge by Frustration

11. Indemnity

Contracts of indemnity appear to be analogous to contracts of guarantee. Section 124 defines a contract of indemnity as "a contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself, or by the conduct of any other person."

Ex: A contracts to indemnify B against all the consequences of any proceedings which C may initiate against B. this is a contract of indemnity.

12. Guarantee

A guarantee is the most common form of security taken by the bankers to ensure safety of the funds lent. Section 126 of the ICA defines a contract of guarantee as a contract to perform the promises or discharge the liability of a third person in case of his default.

Ex: A wanting a loan of Rs.500 induces B to promise C to repay the loan in case of A's default. This is a contract of guarantee.

It will be seen that there are 3 parties to this contract- A the principal debtor, B the surety and C the creditor. A contract of guarantee is thus a secondary contract the principal contract being between the principal debtor and the creditor himself. The liability of the surety therefore arises only if the principal contract is not fulfilled.

13. Kinds of Guarantee

(i) Specific guarantee : Guarantee given for a single debt is called a specific guarantee and is discharged on repayment of the particular debt it was given to secure.

(ii) Continuing guarantee : A guarantee extending to series of distinct and separable transactions is said to be continuing guarantee. It can be revoked by the surety at any time.

(iii) Joint and several guarantee : Where two or more persons join in executing a guarantee, their liability may be joint or several or joint and several. In a J and S guarantee each co-guarantor is jointly and severally liable for the debt.

(iv) Limited guarantee : In limited guarantee, the guarantees have some clauses which either restrict the liability of the guarantor or limit the scope.

14. Bailment vs Pledge

The words bailment and pledge are used mainly in terms of contract. They can be seen being referred to by lawyers in a court of law to prove their point. Bailment is a type of contract and pledge is also a type of contract. People who are not aware of the origin of these words use them in the same breath as if they are interchangeable which is not correct. This article will throw light on these two concepts as they hold significance in jurisprudence.

15. Contract of Agency

Agency law is concerned with any "principal-agent" relationship; a relationship in which one person has legal authority to act for another. The relationships generally associated with agency law include guardian-ward, executor or administrator-decedent, and employer-employee. Agency is an agreement, express, or implied, by which one of the parties (called the principal) entrusts to the other (called the agent), the management of some business; to be transacted in his name, or on his account, and by which the agent assumes to do the business and to render an account of it. As a general rule, whatever a man may do by himself, except by virtue of a delegated authority, he may do by a designated agent

16. Implied contract

An implied contract is one which is inferred from the acts or conduct of the parties or from the circumstances of the cases. Where a proposal or acceptance is made otherwise than in words, promise is said to be implied.

17. Offer

An offer is a proposal made by one party to another to enter into a legally binding agreement with him. A person is said to have made proposal when he signifies to another his willingness to do or to abstain from doing anything with a view to obtaining to the assent of that other to such act or abstinence.

18. Void and Voidable Contract

A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable. Which means a contract which is valid when it is made but becomes void due to the occurrence of some event. E.g. : Contracts with Aliens (Foreigners) becomes void when both the countries are at war.

19. Voidable Contract

An agreement which is enforceable by law at the opinion of one or more of the parties there to, but not at the option of other or others is called a voidable contract. A contract becomes voidable. When the consent of the parties to the contract is not free, and such agreements are open to the part whose consent has been so obtained to avoid the contract if he so desires.

20. Coercion

When a person is compelled to enter into a contract, by the use of force, by the other party or under a threat 'coercion' is said to be employed. Coercion is the committing or threatening to commit any act forbidden by the Indian penal code 1860 or the unlawful detaining or threatening to detain any property with the intention of getting the ascent of the other party to the contract is called Coercion.

21. Unenforceable Contract

Certain contracts become void because the law courts will not enforce them. These contracts have all the essential characteristics of a contract and are perfectly valid in their substances yet they cannot be enforced because of certain technical

defects. They include contracts which are incapable of being enforced on account of non-observance of certain formalities required by special provisions of law such as those of writing, attestation, registration, etc. Some of them can be enforced if the technical defect is removed.

22. Void agreement

An agreement not enforceable by law is said to be void. Such agreement does not confer any right to any of the parties to it. The agreement, in such a case, is void-ab-initio (from the very beginning). Such an agreement does not result in a contract at all.

23. Legal Rules as to Consideration

1. It must move at the desire of the promisor
2. It may move from the promisee or any other person
3. It may be an act, abstinence or forbearance or a return promise
4. It may be past, present or future
5. It need not be adequate
6. It must be real and not illusory
7. It must be something which the promisor is not already bound to do
8. It must not be illegal, immoral or opposed to public policy

Consideration is something in return. Sec. 2(d) defines it as follows "when at the desire of the promisor, the promisee or any other person has done or obtained from doing any act, or does, or abstains from doing or promises to do for abstain from doing, any such act, abstinence or return promise is called Consideration.

24. Capacity of Parties

Capacity to contract may be defined as the competency to contract. A person is competent to enter into a contract if he has attained the age of majority, is of sound mind, and has not been expressly declared as incompetent to contract.

25. Offer and Acceptance

An offer is a proposal made by one person to another. The person making the offer is known as offerer, proposer or promisor and the person to whom the offer is made is called the offeree, promisee or propose.

Acceptance may be defined as "the assent or agreement of the offeree to the offer".

If L says to M i.e., will you purchase my car for Rs. 10,000. L is making an offer to M. If M agrees to purchase Vs car for Rs. 10,000, then he is said to have accepted L's offer.

26. Breach of Contract

Breach of contract means a breaking of the obligation which a contract imposes. It occurs when a party to the contract without lawful excuse does not fulfil his contract and obligation or by his own act makes it impossible that he should perform his obligation under it. Then the aggrieved party has a right to claim for damages.

27. Person of Unsound Mind

A person who is of unsound mind is incapable of entering into a contract. A person who is of unsound mind is a lunatic, drunk or intoxicated person, an idiot and a person expressly declared as an incompetent to a contract.

28. Quasi Contract

A quasi contract is not a contract but merely represents one. A quasi contract is not a contract but a legal obligation imposed by court of law putting the parties in the same position as if there is a contract between them. The basis of quasi contract is to prevent unjust enrichment, unjust benefit, i.e. no man should grow rich out of another person's loss : such contracts are also called constructive contracts.

29. Pledge

It is defined in the following words, "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge."

Bailor is called pledgor or "Pawnor" and Bailee is called "Pawnee" or pledgee.

UNIT II

Sale of Goods Act 1930: Contract of Sale of goods, Definition, formation of contract, sale and agreement to sell, conditions and warranties - transfer of property in goods - rights of an unpaid seller. The Partnership Act 1932 - Definition, Characteristics of Partnership Deed - Definition, Characteristics and Format of Partnership deeds.

2.1 Sale of Goods Act 1930

Indian Sale of Goods Act 1930 is a Mercantile Law. The Sale of Goods Act is a kind of Indian Contract Act. It came into existence on 1 July 1930. It is a contract whereby the seller transfers or agrees to transfer the property in the goods to the buyer for price. It is applicable all over India, except Jammu and Kashmir.

2.1.1 Contract of Sale

A contract of sale refers to a contract through which "the seller transfers or agrees to transfer the property in goods to the buyer for a price. The contract of sale may be of two types,

(i) Conditional contract of sale

(ii) Absolute contract of sale.

(i) Conditional Contract of Sale: Conditional contract of sale is a contract of sale which is on a condition.

(ii) Absolute Contract of Sale: Unlike, conditional contract of sale, absolute contract of sale is made without conditions.

Contract of sale is a general term and covers,

(a) Sale

(b) Agreement to sell.

In case of 'sale', property in goods is passed onto the buyer from seller. Whereas in case of "Agreement to sell", there is only an agreement between the parties which the

seller would transfer the property in goods to the buyer in the future or after the fulfillment of some conditions. An agreement to sell takes the form of sale with the span of time or fulfillment of conditions which were imposed on the transfer of property in goods to the buyer.

2.1.2 Features or Essentials of a Contract of Sale

1. **Buyer and Seller :** One person cannot become buyer and also the seller, there are always two parties to a contract of sale, buyer and seller.

   Example : Mr. Kashif sells the shop to Mr. Zahir. Mr. Kashif is a seller and Mr. Zahir is a buyer in this case.

2. **Goods :** Every kind of movable property except actionable claims (which can be enforced by legal action) and money is regarded as goods.

   Example : Mr. Yuva sells his car to Mr. Larson for Rs. 7 lac. In this case car is a moveable property, so it is a contract of sale.

3. **Price :** Price must be the consideration in the contract of sale. If goods are exchanged with goods it is barter and not a contract of sale.

   Example : "X" sells a book to "Y" for Rs. 300. It is a contract of sale.

4. **Transfer of Ownership :** To constitute the sale contract the seller must transfer or agree to transfer the property ownership to the buyers. So possession and ownership both will be transferred to buyer.

   Example : "X" sells the car to "Y" for 6 lac. The possession and ownership both will transfer to "Y".

5. **Sale :** When ownership and possession of the good is immediately transferred from seller to buyer it is called contract of sale.

   Example : "X" buys a pen from the "Y" and pays the whole price on his hand. It is a sale.

6. **Agreement to Sell :** When the transfer of ownership in the goods is to take place at a future date the contract is called agreement to sell.

   Example : Mr. Bazooka agrees to purchase Mr. Titoo bus for Rs. 25 lac. But the transfer of bus will take place after one year. It is agreement to sell.

2.1.3 Performance of Contract of Sale

Under section 2 (2) of the Sale of Goods Act, the term 'delivery' is defined as a voluntary transfer of possession from one person to another. According to Sir Frederick Pollock delivery is voluntary dispossession in favour of another. There are three modes of delivery, such as actual, symbolic and constructive delivery. Actual delivery is occurred in case of goods are delivered themselves physically to the buyer. Symbolic delivery is occurred where the goods are not physically delivered but delivered by indicating or giving a symbol, e.g. delivery of documents of title to the goods etc. Constructive delivery is occurred where the third person acknowledge holding the goods on behalf of the buyer, e.g. A sold to B 50 bags of tea where P hold bags which is a warehouse and it is ordered by A to P to do so.

Rules Regarding Delivery

Various rules regarding and other matters relating to the performance of the contract of sale are provided under different Sections, which are as below-

1. **Mode of Delivery**

   Under Section 33, 'deliveries of goods' may be done by performance of anything which, the party's agreement shall be treated as delivery or the effect of the putting of goods in the possession of the buyer or of any person authorized to hold them on his behalf. Thus the delivery of goods may be either actual or symbolic or constructive.

2. **Delivery and payment are concurrent condition**

   Under Section 32, payment of price and the delivery of the goods is a concurrent conditions unless otherwise agreed. If the buyer is not willing to pay the price, no delivery will be given or no need to pay the price by the buyer unless the seller is ready and willing to give delivery.

   Example: P agrees to supply goods to Q, where Q will have to pay on delivery. So, P, unless Q is ready, need not delivery the goods.

3. **Effect of party delivery**

   Under Section 34, a part of delivery of goods sold may be equal to the delivery of the whole, if it is so intended and agreed. But, in case of the fact where the part is intended to serve the whole, then the delivery of that part does not equal to delivery of the whole.

Example: X has sold 100 kg of wheat to Y. The wheat are remaining in the godown of X. After selling, Y again sold 20 kg of wheat to Z and as per desire of X; Y sent this 20 kg of wheat to Z. This is a legal effect of delivery of the whole.

4. Buyer to apply for delivery

Under Section 35, the seller is not bound to deliver goods, unless agreed otherwise till the buyer applies for delivery.

5. Place of Delivery

Under Section 36 (i), at which place the delivery is to be made will be mentioned in the agreement between the parties. Apart from any such contract the goods will be delivered at the place at which they are sold.

6. Time of Delivery

Under Section 36 (2) and (4), of the Contract of Sale of Goods Act, where the seller is bound to send the goods to the buyer , but no time for sending them in fixed the seller is bound to send them within a reasonable time and at a reasonable hour.

7. Manner of Delivery

Under Section 36(3), at the time of sale, if the goods are in the possession of a third person then there is no delivery by the seller to buyer till such third person acknowledges to the buyer that he holds the good on himself. The transfer of document of title of goods operates as delivery inspite of possession of goods by third party and this will not apply in such case.

8. Expenses of delivery

Under Section 36 (5) the buyer is to bear the expenses of or incidental to receive the delivery. But, any expense of putting the goods into a deliverable state is to bear by seller. If there is any agreement between the parties with respect to the cost of putting the goods in a deliverable state or of expenses incidental to putting into the deliverable state, then this agreement will determine the right of the parties.

9. Delivery of wrong quantity

Under Section 37, it is a duty of seller to comply with the order of the buyer regarding kind, quality and quantity of goods. Delivery should be according to the specification of order. In case of defective delivery, the buyer can reject the goods.

10. Installments of deliveries

Under Section 38, the buyer is not bound to receive the goods of delivery by installments unless otherwise mentioned in the agreement. The performance of the contract can be split up with mutual consent. Where payment is made in installments in a contract, than failure of such payment of installment breach the contract.

11. Delivery of carrier

Under Section 39, it is provided that if the seller is authorized to send the goods to the buyer, then the seller must take all safety measure to protect the goods. It is the duty of seller to contract with the carrier. In case of sending goods by sea route, the seller must inform the buyer to insure them against sea perils.

12. Goods delivered at a distance place

Under Section 40, in case of agreement, where seller agrees to deliver the goods at his own risk the buyer shall bear the loss of deterioration of the goods in transit.

13. Examining the goods on delivery

Under Section 41, if the buyer had not examined the goods, the seller will not deliver the goods until the buyer has avail the opportunity of examining the goods. The buyer must give a reasonable opportunity of examining the goods in order to determine whether they are as per contract otherwise the buyer may reject the goods.

14. Acceptance complete on delivery

Under Section 42, the buyer has to be deemed to have accepted the goods in case of the buyer intimates to the seller that he accepted the goods that was delivered to the buyer and he perform anything pertaining to them. More over, the buyer retains the goods beyond a reasonable time without intimation of rejection to the seller.

15. Buyer not bound to return rejected goods

Under Section 43, it is laid down that in case of goods delivered to the buyer and if the buyer refuses to accept the goods, then he may not return the goods to the seller. This intimation to seller is sufficient that he refuses to accept the goods. This rule will be applicable subject to the condition of contract between the parties.

16. Liability of buyer for neglecting or refusing delivery of goods

Under Section 44, for any loss occurred due to neglect of buyer or a reasonable charge for the care and custody of the goods, the buyer will be liable, where the seller is willing to deliver the goods and request the buyer to accept his delivery. It is further-provided by Section 44, that the seller can exercise the right mentioned above inspite of the neglect to refusal made by the buyer to receive the delivery and it will amounts to a repudiation of the contract.

2.2 Formation of Contract

A contract for the Sale of Goods is formed according to the ordinary principles of the Common Law that is to say by offer and acceptance.

A) Section 3. Of the Sale of Goods Act

1. A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration, called the price."
2. There may be a contract of sale between one party to another.
3. A contract of Sale may be absolute or conditional.
4. Under a contract of sale, the property in the goods is transferred from the seller to the buyer, the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.
5. An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

B) Section 4

Capacity to buy and sell is regulated by the general law concerning capacity to contract, and to transfer and acquire property; Provided that, where necessaries are sold and delivered to an infant or minor, or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he must pay a reasonable price therefore.

2.2.1 Subject Matter of the Contract

The term 'goods' is defined by The Sale of Goods Act to include all chattels personal other than things in action and money, and all emblements, industrial growing crops and things attached to or forming part of the land, which are agreed to be served before sale or under the contract of sale.

The definition is extensive but there are nevertheless things, which do not or may not fall within this definition. The definition excludes non-physical items, such as company shares, which are technically 'things in action' or incorporeal movables and so are excluded by the plain words of the definition. Similarly, items of 'intellectual property' such as copyrights, patents and trademarks are not 'personal chattels' or corporeal movables and so fall outside the definition, although of course goods may exist which embody these intellectual property rights.

'The definition of the term 'goods' also suggests that it includes stocks and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed from the land before sale. Growing crops and grass are included in the definition of the term goods because they are to be served from land. Trees which are agreed to be served before sale or under the contract of sale are goods [Badri Prasad v. State of M.P., A.I.R (1970) S.C. 706].

Classification of goods: The goods which form the subject of a contract of sale may be either existing goods, or future goods [Sec. 6 (1)], or contingent goods [Sec. 6 (2)].

1. Existing goods

These are the goods which are owned or possessed by the seller at the time of sale. Only existing goods can be the subject of a sale. The existing goods may be–

(i) **Specific goods:** These are goods which are identified and agreed upon at the time a contract of sale is made [Sec. 2 (14)] as, for example, a specified watch, dog or horse. Goods are, however, not specific merely because the source of supply is identified, e.g., "500 quintals from 1,000 quintals on board".

(ii) **Ascertained goods:** Though commonly used as similar in meaning to specific goods, these are the goods which become ascertained subsequent to the formation of a contract of sale.

(iii) **Unascertained or generic goods:** These are the goods which are not identified and agreed upon at the time of the contract of sale. They are defined only by description and may from part of a lot.

Example: A who wants to buy a television set goes to a showroom where four sets of Janta model of Oscar television are displayed. He sees the performance of a particular set, which he agrees to buy. The set so agreed to be bought is a specific set. If after having bought one set he marks a particular set, the set so marked becomes ascertained. Till this is done, all sets are unascertained

2. Future goods

These are the goods which a seller does not possess at the time of the contract but which will be manufactured or produced or acquired by him after making the contract of sale [Sec. 2 (6)]. A contract of present sale of future goods, though expressed as an actual sale, purports to operate as an agreement to sell the goods and not a sale (Sec. 6 (3)]. This is because the ownership of a thing cannot be transferred before that thing comes into existence.

Example: A railway administration entered into a contract for sale of coal-ash that might accumulate during the period of contract. Held, the contract amounted to an agreement to sell [Union of India v. Tara Chand, A.I.R. (1976) M.P. 101],

3. Contingent goods

Though a type of future goods, these are the goods the acquisition of which by the seller depends upon a contingency which may or may not happen [Sec. 6 (2)].

Example: A agrees to sell specific goods in a particular ship to B to be delivered on the arrival of the ship. If the ship arrives but with no such goods on board, the seller is not liable, for the contract is to deliver the goods should they arrive.

4. Contingent and future goods

The procurement of contingent goods depends upon a contingency whereas it is not so in case of future goods. On non-acquisition of contingent goods, the parties are discharged whereas on non-acquisition or non-production of future goods the parties are not discharged.

2.2.2 Effects of Perishing of Goods

In a contract of sale of goods, the goods may perish before sale is complete. Such a stage may arise in the following cases:

(i) Goods perishing before making a contract

Where in a contract of sale of specific goods, the goods without the knowledge of the seller have, at the time of making the contract perished or become so damaged-as no longer to their description in the contract, the contract is void. This is based on the rule that mutual mistake of fact essential to the contract renders the contract void. (Section 7)

If the seller was aware of the destruction and still entered into the contract, he is estopped from disputing the contract. Moreover, perishing of goods not only includes loss by theft but also where the goods have lost their commercial value.

(ii) Goods perishing atter agreement to sell

When there is an agreement to sell specific goods and subsequently, the goods without any fault of any party perish or are so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided. The provision applies only to sale of specific goods. If the sale is of unascertained goods. the perishing of the whole quantity of such goods in the possession of the seller will not relieve him of his obligation to deliver. (Section 8)

2.2.3 Price

No sale can take place without a price. Thus, if there is no valuable consideration to support a voluntary surrender of goods by the real owner to another person, the transaction is a gift, and is not governed by the Sale of Goods Act. Therefore, price. Which is money consideration for the sale of goods, constitutes the essence for a contract of sale. It may be money actually paid or promised to be paid. If a consideration other than money is to be given, it is not a sale.

Modes of Fixing Price (Sections 9 and 10)

The price may be fixed:

(i) at the time of contract by the parties themselves, or

(ii) may be left to be determined by the course of dealings between the parties, or

(iii) may be left to be fixed in some way stipulated in the contract, or

(iv) may be left to be fixed by some third-party.

Where the contract states that the price is to be fixed by a third-party and he fails to do so, the contract is void. But if the buyer has already taken the benefit of the goods, he must pay a reasonable price for them. If the third-party's failure to fix the price is due to the fault of one of the parties, then that party is liable for an action for damages.

Where nothing is said by the parties regarding price, the buyer must pay a reasonable price, and the market price would be a reasonable price.

2.2.4 Number of Parties in a Sale of Goods Contract

For a transfer of property in the goods to occur there must be at least 2 distinct parties. The transfer implies necessity for more than 1 distinct person. There must be a seller and a buyer.

A person cannot buy one's own property or goods. If one by mistake buys his own goods, he can recover the price paid on the grounds of total failure of consideration. The seller and buyer must be two different legal entities.

Although the Act contemplates two distinct parties to the contract, namely a buyer and a seller, it does not follow that the buyer cannot already be the owner of the

goods, for the seller may be a person having legal authority to sell them, for example a sheriff acting in execution of a writ of execution. However, if a person contracts to buy his own goods from someone else under the mistaken impression that the goods belong to the seller, it seems clear that he can recover any price paid on the ground of total failure of consideration.

2.3 Sale and Agreement to Sell

The distinction between sale and an agreement to sell is very necessary to determine the rights and the liabilities of the parties to the contract.

The main points of distinction are :

1. Liability for Sales tax

Sale is liable for sales tax whereas agreement to sell is not liable for sales tax until it actually ripens into a sale.

2. Type of Goods

A sale can occur only in the case of existing goods. Whereas the agreement to sell may be mostly in case of future and contingent goods.

3. Transfer of Ownership

In a sale, the ownership or property in the goods passes to buyer at the time of contract. The seller is no more the owner of goods. In agreement to sell, ownership or property in the goods does not pass to the buyer at the time of contract. The ownership passes to the buyer at a future time or subject to the fulfillment of a condition.

4. Nature of Contract

In a sale, it is an executed contract. The transfer of property and delivery of goods is done immediately. Whereas an agreement to sell, it is an executor contract. It is to be performed in future.

5. Creation of Right

Sales creates a "just in rem" i.e., right on the goods against the whole world while in an agreement to sell creates a "just in personam" i.e., personal right only against the person for any default in fulfilling his part of the agreement.

6. Remedies in Case of Breach of Contract

In a sale, the seller is entitled to sue for the price of the goods and also has right of lien, stopping in transit and resale. In an agreement to sell, the seller has the right only to sue for damages for non performance of the contract.

7. Risk of Loss

In case of loss of goods, in sale the loss will be borne by the buyer even if the possession of goods is with the seller while in an agreement to sell, the seller will have to pay for the loss since the ownership in the goods has not passes to the buyers.

8. Insolvency of Buyers

In a sale, the seller must deliver the goods to official assignee or receiver and can claim rateable dividend for the price of the goods, while in an agreement to sell, the seller may refuse to deliver the goods unless paid for.

9. Insolvency of Seller

In a sale, the buyer is entitled to receive the goods from the official assignee or receiver, while in an agreement to sell, the buyer has to prove the amount he has paid to the seller and he can only claim a rateable dividend he can not compel the receiver to sell and deliver the goods.

2.4 Conditions and Warranties

Condition and warranty

A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty.

A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

Section 12(2) states that a condition is a stipulation which is essential to the main purpose of the contract. The breach of a condition gives rise to a right to treat the contract as repudiated or broken.

Example – A buys from B a hair oil advertised as pure coconut oil. The oil turns out to be mixed with herbs. A can return the oil and claim the refund of price.

A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

Section 12(3) states that a warranty is a stipulation which is collateral to the main purpose of the contract. The breach of a warranty gives rise to a claim for damages but not a right to reject the goods and treat the contract as repudiated.

Example – A while selling his car to B, stated the car gives a mileage of 12 kms per litre of petrol. The car gives only 10 kms per litre. B cannot reject the car. It is breach of warranty. He can only claim damages for the loss due to extra consumption of petrol.

Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

2.4.1 Distinguish or Difference between warranty and conditions

Condition :

It is defined in the following words, "A condition is stipulation essential breach to the main purpose of the contract, the breach of which give rise to a right to treat the contract as repudiated."

So according the above definition it is clear that condition is very essential for the performance of a contract. The breach of condition will be regarded as the breach of the whole contract.

Warranty :

Sales act defines the warranty in the following words, "A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated."

The above definition shows that for the implementation of a contract warranty is not essential. For the breach of warranty only damages can be claimed.

Difference or Distinction Between Condition and Warranty

1. Difference In Importance

Condition : A condition is essential to the main purpose of a contract.

Warranty : Breach of warranty gives right to the party to claim the damage only.

2. Difference in Rights

Condition : Breach of condition gives right to the party to reject the contract.

Warranty : Breach of warranty gives right to the party to claim the damages only.

3. Superiority of Condition

Condition : A breach of condition may be treated as a breach of warranty.

Warranty : A breach of warranty may not be treated as a breach of condition.

4. Link With Contract

Condition : A condition has a direct link with the essential part of the contract.

Warranty : A warranty has no direct link with the essential part of the contract.

2.4.2 Types of Conditions and Warranties

The conditions and warranties relating to a contract of Sale of Goods are classified into two types, namely Expressed conditions and warranties and implied conditions and warranties. The stipulations agreed between the parties either in words spoken or in words written are known as Expressed conditions and warranties. On the other hand the conditions and warranties prescribed by the Sale of Goods Act 1930 are known as Implied conditions and warranties. The seller should fulfil both expressed and implied stipulations.

A) Implied Conditions as Per Law

1. **Implied Condition as to Title or ownership** (sec.14): A person should not sell goods under a contract of sale of goods unless he is the owner of the goods

2. **Implied Condition as to Description** (sec.15): The goods sold under any description should satisfy the description so made by the seller.
3. **Implied condition as to Sample** (sec.17): Goods sold by showing a sample should tally with the sample so shown by the seller
4. **Implied condition as to Description and Sample** (sec.**15(2)):** If goods are sold by description and sample such goods should satisfy both the conditions
5. **Implied condition as to Quality and Fitness** (sec. 16): There is no implied condition as to quality and fitness of goods to the purpose of the buyer. Therefore the buyer should be careful regarding quality and suitability to his purpose. This is known as the rule of "Buyer Beware".

B) Implied Warranties as Per Law

1. **Implied Warranty regarding quite possession:** The buyer should be allowed to possess the goods quitely without any disturbance from seller.
2. **Implied warranty regarding Freeness from encumbrances:** The goods sold should not have been already mortgaged or pledged or hypotheticated to others
3. **Implied warranty regarding sale of dangerous goods:** Goods likely to cause danger to the buyer should not be sold under a contract of sale of goods.
4. **Implied warranty annexed by trade custom or usage:** Incase of ready made garments, if they are not suitable to the person for whom they are purchased, such goods are to be exchanged.

2.4.3 Doctrine of Caveat Emptor

Doctrine of caveat emptor is a Latin word which means "let the buyer be aware".

According to Sec (16), the F para is dealt with 'Caveat Emptor' as 'subject to the provisions of this Act and any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale.

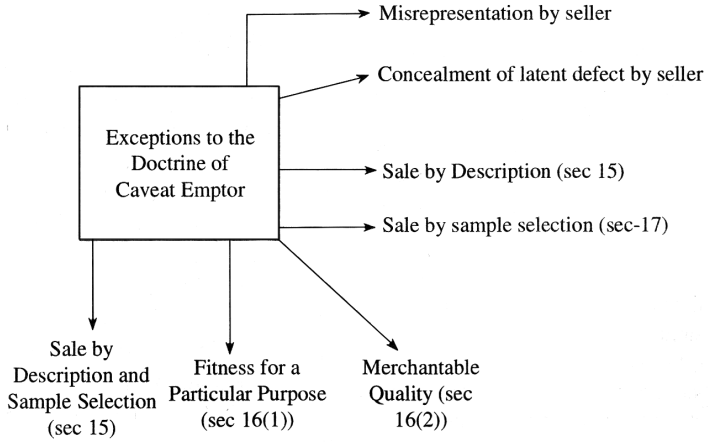
It means it is not the duty of the seller to highlight the faults in the goods instead the buyer should be aware of the goods in terms of quality, fitness and should carefully examine the goods before purchasing.

Example

'S' purchased oats from 'H'. And a sample of such oats was shown to '5' and '5' being unaware of the goods considered the goods to be old. But in practice the goods were new. It was held that the buyer should be aware of the goods he purchases and cannot avoid the contract.

Exceptions to the Doctrine of Caveat Emptor

The following are the exceptions to the caveat emptor.



Figure

(i) In Case of Misrepresentation by the Seller

If the seller makes misrepresentation and the buyer readily believes on that representation.

(ii) In Case of Concealment of Latent Defect by the Seller

Concealment of latent defect which is not found on reasonable examination by the seller is an exceptional to the doctrine of caveat emptor.

(iii) In Case of Sale by Description (Sec. 15)

When the goods are sold by the seller does not match with the description of the goods.

(iv) In Case of Sale by Sample Selection (Sec. 17)

When the goods are sold by sample and when the goods are supplied by the seller does not match with the correspond sample.

(v) In Case of Sale by Sample as Well as Description (Sec. 15)

When the selling aspect takes place with the help of both sample and description but does not match with the supplied sample and description.

(vi) Fitness for a Particular Purpose [Sec. 16(1)]

When the buyer inform the purpose of purchasing to the dealer about the type of goods and completely relies on seller's decision or skills or judgement.

(vii) Merchantable Quality [Sec. 16(2)]

The doctrine of caveat emptor is an exceptional case if the goods are purchased by description of the seller and there is an implied condition that goods should possess merchantable quality.

2.5 Transfer of Property in Goods

The property in goods is said, to be transferred from the seller to the buyer when the latter acquires the proprietary rights over the goods and the obligations linked thereto. 'Property in Goods' which means the ownership of goods, is different from ' possession of goods' which means the physical custody or control of the goods.

The transfer of property in the goods from the seller to the buyer is the essence of a contract of sale. Therefore the moment when the property in goods passes from the seller to the buyer is significant for following reasons:

(a) Ownership: The moment the property in goods passes, the seller ceases to be their owner and the buyer acquires the ownership. The buyer can exercise the proprietary rights over the goods. For example, the buyer may sue the seller for non-delivery of the goods or when the seller has resold the goods, etc.

(b) Risk follows ownership: The general rule is that the risk follows the ownership, irrespective of whether the delivery has been made or not. If the goods are damaged or destroyed, the loss shall be borne by the person who was the owner of the goods at the time of damage or destruction. Thus the risk of loss prima facie is in the person to whom the property is.

(c) Action Against Third parties: When the goods are in any way damaged or destroyed by the action of third parties, it is only the owner of the goods who can take action against them.

(d) Suit for Price: The seller can sue the buyer for the price, unless otherwise agreed, only after the gods have become the property of the buyer.

(e) Insolvency: In the event of insolvency of either the seller or the buyer, the question whether the goods can be taken over by the Official Receiver or Assignee, will depend on whether the property in goods is with the party who has become insolvent.

2.5.1 Essentials for Transfer of Property

The two essentials requirements for transfer of property in the goods are:

1. **Goods must be ascertained:** Unless the goods are ascertained, they (or the property therein) cannot pass from the seller to the buyer. Thus, where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained

2. **Intention to PASS Property in Goods must be there:** In a sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

Various rules regarding the transfer of property from seller to buyer and in case of contract for the sales of goods

2.5.2 Rules of Transfer

Following are the important rules regarding the transfer of property :

1. **Transfer of Specific Property**

In this case the parties may intend to pass the ownership at once on the delivery of goods or at the time of payment. Parties intention can be judged from the terms of the contract and then conduct. If the parties intention cannot be judged then following rules can be applied.

i) Delivered State :- When goods are in deliverable state property in goods passes to the buyer as soon as contract is made.

ii) Put in To a Deliverable State :- Put the goods into a deliverable state means doing to put the goods into a final shape.

Example : Furniture is ready and seller is polishing it to give a final shape for delivery, it is called specific goods to be put in a deliverable state.

In case of sale contract the ownership of goods does not pass to the buyer until the seller has to put them in final stage.

iii) Delivery on Buyers Approval :- The property passes to the buyer on his approved or on a sale or return or such type of other terms.

Example : Mr. Shafi delivered a cow to Mr. Bux on the terms of sale or return within one month. The cow died with in two days with out any fault of Mr. Bux. Mr. Shafi will bear the loss as the cow was still his property.

iv) Goods Do Not Pass Before Ascertain Price :- The property does not pass until the price is not declared according the weights and measures.

2. **Transfer of Property of Future Goods**

It does not pass to the buyer unless and until the goods are ascertained or unconditionally appropriated to the contract to bring then to deliverable state. Either by the seller with the permission of the buyer or by the buyer with the permission of the seller.

2.5.3 Transfer of Title by Non-owners

According to the general rule, "the seller cannot transfer to the buyer of goods a better title than he himself has." If the title of the seller is defective, then the buyer's title will also become defective. Under Section 27, it is laid down that. "Where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner the buyer acquires no better title to the goods than the seller had…" The rule is expressed by the maxim "Nemo Det Quod Non Habet", which implies that "no one can give what he has not got".

Of course, there are some exceptions to the above rule. So, though a person is not the owner of the goods, he may sell the goods and pass a better title than he himself has. Following are the exceptions to this rule.

1. Sale by a mercantile agent

If a mercantile agent is authorized by the owner of the goods sell on his behalf, then such sale shall be valid. In such cases, the buyer can acquire a good title of the goods. This exception will be implemented subject to fulfillment of the following conditions:-

i) The person must be in possession of goods or documents of title to the goods in his capacity as a mercantile agent and with the consent of his owner.

ii) The person must sell the goods while acting in the ordinary course of business.

iii) The buyer must act in good faith without having any notice, at the time of contract that the mercantile agent has no authority to sell the goods.

2. Transfer of title by Estoppels

This exception is based on the principle of personal estoppels. Sometime, the real owner may lead the buyers by virtue of his conduct or words or by act to believe that the seller is the owner of the goods or has the authority to sell them. In such case, he may not thereafter deny the seller's authority to sell.

3. Sale by a joint owner

It there are several joint owners of goods, one of them has sole possession of the goods by permission of the co-owners, then the property in goods is transferred to any person who buys them from such joint owner. In order to apply this exception following conditions must be fulfilled.

i) One of the several owners must be in sole possession of the goods.

ii) The joint owner must have permission of co-owners.

iii) The buyer must purchase goods in good faith.

iv) The buyer should not have notice regarding the matter that the seller has no authority to sell.

4. Sale by person in possession under voidable contract

According to the Section 29 a person in possession of goods under a voidable contract which is not rescinded, can transfer a good title to the buyer. The buyer should purchase the goods in good faith and without notice of the seller's defective title.

5. Sale by seller in possession after sale

Under Section 30 (1) it is laid down that where a person has sold goods but he continues in possession of goods or of the documents of title to the goods, he may sell them to a third person and if such person obtains delivery thereof in good faith and without notice of the previous sale, the person can get a good title to them. In order to apply this exception, the seller must be in possession after sale of goods and there must be delivery or transfer of the goods or documents of title by the seller.

6. Sale by buyer in possession after sale

Under Section 30 (2), it is laid down that where a buyer having bought or having agreed to buy goods, obtain with the consent of the seller the possession of the goods or documents of title to the goods can and resells the goods to a bonafide transfer. If at the time of this sale, buyer was not in possession, then this exception will not apply.

7. Sale by an unpaid seller

If the unpaid seller has exercised right of lien or stoppage in transit, resells the goods, then the buyer acquires a good title as against the original buyer, even though the resale is not justified in the circumstances.

8. Exception under other Acts

According to some Acts, a person although he is not the owner of the goods may sell the goods and pass a better title than he himself has. As for example-

i) Under Section 169 of the Contract Act, a finder of the goods has the right to sell.

ii) Under Section 176 of the Contract Act, a pawnee of goods has the right to sell the goods pawned subject to satisfying some conditions.

iii) In certain cases, a special right of sale is given to officers of court, liquidators of the companies, receivers of insolvents estate, custom officers for duties remaining unpaid etc.

iv) A person who takes a negotiable instrument in good faith and for value becomes the true owner even if he takes it from a thief or finder.

9. Sale in market overt

According to the English law, there is an exception of the rule that a person cannot make a valid sale of goods, which does not belong to him.

2.6 Rights of an Unpaid Seller

According to sec.4(1) of the Sale of Goods Act 1930, "A contract of sale of goods is a contract whereby the seller transfers of agrees to transfer the property in goods to the buyer for a price". Therefore, the seller is a person who possesses the ownership of goods which he is possessing and agrees to transfer the ownership in goods to the buyer for a price.

Unpaid Seller or Unpaid Vendor

A seller is called an "unpaid seller" when the price of goods is not paid to him either in the cash sales or in the credit sales but the Sale of Goods Act, 1930 has given a different definition for an unpaid seller under Section 45. According it, "A seller or his agent to whom a Bill of lading is endorsed or a consignee can be deemed as an unpaid seller when the whole of the price has not been paid or tendered to him by. The buyer or when the bill of exchange or any other document given to him by the buyer is dishonoured".

Therefore, a seller who sold goods on credit will not become an unpaid seller until the expiry of the time given by him for payment. If a bill of exchange or a promissory note or a post -dated cheque was given to the seller, he cannot be called an unpaid seller until the negotiable instrument is dishonoured. If the buyer has made an attempt to pay the price, but the seller did not receive it, he cannot be called an unpaid seller at that time because the amount can be paid within a reasonable time.

Rights of an Unpaid Seller

The rights of an unpaid seller can be broadly classified into two types namely A.Rights against Goods Sold or Rights in Rem and B.Rights against the buyer personally or Rights in personum.

(A) Right Against Goods or Rights in REM

1. **Right to withhold delivery:** When a seller has sold goods under an agreement to sell giving time for making payment but the buyer failed to pay the amount in time, the seller becomes unpaid seller and he can withhold delivery of goods. Because the ownership of the goods will not pass to the buyer. Such goods can be resold by the seller without any fear because he will be the owner.
2. **Right of lien on goods:** When the goods are sold under a contract of sale and the ownership is transferred to the buyer but he failed to pay the price in time, the seller can exercise the right of lien on the goods. He can retain the goods until the price is paid. This right can be exercised only if the goods are in the control of the seller. This right is also available if the buyer becomes insolvent, before delivery of the goods.
3. **Right of stoppage-in-transit:** If the seller has already delivered the goods to a transport company before he became unpaid seller as per law, he can exercise the right of stoppage in transit. He can stop the goods under the control of the transport company until they are actually delivered to the buyer or his agent.
4. **Right of resale:** The goods retained under the right of lien or stoppage in transit can be resold by the seller if the default continues. He should give a reasonable notice to the buyer before reselling the goods. If the amount realised on resale is less than the agreed price of goods he can claim the deficit. If it is more, the seller can retain it. (Because the law never allows a defaulter to take any advantage).

(B) Rights Against Buyer or Rights in Personum

If the goods are already delivered to the buyer before the seller became an unpaid seller, none of the above rights can be exercised. So, he can sue the buyer in the following ways :

(a) Suit for price of goods: A seller can file a suit in the court of law for payment of price of goods.

(b) Suit for interest on the price of goods: The seller can also claim interest on the amount of price, if the payment is not made within given time at a rate printed on the credit bill or at a reasonable rate.

(c) Suit for deficiency in the resale price: If the goods are resold due to non-payment of price and the amount so realised is less than the sale price of the goods. The deficiency can be claimed.

(d) Suit for damages: The seller can claim monetary damages for the loss suffered by him as claimed on breach of a contract.

2.7 The Partnership Act 1932

Introduction

The law of partnership is contained in the Indian Partnership Act of 1932. The Act came into force on 1st October 1932. This act is based on the English law relating to partnership. Partnership is an association of two or more persons, formed as a result of an agreement to carry on some business, and the agreement must be to share the profits of the business. A partnership will come into existence only where all the above mentioned elements are present.

Definition of Partnership

Section 4 of the Act defines a partnership as the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all'. This definition is also in similar line with the definition provided by Sir F. Pollock. An analysis of the definition provides the essential characteristics of a partnership.

2.7.1 Characteristics of a Partnership

1. Two or more members

At least two members are required to start a partnership business. But the number of members should not exceed 10 in case of "banking business" and 20 in case of "other business".

2. Lawful business

The partners should always carry on any kind of lawful business, they cannot indulge in illegal business like smuggling, black marketing, etc..

3. No separate legal existence

Partnership firms are no legal entities as opposed to companies, who have their separate legal existence, partnerships are not recognized in law at their own, they are recognized by their partners. The partnership firm is just a name for the business as a whole. If someone wants to sue the firm, it has to sue the partners.

4. Eligibility of partners

Since individuals join hands to become partners, it is necessary that they must be "competent" to enter into a partnership. Thus, minors, lunatics and insolvent people are not eligible to become partners. However, a minor can be admitted to the benefits of partnership i.e., he can have a share in the profits only.

5. Sharing of profits

The main objective of every partnership firm is to make and share the profits of the business. In the absence of any "agreement" for profit sharing, it should be shared "equally" among the partners. Suppose, there are two partners in the business and they earn a profit of Rs.20,000. They may share the profits equally i.e., Rs.10,000 each or in any other agreed proportion, say one forth and three fourth i.e. Rs.5,000/- and Rs.15,000/-

6. Unlimited liability

The biggest disadvantage of partnership is that the liability of partners in a partnership is unlimited. This means, if the assets of the firm are insufficient to meet the liabilities, than the personal properties of the partners, if any, can be utilized to meet the business liabilities. Suppose, the firm has to make payment of Rs. 30,000/- to the creditors. The partners are able to arrange for only Rs. 20,000/- from the business. The balance amount, of Rs.10,000/- will have to be arranged from the personal properties and assets of the partners.

7. Voluntary registration

Though the Partnership Act provides for registration but had not made it mandatory to register a partnership firm. However, if opts not to register your partnership firm than you will be deprived of certain legal benefits, therefore it is always desirable to register the firm. The various effects of non-registration are:

- Your firm cannot take any action in a court of law against third parties for settlement of claims.
- In case there is any dispute among partners, it is not possible to settle the disputes through a court of law. Note: Registration is voluntary in most states. However it would be best to check up the rules of your state to be sure. In states like Maharashtra, registration is almost compulsory.

8. Restriction on transfer of interest

No partner can sell or transfer his share or part in the firm to any one without the consent of the other partners. For example, A, B, and C are three partners .If "A" wants to sell his share to "D" as his health problems prevent him from working, he cannot do so until B and C both agree.

9. Continuity of business

A partnership firm comes to an end at death, lunacy or bankruptcy of any partner. Even otherwise, it can stop it's business at the will of the partners. At any point of time, the partners may decide to end their partnership.

2.7.2 Types of Partners

Depending on the reason behind which a particular partnership is made, partners may be of different types. To understand this better, consider the following:

1. Active Partners

The partners who actively participate in the day-to-day operations of the business are known as active partners. They contribute the capital and are also entitled to share the profits & losses of the business.

2. Dormant Partners

Those partners who do not participate in the day-to-day activities of the partnership firm are known as dormant or "sleeping partners". They only contribute capital and share the profits or bear the losses, if any.

3. Nominal/Outside Partners

These partners are persons, who hold a particular goodwill as to their character or work and to allows the firm to use this goodwill by showing them as the partner

in their firm. These partners neither have any real interest in the business of the firm nor they invest any capital, or share profits or take part in the business of the firm. However, they do remain liable to third parties for the acts of the firm.

4. Minor as a Partner

Legally only a person who is or above the age of 18 can become a partner in the firm but in special cases, a minor can also be admitted as partner with certain conditions. A minor can only share the profit of the business. In case of loss his liability is limited to the extent of his capital contribution for the business.

2.7.3 Rights of Partners

A partner has certain rights as per the provisions of the Partnership Act. They are the following:

1. Right to take part in the conduct of the business

As per Section 12 [a) of the Act, every partner has the right to take part in the conduct of the business of the firm.

2. Right to be consulted

Every partner has the right to be consulted and heard with respect to the conduct of the business, before any matter is decided.

3. Right of access to books

Every partner has the right to have access to and inspect and copy of the books of the firm.

4. Right to share the profits

Section 13(d) of the Act provides every partner, irrespective of the amount of contribution, the right to share equally the profits earned by the firm.

5. Right to Interest on advances

Where a partner makes any payment or advances beyond the amount of capital he has agreed to subscribe, he is entitled to receive interest at the rate of 6% per annum.

6. Right to indemnity

As per Section 13 (e), every partner has the right to indemnity from the firm in respect of payments made or liabilities incurred by him.

2.7.4 Duties of Partners

The duties of partners are imposed by law and are not subject to any contract to the contrary. These duties are mandatory in nature and are applicable to all partnerships and cannot be varied by agreement among the partners. The following are some of the duties of partners:

1. Duty to carry on the business to the greatest common advantages

According to Section 9 of the Act, every partner is bound to carry on the business of the firm to the greatest common advantage. It implies that every partner must use his knowledge and skill for the benefit of the firm and not for his personal gains. He must conduct the business with the best of his ability so as to secure maximum advantage for the firm.

2. Duty to be just and faithful

An ideal partnership is said to be one where there is mutual trust and confidence, and spirit of helpfulness and goodwill among the partners. As such every partner must be just and faithful to his co-partners. He must observe outmost good faith and fairness towards the other partners of the firm.

3. Duty to render true accounts

Every partner must render true and proper accounts to his co-partners. Each partner must be ready to explain the accounts of the firm and produce vouchers in support of the entries. A partner should not make secret profits at the expense of the firm.

4. Duty to provide full information

All partners must give full information of all matters affecting the firm to his co-partners. A partner, being an agent of other partners, must not conceal any information concerning the firm from the other partners.

5. Duty to indemnify for loss caused by fraud

According to Section 10, if a partner despite acting in a bona fide manner causes loss due to neglect or want of skill or omission, the loss is borne by the firm. When a partner causes loss to the firm due to any fraud committed against a third party, the same must be recovered from the guilty partner and cannot be shared among all the partners. The object of this provision is to discourage the partners from dealing fraudulently in the conduct of the business.

6. Duty to be liable jointly and severally

As per Section 25, every partner is liable, jointly and severally, to third parties for all acts of the firm done while he is a partner. The liability of all the partners is not only joint and several but also unlimited.

7. Duty not to assign his interest

Section 29 states that no partner without the consent of other partners can assign or transfer his partnership interest to any third person so as to make him a partner in the business. He can, however, assign his share of the profit and his share in the assets of the firm. But here the transferee shall not have any right to interfere in the conduct of the business.

2.7.5 Liabilities of Partners

The liabilities of partners are contained in Sections 25 to 27 of the Act. According to Section 25, every partner is liable jointly with all the other partners and also severally, for all acts of the firm done while he is a partner. Section 26 stipulates that 'where, by the wrongful act or omission of a partner acting in the ordinary course of the business of a firm or with the authority of his partners, loss or injury is caused to any third party, or any penalty is incurred, the firm is liable therefore to the same extent as the partner. The wrongful act may be tort, fraud or negligence. The firm is liable to the third party for loss caused to him by fraud committed by a partner'.

According to Section 27 of the Act, a partner acting within his apparent authority receives money or property from a third party and misapplies it, or a firm in the course of its business receives money or property from a third party, and the money or property is misapplied by any of the partners while it is in the custody of the firm, the firm is liable to make good the loss.

Further, if any partner misappropriates any money or property, the third party can make the firm or any of the partners liable for the same. A retiring partner continues to be liable for the acts of the firm done before his retirement. He may, however, free himself from his liabilities incurred before his retirement by an agreement.

2.7.6 Dissolution of Partnership

Section 39 of the Act deals with dissolution of partnership firm. Sections 40 to 44 deal with the various modes of dissolution of a firm. A firm may be dissolved in the following manner:

1. **Dissolution by mutual agreement:** Partnership which is created by an agreement can also be dissolved by mutual agreement.
2. **Compulsory dissolution:** A firm gets compulsorily dissolved in the following cases:
   (a) by the adjudication of all the partners or of all the partners but one as insolvent
   (b) on the happening of any event which makes it unlawful for the business of the firm to be carried on
   (c) if all the partners, or all but one partner, are declared insolvent
   (d) on the happening of any event by which the business being carried on by the partners becomes illegal
3. **Dissolution on the happening of certain contingencies:** According to Section 42, a firm will be dissolved on the happening of the following contingencies:
   (a) if constituted for a fixed term, by the expiry of that term
   (b) if constituted to carry out one or more adventures or undertakings, by the completion thereof
   (c) by the death of a partner
   (d) by the adjudication of a partner as an insolvent
4. **Dissolution by notice of partnership at will:** Where the partnership is at will, the firm may be dissolved by any partner by giving notice in writing to all the other partners of his intention to dissolve the firm.
5. **Dissolution by the court:** At the suit of a partner, the court may dissolve a firm on any of the following grounds:
   (a) if a partner has become of unsound mind
   (b) any partner becoming permanently incapable of performing his duties
   (c) a partner becoming guilty of conduct which is likely to affect prejudicially the carrying on of the business
   (d) if a partner willfully or persistently commits breach of agreements relating to the management of the affairs of the firm

   (e) If a partner has, in any way, transferred the whole of his interest in the firm to a third party
   (f) When the business of the firm cannot be carried on except at a loss
   (g) on any other ground which renders it just and equitable that the firm should be dissolved.

2.7.7 Benefits of Partnership

1. Easy to form

It is very easy to form a partnership, as there are no mandatory registration requirements. Partners are required to enter into a partnership deed between themselves and they can start functioning straight away. It is not necessary to have any written partnership deed but it is always recommended to have a written one.

2. Availability of large resources

Since two or more partners join hands to start a partnership business, it may be possible to pool together more resources as compared to a sole proprietorship. The partners can contribute more capital, more effort and more time for the business.

3. Better decisions

Partners are the owners of the business and each of them has equal right to participate in the management of the business. All the business decision are taken by the partners keeping in view the interest of the business as whole case of any conflict, they can sit together to solve the problem. Since all partners participate in the decision-making process, there is less scope for reckless and hasty decisions.

4. Flexibility in operations

A partnership firm is a flexible organization. At any time, the partners can decide to change the size or nature of the business or area of it's operation. There is no need to follow any legal procedure. Only the consent of all the partners is required.

5. Sharing risks

In a partnership firm all the partners "share" the business risks. For example, if there are three partners and the firm makes a loss of Rs.12,000 in a particular period, then all partners may share it and the individual burden will be Rs.4000 only. Because of this, the partners may be encouraged to take up more risk and hence expand their business more.

6. Protection of interest of each partner

In a partnership firm, every partner has an equal states in decision making and the management of the business. If any decision goes against the interest of any partner, he can prevent the decision from being taken. In extreme cases an unsatisfied partner may withdraw from the business and can dissolve it. In such extreme cases the "partnership deed" is required. In absence of the partnership deed, no legal protection is given to the partners.

7. Benefits of specialization

Since all the partners are owners of the business, they can actively participate in every aspect of business as per their specialization, knowledge and experience. If you want to start a firm to provide legal consultancy to people, then one partner may deal with civil cases, one in criminal cases, and another in labor cases and so on as per the individual specialization. Similarly, two or more doctors of different specialization may start a clinic in partnership.

2.7.8 Drawback of Partnership

1. Unlimited liability

The most important drawback of partnership is that the liability of all the partners is unlimited and in case the assets of the partnership are not sufficient to pay off the debts, then the additional funds shall be arranged out of the personal property of the partners.

2. Liability for acts of other Partners

In partnership all the partners are agent of other partners and are therefore full liable for acts done by them.

3. No legal Identity

Partnership is not recognized in law as an identity separate from the partners constituting it. A partnership is recognized by its partners and not by its own name. Since partnership is not legal entity, therefore it cannot purchase property or cannot sue partner or third party in its own name.

4. Uncertain life

The partnership firm has no legal existence separate from it's partners. It comes to an end with death, insolvency, incapacity or the retirement of a partner. Further, any unsatisfied or discontent partner can also give notice at any time for the dissolution of the partnership.

5. Limited Number of Partners

A Partnership cannot have more than 20 persons as its partner and therefore it cannot expand its business by including addition partners and it also act as hindrance towards introducing funds and expertise in the business.

6. Limited capital

The partnership is recognized by its partners and therefore goodwill and credibility of partners plays an important role for arranging funds for the business. Moreover, Partnership is not regulated as there was no requirement of any audit or financial disclosure. Due to aforesaid factors partnership doesn't enjoys good credibility among investors and financial institutions and therefore they hesitate to provide funds to the business.

7. No transferability of share

If you are a partner in any firm, you cannot transfer your share or part of the company to outsiders, without the consent of other partners. This creates inconvenience for the partner who wants to leave the firm or sell part of his share to others. Moreover, the process of transferring ownership interest is not easy.

8. Lack of expertise

Due to limited number of partners and limited availability of funds , it is not possible for the partnership to hire or engage expert knowledge for the business.

9. Lack of harmony

In a partnership firm, every partner has an equal right to participate in the management. Also, every partner can place his or her opinion or viewpoint before the management regarding any matter at any time. Because of this, sometimes there is a possibility of friction and discontent among the partners. Difference of opinion may lead to the end of the partnership and the business.

2.8 Partnership Deed / Partnership Agreement

Partnership is not recognized for the purpose of carrying business under various regulations like partnership are not allowed to carry on the business of insurance.

2.8.1 Main Provisions of partnership Deed or Partnership Agreement

In the Partnership agreement terms and conditions relating to partnership and the regulations governing to its internal management are included. This agreement may be written or oral. But it is necessary that it should be in writing.

In other words it is a document in which the relations of partners one another are clearly written.

Following are the important provisions of partnership deed.

1. **Date :** Date of starting the business should be written on it.
2. **Name :** Name of the firm under which the business is going started.
3. **Location :** Location of the business should be also written that where it is going to start. Allotment of the place for head office and branches should be mentioned it.
4. **Duration :** Duration of partnership is for indefinite period or for definite period. It should be also written.
5. **Nature of the Business :** Nature of the business should be clear in it.
6. **Capital :** Total amount of capital and share of each partner in capital is also an important point of deed.
7. **Salary :** The amounts of any salary payable to partners, should be mentioned in it.

8. **Ratio of Profit :** Each partner ratio of profit and loss sharing should be clear in the partnership agreement.
9. **Rights and Duties :** There is also a provision of rights and duties of each partner.
10. **Entry and Exit Method :** Procedure to be followed for withdrawal and methods of admitting of new partners.
11. **Dissolution Case :** In case of dissolution of the firm a special provision to be followed.
12. **Audit of Accounts :** Audit and account preparation provisions are also available in it.
13. **Settlement in case of Dissolution :** At the dissolution of a firm there is a provision of settlement of accounts.
14. **Arbitration :** In case of disputes provision for arbitration is also available.
15. **Witness :** The witness of agreement provision is also found in it. By the mutual consent of the partners any other clause may be included in it at any time.

2.8.2 Parts of Partnership Deed

Before starting a partnership business, all the partners have to draw up a legal document called a Partnership Deed of Agreement. It usually contains the following information:

There are many parts that should be included in any articles of partnership. These are:

- **Names of included parties** - includes all names of people participating in this contract
- **Commencement of partnership** - includes when the partnership should begin. The date of the contract is assumed as this date, if none is given.
- **Duration of partnership** - includes how long the partnership should last. It is automatically assumed that the death of one of the contracting parties breaks the contract, unless otherwise stated.

- **Business to be done** - includes exactly what will be done in this partnership. This section should be very particular to avoid confusion and loopholes.
- **Name of firm** - includes the name of the business entity.
- **Initial investments** - includes how much each partner will invest immediately or by installments.
- **Division of profits and losses** - includes what percentages of profits and losses each partner will receive. If it is not a limited partnership, then there is unlimited liability (each partner is responsible for all partners' debts, including their own).
- **Ending of the business** - includes what happens when the business winds down. Usually this includes three parts: 1) All assets are turned into cash and divided among the members in a certain proportion; 2) one partner may purchase the others' shares at their value; 3) all property is divided among the members in their proper proportions.
- **Date of writing** - includes simply the date that the contract was written.

2.8.3 Partnership Deed Format

THIS DEED OF PARTNERSHIP IS MADE on this **12th day of January, 2008** by and between

Mr. A S/o **C** R/o **XYZ** hereinafter referred to as Party of the FIRST PART (which expression shall deem and include his heirs, executors, administrators, representatives, assigns and agents), AND

Ms. B D/o **D** R/o **XYZ**, Party of the SECOND PART (which expression shall deem and include his heirs, executors, administrators, representatives, assigns), AND

WHEREAS the above named partners have decided to start the partnership business of **Recruitment Services** in the name and style of **M/s SSS** with effect from …**th day of January, 20..** on the terms and conditions hereinafter mentioned and have desired to reduce the terms and conditions into writing.

Now this Indenture is Witnesseth as Follows

1. THAT the PARTIES referred above shall carry on the business of **Recruitment Services** in the PARTNERSHIP FIRM under the name and style of **M/s SSS** hereinafter referred to as the FIRM) **XYZ,** But by their mutual consent may start and carry on any other business or businesses under any other name or names at any other place or places.
2. THAT the business of the PARTNERSHIP pursuant to this DEED of PARTNERSHIP shall be deemed to have commenced with effect from …**th day of January, 20…**
3. That the capital required for the business of Partnership shall be contributed time to time by the PARTIES in such manner in all respect as may be agreed to between them and such capital may be paid interest as may be mutually agreed from time to time at the rate of rates not exceeding 12% (Twelve Percent) per annum.
4. That all the PARTIES referred above shall be Working Partners and shall attend diligently to the business of the Partnership and carry on the same for the greatest advantage of the Firm.
5. That all the WORKING PARTNERS may be paid Salary w.e.f. … day of Feb., 2008, for the work of the FIRM as may be agreed mutually from time to time between the PARTIES in accordance with the provisions of the Income Tax Laws as well as business necessities and other factors, subject however, that the monthly Salary to each such Partner shall not exceed as under:

Name of Working partner	**maximum basic salary not to exceed**
(a) Mr. A	**Rs. 12,000/- per month**
(b) Ms. B	**Rs. 12,000/- per month**

6. That all business expenses shall be borne by the FIRM.
7. That the Profits or Losses, as the case may be, of the Partnership business shall be divided among the Partners as under :

NAME OF WORKING PARTNER	SHARE OF PROFIT	SHARE OF LOSS
a. Mr. A	**50%**	**50%**
b. Ms. B	**50%**	**50%**

8. That the duration of the PARTNERSHIP shall be at WILL subject to Clause '9'.

9. That any Partner may retire from Partnership after giving a notice to the other Partner (s) of not less than one month in writing and at the expiry of such notice period he shall be deemed to have retired.

10. Upon mutual understanding, each Partner or his duly authorised agent shall have free access to the account books of the Partnership and shall be entitled to take copies or extracts from any or all such books and records of the Partnership Business.

11. That no Partner shall have the right to sell, mortgage or transfer his share of interest in the FIRM to any one else except to his heir or heirs or any one of the existing Partners or to their heir (s). In the event of heir (s) selling his/her share to any one else, the existing Partners shall have a right or pre-emotion in respect of such share (s) sold.

12. That the Partners shall keep or cause to be kept the books of account of the FIRM at the principal places of its business and make all entries therein, and that all such books of account kept shall be closed on 31st March every year or in the case of any necessity on any other date as the Partners may mutually decide.

13. That no Partner shall do any act or thing whereby FIRM or the FIRM property may be prejudicially effected.

14. That the terms of the Partnership Deed may be altered, added to or cancelled by the written consent of the Parties to this DEED.

15 That the partners can open the bank account of the firm, in any bank and bank account shall be operated by the partners jointly or individually, as the case may be.

16. That the partners shall not take any loan from any person/Financing Company, bank or any other Govt./Pvt. Department in any case, without the written consent of each other.

17. That in the case of any dispute arising out of this DEED between the Parties of this DEED, it shall be decided by Arbitration as provided for under the Indian Arbitration Act.

IN WITNESS WHEREOF the Parties hereto have set and subscribed their respective hands to these presents the day, month and year first written above.

WITNESSES

1. Mr. A (Party of the First Part)

2. Ms. B (Party of the Second Part)

SHORT NOTES

1. Agency (law)

Agency is an area of commercial law dealing with a contractual or quasi-contractual tripartite, or noncontractual set of relationships when an agent is authorized to act on behalf of another (called the Principal) to create a legal relationship with a Third Party.

2. Sale of Goods Act,

Sale of Goods Act, "A contract of sale of gods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price". A contract of sale may be absolute or conditional.

3. Unpaid Seller

A seller who has not been paid the whole price of the goods sold is known as unpaid seller.

4. Sale and an Agreement to Sell

Sale

Sale occurs when there is a transfer of ownership in goods or property to another for consideration (price).

Agreement to Sell

If the transfer of property in goods is to be taken place at a later time, it is called Agreement to Sell.

5. Caveat Emptor

Caveat Emptor means 'Let the buyer beware' in a Contract of sale of goods the seller is under no duty to reveal unflattering truths about the goods sold. Therefore, a person who buys such goods must examine them thoroughly.

6. Condition

A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

Section 12(2) states that a condition is a stipulation which is essential to the main purpose of the contract. The breach of a condition gives rise to a right to treat the contract as repudiated or broken.

Example: A buys from B a hair oil advertised as pure coconut oil. The oil turns out to be mixed with herbs. A can return the oil and claim the refund of price.

7. Warranty

A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

Section 12(3) states that a warranty is a stipulation which is collateral to the main purpose of the contract. The breach of a warranty gives rise to a claim for damages but not a right to reject the goods and treat the contract as repudiated.

Example: A while selling his car to B, stated the car gives a mileage of 12 kms per litre of petrol. The car gives only 10 kms per litre. B cannot reject the car. It is breach of warranty. He can only claim damages for the loss due to extra consumption of petrol.

8. Indian Partnership Act, 1932

The Indian Partnership Act, 1932 is an act enacted by the Parliament of India to regulate partnership firms in India. It received the assent of the Governor-General on 8 April 1932 and came into force on 1 October 1932. Before the enactment of this act, partnerships were governed by the provisions of the Indian Contract Act. The act is administered through the Ministry of Corporate Affairs. The act is not applicable to Limited Liability Partnerships, since they are governed by the Limited liability Partnership Act, 2008.

9. Partnership Deed

A partnership deed, also known as a partnership agreement, is a document that outlines in detail the rights and responsibilities of all parties to a business operation. It has the force of law and is designed to guide the partners in the conduct of the business. It is helpful in preventing disputes and disagreements over the role of each partner in the business and the benefits which are due to them.

10. Content of Partnership Deed

1. Name and address of the firm
2. Name and address o the partners
3. Nature of rim's business
4. Duration of partnership
5. Amount of capital invested by the partners.
6. Interest on capital
7. Division of profit
8. Salary and commission
9. Right and duties of partner
10. Admission and removal of partnership
11. Valuation of capital and goodwill at the time of admission, death and retirement of partners
12. Accounts and audits
13. Dissolution of partnership.

UNIT III

The Negotiable Instruments Act 1881: Definition, Types of Negotiable Instruments, Promissory Notes, Bills of Exchange, Cheques,- Characteristics of Negotiable Instruments holder and holder in due course, transfer of negotiable instrument, presentment, dishonor and discharge, hundis, banker and customer - crossing of cheques.

3.1 Negotiable Instrument Act 1881

The term 'negotiable' means transferable and the word 'document' means 'in writing'. Therefore, negotiable means a written promise or order to pay money which may be transferred from one person to another.

3.1.1 Definition of Negotiable Instrument

Section 13 of the Negotiable Instruments Act, 1881 states - "A negotiable instrument means a promissory note, bill of exchange or cheque payable either to order or to bearer." A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees. [Section 13(2)].

3.1.2 Characteristics of a Negotiable Instrument

1. Writing and Signature According to the Rules

A Negotiable Instrument must be in writing and signed by the parties according to the rules relating to (a) promissory notes, (b) Bills of Exchange and (c) Cheques.

2. Payable by Money

Negotiable Instruments are payable by the legal tender money of India. The Liabilities of the parties are governed in terms of such money only.

3. Unconditional Promise

If the instrument is a promissory note, it must contain an unconditional promise to pay. If the instrument is a bill or cheque, it must be an unconditional order to pay money.

4. Freely transferable

A negotiable instrument is transferable from one person to another by delivery or by endorsement and delivery.

5. Acquisition of Property

Any person who possesses a negotiable instruments, becomes its owner and entitled to the sum of money, mentioned on the face of the instrument. When it is payable to bearer, the property in its passes from one holder to another by mere delivery. If it is payable to order, the property passes by endorsement, i.e. by the signature of its holder on its back and its delivery.

6. Acquisition of Good Title

The holder in due course, i.e. the transferee of a negotiable instrument in good faith and for value, acquires a good title to the instrument even if the title of the transferor is defective. Further his title will not be affected, by any defect in the title of the transferor.

7. No Need of Giving Notice

There is no need of giving a notice of transfer of a negotiable instrument to the party liable to pay the money.

8. Right of the Holder in Due Course

The holder in the due course remains unaffected by certain defences, which might be available against previous holders, as for example , fraud, to which he is not a party.

9. Certain Presumptions

Unless contrary proved certain presumptions are made in case of all negotiable instruments. Consideration, date, signature of holder in due course, for example, is presumed

3.1.3 Examples of Negotiable Instruments

(a) Negotiable instruments recognized by statute :

(i) Bills of exchange

(ii) Promissory notes

(iii) Cheques

(b) Negotiable instruments recognized by usage or custom :

(i) Hundis

(ii) Share warrants

(iii) Dividend warrants

(iv) Banker's drafts

(v) Circular notes

(vi) Bearer debentures

(vii) Debentures of Bombay port trust

(viii) Railway receipts

(ix) Delivery orders

(c) Example of Non-negotiable instruments

(i) Money orders

(ii) Deposit receipts

(iii) Share certificates

(iv) Dock warrants

(v) Postal orders

3.2 Types of Negotiable Instruments

According to the Negotiable Instruments Act, 1881 there are there types of negotiable instruments. They are :

(a) Promissory Note

(b) Bill of Exchange

(c) Cheque

However many other documents are also recognized as negotiable instruments on the basis of custom and usage, like hundis, treasury bills, share warrants, etc., provided they possess the features of negotiability.

3.2.1 Promissory Note

A promissory note is a contract where one party (the maker or issuer) makes an unconditional promise in writing to pay a sum of money to the other (the payee), either at a fixed or determinable future time, or on demand of the payee, under specific terms. It is also called Note.

Definition

"A promissory note as 'an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to or to the order of a certain person or to the bearer of the instrument."

- Sec, 4, Negotiable Instruments Act, 1881

Specimen of a Promissory Note

Rs.20,000/- Hyderabad

November 11, 2007

On demand, I promise to pay Remesh, S/o Ram sing of Koti or order a sum of Rs.20,000/- (Rupees Twenty Thousand only), for value received

To, Rajesh Sd/Sanjay Jain

Address… Stamp

Example of a Promissory Note

Rs.20,000/- Hyderabad

November, 09, 2007

I, Rakesh, S/o Srinivas of Secunderabad, promise to pay Lalit Kapoor, S/o Sundar Kapoor of Koti, Hyderabad or order, on demand, the sum of Rs. 20,000/- (Rupees Twenty thousand only) with interest at the rate of 9 percent per annum, for value received

To Sd/Rakesh

Lalit Kapoor Stamp

Koti, Hyderabad

Features of a Promissory Note

According to the definition, the important features of the Promissory Note which must be fulfilled in order to make a Promissory Note valid are :

1. The instrument must be in writing. It cannot be verbal.
2. It must be signed by a maker who must be a certain and definite person. A rubber stamp signature or even a signature in pencil which is erasable is valid. An agent can also sign a Promissory Note on behalf of the firm having the authority.
3. It must contain an unrestricted promise to reimburse a definite amount of money only. The amount of money must be certain and definite.
4. The promise must be expressed. It can't be implied.
5. The Promissory Note must to be paid on demand or at a set future date.
6. It must be payable to a specific person or to the ordered person. The payee must be certain.
7. The promissory note may be made by two or more persons who may be liable to pay the certain amount jointly.
8. It must be stamped according to the Indian Stamp Act.
9. The medium of payment must be in the legal tender money of India.

Parties to a Promissory Note

There are primarily two parties involved in a promissory note. They are :

(a) Maker or Drawer

Maker is the person who makes the note and promises to pay the amount stated therein.

(b) Payee

Payee is the person to whom the amount is payable. In course of transfer of a promissory note by payee and others, the parties involved may be two types. They are :

(i) Endorser : The person who endorses the note in favour of another person

(ii) Endorsee : Endorsee is the person in whose favour the note is negotiated by endorsement.

Endorsement means transfer of any document or instrument to another person by signing on its back or face or on a slip of paper attached to it.

Essentials of a Promissory Note

The various essential requirements of a promissory note are :

(a) Writing : The promissory note must be in writing. Oral engagement or promise is excluded. No particular form of words is necessary. It may be written or pencil or may even be printed or cyclostyled. It may be in any form but the words shall be visible. Intention to make a note must be clear.

(b) Undertaking to Pay : It is not necessary to use the word "promise" but the intention must clearly show an 'unconditional undertaking' to pay the amount.

Unconditional : It must contain definite and an unconditional undertaking to pay. Promise to pay should be unconditional. A conditional instrument is invalid. It must be certain of payment.

E.g. "I promise to pay "B" Rs. 1,000 7 days after C's marriage."

These writings are conditional. Payment is subject to a certain event happening or not happening. Such writings are not promissory notes. Conditional notes are invalid because it is not certain whether or not they will ever be paid.

(c) Signed : The instrument must be signed by the maker thereof. The sign or a mark would constitute signature, if the maker intended to subscribe to the document. Person must sign with his free consent. It should not only be a physical act but also a mental act with an intention to sign.

(d) Certain Persons : The maker and payee of the instrument must be certain and definite persons. A note may be made by several persons jointly to bind themselves jointly or severally. A promissory note cannot be made by two persons payable by either in the alternative.

(e) Specific Sum : The sum promised to be paid must be certain and specific. **E.g.** "I promise to pay "B" Rs. 300 and all other sums due to him."

This is not a payment of specific sum and so it is not a promissory note. However, payment of a note with interest does not invalidate a promissory note. Interest rate may or may not be specified.

(f) Promise to Pay must be Money only : The promise to pay must be money only. Promise to pay anything than legal tender, in full or in part, is not a promissory note.

(g) Stamping : Promissory notes are chargeable with stamp duty. It is advisable to cancel the stamps with maker's signature or initials. An unstamped or improperly or insufficiently stamped promissory note is not admissible in evidence. No suit can be maintained upon an unstamped or improperly stamped promissory note.

3.2.2 Bills of Exchange

A bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

Essential Elements of a Bill of Exchange

1. Writing

It must be in writing and may be in any language, and in ay form. The provisions of promissory note discussed above as regards writing are applicable to a bill of exchange.

2. Parties

There must be three parties to the bill of exchange, for example, Drawer, Drawee and Payee. The person who draws a bill is called a 'Drawer' or 'Maker'. Their person on whom the bill is drawn is called a 'Drawee' and the person to whom the money is to be paid is called a 'Payee'.

Payee

Section 7 of the Act defines 'Payee' as the person named in the instrument, to whom or to whose order the money is, by the instrument directed to be paid. It is not necessary that the three parties should be their distinct persons. One person can play the role of two, for example, one person may be drawer and payee or drawee and payee acting in two different capacities.

However, drawer and drawee cannot be the same persons as the person cannot order himself for the payment. Therefore three should, be at least two distinct persons, In any case, three parties must be pointed out in the bill with reasonable certainty. There must be joint drawers or joint payees, but the bill cannot be addressed to two or more drawees in the alternative.

3. Order to pay

The bill of exchange must contain an 'order by the drawer to the drawee to pay' under any circumstance. The order must be imperative and not in the form of excessive request. Therefore, in Little V. Slackford, where the bill of exchange was drawn with the words: "Please let the bearer have seven pounds... and you will oblige", it was held that this is not a bill of exchange the instrument. Only excessive politeness will not construe an order to pay and the instrument would not be a bill of exchange.

4. Unconditional

The order in the bill must be unconditional, for example, payable under all events and circumstances. A promise or order to pay is not 'conditional' simply because the time for payment of the amount or any instalment thereof being expressed to be payable on the lapse of a certain period after the happening of a specified event which, according to the ordinary expectation of mankind, is certain to happen although the time of its happening may be uncertain. Conditional bill is invalid.

5. Signed

The bill must be signed by the drawer.

6. Person directed, for example, the drawee must be certain

The order to pay must be directed to a certain person. Certainty of the drawee helps the payee to present the bill for acceptance or payment to a certain person and also helps the drawee to know whether it is addressed to him or not. Drawee must be designated with reasonable certainty.

7. Money

The order must be to pay money only.

8. Payee Must be Certain

It must be payable to a definite person or his order. The payee must be certain. Bill may be made payable to two or more payees jointly or in the alternative.

9. Certain Sum

The sum payable must be certain. The sum payable may be 'certain' although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange. What the section indicates is the principal sum payable must be certain. Where rate of interest is not specified, interest is payable at 18 per cent per annum. Where a rate of exchange is not specified, it shall be determined in the course of exchange on its maturity.

10. Stamping : Bill of exchange is chargeable with stamp duty.

Types of Bills of Exchange

There are two kinds of bills. They are :

(a) Inland Bill

(b) Foreign Bill

(a) Inland Bill : An inland bill is one which is

(i) Drawn and payable in India or

(ii) Drawn in India upon some person resident in India even though it is made payable in a foreign country.

Thus in an inland bill of exchange both drawer and drawee belong to the same country.

(b) Foreign Bill : A foreign bill is one which is drawn in one country and payable in another country. Foreign bills are drawn in a set of three and each part of the set contains a reference to the other parts. This is done to avoid delay or loss or miscarriage during the transportation.

Parties in Bill of Exchange

There are three parties involved in a bill of exchange. They are:

(a) Drawer

(b) Drawee

(c) Payee

(a) Drawer : The person who makes the order for making payment is called drawer.

(b) Drawee : The person to whom the order to pay is made is called drawee. He is generally a debtor of the drawer.

(c) Payee : The person to whom the payment is to be made is called Payee. The drawer can also draw a bill in his own name thereby he himself becomes the payee.

3.2.3 Cheque

A 'cheque' is a 'bill of exchange' drawn on a specified banker and not expressed to be payable otherwise than on demand. It includes the electronic image of a truncated cheque and a cheque in the electronic form. A cheque is the electronic form means a cheque which contains the exact mirror image of a paper cheque, and is generated, written and signed in a secure system ensuring the minimum safety standards with the use of digital signature and asymmetric crypt to systems.

A cheque is drawn on a banker only, while a bill of exchange can be drawn on any one. Like bill of exchange, cheque has three parties, viz., drawer, drawee and payee. A drawee in case of cheque is always a banker. A cheque is an unconditional order on the specified banker to pay on demand, a certain sum of money to the bearer of the cheque or to his order. A bill of exchange is wider than a cheque.

Characteristics of Cheque

Thus, a cheque is a bill of exchange with two added features, viz.,

(i) It is always drawn on a specified banker; and

(ii) It is always payable on demand and not otherwise. Being a bill of exchange, a cheque must be

(a) in writing;

(b) contain an unconditional order to pay;

(c) drawn on a specified banker;

(d) for a certain sum of money;

(e) the payee must be a definite person;

(f) amount must be written both in figures and words; (off) it must be dated.

Types of Cheques

Popularly cheques are of two types,

1. Bearer or Open Cheques :
2. Crossed cheques,

1. Bearer or Open Cheques : Bearer or open cheques are payable at the counter of drawee banker or presentment. As the bearer cheques carry risk of being or stolen and the finder may be able to get it encased, crossing of cheques avoids such a contingency and secures payment.

2. Crossed Cheques : Crossing of cheques is of different types :

(a) Cheques crossed generally : (Secs. 123 & 126)

A cheque is crossed generally when ;

(i) It has two transverse parallel lines marked across its face; or

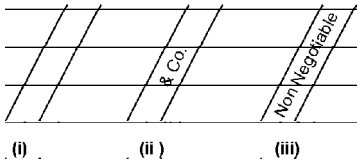
(ii) It bears an abbreviations " and Co." between the transverse parallel lines; or

(iii) It bears the words "not negotiable" between the two parallel lines (Sec. 123).

A cheque crossed generally will be paid to the banker through which it is presented. It is a direction to the drawee banker to pay the sum only through a banker. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker (Sec. 126)

Crossing of cheques generally does not affect negotiability of instrument except, when the words 'not negotiable' are added to the crossing, as given the speciment (iii) below. However, this does not restrict transferability of a cheque.

Specimens of General Crossing



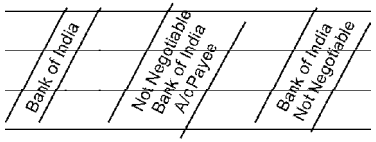
Figure

(b) Cheques crossed specially : (Secs. 124 & 126)

When a cheque is crossed by two parallel transverse lines and the name of the banker is written between the two parallel lines, with or without the words, 'not negotiable' it is called "Special Crossing" (Sec. 124). It may be noted that two transverse parallel lines are not necessary in special crossing. The banker or whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection (Sec. 126). It will be paid only when presented by the banker.

Any cheque issued in two names (1) banker and (2) the party to whom it is to be credited will not fall in the category of cheque which must be issued in name of one part only. The name of the party to whom it is the collecting banker only (Credential Finance Ltd. v. State of Maharastra – 2000 (5) BOM C.R. 527).

Specimens of Special Crossing

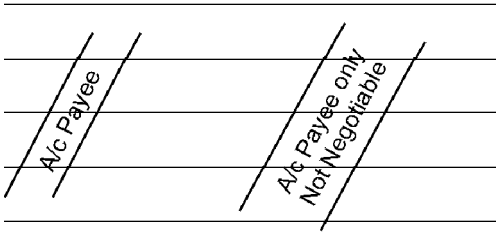


Payment of cheque crossed specially more than once : (Sec. 127)

A cheque cannot be crossed more than once specially, except the banker on whom it is crossed specially can cross it again to his agent for purpose of collection only. If the cheque is crossed specially more than once, the banker has a right to refuse payment thereof.

(c) Cheques crossed 'A/c'. Payee' : Often cheques are crossed with two parallel transverse lines and in between the two parallel lines the words "a/c payee" or "a/c payee only" are written. This means that the proceeds of the cheque are to be credited to the account of the payee only. This type of crossing is also called "Restrictive crossing." Insertion of words "A/c. Payee" do not restrict its negotiability. It serves a good protection to drawer from loss or theft.

Specimens of Cheques Crossed A/c Payee or Restrictive Crossing



Cheques bearing 'Not Negotiable' : (Sec. 130)

A cheque crossed generally or specially may bear additional words "not negotiable." A person taking a cheque crossed generally or specially bearing in either case the words 'not negotiable' shall not have and not be capable of giving a better title to the transferee than that which the person from whom he took it had.

A cheque bearing "not negotiable" is deprived of the main feature of 'negotiability.' It, however, does not render the instrument non-transferable. Such a cheque can be transferred but the transfer does not acquire the rights of a holder in due course. The holder of such a cheques gets no better title than that of the transferor. The transferee takes such a cheque at his own risk. The object of "not negotiable" crossing is to afford protection to the drawer against dishonesty, loss or theft in the course of transit.

Types of Crossing Cheques

A cheque is a negotiable instrument. During the process of circulation, a cheque may be lost, stolen or the signature of payee may be done by some other person for endorsing it. Under these circumstances the cheque may go into wrong hands.

Crossing is a popular device for protecting the drawer and payee of a cheque. Both bearer and order cheques can be crossed. Crossing prevents fraud and wrong payments. Crossing of a cheque means "Drawing Two Parallel Lines" across the face of the cheque. Thus, crossing is necessary in order to have safety. Crossed cheques must de presented through the bank only because they are not paid at the counter.

1. General crossing

Section 123 of the Act refers to general crossing.

Where a cheque bears across its face two traverse lines with or without the words or the words 'not negotiable, the cheque is said to have been crossed generally. Where a cheque is crossed generally, the banker shall not pay it, otherwise than to the banker" (Section 126).

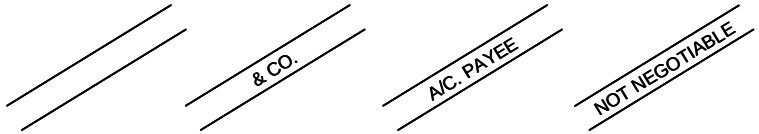
Generally, cheques are crossed when

1. There are two transverse parallel lines, marked across its face or
2. The cheque bears an abbreviation "& Co. "between the two parallel lines or
3. The cheque bears the words "Not Negotiable" between the two parallel lines or
4. The cheque bears the words "A/c. Payee" between the two parallel lines.

A crossed cheque can be made bearer cheque by cancelling the crossing and writing that the crossing is cancelled and affixing the full signature of drawer.

Specimen of General Crossing

Specimen of General Crossing



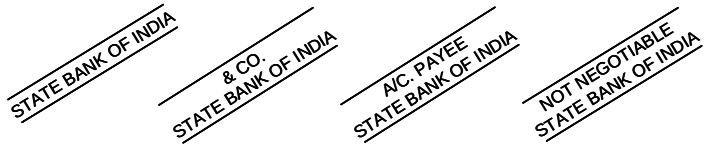
2. Special crossing: Section 124 of the Act refers to Special crossing.

Where a cheque bears across its face in addition to the name of the banker either with or without the words or the words 'not negotiable, then the cheque is said to have been crossed specially. The object of special crossing is to direct the banker to pay the cheque only if it is presented through the particular bank mentioned.

When a particular bank's name is written in between the two parallel lines the cheque is said to be specially crossed.

Specimen of Special or Restrictive Crossing

Specimen of Special or Restrictive Crossing



In addition to the word bank, the words "**A/c. Payee Only**", "**Not Negotiable**" may also be written. The payment of such cheque is not made unless the bank named in crossing is presenting the cheque. The effect of special crossing is that the bank makes payment only to the banker whose name is written in the crossing. Specially crossed cheques are more safe than a generally crossed cheques.

3.2.4 'CHEQUE' AND BILL OF EXCHANGE DISTINGUISHED

	Cheque	Bill of Exchange
i)	**Drawee :** Only a banker can be drawee.	Any one can be drawee, including a banker.
ii)	**Acceptance :** A cheque requires no acceptance.	It must be presented for acceptance. Drawee is liable only after his acceptance.
iii)	**Payment :** Payable on demand - out and days of grace.	A bill is normally entitled to three days of grace after maturity, unless payable on demand.
iv)	**Presentment :** If not presented to the banker for payment, it does not discharge the drawer unless he suffers injury or damages.	Drawer is discharged, if bill is not presented for payment to the acceptor.
v)	**Notice :** In case of dishonour no notice of dishonour is necessary.	Notice of dishonour is to be given to all the parties liable to pay.
vi)	**Crossing :** A cheque may be crossed	Bill of exchange can never be crossed.
vii)	**Stamp :** Cheque requires no stamp.	Bill must be properly stamped.
viii)	**Countermanding payment :** Payment of cheque may be countermanded by the drawer.	Payment of the bill cannot be countermanded by the drawer.
ix)	**Nothing and protesting :** A cheque is not required to be noted or protested for dishonour.	A bill may be noted or protested for dishonour.
x)	**Payable to bearer on demand :** It can be drawn so.	It cannot be drawn so.

3.3 Holder and Holder In Due Course

According to Section 8, a holder of a negotiable instrument is "a person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto." Thus, a person who has obtained the possession of an instrument by theft or under a forged indorsement is not a holder, as he is not entitled to recover the amount of the instrument.

A 'holder-in-due-course', on the other hand, is "a person who for consideration became the possessor of a promissory note, bill of exchange or cheque, if payable to bearer, or the payee or indorsee thereof, if payable to order, before the amount mentioned in it becomes payable and without having sufficient cause to believe that any defect existed in title of the person from whom he derived his title (Section 9).

Thus, a person to constitute a holder-in-due-course of a negotiable instrument: (i) must be a holder; (ii) must have received it for consideration (value); (iii) must have received it before maturity; if any; and (iv) in good faith.

Thus, where a person receives a negotiable instrument without consideration, he may be a holder but will not be called as a 'holder-in-due-course'. Besides, the title of holder of a negotiable instrument is always subject to the title of its transferor whereas a holder-in-due-course acquires a better title than that of its transferor. So, where a lost negotiable instrument is transferred to a person who takes it, say, without consideration and thus becomes the holder will not be entitled to enforce his claim against its real owner. But, if he is a holder-in-due-course 33 per Section 9, he will be able to establish his claim even against the real owner of that instrument.

A holder-in-due course is given additional privileges under the Negotiable Instrument Act, which are not available to a holder.

Privileges of a Holder-In-Due-Course

1. Inchoate stamped instrument

According to Section 20, a person, who signed and delivered to another a stamped and otherwise inchoate (incomplete) instrument, is stopped from asserting, as against a holder in due course, that the instrument has not been filled in accordance with the authority given by him provided the amount filled is covered by the stamp affixed.

2. Liability to prior parties

As per Section 36, every prior party to a negotiable instrument, i.e., the maker or drawer the acceptor, and all the intermediate endorsers continue to remain liable to the holder in due course until the instrument is duly satisfied.

3. Fictitious bill

Where a bill of exchange is drawn by a factitious person and is payable to his order, the acceptor cannot be relieved from his liability to the holder in due course. The holder in due course shall, however, have to prove the instrument was endorsed by the same hand as drawer's signature (Section 42).

4. No effect of conditional delivery

Where an instrument is negotiated to a holder in due course, the parties to the instrument cannot escapable liability on the ground that the delivery of the instrument was conditional or for a special purpose only (Sections 46 and 47).

5. Instrument purged (cleared) of all defects

Not only that the title of the holder in due course is not subject to the defect in previous holder's title but once the instrument passes through the hands of a holder in due course, it is purged of all defects. Any person acquiring it takes it free of all defects, unless he was himself a party to the fraud (Section 53).

6. Estoppel against denying original validity of instrument

Section 120 provides that no maker of a promissory note and no drawer of a bill of exchange or cheque shall in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

7. Estoppel against denying capacity of the payee to endorse

No maker of a note and no acceptor of a bill payable to order is, in a suit thereon by a holder in due course, permitted to deny the payee's capacity at the date of the note or bill to endorse it (Section 121).

8. Instrument obtained by unlawful means or for unlawful consideration

The plea that the instrument was obtained by unlawful means or for unlawful consideration, cannot be set up against a holder in due course (Section 58).

3.4 Transfer of Negotiable Instrument

One of the essential characteristics of a negotiable instrument is that it is freely transferable from one person to another. This transfer may take place either

1. By negotiation, or
2. By assignment.

1. Transfer by negotiation

When a promissory note, bill of exchange or cheque is transferred by one party to another, so as to constitute the transferee the holder thereof, the instrument is said to be negotiated. Thus if A hands over a cheque to B asking B to keep it in safe custody, the cheque is not negotiated to B, because the delivery of the cheque to B, as a bailee does not make him its holder.

There are two methods of transfer by negotiation, namely,

(a) Negotiation by delivery: An instrument payable to bearer is negotiable by delivery.

Examples

(i) A is the holder of a negotiable instrument payable to bearer. He delivers it to B's agent against price of goods purchased from B. The instrument has been negotiated.

(ii) A is the holder of a negotiable instrument payable to bearer. The instrument is in the hands of A's banker who is at the time the banker of B also. A directs the banker to transfer the instrument to B's credit in the banker's books. The banker does so and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

An instrument delivered on a condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder in due course without notice of the condition) unless such event happens.

(b) Negotiation by indorsement and delivery: An instrument payable to order is negotiable by the holder by indorsement and delivery.

Importance of delivery in negotiation. To complete negotiation, delivery of the negotiable instrument is essential whether the instrument is payable to bearer or order. The delivery must be voluntary. It is also important that the object of delivery should be to pass the property in the instrument to the person to whom it is delivered so as to constitute that person the holder thereof. Until the instrument is actually delivered (in case of instruments payable to order, indorsed also) the contract on a negotiable instrument is not complete. Also provides in this connection that the making, acceptance, or indorsement of a promissory note, bill of exchange or cheque is completed by delivery, actual or constructive. The instrument is not clothed with the essential characteristics of a negotiable instrument till delivery.

Example : A owes B Rs. 1,000. He makes a promissory note for the amount payable to B. He dies and the note is afterwards found among his papers and delivered to B. B cannot sue upon the note if delivered to him.

Kinds of delivery. Delivery may be (1) actual, (2) constructive, or (3) conditional or for a special purpose.

Actual delivery takes place when the instrument changes hands physically.

Example : A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep it for B. The instrument has been negotiated.

Constructive delivery takes place when the instrument is delivered to the agent, or servant of the endorsee on his behalf or when the indorser, after indorsement, holds the instrument as an agent of the indorsee.

Example : A is the holder of a negotiable instrument payable to bearer. The instrument is in the hands of A's banker who is also at the time the banker of B. A directs the banker to transfer the instrument to B's credit in his books. The banker does so and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

Where an instrument is delivered conditionally or for a special purpose only, the property in it does not pass to the transferee (even though it is indorsed to him), unless the condition is fulfilled. But where it is negotiated to a holder in due course, other parties to it cannot escape liability on the ground that it was delivered conditionally or for a special purpose only.

2. Transfer by assignment

When a person transfers his right to receive the payment of a debt, 'assignment of the debt' takes place. Thus where the holder of an instrument transfers it to another so as to confer a right on the transferee to receive the payment of the instrument, transfer by assignment takes place.

The Negotiable Instruments Act does not deal with transfer of negotiable instruments by assignment.

3.4.1 Distinction between negotiation and assignment

Negotiation	Assignment
1. Consideration is presumed.	1. Consideration must be proved.
2. The title of the transferee i.e., the holder in and equities in the title as-transferor.	2. The title of the assignee is subject to the due course) is better than that of the defects of signor.
3. Notice of transfer to the debtor by the transferee is not necessary. The acceptor of a bill and the maker of a note are liable on maturity to the holder in due course of the instrument.	3. An assignment does not bind the debtor until notice of the assignment had been given by the assignee to the debtor, and the debtor has, expressly or imlie-dly, assented to it.
4. Instruments payable to bearer are negotiated by mere delivery and instruments payable to order are negotiated by indorsement and delivery.	4. An assignment can only be made in writing - either on the instrument itself or in a separate document transferring to the assignee the transferor's rights in the instrument.

3.5 Presentment of a Negotiable Instrument

Presentment means showing an instrument to the drawee, acceptor or maker for acceptance, sight or payment. There are, therefore, three kinds of presentment :

A) Presentment of bills of exchange for acceptance.

B) Presentment of promissory notes for sight.

C) Presentment of negotiable instruments for payment.

A) Presentment for Acceptance

It is only bills of exchange of a certain type that require acceptance. A bill is said to be accepted when the drawee puts his signature on it signifying his assent to the order of the drawer that he will pay, the bill at the time when it is due. The liability of the drawee does not arise until he has accepted the bill. The acceptance is given by the drawee by signing his name on the bill. The word 'accepted' is also sometimes added, but this is not necessary. After the drawee has accepted the bill, he is known as the acceptor.

The essentials of a valid acceptance are as follows :

1. **It must be written on the bill :** The usual form in which the drawee accepts a bill is by writing the word 'accepted' across the face or on the back of the bill and signing his name underneath.
2. **It must be signed by the drawee personally or through a duly authorised agent :** Until acceptance the drawee is not a party to the bill and is not liable, because a person is not liable on a contract unless he is a party thereto.
3. **The accepted bill must be delivered to the holder. An acceptance has no effect *until* the accepted bill is delivered to the holder :** Where a bill is drawn in a set, the acceptance should be put on one part only. If the drawee signs his acceptance on more than one part, he may become liable on all the parts.

Presentment for acceptance is not obligatory in all cases. A bill payable (a) on demand, or (b) a certain number of days after date, or (c) on a certain fixed date, need not be presented for acceptance *unless* it is specifically mentioned that such a bill is to be presented for acceptance. But in the following cases, a bill must be presented for acceptance in order to make the parties to the bill liable thereon :

1. **A bill payable some period after sight, or after presentment :** In order to fix its date of maturity. It may, however, be negotiated even before acceptance.
2. **A bill in which there is an express stipulation that it shall be presented for acceptance before it is presented for payment :** Even in cases where presentment is optional, it is always desirable to get a

bill accepted as soon as possible in order to obtain (i) the additional security of the acceptor's name on the bill, or (ii) an immediate right of recourse against the drawer and the other parties in case the bill is dishonoured by non-acceptance.

Presentment for acceptance must be made at a reasonable hour on a business day and before the bill is overdue.

Modes of acceptance

An acceptance may be general or qualified.

(a) General acceptance : An acceptance is general or absolute where the drawee, while accepting the bill, does not attach any condition or qualification to it. If the acceptance is not absolute, the holder may treat the bill as dishonoured by non-acceptance.

(b) Qualified acceptance : An acceptance is qualified where it is given subject to some condition or qualification. A qualified acceptance in express terms varies the effect of the bill as drawn. The holder may in such a case refuse to take a qualified acceptance, and treat the bill as dishonoured by non-acceptance. But if he takes a qualified acceptance, he does so at his own risk, and discharges all the parties prior to himself, unless he obtains their consent to such acceptance.

An acceptance is qualified when it is

1. Conditional as, for example, 'Accepted payable when in funds' or 'Accepted payable when a cargo consigned to me is sold'.
2. Partial, i.e., for a part only of the amount of the bill as, for example, when a bill is drawn for Rs. 1,000 and is 'Accepted for Rs. 200 only'.
3. Qualified as to place, i.e., to pay only at a specified place and not elsewhere or to pay at a place different from the place mentioned in the bill. An acceptance to pay at a particular place is a general acceptance, but if it expressly states that the bill is to be paid there only and not elsewhere, it is a qualified acceptance. Thus, 'Accepted payable at the Bank of India' is a general acceptance, but 'Accepted payable at the Bank of India and nowhere else' is a qualified acceptance.

4. Qualified as to time, i.e., to pay at a time other than that given in the bill as, for example, a bill drawn payable three months after date but 'Accepted payable six months after date'.
5. Acceptance by some of the drawees, but not all, as, for example, a bill drawn on A, B and C (who are not partners) but accepted by A only.

Acceptor for Honour

A stranger, as a general rule, cannot accept a bill. But if a bill is dishonoured by non- acceptance, the holder may nevertheless allow any other person to accept it for the honour of the drawer or any one of the indorsers. The person so accepting the bill is called 'acceptor for honour'.

The conditions for a valid acceptance for honour are as follows :

1. The bill must have been noted or protested for non-acceptance or for better security.
2. The acceptance for honour must be made with the consent of the holder.
3. It must be written on the bill and it must indicate that it is an acceptance for the honour of party who is already liable on the bill.
4. It must be signed by the acceptor for honour who must not already be liable on the bill.

Where the acceptance does not express for whose honour it is made, it is deemed to be made for the honour of the drawer.

The obligations and rights of an acceptor for honour are as follows :

1. Obligations

An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee does not pay. The acceptance for honour amounts to a collateral engagement and the acceptor for honour undertakes to pay if the original drawee upon presentment dishonours the bill. His obligation, therefore, is not an absolute one. He has to pay only if the following conditions are fulfilled :

(a) The bill should once more be presented to the drawee for payment at maturity.

(b) If the drawee still refuses to pay, the bill should be noted or protested for payment.

(c) The bill should be presented or forwarded to the acceptor for honour not later than the day next after the day of its maturity.

B) Presentation of Promissory Note for Sight

A promissory note does not require acceptance since the payment is to be made by the maker himself. According to Section 62, a promissory note payable at a certain period "after sight" must be presented to the maker for sight. The presentation is to be made by a person entitled to demand payment who is usually the holder. Again, the note must be presented within a reasonable time after it is made and during business hours on a business day. In default of such presentation, the maker is not liable to pay anything to the holder. In the case of such a note without presentation the maturity of the note cannot be fixed.

C) Presentation of Instrument for Payment

All Negotiable Instruments must be presented for payment to the maker, acceptor, or drawee. The object is to give concerned party an opportunity to pay-back the money. Presentation of a bill of exchange means its exhibition to the drawee or acceptor by the holder with a request for payment in accordance with its apparent tenor [Section 64(1)]. Presentation may be made through a registered letter if such a mode of presentation is authorised by agreement or usage. If the bill is paid, the holder would have to hand it over to the payer. In default of presentation by the holder, the drawer and all the endorsers would be discharged from their liability to the holder.

Notwithstanding anything contained in Section 6, where an electronic image of a truncated cheque is presented for payment, the drawee bank is entitled to demand any further information regarding the truncated cheque from the bank holding the truncated cheque in case of any reasonable suspicion about the genuineness of the apparent tenor of instrument, and if the suspicion is that of any fraud, forgery, tampering or destruction of the instrument, it is entitled to further demand the presentation of the truncated cheque itself for verification. It is provided that the truncated cheque so demanded by the drawee bank shall be retained by it, if the payment is made accordingly.

Rules Regarding Presentment for Payment

1. Hours for presentment

Presentment for payment must be made during the usual hours of business, and in case of a cheque during banking hours.

2. Presentment of instrument payable after date or sight

A promissory note or bill of exchange payable at a specified period after date or sight thereof, must be presented for payment at maturity. The delay even of a brief period after maturity discharges all prior parties other than those primarily liable.

Example

A bill was accepted payable at N.P. Bank. It fell due for payment on July 9, 2000, but it was not presented there till July 10, 2007. Held, the defendant indorser was discharged from liability

3. Presentment of promissory note payable by installments

A promissory note payable by installments must be presented for payment on third day after the date fixed for payment of each instalment. If any instalment is not paid on such presentment, it has the same effect as non-payment of a note at maturity.

4. Place of presentment

Presentment for payment must be made,

(i) at the place of payment specified in the instrument.

(ii) if no place is specified, at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor, as the case may be.

(iii) in any other case (i.e., when the maker, drawee or acceptor has no known place of business or fixed residence and no place is specified in the instrument), wherever the maker, drawee or acceptor can be found.

5. Presentment of cheque

A cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer. To charge any person except the drawer, the cheque must be presented within a reasonable time after its delivery by such person.

6. Presentment of instrument payable on demand

A negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

7. Presentment to agent, etc

Presentment for payment may be made to the duly authorised agent of the drawee, maker, or acceptor, as the case may be. Where the drawee, maker or acceptor has died, presentment for payment may be made to his representative, or where he has been declared an insolvent, to his assignee.

8. Delay in presentment

Delay in presentment for payment is excused if it is caused by circumstances beyond the control of the holder, and is not imputable to his legal default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made within a reasonable time.

9. Presentment excused

In certain cases, as already discussed, presentment for payment is excused.

10. Liability of banker for negligently dealing with bill presented for payment

If an acceptor has accepted a bill of exchange payable at a specified bank, the banker who receives the bill from the holder for payment is a bailee. If the banker dishonours it, he must take proper care of it and return it to the holder. If he is negligent, he shall have to compensate the holder for such loss.

11. Delivery of instrument on payment or indemnity in case of loss

As amended by the Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002]. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled

(a) To have it shown, and is on payment entitled,

(b) To have it delivered up to him, or if the instrument, is lost or cannot be produced,

(c) To be indemnified against any further claim thereon against him.

Where the cheque is an electronic image of a truncated cheque, even after the payment the banker who received the payment shall be entitled to retain the truncated cheque.

A certificate issued on the foot of the printout of the electronic image of a truncated cheque by the banker who paid the instrument, shall be prima face proof of such payment.

Payment for Honour

When a bill is dishonoured through nonacceptance, it may be accepted for honour. In a similar manner, a bill which has been accepted by the drawee and is later dishonoured by non-payment may-be paid for honour. The following conditions are essential for the payment of honour :

1. The bill must have been dishonoured for non-payment.
2. The bill must have been noted and protested for non-payment.
3. The person paying or his agent must declare before the Notary Public the party for whose honour he pays.
4. Such declaration must have been recorded by the Notary Public.
5. Payment for honour must be made for the honour of any party liable to pay the bill.
6. Payment for honour may be made by any person whether or not he is already liable on the bill.

Right of payer for honour

Any person making payment for honour is entitled to all the rights, in respect of the bill, of the holder at the time of such payment. He may recover from the party for whose honour he pays all sums so paid with interest thereon and all expenses properly incurred in making such payment.

A drawee in case of need may, however, accept and pay the bill of exchange without previous protest.

Reasonable Time for Presentment for Acceptance/Payment

In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to the similar instrument. In calculating reasonable time, public holidays shall be excluded.

3.6 Dishonour of Negotiable Instrument

A bill may be dishonoured by non-acceptance (since only bills require acceptance) or by non-payment. A promissory note and a cheque are dishonoured by non-payment only. When a negotiable instrument is dishonoured, the holder must give a notice of dishonour to all the prior parties in order to make them liable on the instrument. If he fails to do so, except in cases when notice of dishonour may be excused, he forfeits his right of action against the prior parties entitled to the notice of dishonour (Sec. 93).

A Negotiable Instrument may be dishonoured by

1. Non-acceptance
2. Non-payment

1. Dishonour by non-acceptance

A bill of exchange is said to be dishonoured, by non-acceptance in the following cases :

(i) When the drawee or one of the several drawees (not being partners) makes default in acceptance upon being required to accept the bill (48 hours required).

(ii) Where the presentment for acceptance is excused and the bill is not accepted.

(iii) Where the drawee is incompetent to contract.

(iv) Where the drawee makes the acceptance qualified.

(v) If the drawee is fictitious person or after reasonable search cannot be found.

2. Dishonour by Non-payment

A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker, acceptor of the bill or drawee of the cheque makes default in payment upon being duly required to pay the same . (Sec 92)

Also, a promissory note or bill of exchange is dishonoured by non-payment when presentment for payment is excused expressly by the maker of the note or acceptor of the bill and PN or BE remains unpaid.

3.6.1 Notice of Dishonour

When a negotiable instrument is dishonoured either by non-acceptance or by non-payment, the holder of the instrument or some party to it who is liable thereon, must give a notice of dishonour to all the prior parties whom he wants to make liable on the instrument. If he does not give this notice, except in cases when notice of dishonour may be excused, all the prior parties liable thereon are discharged of their liability (Sec. 93)

Object of notice of dishonour

The object of notice of dishonour is to inform the party liable on the instrument about the liability which accrues as a result of the dishonour of the instrument. The notice is necessary whatever the nature of the instrument, i.e., whether it is payable at sight or on demand or whether it is an accommodation bill. If the holder neglects to give such notice within a reasonable time from the date of dishonour, all the prior parties liable on the instrument and entitled to notice are discharged,

1. Effect of Dishonour

- As soon as a negotiable instrument is dishonoured (either by non-acceptance or by non-payment) the holder becomes entitled to sue the parties liable to pay thereon.
- The holder MUST, however, give notice of dishonour to all the parties against whom he intends to proceed.

2. Notice of Dishonour

- Notice of dishonour means formal communication of the fact of dishonour.
- Such a notice also serves the purpose of enabling the person so notified to protest himself against the prior parties.

3. Notice By Whom

- Notice of dishonour must be given by the holder or by some party to the instrument who remain liable thereon;
- Any party receiving the notice of dishonour must also transmit the same to all prior parties in order to make them liable to him.
- No suit can be filed against the prior party if he has not transmitted the fact of dishonour of instrument.
- One person can give the notice only.
- Duly authorised person can also give notice.

4. Notice to Whom

- Notice of dishonour must be given to all parties (other than the maker of note, acceptor of a bill or drawee of a cheque) to whom the holder seeks to make liable or other duly authorised agents.
- In case of death of a person, notice must be given to his legal representative and he has been declared insolvent to his Official Assignee.
- In case after dispatch of notice and before it receipt the person dies, it will be treated as if the notice has been served. (Not knowing the fact).

5. Mode of Giving Notice

- It may be oral or in writing. If it is in writing it must be sent by post
- It should be given in reasonable time.

6. What is Reasonable Time?

In determining what is reasonable time the consideration is to be given :

1. Nature of the instrument
2. The usual course of dealing with respect to similar instruments
3. Distance between the parties
4. While calculating public holidays shall be excluded.
5. In case a party received the notice of dishonour is to transmit the same to his prior parties, the transmission should be done in reasonable time.

7. When Notice of Dishonour is Unnecessary

1. Where the indorsee while signing in that capacity adds the words 'notice of dishonour waived'.
2. Where the drawer of a cheque countermanded payment.
3. Where the party charged could not suffer damage for want of notice such as bank account closed or in case of accommodation bill.
4. Where the party to whom the notice is to be given not traceable or the party who has to give notice is unable to give notice like death, accident or serious illness.

5. When the drawer also happens to be acceptor.
6. In case the Promissory Note which is not negotiable
7. When the party entitled to receive notice promise to pay unconditionally the amount as due after due date.

8. Consequences of not giving notice of dishonour

Any party to negotiable instrument (other than maker of a note, acceptor of a bill or drawer of cheque) is discharged from his obligation under the instrument unless circumstances are such where no notice is required to be sent.

(a) Noting

- In case a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment notice, the holder may cause such dishonour to be noted by Notary Public.
- Noting must be made within reasonable time after dishonour and must specify (i) the date of dishonour (ii) the reason assigned for dishonour and (iii) the notary's charges.

(b) Protest

"Protest" is a formal certificate issued by the notary public to the holder of the bill or note on his demand (noting is merely a record of dishonour on the instrument).

Contents of Protest

1. The instrument itself or a literal transcript of the instrument and of every thing written or printed thereon,
2. The name of the person for whom and against whom the instrument has been protested.
3. The fact and reason for dishonour
4. The place and time of dishonour
5. The signature of notary public
6. In case of acceptance for honour or payment for honour, the names of the persons by whom and for whom it is accepted or paid.

3.6.2 Rules as to Compensation

When a negotiable instrument is dishonoured, the party liable to pay becomes bound to pay compensation to the holder or indorsee. The rules for determining this compensation are as follows :

1. Compensation to holder

The holder is entitled to receive

(a) The amount due upon the instrument, and

(b) Expenses properly incurred in presenting, noting and protesting the instrument.

2. Re-exchange

Where the person charged resides in a country different from that in which the instrument was payable, the holder is entitled to receive the compensation at the current rate of exchange between the two countries on the date of dishonour [Sec. 117 (b)].

3. Compensation to indorser

An indorser who, being liable, has paid the amount due on the instrument is entitled to the amount so paid with interest at 18 per cent annum [rate increased from 6 to 18 per cent per annum by the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988] from the date of payment until tender or realisation thereof, together with all expenses caused by the dishonour and payment. But he can recover the amount only if at the time of payment he was liable on the instrument [Sec. 117 (c)]. When the person charged and the indorser are residents of different countries, the current rate of exchange between the two countries shall apply [Sec. 117 (c)].

4. Re-draft

The party entitled to compensation may draw a bill upon the party liable to compensate him, for the amount due to him together with all expenses incurred by him. Such a bill is called a 're draft'. It must be accompanied by the instrument dishonoured, and protest thereof (if any). If the re-draft is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill [Sec. 117 (e)].

3.6.3 Dishonour of cheque for insufficiency, etc., of funds in the account

Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may extend to [two years], or with fine which may extend to twice the amount of the cheque, or with both:

Provided that nothing contained in this section shall apply unless

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice, in writing, to the drawer of the cheque, within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation : For the purposes of this section, "debt or other liability" means a legally enforceable debt or other liability.

3.7 Discharge of Negotiable Instrument

The term 'discharge' in relation to a negotiable instrument is used in two senses, viz.,

1. Discharge of the instrument, and
2. Discharge of one or more of the parties from liability thereon.

An instrument is said to be discharged when all rights of action under it are completely extinguished and when it ceases to be negotiable. This would happen when the party who is ultimately liable on the instrument is discharged from liability. In such a case, even a holder in due course does not acquire any rights under the instrument. If, on the other hand, one or more of the parties is/are discharged from liability, the instrument continues to be negotiable and the other parties continue to be liable on it. The discharge of one or more of the parties to a bill or note does not discharge the instrument.

1. Discharge of an Instrument

The different modes of discharge of an instrument are as follows :

(a) By payment in due course : This is the most obvious and the usual mode of .discharge of an instrument and of the parties to it. The instrument is discharged by payment made in due course by the party who is primarily liable to pay (i.e., the maker or the acceptor), or by a person who is accommodated in case the instrument was made or accepted for his accommodation. The payment of the amount due on the instrument must be made at or after the maturity to the holder of the instrument if the maker or acceptor is to be discharged (Sec. 78). A payment by a party who is secondarily liable does not discharge the instrument. Again, any person liable to pay is entitled to have the instrument shown to him before payment. On payment he is entitled to have the instrument delivered up to him (Sec. 81).

(b) Payment of interest : If a rate of interest is specified in the promissory note or bill of exchange, interest shall be calculated on the principal amount at the specified rate from the date of the instrument until tender or realisation of the amount (Sec. 80). If no rate of interest is specified, the law implies an agreement to pay interest at 18 per cent per annum [rate increased from 6 to 18 per cent per annum by the Banking, Public Financial Institutions and Negotiable Instruments

(Amendment) Act, 1988] in spite of any collateral agreement which is not incorporated in the instrument.

(c) By party primarily liable becoming holder : If the maker of a note or the acceptor of a bill becomes its holder at or after its maturity in his own right (i.e., he has an absolute title and does not hold it conditionally or as an agent), the instrument is discharged (Sec. 90).

(d) By express waiver. When the holder of a negotiable instrument at or after its maturity absolutely and unconditionally renounces in writing or gives up his rights against all the parties to the instrument, the instrument is discharged. The renunciation must be in writing unless the instrument is delivered up to the party primarily liable.

(e) By cancellation. Where an instrument is intentionally cancelled by the holder or his agent and the cancellation is apparent thereon, the instrument is discharged. Cancellation may take place by crossing out signature on the instrument, or by physical destruction of the instrument with the intention of putting an end to the liability of the parties to the instrument.

(f) By discharge as a simple contract. A negotiable instrument may be discharged in the same way as any other contract for the payment of money. This includes, for example, discharge of an instrument by novation or rescission or by expiry of period of limitation.

2. Discharge of a party or parties

A party or parties to a negotiable instrument is/are discharged in any one of the following ways :

(a) By payment : When payment on an instrument is made in due course, both the instrument and the parties to it are discharged [Seel 82 (c)].

(b) By cancellation : When the holder of a negotiable instrument or his agent cancels the name of a party on the instrument with intent to discharge him, such party and all subsequent parties, who have a right of recourse against the party whose name is cancelled, are discharged from liability to the holder [Sec. 82 (a)]. The subsequent parties are in the position of sureties to the prior party whose name is cancelled and discharge of the principal debtor automatically discharges the sureties.

(c) By release : Where the holder of a negotiable instrument releases any party to the instrument by any method other than cancellation, the party so released is discharged from liability [Sec. 82 (b)]. Sec. 63 of the Indian Contract Act, 1872 also enunciates this rule.

(d) By allowing drawee more than forty-eight hours : If the holder of a bill of exchange allows the drawee more than forty-eight hours exclusive of public holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder (Sec. 83).

(e) By non-presentment of cheque : Where a cheque is not presented by the holder for payment within a reasonable time of its issue and the drawer suffers actual damage through the delay because of the failure of the bank, he is discharged from liability to the extent of such damage. In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and bankers, and the facts of the particular case (Sec. 84).

Examples

(i) A draws a cheque for Rs. 1,000, and when the cheque ought to be presented, has funds' at the bank to meet the cheque. The bank fails before the cheque is presented and pays 25 paise in the rupee. The drawer is discharged to the extent of Rs. 750.

(ii) A draws a cheque at Delhi on a bank in Kolkata. The bank fails before the cheque could be presented in ordinary course. A is not discharged for he has not suffered any damage through any delay in presenting the cheque.

(f) Cheque payable to order : Where a cheque payable to order purports to be indorsed by the payee, the banker is discharged by payment in due course. Where a cheque is originally expressed to be payable to bearer, the drawee is discharged by payment in due course to the bearer thereof. It makes no difference even if any indorsement whether in full or in blank appears on the cheque and even if any such indorsement purports to restrict or exclude further negotiation (Sec. 85).

(f) Draft drawn by one branch on another. Where any draft (that is an order to pay money) drawn by one office of a bank upon another office of the same bank for a sum of money payable to order on demand purports to be indorsed by or on behalf of the payee, the bank is discharged by payment in due course (Sec. 85-A).

(h) Parties not consenting discharged by qualified acceptance : If the holder of a bill of exchange acquiesces (assents) in a qualified acceptance, all the previous parties whose consent is not obtained to such acceptance are discharged from liability (Sec. 86). They will, however, be liable if on a notice being given to them they give their assent to such acceptance.

(i) By operation of law : This includes discharge

1. By an order of Insolvency Court, discharging the insolvent.
2. By merger. When a judgment is obtained against the acceptor, maker or indorser, the debt under the bill is merged into judgment debt.
3. By lapse of time, i.e., when the remedy becomes time-barred.

(j) By material alteration : A material alteration of a negotiable instrument renders the same void against persons who were parties thereto before such alteration *unless* they have consented to the alteration (Sec. 87)

(k) Discharge by payment of altered instrument : When a promissory note, bill of exchange or cheque has been materially altered but does not appear to have been so altered, or where a cheque is presented for payment which does not at the time of presentation appear to be crossed, payment on such an instrument discharges the party liable if he pays according to the apparent tenor of the instrument (as altered) at the time of payment and otherwise in due course. Such a payment cannot be questioned even if it is proved that the instrument has been altered or that the cheque was originally crossed [(Sec. 89 (1)].

Where the cheque is an electronic image of a truncated cheque, any difference in apparent tenor of such electronic image and the truncated cheque shall be a material alteration and it shall be the duty of the bank or the clearing house to ensure the exactness of the apparent tenor of electronic image of the truncated cheque while truncating and transmitting the image. [Sec. 89 (2) inserted by the Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002.]

3.7.1 Material alteration

An alteration is material which

(a) alters the character or identity of the instrument, or which shakes the very foundation of the instrument [Dhanoomal Parsaram v. P. Kuppura, A.I.R. (1977) Mad. 274], or

(b) changes the rights and liabilities of the parties, or any of the parties to the instrument or

(c) alters the *operation* of the instrument.

Any change in an instrument which causes it to speak a different language in effect from that which it originally spoke, or which changes the legal identity or character of the instrument either in its terms' or the relation of the parties to it, is a material alteration. It makes no difference whether the alteration is beneficial or prejudicial [Ramapadarath v. Narain, A.I.R. (1965) Pat. 2241.

Instances of material alteration

The following alterations are material, *i.e.,* the alteration of -

1. The date.
2. The sum payable,
3. The time of payment,
4. The place of payment,
5. Addition of place of payment,
6. The rate of interest.

These alterations vitiate the instrument.

Alterations not vitiating the instrument

In the following cases, the alteration of a negotiable instrument will not vitiate or avoid the instrument :

1. An alteration, though in a material part, made before the instrument is issued.
2. An alteration made for the purpose of correcting a mistake, *e.g.,* the correction of mistake in a bill dated 1989 instead of 1998.
3. An alteration made to carry out the common intention of the original parties, *e.g.,* the subsequent insertion of the words 'or order' where the drawer of a bill forgets to use these words.
4. An alteration made with the consent of the parties.
5. An alteration which is not material.

Alterations authorised by the Act

The following alterations, though material, are permitted by the Act, and do not invalidate the instrument :

1. Filling blanks of an inchoate instrument (Sec. 20).
2. Conversion of a blank indorsement into an indorsement in full (Sec. 49).
3. Crossing of cheques (Sec. 125).

Effect of material alteration

The effect of a material alteration of a negotiable instrument is only to discharge those who become parties thereto prior to the alteration. But if an alteration is made in order to carry out the common intention of the original parties, it does not render the instrument void. Any material alteration, if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof (Sec. 87).

The rule as contained in Sec. 87 is based on a sound policy and may be defended on two grounds :

1. That no man should be permitted to take the chance of committing a fraud without running any risk of loss by the event when it is detected, and
2. That by the alteration the identity of the instrument is destroyed, and to hold one of the parties liable under such circumstances would be to make him liable for something to which he never agreed.

3.8 HUNDIS

Hundis are instruments drawn by Indians in an oriental language. These are bills of exchange in vernacular language. Hundis have been in existence in this country from very ancient times and have been recognized by law as valid and effective negotiable instruments.

The Negotiable instruments Act deals with only three classes of negotiable instruments; namely, promissory note, bills of exchange and cheques. It does not govern Hundis, which are governed by custom or local usages. But where by any words in the instrument itself the usages regarding such instruments are excluded or where the writing expressly indicates an intention that the legal relations of the parties thereto shall be governed by the Negotiable instruments act, the act will apply.

Kinds of Hundis

Several varieties of Hundis are current amongst Indian traders. Hundis may be either Darshani or Muddati. Darshani hundis are payable at sight while Muddati hundis are payable after a certain period, after date of sight. The various kinds of hundis which relate to these classes are as follows.

Some of the commonly known hundis which belong to these kinds are as follows:

1. Shah Jog Hundi

A shah means a respectable person. A shah jog hundi means a hundi which is payable only to a shah. It can be freely transferred from one person to another by mere delivery and no indorsement is required. The drawee (the person on whom the hundi is drawn) must, however, make sure that he makes payment on a shah jog hundi only to a shah. If he makes payment on such a hundi to a person other than a shah, he will not be entitled to recover from the drawer the money he pays to the holder.

2. Nam Jog Hundi

It is a hundi which is payable to or to the order of a specified person named in the hundi. It is similar to a shah jog hundi except that in place of the word shah, the name of the payee is given in the hundi. It can be negotiated like a bill of exchange.

3. Dhani Jog Hundi or Dekhandar Hundi

Dhani means a 'holder'. A dhani jog hundi is a hundi which is payable to the holder or bearer. It is just like an instrument payable to the bearer and can be negotiated by mere delivery.

4. Firman Jog Hundi

Firman means 'order'. A firman jog hundi is one which is payable to order. It can be negotiated, like other instruments payable to order, by indorsement and delivery.

5. Jawabee Hundi

It is a hundi which is used for remitting money from one place to another. When the payee, i.e., the person who is to receive the money, gets the money, he has to send an answer, i.e., jawab, to the remitter.

6. Jokhami Hundi

A jokhami hundi is one which implies a condition that the money shall be payable by the drawee who is the buyer of goods, only in the event of the safe arrival of the goods against which the hundi is drawn. It is in effect a combination of a bill of exchange and an insurance policy.

3.9 BANKER AND CUSTOMER

The law relating to bankers and banking in India may be discussed under the following two heads :

1. The law regulating the relations between bankers and their customers and between bankers and the outside world. This deals with matters relating to collection of cheques, bills, hundis and other negotiable instruments, loans and advances, bankers' lien, pledge, mortgage and hypothecation, etc. The law relating to this aspect of banking is contained in
   (i) The Indian Contract Act, 1872, and
   (ii) The Negotiable Instruments Act, 1881.

   These Acts are, however, not exhaustive. As such the Courts apply the rules of the English Common Law whenever any point not covered by the Indian Acts arises.

   In this Chapter we shall be concerned only with the aspect of law relating to bankers and banking.
2. The law regulating the organisational aspect of banking. This deals with matters relating to incorporation, control, management and dissolution of banking companies. The law relating to this aspect of banking is contained in—
   (i) The Companies Act, 1956, and
   (ii) The Banking Regulation Act, 1949.

3.9.1 Definition of Banker and Customer

A) Banker

According to section 3 of the NI Act, 1881, banker includes any person acting as a banker and any post office savings bank.

According to section 5(b) of the Banking Regulation Act, 1949, banking means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise.

To sum up a banker is who

1. Take deposit account
2. Take current accounts
3. Issue and pay cheques
4. Collect cheques crossed and uncrossed for his customers.

Money lender is not considered as a banker as mere lending does not constitute banking business. Banker is an institution which borrows money by accepting deposits from the public for the purpose of lending to those who are in need of money.

B) Customer

The term customer is not defined by law. Ordinarily, a person who has an account in a bank is called a customer.

Acc to Dr. Hart, "a customer is one who has an account with a banker or for whom a banker habitually undertakes to act as such.

Thus to constitute a customer, the following essential requisites must be fulfilled:

1. He must have some sort of an account.
2. Even a single transaction constitutes a customer.
3. The dealing must be of a banking nature.

A customer need not be a person. A firm, joint stock company, a society or any separate legal entity may be a customer. Explanation to section 45-Z of the BR Act clarifies that a customer includes a Government department and a corporation incorporated by or under any law.

3.9.2 Legal Relationships of banker and customer

Agent and Principal- Sec.182 of 'The Indian Contract Act, 1872' defines "an agent" as a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done or who is so represented is called "the Principal".

One of the important relationships between a banker and customer is that of an agent and principal. The banker performs various services of the customer, where he acts as the agent.

- Buying and selling securities of customer
- Collection of cheques, bills of exchange, promissory notes on behalf of customer
- Acting as trustee, executor or representative of a customer
- Payment of insurance premium, telephone bills etc.

1. Trustee and beneficiary

Section 3 of the Trusts Act defines a trustee as one to whom property is entrusted to be administered for the benefit of another called the beneficiary. A banker becomes a trustee under special circumstances. When a customer deposits securities or other valuables with the banker for safe custody, the banker acts as trustee of customer.

2. Bailee and bailor

During certain circumstances banker becomes bailee. When he receives gold ornaments and important documents for safe custody he takes charge of it as bailee and not trustee or agent. He cannot make use of them as he is bound to return the identical articles on demand.

3. Pawnee and pawner

Pawn is a sort of bailment in which the goods are delivered to another as a pawn, to be a security for money borrowed. Thus a banker acts as a pawnee where a customer delivers the goods to him to be kept as security till the debt is discharged. The banker can retain the goods pledged till the debt is paid.

4. Mortgagee and mortgagor

The relation between a banker as mortgagee and his customer as mortgagor arises when the latter executes a mortgage deed in respect of his immovable property in favour of the bank or deposits the title deeds of his property with the bank to create an equitable mortgage as security for an advance.

5. Lessee and lessor

When a customer hires a locker in the bank's safe deposit vault, the bank undertakes to take necessary precaution for the safety of the articles in the locker. The relation between the parties is that of a lessor and lessee.

6. Guarantor and guarantee

A bank as guarantor gives guarantee to its customer by issuing a 'letter of credit'. It is a kind of credit facility to its customer to facilitate international trade. A bank guarantee contains an undertaking to pay the amount without any demur on mere demand of the principal amount on the ground for non-performance or breach of contract.

7. Fiduciary relationship

Every relation of trust and confidence is a fiduciary relation. A banker who receives a customer's money is under a duty not to part with it which is inconsistent with the customer's fiduciary character and duty. In Official Assignee v. Rajaram Aiyar, it was held that where banks old money for a specific purpose of sending it somebody the money is impressed with trust.

3.9.3 Special Relationship between Banker and Customer

By opening an account with the banker, there will be some rights conferred and obligations imposed to the banker as well as the customer. These rights and duties are reciprocal i.e. the banker's duties are the customer's rights and the banker's rights are the customer's duties. These rights and obligations are called the special features of relationship between banker and the customer.

The special relationship between banker and customer can be presented as under:

General obligations of banker towards customer

Obligation to honour cheques- banker accepts the deposits from the customer with an obligation to repay it to him on demand or otherwise. The banker is therefore under a statutory obligation to honour his customer's cheques because; it is recognized under section 31 of the NI Act, 1881.

The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default.

Thus the banker is bound to honour his customer's cheques provided the following conditions are fulfilled:

(a) Sufficient balance in customer's account

(b) Presentation of cheques within working hours of business

(c) Presentation of cheques within reasonable time after ostensible date of its issue

(d) Cheques should be presented at the branch where account is kept

(e) Fulfilment of requirements of law

Obligation to maintain secrecy and disclosure of information required by law- the banker is under an obligation to take utmost care in keeping secrecy about the accounts of the customers since it may affect his reputation, credit-worthiness and business. It was firmly laid down in Tournier v. National Provincial and Union Bank of England Ltd. in India it was made compulsory after 1970. The duty to maintain secrecy will be continuing even after the account is closed or the death of the customer.

This obligation is subject to certain exceptions.

Obligation to keep a proper record of transactions- the banker must keep a proper record of transactions of the customer. If he wrongly credits the account of the customer and intimates him with the same and the customer acts upon the intimation bonafide and withdraws cash the banker cannot contend that the entries were wrongly made. He shall not succeed in recovery of money from the customer.

Obligation to abide by the instructions of the customer- the banker must abide by any express instructions of the customer provided it is within the scope of their banker-customer relationship. In the absence of any express instructions, the banker must according to prevailing usages at the place where the banker conducts his business.

3.9.4 Rights of a Banker

Banker's right of general lien- one of the important rights enjoyed by a banker is the right of general lien. Lien means the right of the creditor to retain goods and securities owned by the debtor until the debt due from him is paid. It may either be general or particular.

In Brando v. Barnet, it was held that bankers most undoubtedly have a general lien on all securities deposited with them as bankers unless there is an express or implied contract inconsistent with lien.

In India sec 171 of the Indian Contract Act confers general lien upon bankers as follows- bankers…..may in absence of a contract to the contrary, retain as a security for a general balance of account, any goods bailed to them.

Banker's right of set-off- the right to set off is a statutory right which enables debtor to take into account a debt owing to him by a creditor, before the latter could recover the debt due to him from the debtor. Thus when a customer keeps two or more accounts at the same bank, some of which are overdrawn and some in credit, the bank has a right to combine such accounts and pay the resultant balance. In Halesowen Presscook and Assemblies Ltd v. Westminister Bank Ltd, it was held that a banker has the right to combine two accounts and to set off unless he has made some agreement express or implied to the contrary.

Banker's right for appropriation of payment- when a debtor owes two or more debts to a creditor and he pays some amount which is not sufficient to meet any debt to the creditor appropriation is done. It applies to a banker if the customer has more than one deposit or more than one loan account.

In Devaynes v. Noble, famously known as Clayton's case, a principle was laid down as to when the customer has current account and deposits and withdraws money frequently the first item on debit side will be discharged by the first item on credit side. The credit entries in the account adjust or set off the debit entries in chronological order.

Banker's right to claim incidental charges- the banker may claim incidental charges on unremunerative accounts such as service charges, processing charges, ledger folio charges, appraisal charges, penal charges and so on.

Banker's right to charge compound charges- a banker has a special privilege to charge compound interest. In Syndicate Bank v. West Bengal Cement Ltd, the adding of unpaid interest due to the principal amount is recognized. However, the SC abolished this in case of agricultural loans in the Bank of India case.

3.9.5 Protection of Paying Banker

The bankers are placed in a privileged position as regards the payment of their customers' cheques. Sec. 85 deals with this privilege of the paying banker.

1. Protection in case of order cheque

In case of an order cheque, Section -85(1) provides statutory protection to the paying banker as follows : "Where a cheque payable to order purports to be endorsed by or on behalf of the payee, the drawee is discharged by payment in due course". However, two conditions must be fulfilled to avail of such protection.

(a) Endorsement must be regular : To avail the statutory protection, the banker must confirm that the endorsement is regular.

(b) Payment must be made in Due Course : The paying banker must make payment in due course. If not, the paying banker will be deprived of statutory protection.

2. Protection in case of Bearer Cheque

Section -85(2) provides protection to the paying banker in respect of bearer cheques as follows : "Where a cheque is originally expressed to be payable to bearer, the drawee is discharged by payment in due course to the bearer thereof, notwithstanding any endorsement whether in full or blank appearing thereon and notwithstanding that any such endorsement purports to restrict or exclude further negotiation". This section implies that a cheque originally issued as a bearer cheque remains always bearer.

In other words it retains its bearer character irrespective of whether it bears endorsement in full or in blank or whether any endorsement restricts further negotiation or not. So the banks are not required to verify the regularity of the endorsement on bearer cheque, even if the instruments bears endorsement in full. The banker shall free from any liability (discharged) if he makes payment of an uncrossed bearer cheque to the bearer in due course. If such cheque is a stolen one and the banker makes its payment without the knowledge of such theft, he will be discharged of his obligation and will be protected under Section -85(2).

3. Protection in case of Crossed cheque

The paying banker has to make payment of the crossed cheques as per the instruction of the drawer reflected through the crossing. If it is done, he is protected by Section -128. This section states "Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque and (in case such cheque has come to the hands of the payee) the drawer thereof shall respectively be entitled to the same rights, and be placed in if the amount of the cheque had been paid to and received by the true owner thereof".

Crossed cheques : A cheque may be crossed (1) generally, or (2) specially.

(i) Payment of cheque crossed generally

Where a cheque is crossed generally, it is a direction to the banker on whom the cheque is drawn to pay it to a banker only (Sec. 126, para 1). The drawee banker is discharged by payment in due course of a generally crossed cheque to a banker.

(ii) Payment of cheque crossed specially

Where a cheque is crossed specially, it is a direction to the banker on whom the cheque is drawn to pay it only to the banker to whom it is crossed, or his agent for collection (Sec. 126, para 2). The drawee banker is discharged by payment in due course of a specially crossed cheque to the banker to whom it is crossed or his agent for collection.

(iii) Payment of crossed cheque in due course

If the drawee banker pays a crossed cheque in due course (i.e., in good faith and without negligence and in accordance with the provisions of Sec. 126), he is put in the same position as if he had paid to the true owner of the cheque. He can debit his customer, i.e., the drawer, with the amount so paid on the cheque. It does not matter even if the amount of the cheque does not reach the hands of the true owner (Sec. 128).

(iv) Payment of crossed cheque out of due course

When a cheque is crossed generally and the drawee banker pays it otherwise than in accordance with such crossing (i.e., pays a cheque crossed generally otherwise than to a banker to whom the same is crossed), he is liable to the true owner of the cheque for any loss he may sustain by such default (Sec. 129).

3.9.6 Protection of Collecting Banker

A Collecting Banker is one who undertakes to collect various types of instruments representing money in favour of his customer or his own behalf from the drawers of these instruments; some are negotiable instruments as provided for in the negotiable instruments Act. 1881 and some are quasi negotiable instruments.

A) Negotiable Instruments

As per section number 13 of the negotiable instrument Act. 1881, "A negotiable instrument means a promissory note, bill of exchange or cheque payable either to order or to bearer". A Banker's draft is also negotiable instrument.

(a) Promissory Note : A promissory note is an instrument in writing containing an unconditional under taking signed by the maker to pay on demand or at a fixed or determinable future time a certain sum of money only to, or to the order of a certain person, or to the bearer of the instrument.

(b) Bill of Exchange : A bill of exchange is an instrument in writing containing an unconditional order signed by the maker directing a certain person to pay on demand or at a fixed or determinable future time a certain sum of money only to or the order of a certain person or to the bearer of the instrument.

(c) Cheque : A cheque is a unconditional order of the drawer in writing bearing a date, to the Banker maintaining his account to pay on demand, to a named person, his order or bearer, a certain specified sum of money, expressed in both figures and words.

B) Quasi Negotiable Instruments

The negotiable instruments Act. 1881 does not talk of any other negotiable instruments except bills, promissory notes, cheques and bank drafts. But there are some instruments which are in practice, treated negotiable for certain events only and are so regarded by usage and custom. Some of these are documents of tittle of goods and property while others are documents of value. Such as, Bill of lading, railway receipts, stock and share certificates, debentures, dividend warrants, interest coupons & treasury bills.

C) Duties & Responsibilities of Collecting Bankers

1. Acting as agent

While collecting an instrument, whether for credit to customer's account or for himself, the Bankers works as agent of his customer. As an agent he has generally to take such steps & precautions to protect the interest or his customer as a man of ordinary prudence would take to safe-guard his own interest.

2. Scrutinizing the instruments

Name of the holder, Branch name, date, amount in world and figure, any cutting without signature, material alteration of any to be checked carefully.

3. Checking the endorsement

Bankers has to check the instrument whether it has been endorsed properly.

4. Presenting the instrument in due time

It is the responsibility of the collecting bank to present the instrument in due time to the paying bank.

5. Collecting the proceeds in the payee's account

It is the duty of collecting banks to collect and credit the proceed of the instruments to the proper/correct account.

6. Notice of dishonor and returning the instruments

If any instrument is dishonored by the paying bank it should be informed to the customer on the business day following the receipt of the unpaid instruments.

SHORT NOTES

1. Negotiable Instrument

The word 'negotiable' means transferable from one person to another in return for consideration and instrument means a written document by which a right is created in favor of some person. Thus, a negotiable instrument is a document which entitles a person to a sum of money and which is transferable from one person to another by mere delivery or by endorsement and delivery.

2. Promissory Note

A promissory note is an instrument in writing (not being a bank note or currency note) containing an unconditional undertaking, signed by the makers, to pay a certain sum of money only to or to the order of a certain person or to the bearer of the instrument.

3. Cheque

A 'cheque' is a 'bill of exchange' drawn on a specified banker and not expressed to be payable otherwise than on demand. It includes the electronic image of a truncated cheque and a cheque in the electronic form.

A cheque is the electronic form means a cheque which contains the exact mirror image of a paper cheque, and is generated, written and signed in a secure system ensuring the minimum safety standards with the use of digital signature and asymmetric crypt to systems.

4. Bill of Exchange

A Bill of Exchange is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain amount of money only to, or to the order of a certain person or to their bearer of the instrument.

5. Types of Crossing

A cheque is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise on demand. A crossed cheque is one which bears on its face two parallel transverse lines usually on the top left corner of the cheque. The payment of a crossed cheque can be obtained only through a banker. Following are various types of crossings.

i) **General Crossing :** A cheque is said to be crossed generally when it bears across its face, addition of two parallel transverse lines simply, either with or without the words 'not negotiable'.

ii) **Special Crossing :** When a cheque bears in addition in the name of the banker, it is called special crossing. When a cheque is specially crossed, the banker on whom it is drawn shall pay it only to the banker on whom it is crossed or to his agent.

iii) **Restrictive Crossing :** In this type of crossing the words A/c payee are added to the general or special crossing. The words A/c payee on the cheque are a direction to the collecting banker that the amount collected on the cheque is to be credited to the account of the payee.

6. Transfer by negotiation

When a promissory note, bill of exchange or cheque is transferred by one party to another, so as to constitute the transferee the holder thereof, the instrument is said to be negotiated. Thus if A hands over a cheque to B asking B to keep it in safe custody, the cheque is not negotiated to B, because the delivery of the cheque to B, as a bailee does not make him its holder.

7. Transfer by assignment

When a person transfers his right to receive the payment of a debt, 'assignment of the debt' takes place. Thus where the holder of an instrument transfers it to another so as to confer a right on the transferee to receive the payment of the instrument, transfer by assignment takes place.

8. Dishonour of Negotiable Instrument

A bill may be dishonoured by non-acceptance (since only bills require acceptance) or by non-payment. A promissory note and a cheque are dishonoured by non-payment only. When a negotiable instrument is dishonoured, the holder must give a notice of dishonour to all the prior parties in order to make them liable on the instrument. If he fails to do so, except in cases when notice of dishonour may be excused, he forfeits his right of action against the prior parties entitled to the notice of dishonour (Sec. 93).

A Negotiable Instrument may be dishonoured by

1. Non-acceptance
2. Non-payment

9. Hundis

Hundis are instruments drawn by Indians in an oriental language. These are bills of exchange in vernacular language. Hundis have been in existence in this country from very ancient times and have been recognized by law as valid and effective negotiable instruments.

10. Banker and Customer

Banker

According to section 3 of the NI Act, 1881, banker includes any person acting as a banker and any post office savings bank.

According to section 5(b) of the Banking Regulation Act, 1949, banking means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise.

Customer

The term customer is not defined by law. Ordinarily, a person who has an account in a bank is called a customer.

Acc to Dr. Hart, "a customer is one who has an account with a banker or for whom a banker habitually undertakes to act as such.

Thus to constitute a customer, the following essential requisites must be fulfilled:

1. He must have some sort of an account.
2. Even a single transaction constitutes a customer.
3. The dealing must be of a banking nature.

A customer need not be a person. A firm, joint stock company, a society or any separate legal entity may be a customer. Explanation to section 45-Z of the BR Act clarifies that a customer includes a Government department and a corporation incorporated by or under any law.

UNIT IV

The Companies Act 1956: Definition, Formation of Company, Memorandum and Articles of Association, Types of Companies, Share Capital and Debentures, Management and Administration, Appointment of Directors and Managing Director, Powers of Board, Meetings of Board, Remunerations of Director, Company meetings, Statutory Meeting, Annual General Meeting and Extra Ordinary General Meeting, Minutes of the Meeting and resolutions, corporate reporting. Winding up of Corporation.

4.1 Introduction to Companies Act 1956

In India, the law relating to companies is contained in the Companies Act, 1956. The Act is a consolidation of existing laws, statutory rules and certain principles laid down in decisions of the courts in India and England. The first enactment on the subject of company law was passed in 1850 which was known as Joint Stock Companies Act, 1850. After independence, the Government of India appointed a committee in 1950, consisting of 12 members to make recommendations for the codification of company law. The committee submitted a comprehensive report on all aspects of company law and it resulted in the most comprehensive legislation - the Companies Act, 1956.

The Act extends to the whole of India and it applies to public companies, private companies or associations not trading for profits. The Act also contains certain provisions related to companies incorporated outside India, but which have an established place of business in India.

4.1.1 Meaning & Definitions of Company

A company is an association of individuals which is constituted for the achievement of a common purpose. It is a business organization wherein the funds of many investors are administered by few individuals with the aim of earning profits which are generally shared among all the investors. A company is defined as a voluntary association of persons which involves capital that is divided into small parts called as shares. It is regarded as an artificial person which is developed by a process of law and has a perpetual succession and a common seal. Only in the Companies law, a company is regarded as a person.

The company incorporated under the Companies Act 1956 or any earlier Companies Act is known as registered company. Generally, the companies incorporated under the companies Act 1956 are the business companies, which may also be created for encouraging art, charity, research, religion, commerce or any other useful objective.

According to Section 3(1)(i) of the Companies Act 1956 "A company means a company formed and registered under this act or an existing company".

4.1.2 Objectives of a Company

The company law has been enforced for integrating and modifying the other laws associated with companies and other associations. This law aims to accomplish certain important objectives which are as follows

(a) To increase and promote investments.

(b) To assure appropriate administration.

(c) To avoid or prohibit malpractices.

(d) To approve and allow investigations.

4.1.3 Features of Company

1. Incorporated Association

A Company can be formed by the registration of a voluntary association of seven or more persons with the Registrar of Companies. A private company can be formed by two or more persons itself. There is no maximum limit on the number of members of a public company but there should not be more than 50 members in a private company, excluding those members who have purchased shares while under the employment of the company and continuing as its employees or retired or resigned.

2. Body Corporate

Every company registered under the Companies Act, 1956 or any other companies law in force in India before 1956 becomes a separate body in its registered name. It is treated as a separate legal entity apart from its members. It is deemed as an artificial person in the eyes of law. This privilege is not granted to Sole Trading Concerns and Partnership firms.

3. Right to contract and sue

A Registered Company can enter into contracts with other persons and companies in its own name. It becomes competent to contract from the very day of its registration. A company need not attain the age of 18 years to become competent to contract. It can sue the other persons in Courts of law for its claims. It can also be sued by others in its registered name.

4. Separate Assets and Liabilities

A company can purchase and posses separate assets in its registered name. The members will not have any direct rights in the assets of the company. Similarly a company can also have liabilities in its registered name. The members will not become directly liable for its liabilities.

5. Perpetual Succession

Every registered company will have perpetual succession. That means its life or survival will not be affected by the transfer, death, insanity or insolvency of any of its members. The company continues to exist as a body corporate in the eyes of law as far as the minimum number of members continue in the company.

6. Common Seal

An Official seal is prepared in the name of the company and used as its signature. It is affixed on all contracts entered by the company. It should be attested by two or more responsible officers of the company, it is called the Common Seal. Any contract entered on behalf of the company without the common seal becomes invalid.

7. Liability of Members

The liability of members of a company will be generally limited to the extent of the value of shares subscribed by the members. Their private properties will not become liable to discharge the liabilities of the company. The liabilities may be limited by an amount of guarantee mentioned in memorandum of association. Such companies are called the "Guarantee Companies". A company can also be registered with unlimited liability.

8. Capital of the Company

The Capital of a company is called Share Capital because it is divided into a large number of units of uniform amounts known as shares. Every member is required to contribute his capital in the multiples of shares. The shares can be of two types, namely, Preference Shares and Equity Shares. They may be of any denominations such as Rs. 101- and Rs. 201- Rs. 50/ -, Rs. 100/-, Rs. 1000/-and so on.

9. Transfer of shares

The shares held by a shareholder can be easily transferred to other persons if he is in need of money. The shareholder need not take permission from any other member or the company. Therefore, the shares are freely transferrable. However, the shares of a Private Company are not transferable.

10. Management

The Management of the company is placed in the hands of the elected representatives of the shareholders. They are individually known as "directors" and jointly as "Board of Directors". There should be atleast three directors for a public company and two directors for a private company. The maximum number of directors can be fixed on the basis of size of the company.

4.2 Formation of Company

Every Company formed in India after 1 st April, 1956 must be registered under the Companies Act, 1956. The Govt, of India has appointed the Chief Registrar of the Companies at New Delhi and Sub-Registrars of Companies for every state. The Company situated within the boundaries of a state should be registered with the Sub-Registrar of that state. The following procedure should be followed for registration of a company.

1. Formation of an Association of persons

An Association of seven or more persons should be formed to incorporate a public limited Company and an association of two or more persons should be formed to incorporate a Private Limited Company.

2. Filing of Documents

The Association should prepare the following documents and submit them to the Registrar of Companies along with necessary fees for registration.

(a) The Memorandum of Association.

(b) The Articles of Association.

(c) A list,of person who have agreed to act as Directors and take up qualification shares from the company.

(d) A Statement of nominal capital of the company.

(e) A declaration signed by an advocate or a pleader of High Court or Supreme Court or a qualified Company Secretary or a Chartered Accountant, that the Company has complied with all the formalities of the law necessary for registration.

3. Obtaining Certificate of Incorporation

The Registrar of Companies issues a Certificate under his signature that the company is registered, if he is satisfied with the documents filed by the association. The Company becomes a separate body corporate from the date of that certificate. It is treated as an artificial person in the eyes of law with perpetual succession and common seal.

4. Certificate of Commencement of Business

A Private Company can start its business as soon as the Certificate of Incorporation is received but a Public Company should obtain another certificate before commencement of its business. This Certificate is issued by the Registrar when the company submits a statement signed by an Advocate or Company Secretary or any Director of the Company, that the Company has obtained minimum subscription and allotted shares to the public and the directors have taken up the qualification shares. It is called " Certificate of Commencement of Business" or" Trading Certificate".

4.3 MEMORANDUM OF ASSOCIATION

Memorandum of association is a fundamental document. It is the charter of the company and defines its reason for existence. It regulates the external affairs of the company in relation to outsiders. Its purpose is to enable shareholders to know what its permitted range of enterprise is. It is the area beyond which the actions of the company cannot go.

Memorandum of association defines the scope of the company's activities. It is the document that sets out the constitution of the company. According to Lord Macmillan, the purpose of memorandum of association is "to enable the shareholders, creditors and those who deal with the company to know what is the permitted range of enterprise." It is one of the most essential documents for incorporating a registered company.

According to section 2 (28) of the Companies Act," memorandum" means memorandum of association of a company as originally framed or altered from time to time in pursuance of any previous companies law or this Act. Section 13 of the Act specifies in clear terms the contents of this important document which is a charter of the company. It contains the fundamental provisions of the company's constitution. It contains the essential conditions upon which the company can be incorporated.

Purpose of Memorandum

The prospective shareholders shall know the field in, which their money is going to be used by the company and what risk they are undertaking in making investment. The outsiders dealing with the company shall know the objects of the company.

Form of Memorandum

The Memorandum of Association of a company shall be in such one of the Forms in Tables B, C, D and E in Schedule I to the Companies Act, 1956.

4.3.1 Contents of Memorandum of Association

Contents of Memorandum of Association According to the Companies Act 1994, the Memorandum of Association must include the following Clauses:

1. Name Clause

Every company name must end with Limited (Ltd.). No name of the company should be the name of the existing company, king, queen, president, prime minister, Father of Nation or anything that signifies government sponsorship.

2. Situation and Address Clause

This clause should include the address and situation of the company, which is mention in the registration.

3. Area of Business

It should include the current and potential area of the business. It should be written carefully, because it made the boundary around the business operations.

4. Objective Clause

This clause is the most important clause of MA. This clause identifies the scope of the business. Beyond these identified scopes, the business can't move. For example, If a company says its objective to do only Shoe business, it cannot do another business.

5. Liability Clause

This clause tells about the duties and responsibilities of the Owners; i.e., whether the share holders are liable for their share capital or promise.

6. Capital Clause

This clause includes the amount of capital, its type, each share price, etc.

7. Consent Clause

Here the directors declare in a written statement that they are agreeing to be the director of the proposed company by buying certain amount of a share. Generally, the promoters become the directors. This statement should include a witness and the directors' signature with their name, address and occupation.

4.3.2 Alteration of Memorandum

The procedure for the alteration of the compulsory clauses or conditions of the memorandum is as follows,

(a) Change of Name

(i) By Special Resolution : A company may change its name. For this purpose it must first pass a special resolution and then obtain approval of the central government in writing. However no such approval is necessary for merely including or deleting the word 'private' consequent on the conversion of the public company into private company and vice versa.

(ii) By Ordinary Resolution : If a company is registered by a name which in the opinion of the central government is identical to an existing company. It may change its name by passing an ordinary resolution and with the previous approval of the central government.

The Registrar shall also make an entry of the new name in the register in place of former name shall issue a fresh certificate of incorporation. The change of name shall be complete and effective only on the issue of such a certificate. The registrar shall also make necessary alteration in the memorandum of the company.

(b) Change of Registered Office

The change of registered office may involve any of the following,

(i) Change of registered office from one place to another place in the same city, town or village.

(ii) Change of registered office from one town to another town in the same state.

(iii) Change of registered office from one state to another state.

(i) Change within the City

May be effected by a resolution passed by the board of directors and the registrar must be informed of the change within 30 days.

(ii) Change within the State

When the registered office is to be changed outside the local limits of any city in the same state, a special resolution must be passed. A notice of such change must be given to the registrar within 30 days.

(iii) Change from One State to Another

The company may alter the provisions of its memorandum, so as to change the place of its registered office from one state to another. For affecting the change a special resolution must be passed by the company and a copy must be filed with the registrar within 30 days.

(c) Change of Objects Clause

A company has no unlimited right to alter the objects clause of the memorandum, however urgent or beneficial such alteration may be.

A company exists only for the purposes as are defined in the objects clause. The alteration of the objects clause is therefore, subjects to many restrictions and limitations which are intended to protect the interests of shareholders and creditors.

A special resolution must be passed sanctioning the alteration. A copy of the resolution shall be filed with the register with in 30 days of its passing.

The alteration shall not take effect unless it is confirmed by the company law board on petition.

(i) Change of Liability Clause : Ordinarily the liability clause cannot be altered so as to make the liability of members unlimited. Any alteration in the memorandum will be void if the effect of the alteration is the enhancement of the liability of members.

(ii) Change of the Capital Clause : A limited company having a share capital may alter its capital clause subject to the provisions of its articles by a resolution at the general meeting. The confirmation of the court is not required, if alterations are made for the following purposes,

(a) To increase share capital

(b) To consolidate and divide its capital into shares of large amount.

(c) To convert its fully paid shares into stock and reconvert the stock into shares.

(d) To subdivide the shares into shares of smaller amount.

(e) To cancel its shares.

4.4 Articles of Association

Articles are the rules, regulations and bye-laws for the internal management of the affairs of a company. They are framed with the object of carrying out the aims and objects as set out in the memorandum of Association. They are as such subordinate to, and controlled by, the Memorandum of Association.

In the case of an unlimited company, the articles shall state the number of the members, with which the company is to be registered, and if it has a share capital, the amount of share capital with which it is to be registered. [section 27(1)]

In the case of a company limited by guarantee, the articles shall state the number of members with which the company is to be registered.

In the case of a private company, articles must contain provisions which

(a) Restrict the right to transfer its shares;

(b) Limit the number of its member to fifty excluding past and the present employees of the company;

(c) Prohibit any invitation to the public to subscribe for any share in or debenture of the company.

The articles must be printed and divided into paragraph, numbered consecutively. The articles must be signed by each subscriber of the memorandum in the presence of at least one witness who will attest the signature and likewise add his address, description and occupation, if any.

Contents of articles

The articles usually contain the following matter:

1. Exclusion wholly or in part of Table A.
2. Adoption of preliminary contracts.
3. Number and value of shares.
4. Allotment of shares.
5. Calls on shares.
6. Lien on shares.
7. Transfer and Transmission of shares.
8. Forfeiture of share.
9. Alteration of capital.
10. Share certificates.
11. Conversion of share into stock.
12. Voting rights and proxies.
13. Meeting.
14. Directors their appointment etc.
15. Borrowing powers.
16. Dividends and reserves.
17. Accounts and audit.
18. Winding up.

4.4.1 Alteration of Articles

Companies have wide powers to alter their articles. Any restriction on the exercise of their powers will be invalid. Articles of association may be altered by a company by passing a special resolution to that effect. The altered articles will bind the members in the same way as did the original articles. The company must file with the registrar a copy of the special resolution within one month from the date of its passing.

Limitations

The right of alteration of articles is subject to the following conditions:

1. The alteration must not be inconsistent with or go beyond the provisions of the memorandum.
2. The alteration must not provide for anything which is opposed to the provisions of the act; for example, articles cannot authorize a company to purchase its own shares.
3. The alteration of articles must be made in good faith for the benefit of the company as a whole.
4. The alteration of articles must not constitute a fraud on minority.
5. No member of a company will be bound by any alteration made in the memorandum or the articles after he become a member which requires him to take or subscribe for more shares or in any way increases his liability to contribute to the share capital of or otherwise to pay money to the company, unless he agrees in writing before or after the alteration is made.
6. No alteration can be made in the articles which has the effect of converting the public company into a private company unless such alteration has been approved by the central government.
7. An alteration in the articles which causes a breach of contract with an outsider will be inoperative.
8. The alteration must not sanction anything which is illegal.

4.4.2 Doctrine of Ultra Vires

The act of ultra vires is considered as a void act. The meaning of the term "ultra" is "beyond" and "Vires" means "powers". The ultra vires is an action which a company performs beyond its legal power and authority. If any act of a company is ultra vires then it does not build any legal relationship. The act of ultra vires is a completely void out which the shareholders cannot approve and put it under any legal obligation of a company. An act which is perceived as ultra vires is not essential to be a legal or illegal. It may or may not be the both. The fundamental fact relating to the doctrine of ultra vires is that a company being a separate legal entity cannot be fixed or punished for its own act or acts of its agent if they are not under its powers and privileges.

Basically, a company has the authority to do the following things,

1. Any act authorized under the Companies Act 1956.
2. Any necessary requirements for the attainment of its objects mentioned under the memorandum.
3. Any act specifically and accurately incidental to its objects.

The Doctrine of the Ultra Vires was put in its modern form in the famous case of "Ashbury Railway carriage and iron company limited Vs Riche".

Consequences of Ultra Vires Acts

If an act is ultra vires, then it may not be creating any form of legal binding. The act of ultra vire is considered as void (legal or illegal) if all the shareholders are not agreed upon the terms of the contract. The effect of ultra vire transactions can be studied as follows,

1. Injunction

Any company has an authority to perform only those activities which are specified by the company's memorandum. Company is restricted to perform certain activities if it ultra vires its objects.

2. Breach of Warranty of Authority

As, the directors constitute the agents of the company, they are responsible to perform the obligations within the scope of company's power. If the director transfers his rights to any third party to perform transactions on his behalf which ultra vires the company then company can sue them for the breach of warranty.

3. Personal Liability of Directors

Directors are responsible for ensuring that the corporate money is disbursed for performing the legal activities of the business. In contrary to this, if money is disbursed for undertaking illegal activities, then it is the duty of the directors to make good of it.

4. Ultra Vires Contracts

Any contract which is beyond the scope of company's power (or objects) becomes void. Under such a circumstance, even the knowledge of the third party is no use as the parties to the contract can't sue each other.

All the persons who are dealing with contractual affairs need to be aware of the memorandum and its provisions. If the contractual affairs are ultra vires, they can't be converted into intra vires by Estoppel, lapse of time, ratification or by delay.

5. Ultra Vires Acquired Property

Company can protect its property from being acquired through ultra vires expenditures by complying with the company's memorandum of association.

6. Ultra Vires Borrowing

The contract of loans become void if,

(i) Company has no borrowing power,

(ii) Company exceeds its borrowing power as specified in the memorandum.

(iii) It borrows with a purpose which is ultra vired.

Such contracts are not enforceable for recovering the money lent.

7. Ultra Vires Torts

Company is responsible for torts or crimes which are committed in pursuit of its predetermined objectives.

However, a company may not be responsible if the tort or crime is committed with a purpose which is ultra vires. Under such a circumstance, the agent or director who has committed the act is held to be liable.

4.4.3 Difference between Memorandum of Association and Articles of Association

The relation between the articles and memorandum of association can be understood with the help of following points :

1. Articles Subordinate to Memorandum

Generally the articles does not provide powers to a company which are not discussed by the memorandum and it does not gives any false rights which are incompatible with the memorandum. The memorandum outlines the main aim behind the establishment of the company whereas the articles outline the way in which the internal management of the company is to be administered.

2. Memorandum Should be Read in Connection with the Articles

This process takes place when it is very essential,

(a) To define uncertainty with respect to the memorandum.

(b) To complement the matters of memorandum, except those matters which are as per the statute must be considered by the Memorandum.

Articles can either define or complement the scope of memorandum but it cannot expand or enlarge it.

3. Words or Phrases of the Memorandum can't Modified or Regulated by the Articles

The Articles cannot regulate any aspect of Memorandum. If in case any uncertainty takes place in the memorandum then the articles can be viewed only for classifications. The basic conditions in the memorandum are explained clearly with the help of articles.

Differences between Memorandum of Association and Articles of Association

The difference between the articles and memorandum are as follows:

Basis for Distinction	Memorandum of Association	Articles of Association
1. Charter	It is considered as a charter of the company and defines the nature of its business, nationality and capital. It also outlines the company's relationship with the outside world.	They are considered as a subsidiary to the memorandum and provides regulations for the internal management.
2. Scope	The scope related to the activities of the company and the aspects beyond which the company cannot move are outlined in the memorandum.	They outlines the rules for fulfilling the objectives of the company as specified in the memorandum.
3. Importance	It is considered as a supreme document of a company. It is a charter of the company.	They are considered as secondary to the memorandum.
4. Presence	It is essential for all the companies to have their own memorandum of associations.	A limited company by share does not require to have its own articles.
5. Alteration	It involves strict restrictions on alteration. Few conditions of incorp- -oration which are included in the memorandum of association cannot be changed. (Except with the approval of the national company law tribunal).	A special resolution facilitates its alteration but only when there is no conflict between the memorandum and the companies act.
6. Parties res- possible for approval	Any action of the company which ultravires the memorandum is considered and cannot be approved even by the shareholders.	Any act which ultravires the articles can be ratified by the shareholders.

4.5 TYPES OF COMPANIES

Companies may be classified on the basis of the following :

A) Classification on the basis of Liability

i) Companies limited by shares

ii) Companies limited by guarantee

iii) Unlimited companies

i) Companies limited by shares : In a company limited by shares, the liabilities of the members are limited to the unpaid amount on the shares. The share holders may be called upon to pay the unpaid amount on shares only, during the life of the company.

ii) Companies limited by guarantee : Where the liability of the members of a company is limited to a fixed amount which the members undertake to contribute to the assets of the company in the event of its being wind up, the company is said to be limited by guarantee.

iii) Unlimited company : A company without limited liability is called unlimited company. Every member is liable to the debts of the company as in an ordinary partnership in proportion to his interest in the company. An unlimited company may or may not have any share capital. If it has share capital, it may be a public or a private company. It must have its own articles of association.

B) Classification on the basis of number of members

A company may be classified as,

i) A private company

ii) A public company

i) Private company : According to sec.3(1)(iii) a private company means a company which,

a) Restricted the right to transfer its share, if any

b) Limits the number of members to 50 not including its employee numbers.

c) Prohibits any invitation to the public, so subscribe for any shares and debentures of the company.

A private company must have its own articles of association.

ii) Public company : A public company means a company which is not a private company according to sec. 3(i)(iii) of the companies act of 1956. In other words a public company means a company which, by its articles does not.

a) Restrict the right to transfer its shares if any

b) Limits the number of members to 50 and

c) Prohibits any invitation to the public to subscribe any shares or debentures of the company.

C) Classification on the basis of Incorporation

On the basis of incorporation, companies may be classification into,

i) Chartered companies

ii) Statutory companies

iii) Registered companies

i) Chartered companies : the crown in the exercise of royal prerogative has the power to create a corporation by the grant of a charter to persons assenting to be incorporated.

Examples of such type of corporations are bank of England (1964), east India company (1600) etc. The powers and the nature of business of a chartered company is defined by the charter which incorporates it in earlier times, trading companies were often created by a royal charter.

But later on, companies were formed by registration. After the country attained independence, these kind of companies do not exist in India.

ii) Statutory companies : A company may be incorporated by means of a special act of the parliament or any state legislature. Such companies are called statutory companies. Such companies generally formed to carry out some special public undertaking. These are mostly concerned with public utilities.

Example : Railways, water works, Gas, electricity generation etc. Instances of statutory companies in India are the reserve bank of India, life insurance corporation of India, unit trust of India etc.

iii) Registered companies : companies registered under the companies act of 1956 are called registered companies. Such companies come into existence when they are registered under the company act and a certificate of incorporation is granted to them by the registrar. Such companies may be limited by shares or limited by guarantee.

D) Classification on the basis of control

On the basis of control companies may be classified into :

i) Holding company

ii) Subsidiary company

i) Holding company : A company which controls another company is called holding company.

ii) Subsidiary company : A company which is controlled by another is called subsidiary company. Sec. 4 of the companies act 1956. Providers that a holding company is one of it

a) Controls the composition of board direction of another company

b) Holds more than half of the nominal value of the equity share capital of another company.

c) Is a subsidiary of any company which in turn is a subsidiary of another company.

If one company holds the majority of shares (more than 50%) in another company. The later becomes the subsidiary of the former. In case of an existing company in respect of the commencement of this act have the same voting rights in all respects as the holders of equity shares controls of majority shares will mean controls of more than half of the total voting power of such company.

4.5.1 Difference between Private and Public Company

1. Number of Members

To constitute a private company members are must. The number of members cannot exceed 50 A public company can be started by seven persons and there is no maximum limit for members.

2. Commencement of Business

The business can be started after getting the certificate of incorporation. The business can be started only after getting the certificate of commencement of business. This certificate issued only when minimum number of shares have been subscribed by the public.

3. Transfer of Shares

The transfer of shares is generally by the articles. There cannot be any there cannot be any appeal to the central Government against disallowing the transfer of shares. Transfer of shares is freely allowed, though some procedure for transfer has to be followed.

4. Issue of Prospectus

A private company cannot issue a prospectus giving public invitation for purchase of its shares. No public notice for the sale of shares or debentures can be issued. A public company must issue a prospectus or a statement in lieu of prospectus for inviting public for the purchase of its shares and debentures.

5. Statutory Meetings

A private company is not required to call a statutory meetings and to submit statutory report to the register of companies. A statutory meetings must be held within a prescribed period. A statutory report is also submitted to companies.

6. Quarum for Meeting

The quarum for a meeting of a private company is zero. Five members constitute the quorum.

7. Number of Directors

A minimum of two directors must be there. The company can increase the number of directors with the prior permission of the central Government. A minimum of three directors must be there and the names and addresses of directors must be intimated to the registrar of companies along with the memorandum of association.

8. Filling of Documents

A private company need not send the list of directors, their consent, etc, to the registrar of companies. The list of directors, their consent and a contrast with them must be sent to the registrar of companies.

9. Use of the word 'Limited'

In case of private company, the word 'pvt. Limited' must be used at the end of the name of the company. Only the word 'Limited' is used with the name of a public company.

4.5.2 Special Privileges Enjoyed by a Private Company

The provisions of the companies act apply to private and public companies alike. But certain provisions of the companies act do not apply to private companies but are applicable to public companies.

1. **Number of members :** A private company consists of two members only.
2. **Commencement of business :** A private company is entitled to commence business immediately on incorporation.
3. **Prospectus :** A private company may allot shares without issuing a prospectus or delivering to the registrar a statement in lieu of prospectus.
4. **Statutory report :** A private company is not required to hold a statutory meeting or file a statutory report with registrar.
5. **Number of directors :** A private company need not have more than two directors.
6. **Further issue of shares :** The provisions of sec. 81 as regards further issue of capital do not apply to a private company.
7. **Allotment before minimum subscription :** A private company can allot shares before the minimum subscription or subscribed or paid.
8. **Demand for poll :** In case of a private company on any resolution a poll may be demanded by a single member present in person or by proxy if not more than 7 persons are present. If seven persons are present then by 2 such persons.
9. **Rule regarding directors :** The restrictions regarding appointment, reappointment, retirement of director do not apply to a private company.
10. **Managerial remunerations :** the rule of overall maximum managerial remuneration does not apply to a private company which is not a subsidiary of a public company.

11. **Kinds of shares :** A private company may issue shares of any kind and with such voting rights, as it may think fit to the company.
12. **Index of members :** A private company does not need to keep an index of members.

4.6 Share Capital

Meaning of Share and Share Capital

A share is one unit into which the total share capital is divided. Share capital of the company can be explained as a fund or sum with which a company is formed to carry on the business and which is raised by the issue of shares. The amount collected by the company from the public towards its capital, collectively is known as share capital and individually is known as share. A share is not a sum of money but is an interest measured by a sum of money and this interest also contains bundle of rights and obligations contained in the contract i.e. Article of Association. Investment in the shares of any company is a basis of ownership in the company and the person who invest in the shares of any company, is known as the shareholder, member and the owner of that company.

Definition

According to the section 2(46) of the Company's Act 1956, share means a part in the share capital of the company and it also includes stock except where a distinction between stock and share capital is made expressed or implied.

Share capital is the total amount of capital collected from its shareholders for achieving the common goal of the company as stated in Memorandum of Association.

4.6.1 Types of Share Capital

Share capital of a company can be divided into the following different categories:

1. Authorized, registered, maximum or normal capital

The maximum amount of capital, which a company is authorized to raise from the public by the issue of shares, is known as authorized capital. It is a capital with which a company is registered, therefore it is also known as registered capital.

2. Issued Capital

Generally, a company does not issue its authorized capital to the public for subscription, but issues a part of it. So, issued capital is a part of authorized capital, which is offered to the public for subscription, including shares offered to the vendor for consideration other than cash. The part of authorized capital not offered for subscription to the public is known as 'unissued capital'. Such capital can be offered to the public at a later date.

3. Subscribed Capital

It can not be said that the entire issued capital will be taken up or subscribed by the public. It may be subscribed in full or in part. The part of issued capital, which is subscribed by the public, is known as subscribed capital

4. Called Up Capital

It is that part of subscribed capital, which is called by the company to pay on shares allotted. It is not necessary for the company to call for the entire amount on shares subscribed for by shareholders. The amount, which is not called on subscribed shares, is called uncalled capital.

5. Paid-up Capital

It is that part of called up capital, which actually paid by the shareholders. Therefore it is known as real capital of the company. Whenever a particular amount is called and a shareholder fails to pay the amount fully or partially, it is known an unpaid calls or calls in arrears.

Paid-up Capital = Called up capital - calls in arrears

6. Reserve Capital

It is that part of uncalled capital which has been reserved by the company by passing a special resolution to be called only in the event of its liquidation. This capital can not be called up during the existence of the company. It would be available only in the event of liquidation as an additional security to the creditors of the company

4.6.2 Kinds of Share Capital

The share capital of a company limited by shares shall be of two kinds, namely:

(a) Equity Share Capital

(i) With voting rights; or

(ii) With differential rights as to dividend, voting or otherwise in accordance with such rules as may be prescribed; and

(b) Preference Share Capital

Provided that nothing contained in this Act shall affect the rights of the preference shareholders who are entitled to participate in the proceeds of winding up before the commencement of this Act.

Explanation

For the purposes of this section

(i) ''Equity share capital'', with reference to any company limited by shares, means all share capital which is not preference share capital;

(ii) ''Preference share capital'', with reference to any company limited by shares, means that part of the issued share capital of the company which carries or would carry a preferential right with respect to

(a) Payment of dividend, either as a fixed amount or an amount calculated at a fixed rate, which may either be free of or subject to income-tax; and

(b) Repayment, in the case of a winding up or repayment of capital, of the amount of the share capital paid-up or deemed to have been paid-up, whether or not, there is a preferential right to the payment of any fixed premium or premium on any fixed scale, specified in the memorandum or articles of the company;

(iii) Capital shall be deemed to be preference capital, notwithstanding that it is entitled to either or both of the following rights, namely:

(a) That in respect of dividends, in addition to the preferential rights to the amounts specified in sub-clause (a) of clause (ii), it has a right to participate, whether fully or to a limited extent, with capital not entitled to the preferential right aforesaid;

(b) That in respect of capital, in addition to the preferential right to the repayment, on a winding up, of the amounts specified in sub-clause (b) of clause (ii), it has a right to participate, whether fully or to a limited extent, with capital not entitled to that preferential right in any surplus which may remain after the entire capital has been repaid.

4.6.3 Alteration of Capital

Power to alter capital (Sec. 94). A limited company having a share capital may, if so authorised by its Articles, alter its share capital as follows, that is to say, it may:

(a) Increase nominal share capital by issuing new shares ;

(b) Consolidate and divide all or any part of its share capital into shares of larger amount ;

(c) convert fully paid-up shares into stock or vice versa ;

(d) sub-divide its shares, or any of them, into shares of smaller amount ; and

(e) cancel shares which have not been taken up and diminish the amount of its authorised capital by the amount of the shares so cancelled.

Ordinary Resolution Required

The power of alteration shall be exercised by the company in general meeting and shall not require to be confirmed by the Tribunal. Ordinary resolution for such a purpose is enough [Table A, Clauses 36, 44 and 45]. A cancellation of shares in pursuance of Sec. 94, however, shall not be deemed to be a reduction of share capital within the meaning of the Companies Act, 1956.

The company shall give notice of the alteration of capital to the Registrar within 30 days after doing so.

4.6.4 Reduction of Capital

The law regards the capital of a company as something sacred. The general principle of law founded on principles of public policy and rigidly enforced by Courts is that no action resulting in a reduction of capital of a company should be permitted unless the reduction is effected—

(a) under statutory authority or by forfeiture, and

(b) in strict accordance with the procedure, if any, laid down in that behalf in the Articles of Association. Any reduction of capital contrary to this principle is illegal and ultra vires.

Reduction of capital with the consent of the Court. Under Sec. 100, a company limited by shares or a company limited by guarantee and having a share capital may reduce its share capital, subject to confirmation by the Court, in any of the following three ways :

1. It may extinguish or reduce the liability on any of its shares in respect of share capital not paid up.

   Example. A Limited has a share capital consisting of shares of Rs. 10 each, Rs. 6 per share being paid up. The directors feel the company would not require the uncalled amount of Rs. 4 per share. The company may extinguish the remaining liability of uncalled share capital at the rate of Rs. 4 per share.

2. It may, either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost, or is unrepresented by available assets.

   Example. Due to heavy trading losses, B Limited reduces its equity shares of Rs. 10 each fully paid-up, to Rs. 2 per share. If the company extinguishes liability on these shares, the Rs. 10 shares will become shares of Rs. 2 each fully paid up. If it does not extinguish liability on these shares, the Rs. 10 shares will continue to be shares of Rs. 10 each, Rs. 2 per share paid up.

3. It may, either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company.

   Example. C Limited, has equity capital consisting of Rs. 10 shares, fully paid-up. The capital is in excess of the requirements of the company. The company returns Rs. 4 per share. If the company extinguishes liability on these shares, the Rs. 10 shares will become shares of Rs. 6 each fully paid-up. If it does not extinguish liability on these shares, the Rs. 10 shares will continue to be shares of Rs. 10 each, Rs. 6 per share paid up.

Procedure for reduction of share capital (Sees. 100 to 103)

The procedure for reduction of share capital is as follows :

1. **Special resolution (Sec. 100).** A company shall first pass a special resolution for reduction of capital. Power to reduce capital must be granted in the Articles of the company. If the Articles do not grant such power, they may be altered by a special resolution giving such power.
2. **Application to the Court (Sec. 101).** The company shall then apply to the Court by petition for an order confirming the reduction.

4.6.5 Further Issue of Capital or Rights Shares (Sec. 81)

Further issue of capital of a company may take place:

1. By allotment of new shares (known as rights shares).
2. By conversion of debentures or loans into shares.

(i) Allotment of further shares [Sec. 81 (1) to (3)]

A public company limited by shares may, at any time, increase its subscribed share capital (within the limit of authorised capital) by issuing new shares. It is for the directors to decide whether an increase in the subscribed capital of the company is necessary or not. The obligation upon them is that if new shares (known as rights shares) are issued, these shall be offered to the members in proportion to the existing shares held by each one of them. They cannot offer these shares to any persons at their discretion. Sec. 81 deals with this point. The object of this Section is to prevent –

(a) discrimination amongst shareholders by ensuring equitable distribution of shares among them, and

(b) directors from offering shares to outsiders before they are offered to the shareholders.

Right of pre-emption. The right of shareholders to be offered new shares to them before they are offered to the public is known as shareholders' right of pre-emption.

Sec. 81 deals with the issue of rights shares of a public company to the existing shareholders. The provisions of Sec. 81 are as follows :

1. **Offer to Existing Shareholders:** Sec. 81 provides that if, at any time after the expiry of 2 years from the formation of the company or after the expiry of 1 year from the first allotment of shares, whichever is earlier, it is proposed to increase the subscribed capital by the allotment of further shares, it should be offered to the existing equity shareholders of the company in proportion to the capital paid up on those shares.

   Gas Meter Co. Ltd. v. Diaphragm and General Leather Co. Ltd., (1925) 41 T.L.R. 342. The Articles of D Company provided that the new shares should first be offered to the existing shareholders. The Company offered new shares to all shareholders excepting G Company which held its controlling shares. Held, D Company could be restrained from doing this.

2. **Notice of Offer:** The offer of rights shares shall be made by notice specifying the number of shares offered. The notice shall give at least 15 days for the acceptance of the offer. If the offer is not accepted within this period, it shall be deemed to have been declined.
3. **Shareholders' Right of Renunciation:** Unless the Articles of the company otherwise provide, the notice should also inform the shareholders that they have the right to renounce all or any of the shares offered to them in favour of their nominees. This provision does not apply to a deemed public company as an exercise of this right of a member in favour of a non-member may result in violation of restrictions contained in Sec. 3 (1) (iii).
4. **Refusal by Shareholders:** After the expiry of the time specified in the notice aforesaid or on receipt of earlier intimation from the person to whom such notice is given that he declines to accept the shares offered, the Board of directors may dispose them of in such manner as they think most beneficial to the company.

(ii) Conversion of debentures or loans into shares [Sec. 81 (4) to (7)]

Where a company has taken any loans from the Central Government by issuing any debentures or otherwise, the Central Government may, in the public interest, convert such debentures or loans into shares in the company. The terms and conditions of such conversion shall be such as appear reasonable to the Central Government in the circumstances of the case. It makes no difference even if the terms of issue of such debentures or the terms of such loans do not include a term providing for an option for such conversion.

In determining the terms and conditions of the conversion of loans and debentures into shares, the Central Government shall have due regard to the following circumstances, that is to say :

(a) the financial position of the company,

(b) the terms of issue of the debentures or the terms of the loans, as the case may be,

(c) the rate of interest payable on the debentures or the loans,

(d) the capital of the company, its loan liabilities, its reserves, and its profits during the preceding 5 years, and

(e) the current market price of the shares in the company.

A copy of every order proposed to be issued by the Central Government shall be laid in draft before each House of Parliament.

If the terms and conditions of conversion are not acceptable to the company, the company may prefer an appeal to the Court within a period of 30 days from the date of communication to the company of such order or within such further time as may be granted by the Court. The decision of the Court on such appeal and, subject only to such decision, the order of the Central Government shall be final and conclusive.

Share capital to stand increased (Sec. 94-A). Where the Central Government issues an order for conversion of debentures issued by a company to the Government or loans obtained by the company from the Government into shares, the authorised share capital of the company, where the conversion has the effect of increasing the authorised share capital of the company, shall stand increased by an equal amount and the company's Memorandum altered accordingly. The same would happen where, in pursuance of an option attached to debentures issued or loans raised by the company, any public financial institution has converted such debentures or loans into shares. But before any public financial institution proposes to exercise any such option, the direction of the Central Government to that effect is required.

Where the Memorandum of a company becomes altered in the above cases, the Central Government shall send a copy of the order to the company and to the Registrar so that he may effect the necessary alterations in the company's Memorandum.

4.6.6 Voting Rights

1. Equity shareholders' rights [Sec. 87 (1)]

An equity shareholder of a company limited by shares has a right to vote on every resolution placed before it. His voting right on a poll is in proportion to his share of the paid-up equity capital of the company. The right of vote is an individual right in respect of which a member has the right to say:

"Whether I vote with the majority or with the minority, you shall record my vote; that is, a right of property belonging to my interest in the company, and if you will not, I shall institute legal proceedings to compel you."

2. Preference shareholders' rights [Sec. 87 (2)]

A preference shareholder has a right to vote on those resolutions which directly affect his rights. Any resolution for winding up the company or for the repayment or reduction of its share capital is deemed directly to affect the rights of the preference shareholders.

3. Variation of shareholders' rights (Sec. 106)

The shares in a company may be equity shares and/or preference shares. Usually, the rights attaching to different classes of shares are different. These rights may be set out in :

(i) The Articles of Association. It is advisable that shareholders' rights should be contained in the Articles and not in the Memorandum. For in such a case, the alteration can be effected by passing a special resolution, subject only to certain statutory safeguards for minority protection. Article 3 of Table A permits such variation. According to it, the rights attached to any class of shares (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of Sees. 106 and 107, and whether or not the company is being wound up, be varied. The variation can however be made—

(a) with the consent in writing of the holders of 3/4ths of the issued shares of that class, or

(b) with the sanction of a special resolution passed at the separate meeting of the holders of the shares of that class. The necessary quorum at such meeting is 2 persons at least holding or representing by proxy l/ 3rd of the issued shares of the class in question.

(ii) The Memorandum of Association. Class rights of shareholders are sometimes contained in the Memorandum. If the provision for their alteration is made in the Memorandum, these may be altered in accordance with such provision. Sometimes the Memorandum may contain the power of alteration but the method of alteration may be given in the Articles. In such a case the procedure contained in the Articles must be complied with [Welsbach Incandescent Gas Co. Ltd., Re (1904) 1 Ch. 87].

4.7 DEBENTURES

As per Sec.2(30) of the CA,2013,"Debenture" includes debenture stock, bonds or any other instrument of the company evidencing a debt, whether constituting a charge on the assets of the company or not. A company may issue debentures with an option to convert such debentures into shares, either wholly or partly at the time of redemption, which shall be approved by a special resolution passed at a general meeting

Definition of Debenture

A debenture is an acknowledgment of debts and written promise by the company to repay the loans according to the terms laid down in the document. It is issued to money lenders under the seal of the company. It represents the loan of the company. Even public company can collect money for financing its business by selling debentures in the market.

So it is one of the sources to raise capital or make up the deficiency in the capital account. It may be issued at any time before winding up.

4.7.1 Features / Attributes of Debentures

To understand a debenture clearly, it is necessary to understand their features properly. Debentures have certain peculiar features.

1. Trust Indenture

It is an agreement which has to be entered into by the 'Issuing Company' and the 'Trust' which is involved to take care of the interest of the general investors. For issuing a debenture, it is something mandatory. Normally the trustee is a bank or a financial institution who is appointed by a trust deed.

2. Coupon Rate

It is the rate of interest which is promised by the company to pay to the debenture holder on a regular interval which may vary from case to case. The rate of interest may be fixed or floating. The rate of interest which the company opts depends on the credit rating of that company or that specific bond.

3. Tax Benefit

Most important element from the company point of view is that the interest paid is a tax deductible expense. Effectively, the company will get the tax benefit because the taxable income will be reduced by the extent of interest paid. Due to this the effective cost of borrowing gets reduced. Please note the said benefit is there if the company is making profits and paying taxes.

4. Date of Maturity

For all the non convertible and redeemable debentures, the issuing company has to issue repayment to the debenture holders on the date of maturity. This date is also mentioned on the certificates and it infers the total time for which the money is invested by the lenders which is interval between the date of issue to the date of maturity.

5. Redemption Choices

In essence, debenture is a debt and it needs to be repaid by a company. These are three choices by which a company may opt to redeem the debentures. One is to make payment on the date of maturity which is the simplest of all and is called redemption out of capital. Second way is to create a debenture redemption reserve wherein the company transfers some fund every year from the divisible profits and this method is known as redemption out of profits. There is another innovative way of redeeming the debentures which is in the form of call and put option. Call option allows the company to buy back its debentures on some agreed terms on or before the maturity. In put option, the choice of redemption is given to the investor.

6. Security

Here, we should classify debentures into two – secured debentures and unsecured debentures. Secured debentures are secured by some or other immovable assets of the company whereas the unsecured assets are issued based on the general credit of the company. The general legal preference of debt is available to all types of debentures i.e. in the event of liquidation debenture will stand prior to preference shares and ordinary equity shares.

7. Convertibility

Certain types of debentures are issued with the option of conversion into equity. The ratio of conversion and the time period after which conversion will take place is mentioned in the agreement of debenture. Debentures may be fully or partly convertible in nature.

8. Credit Rating

Normally, an investor would not go and check the credibility and the risk involved with the debentures. Credit rating agencies are given this task and they rate the debentures and the overall company. Involving a rating agency is compulsory for the issuing company normally in every country.

9. Charge on Assets and Profits in case of Default

The debenture holders may have claims over the profits and assets of the company in case the company has defaulted in the payment of either the interest or the capital repayment.

4.7.2 Types / Kinds of Debentures

The following are the important types of the debentures of the Joint Stock Company.

1. Simple Debentures

These are also called Naked Debentures. These kind of debentures are issued without security. The holders of these debentures are considered insecure creditors at the time of winding up of the company. So these are not popular in these days.

2. Mortgage Debentures

The debentures which are secured on the permanent asset of the company such as Plant, Machinery, Land and Buildings are known as Mortgage Debentures. These are two kinds of Mortgage Debentures i.e.

(a) First mortgage debentures

(b) Second mortgage debentures.

First Mortgage Debentures holders have first right to claim on the property of the company.

Second Mortgage Debentures holders have second right to claim on the assets of the company.

3. Bearer Debentures

There are payable to bearer the documents are negotiable instruments and are transferable by simple delivery. Interest is generally payable against the presentation of coupons attached to the debentures.

4. Registered Debentures

The names and addresses of registered debentures holders are recorded in the registered of the company. Transfer and transmission of these must be registered in the books of the company as in the case of shares. Interest is paid to the registered holders in the same manners as distribution of dividend.

5. Redeemable Debenture

The amount of these debentures are repayable after a stated period. These are issued subject to the condition that the company shall redeem them on specified date. These debentures are very common now a days.

6. Irredeemable Debentures (Perpetual Debenture)

The amount of such loan repayable on the happening of specified contingencies. Generally no time is fixes within which the company is bound to redeem them.

7. Floating Debenture

Such type of debentures are secured by a floating charges on all the assets of the company. These assets may be bills receivable, stocks and Book Debts. It creates a charge upon them in favour of debentures holder are against other creditors in case of failure on the part of the company.

8. Convertible Debentures

These debentures may be converted into preference or ordinary shares of company. This option given to such debenture holder for the period stated in the conditions of the issue . So this provision protects the investors.

9. Equipment Trust Debentures

These debentures are issued for specific purposes. Funds are raised by such debentures to purchase certain equipment for the running life of the business.

10. Income Debentures

The holders of these types of debentures are entitled to receive interest at fixed rate only out of current year profit. If company gains no profit, no interest will be payable. So these debentures are not popular now a days.

11. Legal Debentures

Where the title of property of the company may be transferred by deed to money lenders are security for the loan, they are known as legal debentures.

4.7.3 Remedies of Debenture - Holders

The remedies of a debenture-holder of a company vary according to whether he is secured or unsecured. An unsecured debenture-holder is in exactly the same position as an ordinary trade creditor. Like any other unsecured creditor, he has two remedies:

1. He may sue for his principal and interest.
2. He may, if he wishes, petition under Sec. 439 for the winding up of the company by the Tribunal on the ground specified in Sec. 433 (e), namely, that the company is unable to pay its debts.

A secured debenture-holder has both the above remedies ; but in addition he has also the following courses open to him :

1. Debenture-holders' action

He may sue on behalf of himself and all other debenture- holders of the same class to obtain payment and enforce his security by sale. This is known as debenture-holders' action, and if several debenture-holders sue separately, the Court can consolidate their suits into one.

2. Appointment of receiver

He may appoint a receiver if the conditions which give him power to do so are fulfilled or apply to the Court in a debenture-holders' action to appoint one. On the appointment of a receiver, the assets become specifically charged in favour of the debenture- holders, and the powers of the company to deal in them in the ordinary course of business cease although the company continuous to exist until it is wound up [Moss Steamship Co. Ltd. v. Whinney, (1912) A.C. 254]

3. Foreclosure

He may apply to the Court for foreclosure of the company's right to redeem the debentures. Foreclosure is. a process by which the mortgagor, failing to repay the money lent on the security of a property, is compelled to forfeit his right to redeem the property.

4. Sale

He may sell the property charged as security if an express power to do so is contained in the terms of issue of debentures. He may also have the property sold through trustees if such power is given by the debenture-trust deed.

5. Proof for the balance

If the company is insolvent and his security is insufficient, he may value his security and prove for the balance. In the alternative, he may surrender his security and prove for the whole amount of his debt.

4.8 Management and Administration

4.8.1 Separation of Management from Ownership

In the world of business, ownership, managerial right and risk-bearing function generally go together and all these three aspects are unite in one and the same person in proprietary forms of business organisations such as sole trader and partnership.

However, in company organisation there is complete separation or divorce between the ownership on the one side and management on the other side. Following are the reasons for a clear-cut separation between ownership and management:

1. Distinctive Legal Personality

The people who organise a corporate enterprise are not the corporation but merely owners of the enterprise. The corporation so created as a form of organisation has an independent legal status of life and it is absolutely separable from the owners, i.e., general body of members as well as separable from the managers, i.e., Board of Directors.

2. Very Large Membership

A public limited company may have thousand or lac of shareholders. All members obviously cannot actively participate in company management. Hence, we generally adopt a representative form of management. Directors are the chosen or elected representatives of members and they form a Board of Directors to look after the management of a company.

3. Wide Distribution of Membership

Not only the membership is very large, but also it may be widely scattered or diffused over a very wide area. It is physically impossible for all the proprietors of the company to look after the routine management of the company even in the Jambo-jet age.

4. Uninterested Members

Investors invest their savings in the shares of a number of companies not for securing management rights but to secure steady and rising income on their financial investments. They are primarily interested in income or dividends and not in the day-to-day management of the company.

5. Ever-Changing Membership

Shares of a public limited company can be quoted on a stock exchange and they are considered as transferable as well as marketable assets. Hence, membership may be ever changing. How can members, therefore, be called upon to manage the business of the company?

6. Specialised Management

Company organisation is very suitable for a big business because it provides ample scope for division of labour and specialization in management. All owners cannot be specialists or experts in business management. It demands the services of able and competent managers and technicians. Owners may not possess the requisite ability and skill to manage the company's business.

4.8.2 Pattern of Company Management

In practice, company management has a decentralised and pyramidal character and the flow of authority and powers flow from the top to the bottom, whereas, the flow of responsibility goes in the reverse direction, i.e., from the bottom to the top. Authority and powers flow from the top to the bottom through delegation or transfer of managerial rights and functions:

1. Shareholders (as Company's Proprietors)

Owners, i.e., shareholders enjoy fundamental and ultimate voice in the company management. They elect periodically their agents or representatives who are called the Directors or members of a governing council of management. On certain vital, or important matters general meeting sanction is essential and members are given necessary voting rights to exercise their voice in the management.

2. Directors

Individually neither a member nor a Director may have any managerial powers. But collectively members as well as Directors can exercise managerial powers of the company, in a body, i.e., through a meeting and through resolutions passed at such meetings. Subject to the Company's Act, Memorandum of Association and Articles of Association, Board of Directors, enjoy wide and very comprehensive powers of management.

3. Company Executives

The emergence of professional managerial executives in business administration and industrial management has brought about a silent managerial revolution.

4.8.3 Directors

Section 2(13) of the Act defines a 'director' as any person occupying the position of director by whatever name called. Section 253 of the Act provides that only an individual, and not a body corporate, association or firm, shall be appointed as a director. Although the Act makes it obligatory for all the companies to have directors, yet the definition given by the Act does not throw any light nor does it guide and advise the shareholders as to whom they should appoint as directors.

Types of Directors

Directors could be broadly classified into two, namely, inside directors and outside directors. Inside directors are those directors who are in the whole time employment of a company. This category includes managing director, whole time director, technical director, executive director, etc. Outside directors are those directors who are not in the whole time employment of the company and as such are not associated with its day-to-day working. They include professional directors, nominated directors and statutory directors.

Legal Positions of Directors

The various positions of a company director are discussed under the following headings:

1. Directors as agents

The true position of a director is that of an agent. This position makes him liable for defaults or for violations thereof made by the company. His real relationship with the company is governed by the arrangement of agency as governed by the Contract Act.

2. Directors as trustees

Directors are also trustees of the properties of the company and of the rights which are conferred on them by law. By trustee it means a 'person who is the owner of the property, deals with it as principal as owner and a master, subject only to an equitable obligation to account to some person to whom he stands in relation of trustees'.

3. Directors as employees

Section 314 of the Companies Act permits a director to hold an employment in the company, or an office or place of profit in the company, in addition to his usual directorship. In such cases the director shall enjoy all the rights, privileges and benefits which are available to other employees of the company. But he will not be entitled to claim priority for his fees as a director under Section 530 of the Act. in the event of winding up of the company.

4. Directors as managing partners

They are the persons selected to manage the affairs of the company on their own behalf and on behalf of the shareholders who elect them as directors.

4.8.4 Appointment of Managing Director

A director who is being given substantial majority of management's power which or else would not have been used by him is called as the managing director. These powers can be given to him either through the company's agreement or through the company's resolution passed in the general meeting or by its board of directors or through memorandum of association or through articles of association.

In other words, the term 'managing director' consist of any director who plays the role of a managing director irrespective of him being called by any name.

The substantial powers of management would not comprise the day to day administrative powers which are being given by the board like the power to attach the company's common seal to any document or to make any drawing and endorsing of cheque on company's account in any bank or to make/draw and endorse any type of negotiable instrument or to sign any share certificate or to guide any registration of transfer of share.

According to Sec. 2(26) the managing director must exercise those powers which are subjected to the superintendence, control and direction of its board of directors. The managing directors is regarded as the whole- time director and chief executive of the company.

Appointment of the Managing or Whole-time Director

1. Sec. 269 states that all the public companies and the private companies which are the subsidiaries of a public company whose paid-up share capital is either Rs. 5 crores or more than Rs. 5 crores must have a managing or whole-time director or a manager.
2. Except the appointment which is made by satisfying the conditions of schedule XIII, no other appointment without central government's permission/approval will be accepted. As schedule XIII contains those conditions which are essential to be satisfied for the appointment of the managing director. It also contains information about the salary of the managerial positions.
3. Central government's permission is not needed in case if the appointment of a managing director is made either on or before 15 June 1988 but it must be according to the conditions mentioned in Schedule XIII of the act.

Provisions with Respect to Appointment of a Managing Director, Where it Needs Central Government's Permission

1. All the application forms of a managing director or whole-time director or a manager must be made to the central government for its approval within a period of 3 months from the date of appointment.
2. The central government will not give its permission to the application if in case it fulfills any of the following criteria,
   (i) If in case the person who is to be appointed as the managing or whole-time director or the manager is not suitable for such a post or if in case the appointment is not in the public interest.
   (ii) If, in case the terms and conditions of the managing or whole-time director or the manager are unfair and unreasonable in nature.
3. The central government can give permission for a lesser period of time than that of the actual period of appointment.
4. If in case the appointment does not get the permission from the central government, then the person who is being appointed must leave his office on the date when the central government conveys it to the company.

If he fails to do so then he would be liable to pay a fine upto Rs. 500 per day till be leaves the office.

Disqualifications of Managing Director

According to Section 267 the following persons must not be appointed as a managing or whole-time director.

(i) An undischarged insolvent or being adjudged as an insolvent at any time.

(ii) Who suspends or who has been suspended, to pay to the creditors.

(iii) Who has being convicted by a Tribunal of an offence dealing with moral turpitude.

The disqualifications of directors according to sec. 274 the same applies even the managing director.

According to Sec. 316 same person can be a managing director of two companies at a time. The term of office of the managing director is more than 5 years few times. The managing director can be reappointed, reemployed or their term can be extended. But all these must have a term of less than two years.

4.8.5 Appointment of Directors

The directors are appointed by different authorities of the company under different circumstances as under :

(a) Appointment by Articles of Association : The first directors of the Co. are nominated by the promoters of the Co. and their names are written in the Articles of Association. Otherwise, all the individual persons signing the Memorandum and Articles of Association are deemed as directors of the company. They hold the office upto the first Annual General Meeting (AGM) of the Company.

(b) Appointment by the Company : The total directors of the Co. are divided into two categories as Rotational Directors (two-third) and non-rotational Directors (one-third). The Rotational Directors are appointed in the first A.G.M. who are liable to retire by rotation every year. One third of Rotational Directors should entire every year and their vacancies are filled up in the subsequent A.G.M.

The retirement is made on seniority basis. For instance, a Co. decides to have total nine directors on its Board, two thirds of them, i.e. six directors are known as Rotational Directors and One third of them i.e. two are known as Non-rotational directors. Out of the Rotational Directors one third means two directors should retire every year by rotation.

(c) Appointment by Creditors : The Non-Rotational Directors i.e. one third of the total (it is 3 in the above instance) are appointed by the Debenture Holders, Sundry Creditors, Public Financial Institutions, and Commercial Banks who have advanced loans to the Company. These Directors need not retire by rotation. They can be removed and reappointed by the concerned authorities as per their will and need.

(d) Appointment by the Board of Directors : The Board of Directors can also appoint new directors as "Additional Directors" when the managerial work is not able to be carried on by the existing directors. They can also fill-up a casual vacancy arising due to death, insanity, or insolvency, or resignation of any director. They can also appoint Alternate Directors when any director goes on leave for a period of more than three months. The Additional Directors will hold office till the next A.G.M. the Casual Directors hold office until the period of retirement of the original Directors in whose place they were appointed and the Alternate Directors hold office until the return of the director on leave.

(e) Appointment by the Central Govt. : The Central Govt, can appoint any number of directors on the Board of Directors of any Company in India for a period of three years to safeguard the interest of public. Such appointments are made only when a requisition is made to the Central Govt, by 100 shareholders or members holding one-tenth of the total shares, or Voting rights in the Co. Such directors need not hold qualification shares and do not retire by rotation.

4.8.6 Powers of Directors

The powers of the Directors can be placed under the three headings as under :

(a) General Powers : Such as making contracts on behalf of the Co. Calling Board meetings and the shareholders meetings, issuing and allotment of shares, issuing debentures and borrowing money on behalf of the Company.

(b) Special Powers : To be exercised only at the Board meetings such as making calls on shares, forfeiting the shares of defaulters, accepting the surrender of shares,-investing the money of the-company and taking policy decisions.

(c) Other Powers : Such as appointing additional and alternate directors, filling the casual vacancies, conducting the meetings of the Co., recommending dividends," operating the bank accounts and doing everything that is necessary for the management of the Company.

4.8.7 Remuneration of Directors

Managerial remuneration can take the form of monthly payments which includes salary or a specified percentage of net profit or a commission/or fee for attending each meeting of the board called sitting fees. In the absence of a specific agreement, directors are not entitled to remuneration for their services. The remuneration payable to the directors of the company is determined either by the Articles or by a resolution passed in the general meeting.

Removal of a Director

A director may be removed from the office before the expiry of his term by:

(a) By shareholders: Section 284 provides that a company may, by an ordinary resolution, passed in general meeting, after special notice, remove a director before the expiry of his terms of office. But directors appointed by the Central Government, or of a private company holding office for life, or those elected by the principle of proportional representation cannot be removed by the company in general meeting.

(b) By Central Government: Under Section 388(B) the Central Government has the power to make a reference to the Company Law Board against any managerial personnel when those concerned are involved in any fraudulent activities, or against prudent commercial practices, or causing serious injury, or damage to the interest of trade, industry or business to which such company pertains in the conduct and management of the affairs of the company.

(c) By Company Law Board: Section 402 provides that where an application has been made to the Company Law Board about oppression and mismanagement of a company's affairs on the part of a director, the Company Law Board by means of an order can terminate or set aside the director's contract with the company.

4.8.8 Powers of Board

The powers enjoyed by the board are as follows:

1. Powers exercisable only at board meetings

Section 292(1) of the Act provides that the Board of Directors of a company shall exercise the following powers on behalf of the company at the meeting of the board:

(a) Power to make calls on shares in respect of money unpaid on their shares,

(b) Power to authorise the buy-back as per provisions of Section 77(A),

(c) Power to issue debentures,

(d) Power to borrow moneys otherwise than on debentures,

(e) Power to invest the funds of the company, and

(f) Power to make loans.

2. Powers exercisable only with the consent of the company in general meeting

Section 293(1) provides that the Board of Directors of a public company, or of a private company which is subsidiary of a public company, shall do the following only with the consent of a general meeting:

(a) Sell, lease or otherwise dispose of the whole undertaking of the company.

(b) Remit or give time for the repayment of any debt due by a director except in the case of renewal or continuance of an advance made by a banking company to its director.

(c) Invest, otherwise than in trust securities, the amount of compensation received by the company in respect of compulsory acquisition, etc.

(d) Borrow money, where the moneys to be borrowed, together with the moneys already borrowed by the company, will exceed the aggregate of the paid-up capital of the company and its free reserves, that is to say reserves not set apart for any specific purpose.

(e) Contribute to charitable and other funds not directly relating to the business of the company or the welfare of its employees any amounts the aggregate of which will, in any financial year, exceed ` 50,000, or 5% of its average net profit.

4.8.9 Duties of Directors

Directors occupy a key position in the management administration of a company. Their duties are using regulated by the Articles of the Company. There are also some statutory conditions on the Directors. Again there are certain duties of a general nature. The general duties of a Director may be classified as 1. Fiduciary duties 2. Duties of care, skill and diligence, and 3. Other duties.

Duties of Directors

The following are the statutory and general duties of the Directors.

1. **Annual General Meeting :** The Directors must convene the annual general meeting of the company within the specified time limit.
2. **Maintain books of Account :** They must see that the necessary books of accounts are kept and maintained. They must also observe that the Profit and Loss Account and Balance Sheet are properly prepared and placed before the company together with their report on the state of affairs of the company.
3. **Register of Members :** They must keep a register of members and register of Directors.
4. **Annual returns :** They must file with the register a copy of the annual return and a certificate in respect of the Balance Sheet included in it.
5. **Register of Mortgages :** They must keep a register of mortgages and charges which are open to inspection.
6. **Return of allotment :** They must send copies of resolution to the register and file with him the return of allotment.
7. **Conversion of shares :** They must inform the Register any conversion of shares into stock of consolidation of subdivision of shares.
8. **Statutory report :** They must prepare the statutory report and see that the report should be approved in the statutory meeting and file with the register a copy of the adopted statutory report.
9. **Qualification shares :** Every Director must acquire qualification shares within two months after his appointment as director.
10. **Share certificate :** They must kept ready for delivery of share certificates, debentures, debenture stock, allotted or transferred in the prescribed time limit.
11. **Extraordinary meeting :** They must call an extraordinary meeting on the receipt of valid requisition.
12. **Disclose his offices :** Every director must disclose to the company within 21 days of his appointment the particulars of his office in any other corporate body.

13. **Disclose interests :** Every director must disclose his interests in any contacts of arrangements entered into with the company at the Board Meeting and must not vote.
14. **Notice to company :** Every director must give a notice to the company of such matters relating to himself for affecting a compromise between the company and its creditor or its members.
15. **Winding up :** They must submit a statement of affairs on the winding up of the company.
16. **Duty of good faith :** Directors must act honestly and diligently in the interest of the company. They must exercise their powers bonafide.
17. **Duty of reasonable care :** A Director is bound to observe reasonable care in the performance of his duties. He is expected to act with the much of skill and diligence which an ordinary man would take in his own case.
18. **Duty to attend Board Meetings :** Meetings of the Board of Directors are held from time to time to exercise company's powers. Each Director should attend such meetings.
19. **Personal attendance :** Directors should perform all the duties placed upon them by the act and the articles. However they can delegate certain functions to the extent to which the articles of the company permit.

4.9 Board of Meeting / Directors Meeting

Board of directors usually exercise their powers at board meetings. Following are the provisions related to the companies Act, 1956 with reference to the board meetings.

1. Number of Meetings

Irrespective of the nature of company (whether public or private), it is required for the board of directors to meet atleast once in every 3 months or atleast there should be four such meetings per year. If such provision are not applicable for any class of company then they are required to be specified by the central government in the official Gazette (Sec. 285).

Example: The meetings of board of directors of XYZ limited company, were held on 1st Feb, 30th April, Ist Aug, 31st Nov. 2007. The requirements of board meetings are fulfilled as each meeting has to be held once in each quarter and four such meetings per year.

2. Notice of Meetings

According to Section 286 of companies Act, every directors constituting the board of directors need to be given a written notice specifying the schedule and venue of the meeting.

3. Quorum for Meetings

There should be atleast 1/3rd of the total directors or 2 directors (whichever is maximum) for the commencement of any board meeting.

Want of Quorum

In the absence of the minimum quorum for meeting, the meeting cannot be held on the specified date. Such meeting shall automatically stand adjourned which is required to be held on the same day in the next week. Even, the schedule and venue of the meeting will be same unless there are variations as specified by the articles.

If there is a public holiday on the day which is fixed for the meeting in the next day then the adjourned meeting must be held on the day following the public holiday.

4. Power of Company Law Board to Order Meeting

If for any reason it is impracticable for a company to call, hold or conduct an extraordinary general meeting, either on its own or on the application of any director of the company, or of any member of the company who would be entitled to vote at the meeting.

Any meeting called, held and conducted in accordance with any order of the company law board shall for all purposes deemed to be a meeting of the company duly called, held and concluded.

4.9.1 Laws Relating to Meetings and Proceedings

The essentials of a valid meeting are as follows :

1. Conveyed by Board

A general meeting is conducted summoned by giving a prior notice of not less than 21 days in writing. The gap must be clearly 21 days. Generally, while counting 21 days period of notice, the day of service of notice and the meeting day must not be included.

2. Notice (Sec. 171)

Every general meeting is conducted by giving a prior notice of 21 days in writing. While counting 21 days period of notice, the day of service of notice and the meeting must not be included. When a notice of general meeting is sent to a member by post, then the service should be conducted at the expiry of 48 hours after it is posted. In such a case the requirement of span of notice is directory and not compulsory.

A general meeting can be conducted after providing a shorter notice if the consent is given under the following cases:

(a) An annual general meeting which is conducted by all the members who are entitled to vote there at,

(b) Right to vote may be allotted to those members who are having a share capital of not less than 95% of the paid-up share capital.

Contents of Notice

A notice should represent the place, the day and time of the meeting and should include a statement of the business to be transacted at that time.

Service of Notice

The notice of every general meeting should be given to the following:

(a) To each and every member of the company.

(b) An individual who is authorized to a share in case of death or insolvency of a member.

(c) To the company's adviser or auditors. This notice can be sent personally or by post to the auditor to his registered address or by advertising.

3. Explanatory Statement (Sec. 173(2))

When a business item which is transacted at the meeting is special than a statement should be added to the notice specifying all the material facts related to each business item involving the nature of the concern or interest of every director or manager. According to the Section 173(2), if any item of special business to be transacted influences other company then the degree of shareholding's interest in other company of every director or manager (if any) of the first specified company should be represented in the statement if such interest is not less than 21% of the paid up share capital of the other company. The main objective of the notice is to facilitate the members and to make them understand about the nature of business or the business items.

4. Ordinary Business and Special Business (Sec. 173(1))

The aspects which are transacted in ordinary business in the annual general meeting are as follows:

(a) All the items of the accounts, balance sheets and the report of the board of directors and auditors

(b) The dividend declaration

(c) The appointment of new directors in place of retiring directors

(d) The appointment and fixing of remuneration of auditors.

Special Business

A special business is a business other than ordinary business transacted during annual general meeting or any other business meeting

5. Quorum (Sec. 174)

In case of public company, the 5 members who are personally present and 2 members in case of other company acts as a quorum for a meeting of the company. In case, if a quorum is not present within half an hour from the time given for conducting a meeting then such meeting is considered to be dissolved. But in few cases, the meeting will be adjourned to the same day, same time and place in the next week or to any other day, time and place as the board may specify. In case if the quorum is not present even at the adjourned meeting within half an hour from the time appointed for holding the meeting then the members who are present will be considered as quorum. When one or more individuals come together then it is called as meeting. In short, if only one member is present at the reassembled meeting then it is not considered as quorum and such meeting is considered as invalid meeting.

Exceptions

The exceptions for quorum are as follows,

(a) When one shareholder holds all the preference shares in a company and the meeting of such shareholders is attended by him only then it is considered as effective.

(b) If a company law board or Central Government or court conducts a meeting then it may guide that single member who is present personally or by proxy to conduct a meeting. After the presence of quorum, the consequent departure of a member needed for a meeting does not invalidate the proceedings at the meeting.

6. Chairman of the Meeting (Sec. 175)

All the members who are personally present at the meeting should elect one amongst themselves to be the chairman by showing of hands. In case, if a poll is requested for the election of the chairman then it should not be delayed and the chairman elected through the members must exercise the powers of the chairman. But if any other person is elected as the chairman through the poll then he should remain the chairman for rest of the meeting. The proceedings of the meeting is directed by the chairman. After concluding a meeting, a chairman cannot adjourn the meeting as the power of adjournment rests in the hands of the members who are present at the meeting. As represented by the articles, a chairman of a meeting has the right to cast vote in board meetings and general meetings.

4.10 Company Meetings

The management of a company is vested with the Board of Directors comprising of elected representatives of the shareholders. The Board of Directors hold frequent meetings to take decisions about the routine management of the company. They cannot take policy decisions about the company without consulting the shareholders. Therefore, they conduct the meetings of shareholders.

General Meeting of Shareholders

1. Statutory Meeting (Sec. 165)
2. Annual General Meeting (Sees. 166 and 167)
3. Extraordinary General Meeting (Sec. 169)

4.10.1 Statutory Meeting (Sec. 165)

Every company limited by shares and every company limited by guarantee and having a share capital shall, within a period of not less than one month nor more than six months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company. This meeting is called the 'statutory meeting'. This is the first meeting of the shareholders of a public company and is held only once in the lifetime of a company.

Statutory report: The Board of directors shall, at least 21 days before the day on which the meeting is to he held, forward a report, called the 'statutory report', to every member of the company. If the report is forwarded later than 21 days before the day of the meeting, it shall be deemed to have been duly forwarded if it is so agreed to by all the members entitled to attend and vote at the meeting. The notice of the meeting shall mention that the meeting is a statutory meeting.

Contents of the statutory report: The statutory report of a company contains all the necessary information relating to the formational aspect of the company. It sets out the following information :

(a) Total shares allotted: The total number of shares allotted, distinguishing shares allottee as fully or partly paid-up otherwise than in cash and stating in the case of shares partly paid-up, the extent to which they are so paid-up, and in either case, the consideration for which they have been allotted.

(b) Cash received: The total amount of cash received by the company in respect of all shares allotted, distinguished as aforesaid.

(c) Abstract of receipts and payments: An abstract of the receipts and of the payments made up to a date within 7 days of the report.

(d) Directors and auditors: The names, addresses and occupations of the directors auditors, and manager and secretary, and the changes which have occurred in such names addresses and occupations since the date of the incorporation of the company.

(e) Contracts: The particulars of any contract which is to be submitted to the meeting for its approval or modification.

(f) Underwriting contract: the extent to which any underwriting contract has not beer carried out and the reasons therefor.

(g) Arrears of calls: The arrears due on calls from every director and from the manager.

(h) Commission and brokerage: The particulars of any commission or brokerage r connection with the issue or sale of shares and debentures to any director or to the manager.

Certification of report: The statutory report shall be certified as correct by not less than 1 directors of the company. One of these directors shall be a managing director, if there is one. After the statutory report has been certified, the auditors of the company shall also certify it as correct as regards its first 3 contents.

A copy of the report to be sent to the Registrar

The Board shall deliver a copy of the certified statutory report to the Registrar for registration forthwith, after copies thereof have been sent to the members of the company.

Procedure at the meeting

(a) List of members: At the commencement of the statutory meeting, the Board shall produce a list showing the names, addresses and occupations of the members of the company and number of shares held by them respectively. The list shall remain open and accessible to any member of the company during the continuance of the meeting.

(b) Discussion of matters relating to formational aspect: The members present at the meeting shall be at liberty to discuss any matter relating to the formation of the company. They may also discuss any matter arising out of the statutory report. Previous notice for such discussion is not necessary. However, no resolution may be passed of which notice has not been given in accordance with the provisions of the Act.

(c) Adjournment: The meeting may adjourn from time to time. At any adjourned meeting, any resolution (of which notice has been given), whether before or after the former meeting, may be passed. An adjourned meeting shall have the same powers as the original meeting. The object of the adjournment may be to provide members with additional information as to the company's affairs.

Consequences of default: If default is made in complying with the provisions of Sec. 165, every director or any other officer of the company who is in default shall be punishable with fine which may extend to Rs. 5,000.

4.10.2 Annual General Meeting (Sees. 166 and 167)

Every company shall in each year hold in addition to any other meetings a general meeting as its annual general meeting and shall specify the meeting as such in the notice calling it. There shall not be an interval of more than 15 months between one annual general meeting of the company and the next. A company may hold its first annual general meeting within a period of 18 months from the date of its incorporation. In that event it is not necessary for the company to hold any annual general meeting in the year of its incorporation or in the next year. Year means calendar year [Park v. Lawton, (1911) 1 K.B. 588].

Example

A company incorporated on October 1, 2005 may hold its first annual general meeting by April 1, 2007 and then no other meeting will be necessary either for 2006 or 2007. Similarly, a company incorporated on January 1, 2006 may hold its first annual

general meeting within 18 months, i.e., up to July 1, 2007. If the meeting is held, say in June, 2007, the company need not hold any other meeting in the years 2006 and 2007. The Registrar may, for any special reason, extend the time for holding any annual general meeting by a period not exceeding 3 months. But no extension of time is granted for holding the first annual general meeting.

Example

The accounting year of a company ends on 31st March, 2007. If the company is required to hold its annual general meeting, say latest by 30th June 2007, the Registrar may, on application, grant time to hold meeting by 30th September, 2007. There should be at least one annual general meeting per year and as many meetings as there are years.

Sree Meenakshi Mills Co. Ltd. v. Assistant Registrar of Companies, A.I.R. (1938) Mad 640. Thel annual general meeting of a company called in December 1934 was adjourned and held in March 1935. The next meeting was held in January, 1936, no other meeting being held in 1935. The company was prosecuted for failure to call the annual general meeting in 1935.

The company contended that it did hold a meeting in the year 1935, but it was held by the Court that the meeting of March 1935 was the adjourned meeting of 1934.

Time and place of meeting

Every annual general meeting shall be called during business hours on a day that is not a public holiday. It shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situate.

21 days' notice (Sec. 171). A general meeting of a company may be called by giving not less than 21 days' notice in writing. It may be called with a shorter notice if it is agreed to by all the members entitled to vote in the meeting.

Consequences of failure to hold annual general meeting. If a company fails to hold an annual general meeting-

1. Any member can apply, under Sec. 167, to the Company Law Board for calling the meeting.
2. The company and every officer who is in default shall be punishable with fine.

Power of Company Law Board to call annual general meeting: (Sec. 167). If default is made by a company in holding an annual general meeting in accordance with Sec. 166, any member of the company may apply to the Company Law Board for calling such a meeting. In such a case, the Company Law Board may call, or direct the calling of, a general meeting of the company. It may also give ancillary or consequential directions as it thinks fit. By the direction of the Company Law Board even one member of the company present in person or by proxy shall be deemed to constitute a meeting. A general meeting so held shall be deemed to be an annual general meeting of the company.

Importance of annual general meeting: It is only at the annual general meeting of a company that the shareholders can exercise any control over the affairs of the company. They can confront the directors, their elected representatives, at least once a year. They also get an opportunity to discuss the affairs and review the working of the company. They can also take the necessary steps for the protection of their interests. They can also take up any other business relating to the affairs of the company for discussion. Appointment of auditors is also made at the annual general meeting. Annual accounts are presented for the consideration of shareholders and dividends are declared in the annual general meeting.

4.10.3 Extraordinary General Meeting (Sec. 169)

A statutory meeting and an annual general meeting of a company are called ordinary meetings. Any meeting other than these meetings is called an extraordinary general meeting. It is called for transacting some urgent or special business which cannot be postponed till the next annual general meeting. It may be convened—

(i) By the Board of directors on its own or on the requisition of the members ; or

(ii) By the requisitionists themselves on the failure of the Board of directors to call the meeting.

(i) Extraordinary meeting convened by the Board of directors

The Board of directors may call an extraordinary general meeting—

(a) On its own: The Board of directors may call an extraordinary general meeting whenever some special business is to be transacted, which in the opinion of Board of directors cannot be postponed till the next annual general meeting. Some of the examples of such a business are :

(i) Issue of right shares ; or

(ii) Increase in the remuneration of managing director, wholetime director, etc.

(b) On requisition of the members: The requisite number of members of a company may also ask for an extraordinary general meeting to be held. In such a case the Board of directors shall proceed duly to call such a meeting of the company. The requisition for such a meeting by the members shall be signed

(i) in the case of a company having a share capital, by holders of not less than l/10th of the paid-up capital of the company having the right of voting in regard to the matter of requisition ; or

(ii) in the case of a company not having a share capital, by members representing not less than l/10th of the total voting power in regard to the matter of requisition.

A requisition signed by one of the joint owners of shares has the same force and effect as if it had been signed by all of them.

The requisition shall set out the matters for the consideration of which the meeting is to be called. It shall be deposited at the registered office of the company.

The Board shall proceed to call a meeting within 21 days from the date of the deposit of a valid requisition. The meeting shall be held within 45 days from the date of the deposit of the requisition.

2. Extraordinary meeting convened by the requisitionists

Every shareholder of a company has a right to requisition an extraordinary general meeting. He is not bound to disclose the reasons for the resolutions to be proposed at the meeting [Life Insurance Corpn. of India v. Escorts Ltd., (1986) 59 Comp. Cas. 548],

If the Board of directors fails to call a meeting as required by the requisition, the meeting may be called—

(a) by the requisitionists themselves ;

(b) in the case of a company having a share capital, by such of the requisitionists as represent either a majority in value of the paid-up share capital held by all of them or not less than l/10th of the paid-up share capital of the company having the right of voting, whichever is less ; or

(c) in the case of a company not having a share capital, by the requisitionists representing not less than l/10th of the total voting power of all the members of the company.

The meeting shall be called in the same manner as nearly as possible as that in which meetings are called by the Board of directors but it shall not be held after the expiration of 3 months from the date of the deposit of requisition. However, a meeting commenced before the expiry of 3 months may be adjourned to some day after the expiry of that period.

Power of Company Law Board to order meeting (Sec. 186)

If for any reason it is impracticable for a company to call, hold or conduct an extraordinary general meeting, the Company Law Board may call an extraordinary meeting either of its own motion or on the application of any director of the company, or of any member of the company who would be entitled to vote at the meeting. Any meeting called, held and conducted in accordance with any order of the Company Law Board shall for all purposes be deemed to be a meeting of the company duly called, held and conducted.

4.10.4 Some Special Aspects Relating To Company Meetings

1. Notice

The company should give a notice of 21 clear days to members for a general meeting. The day of posting, the day of receiving the notice and two days for postal transmission should be allowed. Thus, the notice should be posted at least 25 days before the scheduled date of meeting so as to become a valid notice. If such a notice is not given the meeting becomes invalid.

2. Agenda

Every notice of a General Meeting should contain an agenda. It is nothing but a list of matters to be discussed at the meeting. It may be brief or detailed. In the detailed agenda the model of resolutions proposed to be passed at the meeting are also given. A note regarding appointment of proxy should also be given at the end of the agenda, that every member of the company who is eligible to attend and vote at the meeting can also ‘send his representative to attend the meeting on his behalf. The proxy need not be a member of the company.

3. Proxy

The shareholders who can not attend a meeting in person can send their representatives to attend the meeting on their behalf. Such representatives are known as "Proxies". A member of a pubic Co. can appoint any number of proxies as the number of shares held by him but a member of a private Co., can appoint only one proxy. Any person can be appointed as proxy, he need not be a member of the company. But the proxy form should be sent to the co. at least 48 hours before the scheduled time of the meeting.

4. Quorum

Minimum number of members to be present in person to hold a company meeting validly is known as "Quorum". It is five members in case of public company and two in case of private company. In case of Board meetings at least 1/3 of the total number of directors or atleast two directors constitute quorum.

If quorum is not present within 30 minutes of scheduled time of commencement of a meeting, it should be adjourned till the same day in the next week. At such adjourned meeting any single member present in person becomes quorum and the meeting can be held. The decision taken by such member will be binding on all the members of the company.

5. Venue of the meeting

The general meetings of Share Holders should be held either at the Registered Office of the company at any other place (Hotel, Function Hall, Public Place etc.,) within the city or town in which the registered office of the Company is situated. A Board Meeting can be held either at the Registered Office of the Company or at any other place convenient to the Directors such as the residence of any director, at any hotel etc., within the city of registered office or at any other city. It can even be held in a running car or a flying plane.

6. Minutes Book

A register should be maintained by every company to note down the resolution taken at every meeting. It is known as " Minutes Book ". It should have serially numbered pages. It should be kept at the Registered office of the Company. It can be used as an evidence even in the Courts of law regarding any decisions taken at the, meetings of the company. Separate minute Books are to be maintained for different types of meetings.

- **Chairman of the Meeting** : Every meeting should be presided offer by a member of the company who is known as " Chairman of the meeting " Generally, the chairman of the Board of Directors of the Company, is designated as Chairman of shareholders meeting in the Articles of Association, if he is not present at the meeting upto 30 minutes of scheduled time one of members present at the meeting is elected as the chairman. He should be a person having leadership qualities, patience, controlling power, humorous, firm and impartial.

  A meeting without chairman becomes void. He can decide the priority of speakers, put the house in order, limit the discussion on any motion and put the motion to vote or poll.

8. Voting and Polling : When any matter or motion is thoroughly discussed in a company meeting it should be passed as a resolution with the unanimous consent or majority opinion. The sense of the house can be ascertained either by vote or by poll.

- **Voting** is the ordinary or rough method of obtaining members' opinion on any matter. It can be exercised either by " show of hands " or" voice vote " or" Division vote. In the house. In such voting every member and proxy can exercise only one vote.
- **Polling** on the other hand is a systematic and scientific method of ascertaining opinion of members of the company. It can be exercised by distributing pieces of papers to the members and proxies present at the meeting. They can exercise as many votes as the number of shares they are holding. They can cast either all the votes or some of the votes in favour of a motion as they like.

A poll can be taken either by the chairman at his discretion or when it is demanded by any of the following :

(a) any five members in case of a public company or

(b) any one member in case of a private company

(c) any member or members having 1/10 of voting power

(d) any member having 1/10 of paid up share capital.

4.10.5 Minutes of Meeting

The term 'minutes' mean the official record of the meetings of a company. These are a summary of the business transacted, decisions and the resolutions arrived at the meeting.

1. Minutes are like a precise, not a narrative: Obligation to maintain minutes.

Every company is required to keep minutes of the proceedings of:

(a) every general meeting;

(b) every meeting of Board of directors; and

(c) every meeting of committee of the Board of directors.

(d) every resolution passed by postal ballot.

For this purpose, every company is required to make entries of the proceedings of its meetings in books kept for that purpose within 30 days of the conclusion thereof. The pages of every minute book must be consecutively numbered.

2. Signing of minutes

Each page of every minutes a proceeding shall be initialled or signed and the last page of the record of proceedings of each meeting in such book shall be dated and signed.

Signing by Whom

(a) In the case of minutes the proceedings of a meeting of the Board or of a Committee thereof, by the chairman of the said meeting or the chairman of the next succeeding meeting.

(b) In the case of minutes of proceedings of a general meeting, by the chairman of the same meeting or in the event of the death or inability of the chairman by a director duly authorised by the Board for the purpose.

3. Minutes not to be attached by pasting or otherwise

Minutes of the proceedings of a meeting shall not be attached to any such book by pasting or otherwise. It means that the minutes have to be written by hand

4. Loose leaf minutes

A company may keep its minutes of meetings in loose leaf binders provided the following conditions are satisfied.

(i) The pages containing minutes are duly typed and serially numbered.

(ii) Each page is initialled or signed and the last page is dated and signed by the chairman.

(iii) The loose leaves are bound at a reasonable interval not exceeding 6 months.

(iv) The loose leaves are kept in safe custody under lock and key.

(v) Contents of minutes. The minutes of each meeting shall :

(a) contain a fair and correct summary of the proceedings thereat, and

(b) include all appointments of officers made thereat.

In addition to it, in case of a meeting of the Board of directors or its committee the minutes shall also contain :

(a) the names of the directors present at the meeting; and

(b) in case of each resolution passed at the meeting, the names of the directors dissenting from, or not concurring in, the resolution, if any.

Defamatory and detrimental matters to be excluded at the discretion of chairman. The minutes must not contain any matter which, in the opinion of the chairman of the meeting :

(a) is or could reasonably be regarded as defamatory of any person;

(b) is irrelevant or immaterial to the proceeding; or

(c) is detrimental to the interests of the company.

The discretion in regard to such inclusion or non-inclusion of any matter in the minutes lies with chairman.

Penalty. If default is made in complying with the foregoing provisions, the company shall be liable to a penalty of? 25,000 which may extend to ? 1,00,000 and every officer in default to a penalty of? 5,000.

Minutes to be evidence. Minutes of the meetings kept in accordance with the provisions of section 118 shall be evidence of the proceedings, recorded therein. If something is not recorded in the minutes that can be proved by proper evidence.

Presumption to be drawn where minutes duly drawn and signed. Until the contrary is proved, every general meeting of the company or meeting of the directors or a committee of directors in respect of the proceeding whereof, minutes have been so made and signed, shall be

1. deemed to have been duly called and held
2. the proceedings at these meetings shall be deemed to have duly taken place, and
3. all appointments of directors or liquidators made at the meeting shall be deemed to be valid.

Location and inspection of minutes book. The minutes books of the general meetings of a company must be kept at the registered office of the company and be open during business hours for the inspection of any member without charge for at lesat two hours a day.

A member is entitled to be furnished within 7 days, after he has made a request in that behalf to the company, with a copy of any minutes, on payment of such sum as may be prescribed, for every one hundred words, or fractional part thereof, required to be copied. If inspection is refused or if any copy is not furnished within the specified time, the company and every other officer of the company who is in default shall be punishable with fine which may extend to Rs. 5,000 for each offence. Moreover, the Central Government may, by order, compel an immediate inspection of the books or direct that the copy required shall forthwith be sent to the person requiring it.

Publication of reports. No document purporting to be a report of the proceedings of a general meeting of a company, can be circulated or advertised at the expense of the company unless it includes the matters required by section 118, to be contained in the minutes of the proceedings of such meeting. Contravention is punishable with fine which may extend to Rs. 5,000.

4.11 Corporate Reporting

Introduction

Corporate reporting is the process of communicating both financial and non financial information relating to resources and performance of a company. In present times, the increased economic, market and regulatory pressures are forcing companies to accumulate and publish information regarding financial performance, social and environmental issues, corporate governance, and marketing as well as other information with more frequency, detail and a variety of formats. This paper presents the review of regulatory reforms, management commentary, guiding principles to prepare the report, elements in the report, future outlook, forward looking information and integrated reporting.

Historically, corporate houses never felt the need for disclosing their different practices to the world. However, mandatory disclosure of financial information through annual reports was started as a requirement of Acts and Regulations in the corporate sector. In India, this is regulated by the Companies Act 1956, the Securities Contracts Act 1956, the Capital Issues Act 1947, the Income Tax Act 1961 etc. With the passage of time there is a growing urge for disclosure of non-financial information which gives valuable guidance to stakeholders as well as others. While complying with mandatory requirements, a company may disseminate information voluntarily as well and the degree of openness is defined as corporate transparency. There has been a paradigm shift in handling corporate transparency this is no longer a destination but a journey that is evolving over the passage of time.

Meaning of corporate reports

The term "corporate reports" typically refers to financial reports created to comply with a country's financial authority regulations. In the U.S., the Securities and Exchange Commission (SEC) regulates the nation's securities markets to ensure that investors have adequate information on which to base their investment decisions. Public companies of certain asset size listed in the United States (including foreign firms) are required to file registration statements, periodic reports, and other forms electronically.

Definition of Corporate Reporting

The exact definition of corporate reporting differs depending on whom you speak to. Corporate reporting is to refer to the presentation and disclosure aspects as distinct from accounting/measurement ¯ of the following areas of reporting:

1. Integrated reporting
2. Financial reporting
3. Corporate governance
4. Executive remuneration
5. Corporate responsibility
6. Narrative reporting

1. Integrated reporting

Integrated reporting is about connecting information about an organisation's current decisions with its future prospects; connecting information about strategy, risk, remuneration and performance; and recognising that the economy,

environment and society are inseparable and therefore information provided to understand an organisation's performance in each of these areas needs to be viewed as part of a whole. Integrated reporting helps boards of directors to see the issues they face more clearly, and enables them to explain their business rationale to stakeholders with greater clarity and authority.

2. Financial reporting

At the core of the corporate reporting model is the financial reporting model, consisting of financial statements and accompanying notes that comply with generally accepted accounting principles (GAAP).

3. Corporate governance

The processes by which companies are directed and controlled. Levels of disclosure differ worldwide but might include information on board composition and development, accountability and audit and relations with shareholders.

4. Executive remuneration

Executives are rewarded, both in the short and longer-term, for delivering their company's strategic objectives.

5. Corporate responsibility

Corporate responsibility includes the communication about how companies understand and manage their impact on people, clients, suppliers, society, and the environment in order to deliver increased value to all their stakeholders.

6. Narrative reporting

Narrative reporting is short and for the critical contextual and non-financial information that is reported alongside financial information to provide a broader, more meaningful understanding of a company's business, its market position, strategy, performance and future prospects. It includes quantified metrics for these areas.

4.11.1 Objective of Corporate Reports

The fundamental objective of corporate reports is to communicate economic measurements of and information about the resources and performance of the reporting entity useful to those having reasonable rights to such information.

4.11.2 Review of the present state of corporate reporting

The conventional view of ihe aim ol published financial reports was expressed n Recommendation N15 issued by the Institute of Chartered Accountants in England and Wales in 1 952 (withdrawn in 1974) This stated The primary purpose of the annual accounts of a business is to present information To the proprietors, showing how their funds have been utilised and The profits derived from such use.

This statement was no doubt correct at its time of issue, but with the passage of rima t has become increasingly clear that it is incomplete and unsympathetic to modern needs The object of this discussion pacer is to suggest the general concepts which should underlie modem financial reporting and to point the new directions in which we think corporate reports should be developing.

4.11.3 Features of Corporate Reports of Companies

At the time the working party started work in October 1974, published financial statements of UK Companies had five principal features These were

(a) They consisted essentially of a directors' report, balance sheet, profit and loss account, and notes thereto. Apart from the Accounting Standards Steering Committees proposal (since approved) that sources and application of funds statements should be published, this format had been virtually unchanged for a quarter of a century.

(b) They were based generally on historical cost figures even though the effects of inflation invalidated the use. over time of unadjusted pounds as a standard unit of measurement. Some companies periodically updated the balance sheet value of fixed assets such as property to current market values, although this was not a universal practice. The 1 967 Companies Act introduced a requirement that the directors' report should note the market value of interests in land where tnese, in the opinion of the directors, differed substantially and significantly from the balance sheet figure.

(c) They were concerned almost wholly with items and events which could bequantified rn financial terms.

(d) They were concerned with quantifying and highlighting distributable profit for the year as one identifiable and absolute amount. Although recent business liquidity problems had re-focusea users attention on the balarvce sheet, that statement comprised balances which were largely the residue of profit calculations

(e) They were concerned first and foremost with the financial claims of shareholders and creditors.

4.12 Winding Up of Company

Meaning of Winding Up

Winding up or liquidation of a company represents the last stage in its life. It means a proceeding by which a company is dissolved. The assets of the company are disposed off, the debts are paid off out of the realised assets (or from contributions from its members), and the surplus, if any, then distributed among the members in proportion to their holdings in the company.

The two terms 'winding up' and 'liquidation' are used interchangeably. According to prof. Gower, winding up of a company is a process whereby its life is ended and its property administered for the benefit of its creditors and members.

An administrator, called liquidator, is appointed and he takes control of the company, collects its assets, pays its debts and finally distributes any surplus among the members in a accordance with their rights.

A Company may be wound up in any of the following three ways :

A. Compulsory winding up under an order of the Court.

B. Voluntary winding up.(By Members or Creditors)

C. Winding up under the supervision of the Court.

The order for the dissolution of a company shall be passed by the court on receipt of the report by the Court from the liquidator regarding the completion of the winding up process.

A) COMPULSORY WINDING UP

Winding up of a company by an order of the court is known as compulsory winding up. According to Section 433, Court may order for the winding up of a company on a petition submitted to it on any of the following grounds :

1. **Passing of Special resolution for the winding up :** When the company has, by passing a special resolution, resolved to be wound up by the court. The resolution may be passed for any cause whatsoever Court may not order for the winding up if it finds it to be opposed to public interest or the interest of the Company as a whole.

2. **Default in holding statutory meeting :** When default has been committed by the company in the filing of the statutory report or in the holding of the statutory meeting in the manner and within the time prescribed by the Act. Court may, instead of ordering for the winding up, direct the company to call the statutory meeting or to deliver the statutory report.
3. **Failure to commence business:** When the company fails to commence business within a year from its incorporation or suspends business for a year. The power of the court to pass an order for the winding up of the company on this ground is discretionary and will not be exercised unless there are indications that the company has no intention of continuing its business.
4. **Reduction in membership :** When the number of its members has fallen below seven in the case of a public company and two in case of a Private Company and the Company did not try to increase the number upto statutory minium within six months.
5. **Inability to pay debts :**
   (a) If a creditor to whom the company owes a sum exceeding five hundred rupees has served on the company a demand for payment and the company has for three weeks thereafter neglected to pay the sum or otherwise satisfy the creditor.
   (b) If any decree issued in favour of a creditor by the court on execution remains unsatisfied.
   (c) It is proved to the satisfaction of the court that the company can not pay its debts.
6. **Just and Equitable :** The court may order for the winding up of a company if it thinks that there are just and equitable grounds for doing so. The court has very large discretionary power in this case. The term " just and equitable " grounds may include any of the grounds for the winding up of the company, such as :
   (a) The failure of substratum (purpose) of the company,
   (b) Oppression of minority shareholders by majority shareholders,
   (c) Company running in losses continuously and there is no hope of profits,
   (d) Dead lock in the management (Board of Directors) of the Company,

(e) Where public interest is likely to be prejudiced by the company,

(f) Where the company was formed to carryon fraudulent or illegal business,

(g) where the company is a mere bubble or a sham and does not carry on any business etc.

B) Voluntary Winding Up

Winding up by the creditors or members without any intervention of the court is termed as voluntary winding up. According to Section 484, a company may be wound up voluntarily :

1. By passing an ordinary resolution in general meeting :

(a) When the period, for the duration of which the Company was constituted, has expired

OR

(b) When the event on the happening of which depended the termination of the existence of the company has happened.

2. By passing a special resolution, to wind up voluntarily for any reason whatsoever:

With in fourteen days of the passing of the resolution, the company shall give notice of the resolution by advertisement in the Official Gazette and also in some newspaper circulating in the district of the registered office of the company. Every officer responsible for default in publishing the resolution shall be punishable with a fine extending up to five hundred rupees for every day of the default (Sec. 485).

Types of Voluntary Winding up : Voluntary winding up of a company is of two kinds:

A. Members'voluntary winding up.

B. Creditors'Voluntary winding up.

Members voluntary winding up requires the filing of a statutory declaration of solvency by the majority of the directors of the company with the Registrar. The question of creditors voluntary winding up will arise in a case where the company is not in a position to pay off its liabilities in full. In such a case declaration of solvency shall not be made and filed with the Registrar.

C) Winding up Under the Supervision of the Court

At any time after a company has passed a resolution for voluntary winding up, the Court may make an order that the voluntary winding up shall continue subject to the supervision of the court (Sec. 522). Such an order is passed by the court under the following circumstances :

1. The liquidator under the voluntary winding up is prejudiced or is negligent in collecting the assets, or

2. The resolution for winding up was obtained by fraud.

Effects of the Supervision Order

(a) It gives jurisdiction to the court over suits and legal proceedings to the same extent as in a winding up directly by the Court (Sec. 523)

(b) As general rule the liquidator appointed in voluntary winding up is allowed to continue but the court has the power to remove him and appoint another person in his place.

(c) The liquidator may, subject to any restrictions imposed by the court, exercise all his powers, without the sanction or intervention of the court, in the same manner as if the company were being wound-up voluntarily [Sec 526 (1)]

(d) Except as provided in (c) above , the court can exercise all powers which it might have exercised if an order had been made for the compulsory winding up of he company by the court [Sec. 526 (2)].

4.12.1 Voluntary Winding up of Company

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1. By passing an ordinary resolution in general meeting :

(a) When the period, for the duration of which the company was constituted, has expired

OR

(b) When the event on the happening of which depended the termination of the existence of the company has happened.

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A) Members'voluntary Winding Up

Declaration of Solvency : In the case of members' voluntary winding up two directors or the majority of the directors of the company, where there are more than two, are required to make at the meeting of the Board of Directors and file with the Registrar a statutory declaration of the solvency of the company verified by an affidavit to the effect that they have made a full enquiry into the affairs of the company and that having done so, they have formed an opinion that the company has no debts or that it will be able to pay its debts in full within such period as may be specified in the declaration but not exceeding three years from the commencement of winding up (Sec. 488). A declaration so made will not have any effect unless the following conditions are satisfied :

1. The declaration must be made within five weeks immediately proceeding the date of the passing of the resolution for the winding up of the company and delivered to the Registrar before that date.
2. It must also embody a statement of the company's assets and liabilities as at the latest practicable date before making of the declaration.

3. It must also be accompanied by a copy of the report of the auditors of the company on the Profit and Loss account of the company for the period commencing from the date up to which the last such account was prepared and ending with the latest practiable date immediately before the making of the declaration and the Balance Sheet of the company made out as on the last mentioned date.

Provisions applicable to members' voluntary winding up :

1. Appointment of Liquidators

After declaration of solvency has been filed by the directors with the Registrar, a resolution should be passed by the members or voluntary winding up of the company. In the same meeting or at any subsequent general meeting, the company may appoint one or more liquidators as may be thought necessary and fix his or their remuneration if any. Such remuneration once fixed cannot be increased under any circumstances.

2. Managerial personal's powers to cease on the appointment of liquidator

On the appointment of liquidator, all powers of the Board of the Director and of the Company or whole-time directors, and manager (if any) shall cease, except for the purpose of giving notice to the Registrar regarding the appointment of liquidator or to the extent as the company in general meeting or the liquidator may sanction the continuance thereof.

3. Power to fill up vacancy in the office of the liquidator

If a vacancy arise by death, resignation or otherwise in the office of the liquidator appointed by the company, the company in general meeting may fill up the vacancy.

4. Notice of the appointment of liquidator to be given to the Registrar

The company shall give notice to the Registrar regarding the appointment of liquidator within 10 days of his appointment.

5. Powers of the liquidator to accept shares

The liquidator can't accept shares, policies or like interest in consideration of the sale of the company's undertaking to another company with an object to distribute them amongst the members of transferrer company unless :

(a) A special resolution is passed by the company to the effect, and

(b) He purchases the interest of any dissenting nonmember at a price to be determined by agreement or by arbitration.

6. Duty of liquidator to call creditors meeting in the case of insolvency

If at any time the liquidator is of the opinion that the company will not be able to pay its creditors in full within the period stated in the declaration of solvency or that period has expired without debts having been paid in full, he shall forthwith summon a meeting of the creditors and shall lay before the meeting a statement of the assets and it were a "Creditors" voluntary winding up " (Sec. 495).

7. Duty of liquidator to call general meeting at the end of each year

In case the winding up continues for more than one year the liquidator shall -

(a) Call a general meeting of the company at the end of the first year from the commencement of the winding up, and at the end of the each succeeding year, or as soon thereafter as may be convenient within three months from the end of the year or such longer period as the Central Government may allow, and

(b) lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the proceeding year (Sec. 496).

8. Final meeting and dissolution

As soon as the affairs of the company are fully wound up the liquidator shall -

(a) make up an account of the winding up, showing how the winding up has been conducted and the property has been disposed of, and

(b) call a general meeting of the company for the purpose of laying the Final Statement of Account before it and giving any explanation thereof.

B) CREDITORS' VOLUNTARY WINDING UP

A winding up, where a solvency declaration is not made, is referred as Creditors' voluntary winding up. Thus, question of the creditors' voluntary winding up shall arise only in case of insolvent company. In such a case the creditors are given a controlling voice in the winding up of the company.

Provisions Applicable to Creditors' voluntary winding up

1. Meeting of the Creditors

A company, by giving notice to the creditors simultaneously with the notice to its members and by publishing the notice in the Official Gazette and two newspapers circulating in the district of the registered office of the company, should call meeting of the creditors either on the same day or on the next day when the resolution for voluntary winding up is passed.

2. Notice of the resolution to Registrar

A copy of the resolution passed at the creditors meeting shall be filed by the company with the Registrar within 10 days of the passing thereof (Sec. 501).

3. Appointment of Liquidator

The creditors and the members at their respective meetings may nominate a person to be the liquidator of the company. If the creditors and members nominate different persons the person appointed by the creditors shall be the liquidator (Sec. 502).

4. Appointment of Committee of Inspection

The creditors may decide to appoint a Committee of Inspection to watch and supervise the proceedings of the liquidation. The committee will not consist of more than 10 members. Company as well as creditors have and equal right of representation on the committee (Sec. 503)

5. Fixing the Liquidators remuneration

The Committee of Inspection or if there is no such committee, the creditors, may fix up the remuneration to be paid to the liquidator or liquidators.

6. Board's powers to cease on the appointment of the Liquidator

On the appointment of the liquidator, all the powers of the Board of Directors shall cease, except in so far as the Committee of Inspection or if there is no such a committee, the creditors in general meeting, may sanction the continuance thereof. It may be noted that under this section powers of the managerial personal such as manager etc., do not cease.

7. Power to fill vacancy in the office of liquidator

If a vacancy occurs by death, resignation or otherwise, in the office of a liquidator (other than liquidator appointed by or by the direction of the court), the creditors in general meeting may fill the vacancy (Sec. 506).

8. Power of the liquidator to accept shares etc.

The liquidator cannot accept shares, policies or other like interest in consideration to sale of company's undertaking to another company with an object to distribute them amongst the creditors of the company without the prior consent of the Court or Committee of Inspection (Sec. 507).

9. Duty of liquidator to call meetings of company and of creditors at the end of each year

In the event of winding up continuing for more than one year, the liquidator shall:

(a) call a general meeting of the company and a meeting of the creditors at end of the first year from the commencement of winding up and at the end of each succeeding year, or as soon thereafter as may be convenient within three months from the end of the year or such longer period as the Central Government may allow, and

(b) lay before the meeting an account of his acts and dealings and of the conduct of winding up during the proceeding years (Sec. 508).

10. Final meeting and dissolution

The provisions regarding final meeting and dissolution of the company are the same as in the case of" Members' Voluntary Winding up " discussed earlier (Sec. 509)

4.12.2 Differences between Members' Voluntary Winding up and Creditors' Voluntary Winding up

1. Members' Voluntary winding up requires a declaration of solvency of the company by its directors. It is ensured that the company will be able to pay off all its liabilities in full. Creditors' Voluntary winding up means that the company has gone insolvent and will not be in a position to pay off its liabilities in full.

2. Members' voluntary winding up doesn't requires to have a creditors meeting. But in the case of creditors' voluntary winding up, a meeting of the creditors must be called immediately after he meeting of the members.
3. Liquidator, in case of members' voluntary winding up is appointed by the members. But in the case of creditors' voluntary winding up creditors have greater say in the appointment of the liquidator. If the members and creditors nominate two different persons as liquidator, creditors' nominee shall become the liquidator.
4. A Committee of Inspection may be appointed in the case of creditors' voluntary winding up. But in the case of members voluntary winding up, no such committee is required to be appointed.

4.12.3 Dissolution of the Company

In the case of winding upunder the supervision of the court, the company will be taken to be dissolved from the date of the court's order issued to that effect. The court will issue such an order when affairs of the company have been completely wound up and the liquidator has made a report to the court requesting it to order for the dissolution of the company.

4.12.4 Contributory

Every share holder of a company which is being winded up is known as a "Contributory" as per law. Such person may have to contribute to the company any unpaid part of the share capital held by him as the liability of members of a company is limited to the extent of face value of shares held by them. Two lists of contributories are prepared by the Liquidators known as List "A" and List "B". Members holding fully paid up shares are put under List "A" and members holding partly paid up shares are put under List "B". In case of surplus, it is returned to all the contributories.

4.12.5 Consequences of winding up of a company

1. Consequences as to Shareholders / Members

In a company limited by shares, a shareholder is liable to pay the full amount up to the face value of the shares held by him. His liability continues even after the company goes into liquidation. But he is then described as a contributory. A contributory may be present or past.

In a company limited by guarantee, the members are liable to contribute up to the amount guaranteed by them.

2. Consequences as to Creditors

Where the company is solvent (Sec. 5280. Where a company is being wound up, all debts payable on a contingency and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company. A just estimate of the value of such debts or claims shall be made. Where a solvent company is wound up, all claims of creditors, when proved, are fully met.

3. Consequences as to Servants and Officers

A winding up order shall be deemed to be a notice of discharge to the officers and employees of the company, except when the business of the company is continued. Such a discharge shall receive them of all obligations under their contract of service. A voluntary winding up shall also operate as a notice of discharge to the company's servants.

4. Consequences as to proceedings against the Company

When a winding up order has been made or the official liquidator has been appointed as provisional liquidator, no suit or other legal proceeding against the company shall be commenced except by leave of the court. Similarly if a suit is pending against the company at the date of the winding up order, it shall not be proceeded with against the company, except by leave of the court. In a voluntary winding up also the court may restrain proceedings against the company if it thinks fit.

5. Consequences as to Costs

If assets are insufficient to satisfy liabilities, the court may under for payment of the costs, charges and expenses of the winding up out of the assets of the company. The payment shall be made in such order of priority inter se as the court thinks just. Similarly all costs, charges and expenses properly incurred in a voluntary winding up, including the remuneration of the liquidator, shall be paid out of the assets of the company in priority to all other claims. The payment shall, however, be subject to the rights of secured creditors.

SHORT NOTES

1. Company

A company is a group of persons associated together for the attainment of a common purpose. The law relating to companies is contained in the companies act, 1956 as amended upto date.

2. Statutory companies

A company may be incorporated by means of a special act of the parliament or any state legislature. Such companies are called statutory companies. Such companies generally formed to carry out some special public undertaking. These are mostly concerned with public utilities.

3. Holding company

A company which controls another company is called holding company.

4. Formation of Company

Company formation is the act of making an official application to Companies House to create a company, which is called the process of incorporation. Full company name, the officers of the company and the principal address of the company on the register of companies held at Companies House are required to formalize the formation of a company.

5. Memorandum of Association

Company name, the registered office address and the company objects are essential to form a company. The company's memorandum delivered to the Registrar is signed by each subscriber in front of a witness who must attest the signature.

6. Articles of Association

The Articles of Association is the document that sets out the rules for the running of the company's internal affairs. The company's articles delivered to the Registrar are signed by each subscriber in front of a witness who must attest the signature.

7. Liability Clause

This clause has to state the nature of liability that the members incur. Such liability may be limited by shares or limited by guarantee. In case of liability limited by shares the shareholders may be called upon to pay only the unpaid amount on

the shares. In case of liability limited by guarantee, the shareholders may be called upon to pay the amount guaranteed. This liability clause is omitted from the memorandum of association of unlimited companies.

8. Meeting

Apart from face-to-face communication with individuals, another vital application of oral communication in business is the meeting–the best medium for group discussion and group decisions in an organization. A meeting means the act of coming together of two or more than two persons (by previous notice or by mutual arrangement) for discussion and transaction of some lawful business.

9. Ultra virus Acts

Directors are personality liable to the company in respect of ultra vires acts and it is not necessary to prove fraud in such cases, e.g., when they pay dividends out of capital of when they dissipate the funds of the company in ultra vires transactions. They are liable jointly and severally and, inter se, they have a right to retourable contribution.

10. Share Capital

Capital refers to the amount invested in the company so that it can carry on its activities. In a company capital refers to "share capital". The capital clause in Memorandum of Association must state the amount of capital with which company is registered giving details of number of shares and the type of shares of the company. A company cannot issue share capital in excess of the limit specified in the Capital clause without altering the capital clause of the MA.

11. Debenture

A debenture is an acknowledgement of debts and written promise by the company to repay the loans according to the terms laid down in the document. It is issued to money lenders under the seal of the company. It represents the loan of the company. Even public company can collect money for financing its business by selling debentures in the market.

12. Corporate Sustainability Reporting

Corporate sustainability reporting has a long history going back to environmental reporting. The first environmental reports were published in the late 1980s by companies in the chemical industry which had serious image problems. The other group of early reporters was a group of committed small and medium-sized businesses with very advanced environmental management systems.

Non-financial reporting, such as sustainability and CSR reporting, is a fairly recent trend which has expanded over the last twenty years. Many companies now produce an annual sustainability report and there are a wide array of ratings and standards around. There are a variety of reasons that companies choose to produce these reports, but at their core they are intended to be "vessels of transparency and accountability". Often they also intended to improve internal processes, engage stakeholders and persuade investors

13. Meetings

Get together of individuals or persons with some plan is known as meeting.

Company Meeting

When the members of a company gather at a certain time and place to discuss business affairs it is called company meeting.

Board meeting

A board meeting is a meeting of the directors. It must be distinguished from a general meeting, which is a meeting of the members (shareholders) of a company.

14. Corporate Reporting

Corporate reporting is the process of communicating both financial and non financial information relating to resources and performance of a company. In present times, the increased economic, market and regulatory pressures are forcing companies to accumulate and publish information regarding financial performance, social and environmental issues, corporate governance, and marketing as well as other information with more frequency, detail and a variety of formats. This paper presents the review of regulatory reforms, management commentary, guiding principles to prepare the report, elements in the report, future outlook, forward looking information and integrated reporting.

15. Winding Up of Company

Winding up or liquidation of a company represents the last stage in its life. It means a proceeding by which a company is dissolved. The assets of the company are disposed off, the debts are paid off out of the realised assets (or from contributions from its members), and the surplus, if any, then distributed among the members in proportion to their holdings in the company.

UNIT V

The Consumer Protection Act 1986: Scope, Consumer Protection Councils, Consumer Disputes Redressal Agencies - Rights of Consumers - Consumer Awareness . Intellectual Property Rights: Definition, Types of IPR, Importance of IPR, intellectual Property Protection and Enforcement, Carriage of Goods Act - Right to information Act, 2005.

5.1 The Consumer Protection Act 1986

Introduction

The Consumer Protection Act was passed, in the year 1986 by the Parliament of India to honour the representations made by a number of Consumers' Associations in the country. The main object of this law is to protect the consumers of goods and services from the unfair trade practices by the traders.

The is law came into force from 15th April, 1987 and extends to the whole of India except the state of Jammu and Kashmir.

This law has given very clear definitions of goods, services, consumers, unfair trade practices etc. This has constituted Consumer Protect-wn Councils for the overall supervision of the working of this Act. It has also constituted Consumer Redressal Forums and Commissions at district level, state level and national level for the settlement of consumer disputes.

5.1.1 Important Definitions in Consumer Protection Act

1. Definition of Consumer

According to Section 2(1) (d) "Consumer means any person who buys any goods for consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payments"

OR

"Any person who hires or avails any services for consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payments".

Consumer also includes any user of such goods or services other than the buyer or hirer for consideration, with the approval of the buyer or hirer. However, consumer does not include a person who purchases goods for resale or for any commercial purpose. The commercial purpose does not include use of the goods for earning livelihood by the buyer by means of self-employment.

2. Definition of Goods

The Consumer Protection Act, 1986 recognised the definition of goods as given by the Sale of Goods Act, 1930. According to it "Goods means every kind of movable property other than actionable claims and money, and includes stocks and shares, growing corps grass and things attached to or forming part of land which are agreed to be severed for the purpose of sale" [Section 2(7)]

3. Definition of Services

According to Section 2(1) (0) "Service means service of any description which is made available to the potential users. It includes the provision of facilities in connection with banking, financing, insurance, transportation, processing, supply of electrical or other energy, boarding and lodging or both, house construction, entertainment, amusement or other purveying of news or other information".

The expression "service" covers the telephones provided by Telecommunications Department, house constructions by State Housing Boards, medical services by private hospitals and other government organisations, but it does not include services rendered free of charge or under a personal contract. The services rendered by government hospitals in the paying rooms are also covered by this definition. The Supreme Court of India has included medical profession in the term 'Service' under the law.

Case Example : Harjot Ahluwalia Vs. Spring Meadows Hospital

In this case a minor boy suffered an irreparable brain damage-due to wrong injection given by a nurse of a private hospital. The Consumer Redressal Commission found the doctor and nurse guilty and awarded compensation of 12.5 Lakhs to patient and 5 lakhs to his parents.

4. Definition of Unfair Trade Practices

The Consumer Protection Act, 1986 has recognised the following practices of the traders as unfair trade practices as per Section 2(1) (r).

i) Falsely representing that the goods are of particular standard, quality, grade, style, model and composition when they are not so.

ii) Falsely representing the second hand, renovated, reconditioned and old goods as new goods.

iii) Representing that the goods or services have the sponsorship, approval, characteristics, accessories of a foreign company where there is no such sponsorship or collaboration.

iv) Making of false or misleading representation about the uses, benefits, durability, efficiency, etc. of the goods.

v) Giving any guarantee or warranty of the performance, efficiency or length of a product or any goods which is not based on any adequate test or experience.

vi) Permitting the publication of any advertisement in any newspaper or otherwise for the sale of goods or services at a bargain price or discount etc., without any intention to do so.

Case Example : Jasbir Singh Vs. Mahindra Ford India LTD. * * *

In this case M/S Oriental Ford Co., sold a second hand car to the consumer after thoroughly repairing, conditioning and repainting it. On inspection it was found that car had met with an accident. Therefore, the State Commission passed an order for refund of the price of Rs. 7,00,181 along with interest of 18% and damages of Rs. 5000.

5. Definition of Restrictive Trade Practices

According to Section 2(1), the restrictive trade practice means, any trade practice which requires a consumer to buy, hire or avail of any goods or services as the case may be, as a condition precedent for buying hiring or availing of other goods or services.

Example : Agas agency forcing a consumer to buy gas stove supplied by them compulsorily to get gas connection from their agency or company.

6. Definition of Complainant sec.[2(1)(b)]

Complainant is defined in section 2(1)(b) and means.

i) a consumer; or

ii) any voluntary consumers' association registered under the Companies Act,1956 or under any other law for the time being in force; or

iii) the Central Government or any State Government; or

iv) one or more consumers, where there are numerous consumers having the same interest.

v) In case of death of a consumer, his legal heir or representative. [sec.3(1)(b)]

7. Definition of Complaint sec. [2(1)(c)]

"Complaint" means any allegation in writing made by a complainant that

(i) an unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider;

(ii) the goods bought by him or agreed to be bought by him suffer from one or more defects;

(iii) The services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect;

(iv) a trader or the service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the (fixed, displayed, exhibited or agreed) price

(v) goods which will be hazardous to life and safety when used are being offered for sale to the public

(vi) services which are hazardous or likely to be hazardous to life and safety of the public are being offered.

8. Definition of Consumer Dispute [sec.2(1)(e)]

It means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint thus, it is clear that if the person against whom complaint is made agrees to the complaint, there is nonconsumer dispute'.

9. Definition of Defect

It means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or as is claimed by the trader in any manner whatsoever in relation to any goods.

Case Example : Abhaya Kumar Panda Vs. Bajaj Auto Ltd. ***

The complainant purchased a Bajaj Auto Trailer Manufactured by the respondent. The vehicle suffered from a major manufacturing defect. The National Commission held that the manufacturer should not have sold initially a product which suffered from a manufacturing defect. The commission ordered the replacement of the vehicle by a new auto.

10. Definition of Deficiency

It means any fault, imperfection, short coming or inadequacy in the quantity, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

Case Example : Arnab K. Sarkar Vs. M/S. Seema Travels, ***

According to Sarkar, the travel agent changed the itinerary, deviated from the programme and failed to provide adequate accommodation. On the ground of deficiency in service, the District Consumer Disputes redressal forum awarded a compensation of Rs.5000. The commission observed that it was the responsibility of the tour operator to ensure that the holiday package was as good as promised.

5.1.2 Features of Consumer Protection Act, 1986

Salient features of the Act are as follows:

1. Consumer Redressal Forum

The Act provides speedy redressal to consumer complainants. The Bill provides for setting up of a Consumer Redressal Forum in every district, a commission at the state level and the National Commission at the Centre. The Forum in the District will have original jurisdiction to redress complaints up to claim of lakh (after amendment up to 10 lakhs). The State Commission will be original jurisdiction to settle claims up to the amount 10 lakhs (after amendment 20 lakhs). The National Commission can entertain any claim for damages above `10 lakhs (after amendment above 20 lakhs). The State Commission will be vested with appropriate Appellate and Revisional powers.

2. Consumer Councils

To promote voluntary consumer movement and to ensure involvement of consumers. The act provides for the establishment of Consumer Protection Councils in centre and the states. These Councils will have both non-official and official members. The objects of the Council will be to promote and protect the rights of the consumers.

3. Goods and Services are Covered

It shall apply to all goods and classes of goods or all services or classes of services except those which are specially exempted by notification by the Central Government.

4. Filing of Complaint

The complaint can be filed by a consumer or an organisation being a society registered under the Societies Registration Act, or a company registered under the Companies Act, representing consumers or by the Central or State Government.

5. Check on Unfair Trade Practices

The complaint can be filed on account of any unfair trade practices resulting in loss or damage, defect in the goods, deficiency in the services, prices charged in excess of the prices fixed by or under any law or displayed on the goods/packets.

6. Inexpensive Redressal Machinery

This Act redresses in a simple, cheap, and dynamic manner the grievance of the consumer in limited time.

7. Social Welfare Legislation

It is highly progressive piece of social welfare legislation. The Act has made consumer movement really powerful, broad-based and people-oriented.

5.1.3 Objectives of Consumer Protection

Objectives of consumer protection are as follows:

1. Better Protection of Interests of Consumers

The Act seeks to provide for better protection of the interests of consumers and for that purpose, makes provision for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes and for matters, connected therewith (Preamble to the Act).

2. Protection of Rights of Consumers

The Act is intended to protect following rights of the consumers [under Section 6]:

i) The right to be protected against marketing of goods, which are hazardous to life and property.

ii) The right to be informed about the quality, quantity, potency, purity, standard, and price of goods to protect against unfair trade practices.

iii) The right to be assured, and wherever possible, access to a variety of goods at competitive prices.

iv) The right to be heard and to be assured that consumers' interests will receive due consideration at appropriate forums.

v) The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers.

vi) The right to consumer education.

3. Consumer Protection Councils

The above objects are sought to be promoted and protected by the Consumer Protection Councils established at the Central and State levels.

4. Quasi-Judicial Machinery for Speedy Redressal of Consumer Disputes

The Act seeks to provide speedy and simple redressal to consumer disputes. For this purpose, there has been set-up the quasi-judicial machinery at the District, State and Central levels. These quasi-judicial bodies are supposed to observe the principles of natural justice and are empowered:

(i) To give relief of a specific nature, and

(ii) To award, wherever appropriate, compensation to consumer. Non-compliance of the orders given by these bodies is subjected to penalties.

5.1.4 Need for Consumer Protection Act

In order to maximise profits, many businessmen exploit consumers by supplying poor quality goods at higher prices. They adopt unfair trade practices such as adulteration, boarding, black-marketing, etc.

As a result consumers do not get value for their money. Big business houses use their power for private gain and to the detriment of consumers. Consumers are exposed to physical, environmental and other hazards.

They need to be protected from spurious, duplicate and adulterated products, pollution of air, water and noise, and misleading advertising.

Consumers need protection due to the following reasons

1. Illiteracy and ignorance

Consumers in India are mostly illiterate and ignorant. They do not understand their rights. A system is required to protect them from unscrupulous businessmen.

2. Unorganised consumers

In India consumers are widely dispersed and are not united. They are at the mercy of businessmen. On the other hand, producers and traders are organised and powerful.

3. Spurious goods

There is increasing supply of duplicate products. It is very difficult for an ordinary consumer to distinguish between a genuine product and its imitation. He pays the price for the original but gets a substandard product. It is necessary to protect consumers from such exploitation.

4. Deceptive advertising

Some businessmen give misleading information about quality, safety and utility of products. Consumers are misled by false advertisement and do not know the real quality of advertised goods. A mechanism is needed to prevent misleading advertisements.

5. Malpractices of businessmen

Fraudulent, unethical and monopolistic trade practices on the part of businessmen lead to exploitation of consumers. Consumers often get defective, inferior and substandard goods and poor service.

Certain measures are required to protect the consumers against such malpractices. Greedy businessmen indulge in adulteration, boarding, black-marketing and other illegal practices.

6. Freedom of enterprise

Businessmen must ensure satisfaction of consumers. In the long run survival and growth of business is not possible without the support and goodwill of consumers. If business does not protect consumer's interests. Government intervention and regulatory measures will grow to curb unfair trade practices.

Thus, consumers need protection against the following:

(a) Unsafe and harmful products,

(b) Unfair trade practices,

(c) False advertising,

(d) Abuse of monopoly power,

(e) Environmental pollution.

5.1.5 Methods of Consumer Protection

There are four main methods of protecting the interests of consumers.

1. Business Self-Regulation

Consumer protection can be attained with the help of the business community itself through self discipline. Higher ethical standards need to be adopted by the businessman and unfair trade practice used by some businessman needs to be scrutinized by trade associations and consumer associations.

2. Consumer Self-Help

Consumer should have knowledge of his rights and shouldn't allow unscrupulous traders to deceive him

3. Consumers' Associations

Voluntary associations should be formed by the consumers. Education of the rights and stopping unfair trade practice by the businessman should be the main motive of the voluntary organization.

Government Regulations

Consumer protection can be provided by the state government through legislative, judicial and executive actions. Strict enforcement of the law by the executives would create a sense of fear amongst businessman vulnerable to unfair trade practice.

5.1.6 Scope of Consumer Protection

- Applies to whole of the state Except the state of Jammu and Kashmir
- Applies to all type of goods and services, public utilities & public sector undertakings
- All types of complaints relating to goods, unfair trade practice.
- Remedies under this act is same as those in other laws.
- A suit pending in civil court cannot be heard in consumer court
- Consumer forums have the power to adjudicate disputes, but they do not have trappings of a court
- The consumer court powers are limited

5.2 Consumer Disputes and Complaints

5.2.1 Unfair Trade Practices

Section 2(1](Y) of the Consumer Protection Act, 1986 defines unfair trade practice as a means of trade practice for the purpose of promoting sale, use or supply of any goods, provision of service, adopts any unfair method or deceptive practice. Unfair trade practices include the following practices:

1. Misleading Advertisement and False Representation

This means practice of making any statement, whether orally or in writing or by visible representation, which includes:

(a) Falsely representing that goods or services are of a particular standard, quality, quantity, grade, composition, style or model.

(b) Falsely representing any second hand, rebuild, renovated or reconditioned old goods as new goods.

(c) False representation on part of seller about sponsorship, performance, characteristics etc of the goods or services.

(d) False or misleading representation concerning the need for or the usefulness of any goods or services.

(e) Making to the public any representation that purports to be a warranty or a guarantee, a promise to replace, maintain or repair which is either misleading or no reasonable prospect of carrying it out.

(f) Materially misleading the public about the price at which products, goods services are being sold.

A leading case related with misleading advertisement is DG (I&R) New Delhi vs. President, Katihar Medical College, Patna (1989), in which it was alleged that the college had given wrong impression in its publicity material that the college was authorised and equipped to impart medical education leading to MBBS degree. The college in reality was neither recognised by the Medical Council of India nor affiliated to any university. It was held by the commission that it is a case of misleading advertisement amounting to unfair trade practice.

2. Bargain sale

It means publication of advertisement, whether in newspaper or otherwise, for the sale or supply at the bargain price of goods or services that are not intended to be offered for sale or supply at the bargain price. Here, bargain price means a price stated in any advertisement to be a bargain price, by reference to any ordinary price or otherwise or a price that a person who reads, hears or sees the advertisement would reasonably understand to be a bargain price having regard to the price at which the product advertised or like products are ordinarily sold. An illustration for this is a dealer selling spurious/sub-standard suiting, etc. falsely claiming it to be a well-known brand.

3. **Offering gifts, prizes with the intention of not providing and lottery:** The offering of gifts, prizes or other items with the intention of not providing them, or creating an impression that something is being offered free of charge when it is actually covered by the amount charged in the transaction as a whole is considered as an unfair trade. Moreover, the conduct of any contest, lottery, game of chance for the purpose of promoting directly or indirectly, the sale, use or supply of any product, etc. is also considered as an unfair trade practice.

4. **Non-confirming to the prescribed standards:** The sale or supply of any goods which do not comply with the standards prescribed by the competent authority relating to performance, composition, contents, design or packaging is considered as means of an unfair trade practice. An example for this is selling products which do not comply with ISI certification.

5. **Hoarding or destruction of goods:** The hoarding or destruction of goods, or refusal to sell the goods intentionally, so that the cost of those or similar goods rises, will amount to unfair trade practice.

5.2.2 Restrictive Trade Practices

Definition of Restrictive Trade Practice (RTP) was introduced in the Act via Amendment Act, 1993. It has now been amended by the Amendment Act 2002.

It provides that a "restrictive trade practice" means a trade practice which tends to bring about manipulation of price or its conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include:

1. Delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price.
2. Any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services.

5.2.3 Procedure for Complaints under this Act

Procedures to be followed for filing a complaint under Consumer Protection Act, 1986 are provided in Section 12 of the Act.

A) Procedure for Filing Complaints before a District Forum

Procedure for filing complaints before a district forum is as follows:

1. By Whom

A complaint can be filed in a District Forum or as per pecuniary jurisdiction in another forum within local limits of whose jurisdiction the opposite party or any of the opposite parties resides or carries on business, or has a branch office or personally works for gain. A complaint can be filed by a complainant on a plain paper in relation to any goods sold or delivered, or agreed to be sold or delivered, or any services provided or agreed to be provided by:

(i) The consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided.

(ii) Any voluntary consumer association registered under the Companies Act 1956, or under any other law for the time being in force.

(iii) One or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of all, consumers so interested.

(iv) The Central or the State Government.

2. Supporting Documents

Along with the complaint, the complainant is required to file copies of supporting documents, i.e., cash memo, receipts, agreements, etc. The complainant is required to file 4 copies of the complaint, together with enclosures, for official purpose plus the number of opposite parties, i.e., in case the number of opposite parties is two, in that event the complainant is required to file 6 copies of the complaint, together with annexures, in the District Forum.

3. Where to File

The complaint, in the manner stated above, can be filed in the office of the District Forum, having territorial and pecuniary jurisdiction to entertain the same, during office hours. Necessary instructions have been issued to all the District Forums to issue an official receipt, showing the date of filing the complaint by the complainant. This is absolutely essential because in terms of Section 24A of the Consumer Protection Act, 1986, limitation for filing complaint has been prescribed.

4. Procedure

Procedure for filing complaint before concerned District Consumer Disputes Redressal Forum under Section 12 of the Consumer Protection Act, 1986 and the rules made thereunder together with the fee prescribed in this behalf, in brief is as under:

(i) The complaint should be in quadruplicate along with relevant documents.

(ii) The complaint should be filed along with fee in the form of demand draft according to the amount of compensation claimed in favour of President District Consumer Forum.

5. Fees Prescribed

i) Upto ` 1,00,000 Postal Order No. or Demand Draft for ?100.

ii) Above ` 1,00,000 to ` 5,00,000 – ` 200.

iii) Above ` 5,00,000 to ` 10,00,000 – ` 400.

iv) Above ` 10,00,000 to ` 20,00,000 – ` 500.

v) Above ` 20,00,000 to ` 50,00,000 – ` 2,000.

vi) Above ` 50,00,000 to crore – ` 4,000.

B) Procedure for Filing Complaints and Appeals before the State Commission

Procedure for filing complaints and appeals before the state commission is as follows:

1. Filing Complaints

In terms of the provisions contained in the Consumer Protection Act, 1986, complaints where the value of goods or services and compensation, if any, claimed exceeds `20 lac but does not exceed crore, can be filed straightaway in the State Commission.

2. Appeal

In terms of the provisions contained in Section 15 of the Consumer Protection Act, 1986, it has been provided that any person aggrieved by an order passed by the District Forum may prefer an appeal against such order to the State Commission within 30 days from the date of the order.

3. Procedure for Filing Complaints

Same as in the case of District Forum, excepting that the complaints can be filed at the Filing Counter of the State Commission on every working day from 10.30 a.m. to 1.30 p.m.

4. Procedure for Filing Appeals

Rule 8, sub-rule (1) to sub-rule (5) of the Delhi Consumer Protection Rules, 1987 deal with the procedure of filing appeals, and the same is reproduced below for the benefit of the general public:

(i) Memorandum shall be presented by the appellant or his authorised agent to the State Commission in person or sent by registered post addressed to the Commission.

(ii) Every memorandum filed under sub-rule (1) shall be in legible handwriting preferably typed and shall set forth concisely under district heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

(iii) Each memorandum shall be accompanied by the certified copy of the order of the District Forum appealed against and such of the documents, as many as required to support grounds mentioned in the memorandum.

(iv) When the appeal is presented after the expiry of period of limitation as specified in the Act, memorandum shall be accompanied by an application supported by an affidavit setting forth the act on which appellant relies to satisfy the Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(v) The appellant shall submit four copies of the memorandum to the State Commission for official purposes.

5. Timing for Filing Appeals

As in the case of complaints, any person desirous of filing an appeal can file such appeal at the Filing Counter in the Registry of the State Commission on all the working days from 10.30 a.m. to 1.30 p.m.

6. Deposits for Filing Appeals

In the case of appeals also, it is necessary for the person filing the appeal to have an acknowledgment indicating the date of filing the appeal, because in terms of the provisions contained in the Act, the period of limitation has been prescribed for filing an appeal also. In the case of appeals, the statutory deposit, i.e., fifty per cent of the awarded amount or `25,000, whichever is less, should be deposited in the shape of fixed deposit receipt, from any nationalised bank for the period of one year or as the case may be, in favour of "Registrar, State Commission, Delhi".

7. Period of Limitation

A complaint is only admitted by any of the competent forums under Consumer Protection Act if it is filed within two years from the date on which the cause of action has arisen but it may be entertained after the said period after recording its reasons for condoning such delay, if the complainant satisfies that he had a sufficient cause for not filing the complaint within period of two years.

8. Penalty

According to Consumer Protection Act, where a trader or the complainant fails to comply with an order made by the relevant consumer forum, such person is liable to a punishment with imprisonment for a term which is not less than one month but which may extend to three years or with fine of not less than two thousand rupees but which may extend to ten thousand rupees or with both.

5.3 Consumer Protection Councils

The interests of consumers are sought to be promoted and protected under the Act by establishment of Consumer Protection Councils at the central, state and district levels. These Councils are advisory bodies. Chapter II of the Consumer Protection Act, 1986 comprising of sections 4 to 8B deals with Consumer Protection Councils.

The Consumer Protection Act postulates establishment of Consumer Protection Councils at the Central and State levels for the purpose of spreading consumer awareness. The objects of the Councils, as per the Act, shall be to promote and protect the rights of the consumers.

1. Central Consumer Protection Council [Section 4]

Establishment

Section 4 empowers the Central Government to establish, by notification, a Council to be known as the Central Consumer Protection Council (referred to as the Central Council).

Membership

The Central Council shall consist of the following members, namely:

1. The Minister-in-Charge of consumer affairs in the Central Government, who shall be its Chairman; and
2. Such number of other official or non-official members representing such interest as may be prescribed.

According to Rule 3 of the Consumer Protection Rules, 1987, the Central Council shall consist of the following 150 members, namely:

1. The Minister-in-Charge of consumer affairs in the Central Government, who shall be the Chairman of the Central Council.
2. The Minister of State (where he is not holding independent charge) or Deputy Minister in the Department of Civil Supplies who shall be the Vice-Chairman of the Central Council.
3. The Ministers of Food and Civil Supplies or Minister-in-Charge of consumer affairs in States.
4. 8 Members of Parliament, 5 from the Lok Sabha, and 3 from the Rajya Sabha.

5. The Commissioner for Scheduled Castes and Scheduled Tribes.
6. Representatives of the Central Government Departments, autonomous organisations concerned with consumer interests, not exceeding 20.
7. Representatives of the Consumer Organisations or consumers - not less than 35.
8. Representatives of women - not less than 10.
9. Representatives of farmers, trade and industries - not exceeding 20.
10. Persons capable of representing consumer interests - not exceeding 15.
11. The Secretary in the Department of Civil Supplies shall be the Member Secretary of the Central Council.

Term of Office

The term of the Council shall be 3 years.

Filling of Vacancy

Any member may, by writing under his hand to the Chairman of the Central Council, resign from the Council. The vacancies so caused or otherwise, shall be filled from the same category by the Central Government. The person shall hold office so long as the member whose place he fills would have been entitled to hold office, if the vacancy had not occurred.

Procedure for Meetings of the Central Council [Section 5]

1. The Central Council shall meet as and when necessary and atleast one meeting of the Council shall be held every year.
2. It shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

2. State Consumer Protection Councils

Establishment [Section 7]

The State Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Consumer Protection Council referred to as the State Council.

Membership

The State Council shall consist of the following members, namely:

1. The Minister-in-Charge of consumers affairs in the State Government who shall be its Chairman; and
2. Such number of other official or non-official members representing such interest as may be prescribed by the State Government.
3. Such number of other officials or non-official members, not exceeding ten, as may be nominated by the central government.

Meetings

The State Council shall meet as and when necessary but not less than 2 meetings shall be held every year.

Time and Place of Meetings and Procedure

The State Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

Objects of the State Council [Section 8]

The objects of every State Council shall be to promote and protect within the State. The rights of the consumers laid down in Section 6.

3. District Consumer Protection Council

Establishment [Section 8-A]

The State Government shall establish for every district, by notification, a council to be known as the District Consumer Protection Council with effect from such date as it may specify in such notification.

Membership

The District Consumer Protection Council (or the District Council) shall consist of the following members, namely:

1. The Collector of the District (by whatever name called), who shall be its Chairman; and
2. Such number of other official and non-official members representing such interests as may be prescribed by the State Government.

Meetings

The District Council shall meet as and when necessary but not less than two meetings shall be held every year.

Time and Place of Meetings and Procedure

The District Council shall meet at such time and place within the District as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

Objects of the District Council

The objects of every District Council shall be to promote and protect within the District the rights of the consumer laid down in Section 6 (a) to (f).

5.4 Consumer Redressal Agencies/Forums

The consumer Protection Act 1986, recommends for the appointment of independent Agencies for the settlement of disputes between consumers and traders. These agencies are appointed by the Central and State Governments. The Judgements given by these agencies will be final. They cannot be questioned in any general Court of Law.

Consumer Redressal Forums

In order to carry out purposes and objects of the Act, the following agencies are established as Consumer Disputes Redressal Agencies :

1. District Forum

A Consumer Disputes Redressal Forum known as the 'District Forum' is established by the State Government in each District of the State [Sec. 2(h) & Sec. 9 (a)]. The State Government may, if it deems fit establish more than one District Forum in a district.

The District forum receives complaints against those traders who reside within the district limits or carry on business within the boundaries of the district. They accept components upto the value of Rs. 20 lakhs. The forum consists of one President and two members. The president- should be a person qualified to be appointed as the district judge.

The two members including one woman member should be the persons of ability, integrity, understanding and having knowledge of subjects like economics, commerce, accountancy, business law and administration. They are appointed by the State Government with the recommendations of a selection committee. Their office period is 5 years or the age of 65 years which ever is earlier. Their salary or honorarium is fixed and paid by the State Government.

Procedure for redressal : The District Forums receive complaints from the consumers and issue notices to the traders. They are requested to reply within a period of 30 days either in person or through their advocate. The time may be extended for a further period of 15 days. The Forum gives an opportunity to the traders for explaining the reasons for the defect in goods or services.

The sample of the goods are sent for laboratory tests in case of need, provided the consumer deposits testing charges. If the traders fails to give reply or appear before the Forum in time, it can take a decision ex-parte. The Forum enjoys the powers of a Civil Court. It can give judgements in the following manner.

(a) Ordering the trader to remove the defects pointed out by the laboratory test, or

(b) To replace the goods with new ones if the defect cannot be removed, or

(c) To return the price of the goods to the consumer together with legal charges if the replacement is not possible, and

(d) To pay compensation to the consumer if any loss or injury is suffered by him, and

(e) To instruct the trader not to repeat the unfair trade practice and sale of hazardous goods in the future

(f) To withdraw the" defective goods from the market which are supplied to other traders but not yet sold to the consumers.

2. State Commission

A Consumer Disputes Redressal Commission known as the 'State Commission' is established by the State Government in the State [Sec. 2 (p) & Sec. 9 (b)].

The State Commission is empowered to accept appeals over the value of Rs. 20 lakhs but not exceeding one crore rupees against the traders having place of business in the state. It can also accept complaints against the judgements given

by various district forums within the boundaries of the state. The State Forum will also have one president and two members. The president should be a person who is qualified to be or had been a judge in the High Court of the state.

Other two members including a woman member should be nominated by the State Government as per the recommendations of the selection committee of the state. They should be of persons of ability, integrity, understanding and having adequate knowledge and experience in the problems relating to consumers' affairs and practical knowledge in subjects like economics, commerce, accountancy, business law and administration etc. They can hold office for a period of 5 years subject to a maximum age of 67 years. Their salary or honorarium is fixed and paid by the State Government.

The procedure for receiving complaints, issuing notices to the traders, giving judgements, etc. Will be the same as the District forum. However, it enjoys the powers of a High Court of the state.

3. National Commission

A National Consumer Disputes Redressal Commission known as 'National Commission' is established by the Central Government [Sec.2 (k) & Sec. 9 (c)].

The National Forum is empowered to accept appeals against traders for sale of goods and services valued above one Crore rupees. It can also accept complaints against any state forum in the country. The judgements given by consumer redressal agencies cannot be questioned in any civil court.

The National Forum enjoys the powers of the Supreme court regarding consumers' matters. It will have one president and four members including one woman member. The president should be qualified to be appointed as a judge of the Supreme Court of India or had been a Judge of the Apex Court. The members of the forum should be persons having ability, integrity and understanding. They should also have knowledge and experience in the matters relating to consumer affairs and subjects like economics, commerce, business law, administration, etc.

They can hold office for a period of 5 years or upto 70 years of age which ever is earlier. Their salary or honorarium is fixed and paid by the Central Government. As far as the procedures for receiving and disposing of the complaints and powers are concerned, they are same as in the case of district forum and state commission.

Penalties for Offences : A trader against whom a complaint is filed in any of the Consumer Redressal Agencies may be imposed with a punishment in the form of imprisonment for not less than one month upto 3 years or a fine not less than Rs. 2,000 upto Rs. 10,000 or with both. These penalties are over and above the compensation payable to the consumer and repairing or replacement of the goods. However, the presidents of the agencies are empowered to reduce the penalties if they really feel that the trader was innocent and he did not have any intention to deceive the consumer.

Important Case Examples

i) **Issac Mathew Vs. Maruthi Udyog Ltd.,** : In this case, a damaged Maruthi Car was repaired, renovated and sold as a new one. The District forum declared it as an unfair trade practice and ordered to be replaced.

ii) **Kailash Kumari Vs. Narendra Electronics** : In this case, a defective Television set was ordered to be replaced and compensation paid.

iii) **Vinod Seth Vs. Ratan Road Lines:** In this case, a transport company was held liable for the loss of goods and mental agony of the customer.

A three tier system of Consumer Disputes Redressal Agencies in the Districts, States and the Centre is envisaged by Section 9 of the Act. The District Forum is at the base level. Next in hierarchy is State Commission. Both District Forums and State Commission are constituted in each State.

At National or Central level and at the top of hierarchy is National Commission. The object of setting up these Forums is to provide inexpensive litigation without much of legal technicalities and formalities.

The functions of the Commissions are quasi judicial in nature. Though it has powers of a Civil Court, strictly speaking it is not a Civil Court. Final appeal from orders of National Commission lies to Supreme Court.

5.5 Rights of Consumers

Introduction

Consumers play a vital role in the economic system of a nation because in the absence of effective demand that emanates from them, the economy virtually collapses. Mahatma Gandhi said, "A consumer is the most important visitor on our premises. He is not dependent on us, we are on him. He is not an interruption to our work, he is the purpose of it.

We are not doing a favour to a consumer by giving him an opportunity. He is doing us a favour by giving us opportunity to serve him. But, of late, unfortunately cheating by way of overcharging, black marketing, misleading advertisements, etc. has become the common practice of greedy sellers and manufacturers to make unreasonable profits.

In this context, it is the duty of the government to confer some rights on consumers to safeguard their interests.

A) Consumer Rights

1. **Right to Safety** : The right to be protected against goods which are hazardous to life and property.
2. **Right to Information** : The right to be informed about the quality, quantity, purity, price and standards of goods.
3. **Right to Choose** : The right to be assured access to a variety of products at competitive prices, without any pressure to impose a sale, i.e., freedom of choice.
4. **Right to be Heard** : The right to be heard and assured that consumer interests will receive due consideration at appropriate forums.
5. **Right to Seek Redressal :** The right to get relief against unfair trade practice or exploitation.
6. **Right to Education** : The right to be educated about rights of a consumer.

B) Protection of Consumer Rights

Consumer protection means safeguarding the rights and interests of consumers. It includes all the measures aimed at protecting the rights and interests of consumers.

Consumers need protection due to the following reasons :

1. **Illiteracy and Ignorance** : Consumers in India are mostly illiterate and ignorant. They do not understand their rights. A system is required to protect them from unscrupulous businessmen.
2. **Unorganised Consumers** : In India consumers are widely dispersed and are not united. They are at the mercy of businessmen. On the other hand, producers and traders are organized and powerful.

3. **Spurious Goods** : There is increasing supply of duplicate products. It is very difficult for an ordinary consumer to distinguish between a genuine product and its imitation. It is necessary to protect consumers from such exploitation by ensuring compliance with prescribed norms of quality and safety.
4. **Deceptive Advertising** : Some businessmen give misleading information about quality, safety and utility of products. Consumers are misled by false advertisement and do not know the real quality of advertised goods. A mechanism is needed to prevent misleading advertisements.
5. **Malpractices of Businessmen** : Fraudulent, unethical and monopolistic trade practices on the part of businessmen lead to exploitation of consumers. Consumers often get defective, inferior and substandard goods and poor service. Certain measures are required to protect the consumers against such malpractices.
6. **Freedom of Enterprise** : Businessmen must ensure satisfaction of consumers. In the long run, survival and growth of business is not possible without the support and goodwill of consumers. If business does not protect consumers' interests, Government intervention and regulatory measures will grow to curb unfair trade practices.
7. **Legitimacy for Existence** : Business exists to satisfy the needs and desires of consumers. Goods are produced with the purpose of selling them. Goods will, in the long run, sell only when they meet the needs of consumers.
8. **Trusteeship** : Businessmen are trustees of the society's wealth. Therefore, they should use this wealth for the benefit of people.

5.6 CONSUMER AWARENESS

In a world of information asymmetry the government has the responsibility to redress this imbalance. In Government of India, the Department of Consumer Affairs is the focal point for different Departments and organizations to make the consumers aware of market realities as well as the rights of the consumers and the manner in which they can educate themselves and also enforce their rights. Accordingly, the "Jago Grahak Jago" campaign has become immensely popular and is now being used by several Departments to communicate with consumers.

Increase in consumer awareness has propelled manufacturers and traders to ensure quality service to consumers. Resultant to that number of cases filed in National and State Commission have come down from total of 40,391 in the year 2007 to 22,101 in the year 2011. Similarly, number of cases filed in District Consumer Forums have also come down from 1,53,738 to 78,440 during the same period.

5.7 Intellectual Property Rights

'Property' means any object over which a person is having ownership rights. There can be no property without ownership rights. The properties can be legally classified into two main categories namely Corporeal Properties and Incorporeal Properties. Corporeal properties means tangible properties which can be touched and seen such as Land, Buildings, Furniture, Goods etc. These properties include immovable properties and movable properties. The immovable properties can also be known as real properties and their owners are Realtors. Movable properties can be known as personal properties and their owners as Proprietors.

Incorporeal properties, on the other hand means intangible properties which can not be seen or touched such as Goodwill, Investments, Leases, patent rights, Copy rights, Trade marks etc. Out of these incorporeal Properties the rights concerning intellectuality of human beings such as copy rights, patent rights, trade marks etc. are known as **"Intellectual Property Rights".**

Therefore, intellectual Property Rights means all rights resulting from intellectual activities of human beings in the fields of Literature, arts, science and industrial activities. The author, investor, scientist, maker, designer of such activities will become owner of the intellectual property. Legal rights are created by the Laws of land in such properties in favour of their owners. Such property rights can be registered with the Legal Authorities and shown as intangible assets in the books of accounts as well as Balance sheets of the owners as well as buyers of such rights because these intangible rights can be sold and transferred. In fringement of such intellectual property rights without the consent of their owners lead to prosecution and punishments besides granting of compensation and damages for the loss caused.

Recognised Intellectual Properties

The following are some important Intellectual Property rights recognised by the legislation :

a) **Copy rights** of artists, painters, musicians, sculptors, photographers, authors, computer programmers, performers, producers of phonogrammes, broad costing organizations etc.

b) **Trade marks** of traders, manufacturers, producers, dealers of various types of goods offered for sale.

c) **Patent rights** of inventors, discoverers, scientists to make, sell or use of inventions.

d) **Industrial designs,** of designers, plant engineers, creators of integrated circuits.

Need for the Protection of Intellectual Property Rights

The rapid development of communication and transportation fields resulted in the globalization of trade and commerce. The intellectual property rights were found to be copied with the help of tape recorders, video, photocopying, scanning machines etc. From one country to another easily. Hence, international legal protection of these rights was felt and recognized under various international conventions like The Berne convention 1886, (Switzerland), Paris convention 1883, Universal Copy Right convention 1952 (UNESCO) etc. India also became a member of the international conventions for the protection of Intellectual Properties to control piracy and infringement. The WIPO - The World Intellectual Property Rights organization was established in 1874 to ensure universal protection of intellectual Properties.

Intellectual Property Rights Protection Legislation

In view of the international awareness and formation of universal unions of member countries, the law relating to Intellectual Property Rights started growing fastly. Many laws were passed by the British Government in India before Independence and the Government of India also has enacted a few laws, some of which have came into force and some are pending in the Parliament.

The laws already in force are as under

(a) The Copy Right Act 1957 (came into force in January 1958)

(b) The Trade and Merchandise marks Act. 1958.(came into force in 1958)

(c) The Patents Act 1970 (came into force in 1972)

(d) The Information Technology Act 2000. (came into force in October 2000)

The pending Laws relating to the subject are as under

(a) The Trade marks Act 1999 (To replace the 1958 Act)

(b) The Patent (Second Amendment) Act 1999.

(c) The Protection of Plant varieties and formers' Rights Act 1999.

(d) The Design Act 2000.(Passed by Parliment but not yet brought into force)

5.7.1 Copyright as an Intellectual Property

According to the Oxford English Dictionary, "Copy right is an exclusive right given by law for a certain term to an author, composer to print, publish and sell copies of his original work.

According to section 14 of the Copy Rights Act 1957, "Copy right means the exclusive right to do or authorize others to do certain acts in relation to -

(a) Literary, dramatic or musical works

(b) Computer programme

(c) Artistic work

(d) Cinematograph film and

(e) Sound recording.

It includes authorizing to reproducing, issue copies, perform the work in public, communicate to public, make a film, sound recording, translating, or adaptation of a literary, domestic or musical work or an artistic work. It also includes selling, hiring a computer programme or a cinematograph film or sound recording.

I) Registration of Copy Rights

The provisions relating to copyright registration are as follows :

1. Register of Copyrights

There shall be kept at the Copyright Office a register in the prescribed form to be called the Register of Copyright in which entered the names or titles or works and the names and addresses of authors, publishers and owners of copyright and such other particulars as may be prescribed. [Section 44]

Registration of Copyright [Sec. 44]

Registration of Copyright is optional. The Act does not deprive an author of the right conferred by this Act on account of the non-registration. The main benefit of the registration is that it is a prima facie evidence in the favour of person claiming the copyright.

Copyright may be registered with Registrar of Copyright by filling Form No. 4 prescribed for this purpose.

2. Entries in register of Copyrights

(i) The author or publisher of, or the owner of or other person interested in the copyright, in, any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar of Copyrights for entering particulars of the work in the Register of Copyrights.

(ii) On receipt of an application in respect of any work under sub-section (1), the Registrar of Copyrights may, after holding such inquiry as he may deem fit, enter the particulars of the work in the Register of Copyrights. [Section 45]

3. Form and inspection of register

The Register of Copyrights and indexes thereof kept under this Act shall at all reasonable times be open to inspection, and any person shall be entitled to take copies of, or make extracts from, such register or indexes on payment of such fee and subject to such conditions as may be prescribed. [Section 47]

4. Register of Copyrights

The Register of Copyrights shall be prima facie evidence of the particulars entered therein and documents purporting to be copies of any entries therein. [Section 48]

5. Correction of entries in the Register of Copyrights

The Registrar of Copyrights may, in the prescribed cases and subject to the prescribed conditions, amend or alter the Register of Copyrights by-

(a) Correcting any error in any name, address or particulars ; or

(b) Correcting any other error which may have arisen therein by accidental slip or omission. [Section 49]

6. Rectification of Register by Copyright Board

The Copyright Board, on application of the Registrar of 'Copyright or of any person aggrieved, shall order the rectification of the Register of Copyrights by-

(a) the making of any entry wrongly omitted to the register, or

(b) the expunging of any entry wrognly made in, or remaining on, the register, or

(c) the correction of any error or defect in the register. [Section 50]

7. Entries in the Register of Copyrights, etc. to be published

Every entry made in the Register of Copyrights or the particulars of any work entered under section 45, the correction of every entry made in such register under section 49, and every rectification ordered under section 50 shall be published by the Registrar of Copyrights in the Official Gazette or in such other manner as he may deem fit. [Section 50A]

Ownership of Copyright [Section 17]

The ownership of copyright belongs to the 'author' of the work concerned. 'Author' has been defined under section 2(d) (See definitions).

However, author shall not be owner in the following cases :

(a) proprietor of newspapers or magazine will be the owner, if the author of literary, dramatic or artistic work is in his employment,

(b) the person engaging a photographer or dramma director or commercial artist for agreed consideration, will be owner of a photograph, painting or portrait,

(c) the employer is owners of the work done by the employee in the course of his employment,

(d) person delivering the speech will be first owner except when he delivers it on behalf of some other persons,

(e) in case of 'government work', government is the first owner,

(f) in case of public undertaking or government company or body corporate, it is the first owner,

(g) According to Section 41, if the Government has notified International Organisations in respect of foreign work, they will be owner of copyright.

II) Assignment and Licencing of Copy Rights

According to sec. 18 of the Copy Right Act 1957, the owner of the copy right in an existing work or the prospective owner of the copy right in a future work may assign the copy right to any person either wholly or partially either generally or subject to limitations and either for the whole term of the copy right or any parts thereof. According to Sec. 19 of the Act, an assignment becomes valid only when it is in writing, the work is identified the, duration and territorial extent stated, the amount of royalty is specified. The assignment becomes invalid if it is not exercised within one year. If the period is not stated in the assignment it is deemed as for five years and if territorial extent is not specified it is presumed to extend within India only. A permission granted by the owner to another subject to any conditions without enjoying ownership rights is known as Licensing of the right.

The owner of an existing copy right or a prospective owner of a future work may grant a licence to use the copyright for a limited period, in a prescribed territory on paying a prescribed royalty. The Copy Right Board can also grant compulsory licence to any claimant for using or publishing an intellectual work which is not published by its owner after giving reasonable notice to the owners. In case of a work whose owner has died or not traceable or unknown or not found but the work is useful to the public any person interested to publish such work can apply to the Copy Right Board for a licence and obtain the same after paying royalty to the Legal representatives of the owner as per their claim.

III) Infringement of Copy Rights

The owner of a copy right will have the exclusive right of assigning, licensing and selling the copy right owned by him in any work. If any other person does any of these acts without the authority or permission of the owner, it amounts to infringement. Thus the owner gets entitled to civil and criminal action against the wrong doer.

According to Sec.51 of the Copy Rights Act 1957, a copy right is deemed to be infringed.

(a) when any person does any thing (assignment, licensing, sale) of copy right without a licence from the owner or Register of Copy rights,

(b) when any person sells, hires any work by way of trade display.

(c) when any person distributes any infringing copies of the works to the prejudice of the owner of the copy right or

(d) when any person imports into India any infringing copy of a foreign work. (books, literatures etc).

Case Examples

(a) Penguin Books Ltd., England Vs India Books Distributors

In this case certain books of British publication were imported to India from America without license from its copy right owner. So Delhi High Court held it is an infringement of copy right.

(b) EM foster Vs Parsuram ***

In this case Mr. Parsuram Published a guide to a novel written by an English Novelist as it was Prescribed by Madras University for B.A. students. The Madras High Court, held that writing a guide or commentary cannot be considered as infringement of the original work. The guide was an independent creation and a original work in the eyes of Law.

(c) Vicco Laboratories Vs Art Commercial Advt. Rt Ltd. ***

In this case the sponsors of a TV serial "Yeh Jo hai Zindagi" claimed that he was the owner of the copy right of the serial where as the producer claimed that he was the owner. The Court of law held that the producer becomes owner but not the sponsoror.

IV) Remedies Against Infringement of Copy Rights

The copyright Act 1957, protects the owners of copy rights and provides three type of remedies against the wrong - doers namely (a) Civil remedies (b) Criminal remedies and (c)Administrative remedies. Civil remedy provides monetary compensation or damages to the owner from the infringer of the copy right. Criminal remedy prosecutes and punishes the wrong doer for the infringement Administrative remedy gives protection to the owner against the infringement. Criminal remedies can be claimed by the owner of the copy right only but civil remedies can be claimed by the owner, publisher, assignee or licensee.

V) Terms of Copyrights

Section 22 to 29 contain provisions regarding terms of copyrights as follows:

1. **In the case of a literary, dramatic, musical or artistic work (other than a photograph) published within the life time of the author:** The term of copyright is universally accepted as the life time of the author plus 60 years after his death. In case of joint authorship, the term of copyright shall be construed from the date, the author who dies last. In case of collective work like dictionaries, year books etc., life term of editor will be considered.
2. **In case of work which in published anonymously or pseudonymously :** Copyright shall submit untill 60 years from the beginning of the calender year next following the year in which the work is first published but if the name is disclosed later on, it will be 60 years from the year following the year in which the author dies. In all other cases, copyright shall subsist 60 years from beginning of the calende year next to the year in which the work is first published.
3. **In case of posthumous work, which or any adaptation of which has not been published before the date of death of its author:** Copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published or, where an adapation of the work is published in any earlier year, from the beginning of the calendar year next following that year.
4. **In photographs :** In the case of a photograph, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the photograph is published.
5. **In cinematograph films :** In the case of a cinematograph film, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the film is published.
6. **In sound recording :** In the case of a sound recording copyright shall subsist until sixty year from the beginning of the calendar year next following the year in which the sound recording is published.
7. **In Government work :** In the case of Government work, where Government is the first owner of the copyright therein, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the record is first published.

8. **In works of public undertakings :** In the case of a work, where a public undertaking is the first owner of the copyright therein, copyrights shall subsist until sixty years from the beginning of the calendar years next following the year in which the work is first published.

9. **In works of international organisations :** In the case of a work of any international organisation to which the provisions of section 41 apply, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published.

5.7.2 Trademarks as Intellectual Property

According to Sec.2(1) (zb) of the Trade marks Act 1999, "Trade mark' means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours and

i) In relation to a registered trademark or a mark used in relation to goods or services for the purpose of indicting or so as to indicate a connection in the course of trade between the goods or services as the case may be and some person having the eight as proprietor to use the trade mark.

ii) In relation to other provisions of the Act, a mark used or proposed to be used in relation to goods or services for the purpose of indicating or so as to indicate a connection in the course of trade between the goods or services, as the case may be and some person having the right as proprietor or by way of permitted user to use the mark whether of that person and includes a certification trade mark".

As per the above legal definition, the following features canbe inferred-

a) It must be capable of represented graphically,

b) It must be capable of distinguishing the goods or services of one person from those of others,

c) It may include shape of goods, packaging of goods or combination of colours.

d) A registered trade mark should be capable indicating the connection in the course of trade, the right of a proprietor.

e) A certification trade mark should be capable of indicating the connection in the course of trade the right of a proprietor or a permitted user.

The Procedure of Registration of Trade Marks

A trade mark can be registered with the Registrar of Trade marks appointed under the Act. A person who is either using a Trade mark or who is proposing to use a trade mark can apply for registration at the office of the Trade marks Registry within the territorial limits of the principal business of the applicant which is mentioned in the application.

The Registrar of Trade marks is entitled to either accept the application or refuse it or accept it subject to certain modifications, amendments, conditions or limitations by recording the grounds for such acceptance or refusal in writing. After accepting the application either absolutely or conditionally, the Registrar should direct the applicant to advertise the same in a prescribed manner so as to inform the general public and invite any objections against the registration of the Trade mark.

If the application is not opposed or the objections are ruled out by the Registrar in favour of the applicant, the Trade mark shall be registered for a period of ten years which is renewable from time to time.

Case Example

Kirloskar diesel Recon (Pvt.) Ltd. Vs Kirloskar Proprietary Ltd.

The trade mark **'Kirloskar'** earned goodwill for the defendants for a long time. Therefore when the plaintiffs started using the same name a part of their corporate name, the Bombay High Court granted injunction preventing from infringement.

Infringement of a Trademark and Consequences

Infringement of a Trade mark means and includes use of the registered Trade mark of a proprietor by a person or firm or company other than its registered proprietor. Following are the essential elements of infringement of a trade mark.

(a) Copying of any essential features or whole of the trade mark and making a few additions and alternations.

(b) The copied trade mark must be used in course of trade similar to the business of the proprietor of the trade mark.

(c) The infringed trade mark must be printed in advertisements, invoices or bills.

However, any oral use of Trade mark is not taken as infringement and not actionable under the law.

Case Examples

(i) Horlicks Ltd. and others vs Kartick Sadhukan : In this case Kartick Confectionery Company stated manufacturing toppers under the trade name of 'Horlicks' which was a registered trade mark of Horlicks Ltd. The court of Law restrained them from infringement of the trade mark.

(ii) Bata India Ltd. Vs Pyarelal and co : In this case the defendants produced foam and marketed the same under the brand name "Bata Foam". So the plaintiff file suit for injunction from infringement of their registered trade mark 'BATA'. The Court of law granted injunction.

(iii) Lakme Ltd. Vs Subhas Trading co : In this case the defendants produced and marketed cosmetics under a trademark "Like-me". Therefore, Lakme Ltd., the owners of registered trade mark. 'Lakme' filed suit for injunction. The court of law granted injunction.

5.7.3 Patent Rights as an Intellectual Property

According to Sec 2 (1) (m) of the Patent Act 1970, "Patent means a patent granted under this Act" it can be understood as a document issued by the government for the protection of patent conferred upon a person invented in relation to an invention made by him. It prevents others from making, using or selling the invention. A patent is generally granted in India for a period of 14 years except for food and drugs from the date of grant. During the period the inventor or owner and his heirs or assignees can sell, assign or grant licence to others to exploit it. After expiry of the period it can be used by any body.

As per Sec.2(1) (j) of the Act **'invention'** means any new and useful (a) art, process, method or manner of manufacture (ii) machine, apparatus or other article iii) substance produced by manufacture and includes any new and useful improvement of any of them and an alleged invention" **The main object** of granting patent is to protect the exclusive rights of the inventor in relation to his invention and to encourage and develop new technology and industry.

Types and Advantages of The Patents

A patent can be classified into two types namely

(a) Product patent and

(b) Process Patent

When a patent is granted in respect of product or article it is called a product patent and if it is granted in relation to a method or process of manufacture it is called a process patent. The following are the advantages of a patent.

(i) the inventor can receive a monetary reward for his invention.

(ii) the patentee can receive royalty from the assignee or licensee.

(iii) it prevents from infringement or copying of the invention.

(iv) it enables the public to get substitute and improved product. V) patented products will be available at reasonable prices.

Procedure for Acquisition of Patent

A person who invents a new product or process by his skill and intelligence can obtain a patent right from the Government authorities by following the undermentioned procedure.

i) Presentation of an application: The true inventor or his assignee or his legal representative of a deceased inventor or his assignee should make an application at the office of the Controller of Patent together with complete specifications like, the title, full description, uses, best method of performing and whether patent is claimed for the product or the process.

ii) Advertisement of the application: After submission of the application to the Controller together with specifications it will be referred to the Examiner to examine whether there is any lawful ground of objection or an application is already patented by any other person for the same patent etc. Thereafter, the application is published in the Official Gazette to inform the pubic about the patent applied for and to invite objections from the public if any.

iii) Hearing of the parties : If any objections are received by the controller on the application, hegivesa notice of opposition to the applicant and gives a chance to file his reply within one month. Later he arranges to hear both the parties and their evidences and takes a final decision,

iv) **Grant of the patent :** After hearing both the parties and examining their evidences, the Controller takes a decision and grants the patent under his seal. Thus the Patents office will enter the (a) name and address of patentee (b) Period of patent (c) assignments and licences if any (d) other matters affecting the validity of the patent in the Register of Patents maintained by the Patents Office.

Infringement of Patent and Remedies Available

'Infringement' means violation of patent right either illegally or unauthorisedly. The patentee of the right can bring an action against the infringer for injunction and damages when the following three points are satisfied namely :

i) the construction of specification and claim has to be compared.

ii) the alleged act should amount to making, using, exercising, selling or distributing the product.

iii) the alleged act should amount to infringement under the law.

The suit can be filed by the patentee, licensee, an assignee or a co-owner of the patent. The suit can be filed either in the District court or High court having jurisdiction to try the suit. The infringement may be in any of the following manners, namely :-

a) Colourable imitation, where the infringer takes all the essential features of the patent and alters one or more un essential features.

b) Immaterial variations, where the infringer makes silent modification in the process or the product.

c) Mechanical changes, where the infringer uses more substitutes for those features so as to get the same results.

d) Essential infringement, where the infringement adopts all the essential features of the patent and indulges in the complete infringement. The patentee can claim any of the following remedies on the infringement of the patent as under :

i) An injunction to restrain the infringer from infringement,

ii) Monetary compensation or damages for the loss suffered,

iii) Repayment of profits made by the infringer,

iv) Costs of filing the suit and

v) An order for destruction of the infringer's goods or products.

5.8 Intellectual Property Protection and Enforcement

Indeed, most people are not even aware that they own intellectual property. They assume only large corporations with profitable names, logos and brands to protect are the only ones who really possess a need to safeguard intangible assets. But basically anything that is written, visually created, and unique to an individual is intellectual property which means that millions of individuals own more than they believe.

According to WIPO (World Intellectual Property Organization), "intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce." Divided into two categories, IP includes industrial property and copyright. And both are equally as valuable since the ramifications of not protecting these assets can be serious.

5.8.1 Importance of Protecting Intellectual Property

To better understand these negative effects, we will discuss six reasons why it is prudent to safeguard intangible assets:

1. Theft

Most obvious is a moral issue. It is just plain wrong to steal something that belongs to someone else but in the real world, people take what is not theirs. And if you have not found a way to at least deter someone from taking your work, you can be assured that it will be copied and used to another's benefit.

2. Loss of Reputation

In situations where you are an expert in a field, when others use your work in fleeting or inappropriate ways, your reputation as an authority is decreased. You are somehow attached to the negative work of the imposter. Additionally, if your property has been used for illegal gain, you might find it difficult to prove that you were not involved. Sadly, many people believe in guilt by association, so what started as a brilliant theory or invention has now turned into something unrespectable.

3. Loss of Income

Allowing others to use your work through complacency, negligence or plain ignorance will directly impact your earnings. If you have invented something that is unique or you have written something in your field of expertise, then someone

else is reaping some or all of the profits. If they can better market your creation, they will undoubtedly become the leading source for the item and ultimately the biggest earner. In addition, your "brand" is being diluted. That is to say that instead of you being the only person to whom the consumer comes, there is at least one other way to get what they want - from someone who has stolen your property.

4. Asset is Devalued

Should you ever wish to sell your intellectual property, it will be worth more if it is unique. But if others have stolen it, the value is quickly debased leaving you trying to defend why it is worth more. Likewise, you may be faced with the unimaginable task of proving that you, and not the thief, rightfully own the content, graphics, lyrics, melody, invention or software.

5. Laws Differ Between Countries

Although international laws exist to prevent trademark and copyright infringements, the reality is prosecution is difficult. Not living in the same country as the offender will make taking someone to court very difficult, and even a good Intellectual Property Lawyer will have a hard time making a good case (more lawyer info on our favorite lawyers info blog). Not only may it be costly, but some countries do not see these issues as criminal behavior. Trying to get a court to take action against a foreigner may be even more difficult. And in the best case scenario, where one wins the case, the offender may not have anything to recompense the victim so basically he/she walks away with impunity. We've spoken to quite a few lawyers in San Diego, and not a single one would even get involved.

6. Prevent Others from Being Ripped Off:

By protecting your intellectual property, you help others to avoid scams and fake products.

5.8.2 Interface between IP and Competition Law

1. Property Rights

Private property rights are the foundation of a market economy. Property owners must be allowed to profit from the creation and use of their property by claiming the rewards flowing from it. In a market system this is accomplished by granting owners the right to exclude others from using their property, and forcing those

wishing to use it to negotiate or bargain in the marketplace for it, thereby rewarding the owner. This creates incentives to invest in developing, and leads to the exchange of, private property, thus contributing to the efficient operation of markets.

2. IP Law

IP has unique characteristics that make it difficult for owners to physically restrict access to it and, therefore, exercise their rights over it. The owner of physical property can protect against its unauthorized use by taking appropriate security measures, such as locking it away, but it is difficult, if not impossible, for the creator of a work of art to prevent his or her property from being copied once it has been shown or distributed. This is exacerbated because IP, while often expensive to develop, is often easy and inexpensive to copy. IP is also typically non-rivalrous that is, two or more people can simultaneously use IP. The fact that a firm is using a novel production process does not prevent another firm from simultaneously using the same process.

3. Competition Law

Since the right to exclude, which is the basis of private property rights, is necessary for efficient, competitive markets, the enforcement of the *Competition Act* rarely interferes with the exercise of this basic right. Enforcement action under the*Competition Act* may be warranted when anti-competitive conduct creates, enhances or maintains market power.

4. Interface

IP and competition laws are both necessary for the efficient operation of the marketplace. IP laws provide property rights comparable to those for other kinds of private property, thereby providing incentives for owners to invest in creating and developing intellectual property and encouraging the efficient use and dissemination of the property within the marketplace. Applying the *Competition Act* to conduct associated with IP may prevent anti-competitive conduct that impedes the efficient production and diffusion of goods and technologies and the creation of new products. The promotion of a competitive marketplace through the application of competition laws is consistent with the objectives underlying IP laws.

5.8.3 Procedure under Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007

On May 8, 2007, the Central Government vide Notification No. 49/2007-Customs (N.T.), prohibited the import of the following goods, subject to conditions and procedures as specified in the Intellectual Property Rights (Imported Goods) Enforcement Rules,2007, namely:

1. Goods having applied thereto a false trade mark as specified in section 102 of the Trade Marks Act, 1999;
2. Goods having applied thereto a false trade description within the meaning of clause (i) of sub-section (1) of section 2 of the Trade Marks Act, 1999;
3. Goods made or produced beyond the limits of India and intended for sale, and having applied thereto a design in which copyright exists under the Designs Act, 2000;
4. The product made or produced beyond the limits of India and intended for sale for which a patent is in force under the Patents Act,1970;
5. The product obtained directly by the process made or produced beyond the limits of India and intended for sale, where patent for such process is in force under the Patents Act 1970;
6. Goods having applied thereto a false Geographical Indication within the meaning of section 38 of Geographical Indications of Goods (Registration and Protection) Act, 1999;
7. Goods which are prohibited to be imported by issuance of an order issued by Registrar of Copyrights under section 53 of the Copyright Act,1957.

The Central Government also notified 'Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007' on the same date. The rules were notified with a view to strengthen the statutory and executive guidelines provided for the protection of intellectual property rights at the borders.

Under the rules, infringing goods are defined as "goods which are made, reproduced, put into circulation or otherwise used in breach of the intellectual property laws in India or outside India and without the consent of the right holder or a person duly authorized to do so by the right holder". The rules define intellectual property law as "the Copyright Act, 1957, the Trade Marks Act, 1999, the Patents Act, 1970, the Designs Act, 2000 or the Geographical Indications of Goods (Registration and Protection) Act, 1999".

Under the rules, an intellectual property right holder may give notice in writing to the Commissioner of Customs or any Customs officer authorized in this behalf by the Commissioner, requesting for suspension of clearance of goods suspected to be infringing intellectual property rights. Such notice shall be given in the format prescribed in the Annexure to the Rules and all the information required in the notice should be furnished within 15 days.

Such notice should be registered or rejected within 30 working days of the date of receipt of the notice or date of expiry of extended 15 days period provided for furnishing information required to be filed with the notice. In case the notice is registered, the minimum validity period shall be one year unless the noticee or right holder requests for a shorter period for customs assistance or action. The grant of registration of the notice is subject to following conditions:

1. Right holder or his authorized representative shall execute a bond with the Commissioner of Customs for such amount with such surety and security as deemed appropriate by the Commissioner, undertaking to protect the importer, consignee and the owner of the goods and the competent authorities against all liabilities and to bear the costs towards destruction, demurrage and detention charges incurred till the time of destruction or disposal, as the case may be;
2. The right holder shall execute an indemnity bond with the Commissioner of Customs indemnifying the Customs authorities against all liabilities and expenses on account of suspension of the release of allegedly infringing goods.

5.9 Carriage of Goods Act

Carriage of goods from one place to another within a country or from one country to another plays an important part in the commercial life of the modem world. The contract of carriage of goods must of necessity form an important constituent of it. Goods may be carried by land, sea or air. The persons who carry goods, whether by land, sea or air, are known as carriers.

The law relating to carriage of goods in India is found in the following Statutes :

1. In case of carriage by land :
   (a) The Carriers Act, 1865.
   (b) The Railways Act, 1989.

2. In case of carriage by sea :
   (a) The (Indian) Bills of Lading Act, 1856.
   (b) The Carriage of Goods by Sea Act, 1925.
   (c) The Merchant Shipping Act, 1958,
   (d) The Marine Insurance Act, 1963.
3. In case of carriage by air :

   The Carriage by Air Act, 1972.

These statutes are governed by the principles of the English Common Law whenever any point is not specially covered by these Statutes.

5.9.1 Carriage by Land

The Carriers Act, 1865 and the railways Act, 1890 apply to carriage of goods by land. Carriers act applies only to common carriers as distinguished from private carriers.

A common carrier may be any individual, firm or company, which transports goods as regular business for money, over land or inland waterways. A private carrier, carries his own goods and may occasionally carry goods for selected persons. He is not covered by the Carriers Act but by the Indian Contract Act.

5.9.1.1 Rights, Duties and Liabilities of Common Carrier

The Carriers Act, 1865 governs the rights, duties and liabilities of a common carrier.

A) Rights of a common carrier

1. **Right to get remuneration :** A common carrier is entitled to the agreed remuneration, if any, for his work. He can also demand payment in advance and if he is not paid he may refuse to carry. If the charges have not been agreed, he is entitled to reasonable charges.
2. **Right of lien :** He has a lien on the goods carried for his charges which he can enforce against both the consignor and the consignee, but as a rule this lien is only a particular lien [Rushforth v. Hadfield. (1805) 6 East. 516]. He can refuse to deliver the goods until his charges are paid.

3. **Right to recover damages :** He can recover damages from the consignor if the goods are of a dangerous character or if the goods are not properly packed and the carrier suffers injury therefrom [Bamfield v. Goole & Sheffield Transport Co., (1910) 32 K.B. 94],
4. **Right to limit his liability :** He can limit his liability under certain circumstances by a contract with the consignor.
5. **Right to recover expenses :** He can, if the consignee refuses to take delivery of the goods, take all such steps as are reasonable under the circumstances. He can also recover reasonable expenses from the consignor in such a case.

   Example : A consignee delayed to take delivery of a horse at the station of destination. As such the railway had to incur some expenses in keeping the horse. Held, it could recover reasonable expenses [Great Northern Rail. Co. v. Swaffield, (1874) L.R. 9 Ex. 132].
6. **Right to refuse to carry goods :** He is not bound to carry goods of all types under all circumstances.

B) Duties of a common carrier

1. To receive and carry goods from all corners, indiscriminately
2. To carry the goods safely
3. To carry by his customary route without deviating from it unnecessarily
4. To obey instructions of the consignor
5. To deliver the goods within the agreed time at the stipulated place.

C) Liabilities of a Common Carrier

A common carrier is an insurer of goods, but there are certain exceptions to this rule.

1. He is not liable for any loss or damage to goods caused by an act of God or natural calamity, like the vehicle being struck by lightening.
2. He has no liability in case of injury caused by “enemies of the state.

   E.g. foreign with whom the country may be at war.

3. He cannot be held responsible for loss due to any inherent vice or natural deterioration of goods in transit. For e.g. evaporation of liquids, deterioration of fruit etc.

4. He is not liable for any loss due to neglect on the part of consignee. Such as defective packing of goods.

5.9.1.2 Goods

Goods are classified into scheduled and non-scheduled categories. Goods of high value are termed as scheduled goods. For e.g. gold coins, precious stones, currency notes, work of art, articles of ivory or sandalwood. etc. The carrier can charge extra for carrying such costly articles provided their value exceeds Rs. 100 and will be liable for loss or damage only if the value and description of goods has been disclosed by the consignor in advance or if the loss is due to a criminal act of the carrier, his agents or servants. Other types of goods are called non-scheduled goods.

Carriage of dangerous goods

It is the duty of the consignor to warn the carrier when dangerous goods such as explosives, acids or poisons are booked for carriage. In the absence of such warning, the consignor will be responsible for any probable adverse consequences.

5.9.2 Carriage by Rail

Carriage by rail in India is regulated by the Railways Act, 1989.

Carriage of Goods

1. Maintenance of rate-books, etc., for carriage of goods (Sec. 61)

Every railway administration shall maintain, at each station and at such other places where goods are received for carriage, the rate-books or other documents which shall contain the rate authorised for the carriage of goods from one station to another and make them available for the reference of any person during all reasonable hours without payment of any fee.

2. Provision of risk rates (Sec. 63)

Where any goods are entrusted to a railway administration for carriage, such carriage shall, except where owner's risk rate is applicable in respect of such goods, be at railway risk rate.

Any goods, for which owner's risk rate and railway risk rate are in force, may be entrusted for carriage at either of the rates and if no rate is opted, the goods shall be deemed to have been entrusted at owner's risk rate.

3. Forwarding note (Sec. 64)

Every person entrusting any goods to a railway administration for carriage shall execute a forwarding note in such form as may be specified by the Central Government.

The consignor shall be responsible for the correctness of the particulars furnished by him in the forwarding note. He shall indemnify the railway administration against any damage suffered by it by reason of the incorrectness or incompleteness of the particulars in the forward note. Railway receipt (Sec. 65).

A railway administration shall:

(a) in a case where the goods are to be loaded by a person entrusting such goods, on the completion of such loading ; or

(b) in any other case, on the acceptance of the goods by it issue a railway receipt in such form as may be specified by the Central Government.

A railway receipt shall be prima facie evidence of the weight and the number of packages stated therein.

A railway administration, like a common carrier, is bound to carry the goods of every person who is willing to pay the freight and comply with other requirements.

1. Delay or detention in transit (Sec. 95)

A railway administration shall be responsible for the loss, destruction, damage or deterioration of any consignment proved by the owner to have been caused by the delay or detention in their carriage. The railway administration can avoid liability if it proves that the delay or detention arose for reasons beyond its control or without negligence or misconduct on its part or on the part of any of its servants. The plaintiff can however claim only the actual loss in the value of goods caused by destruction, damage or deterioration and not loss of profit [Union of India v. S.S.H. Syndicate, A.I.R. (1976) S.C. 870]. The railway administration can, however, escape liability by proving that the delay or detention arose without negligence or misconduct on its or any of its servants' part.

2. Owner's risk rate or railway risk rate (Sec. 97)

A consignment may be carried by a railway administration either at owner's risk rate or railway risk rate. Owner's risk rate is a special reduced rate whereas railway risk rate is an ordinary tariff rate. Owner's risk rate is a special reduced rate whereas railway risk rate is an ordinary tariff rate. Owner's risk is lower than the railway risk rate for the simple reason that the goods in this case are carried at the owner's risk. In case of owner's risk rate, the railway administration is not responsible unless it is proved that any loss, destruction, damage or deterioration or non-delivery of goods arose from negligence or misconduct on the part of the railway administration or its servants.

3. Liability for damage to goods in defective condition or deceptively packed (Sec. 98):

Goods tendered to a railway administration to be carried by railway (a) may be in a defective condition, or (b) may be deceptively packed. As a result of these, goods are liable to damage, deterioration, leakage or wastage. If the fact of such condition or defective or improper packing has been recorded by the sender or his agent in the forwarding note, the railway administration is not responsible for any damage, deterioration, leakage or wastage unless negligence or misconduct on the part of the railway administration or of its servants is proved.

4. Liability after termination of transit (Sec. 99)

Whether the goods are carried at owner's risk rate or railway risk rate, the liability of the railway administration for any loss of goods within a period of seven days after the termination of transit is that of the bailee under Sees. 151, 152, and 161 of the Indian Contract Act, 1872. But where the goods are carried at owner's risk rate the railway administration is not liable for such loss, destruction, damage, deterioration or non-delivery of goods except on proof of negligence or misconduct on the part of the railway administration or any of its servants.

5. Responsibility as carrier of luggage (Sec. 100)

A railway administration shall not be responsible for the loss, destruction damage, deterioration or non-delivery of any luggage (goods carried by a passenger in his charge or entrusted to a railway administration for carriage) unless a railway

servant has booked the luggage and given a receipt therefore and in the case of luggage which is carried by the passenger in his charge, unless it is also proved that the loss, destruction, damage or deterioration was due to the negligence or misconduct on its part or on the part of any of its servants.

6. Responsibility as a carrier of animals (Sec. 101)

A railway administration shall not be responsible for any loss or destruction of, or injuries to, any animal carried by railway arising from fright or restiveness of the animal or from overloading of wagons by the consignor.

5.9.3 Carriage of Goods by Sea

Goods transported by sea are governed by the Carriage of Goods by Sea Act, 1925 and the (Indian) Bills of Lading Act, 1856. Besides, the Merchant Shipping Act, 1958 and the Marine Insurance Act, 1963 are also applicable. Here we shall confine our discussion to the first two of the above mentioned Act.

A contract of carriage of goods by sea is called a contract of affreightment and the consideration for carriage is called the freight. A contact of affreightment may take the form of a Charter Party where an entire ship is hired, or a Bill of Lading, where the goods are to be carried in a general ship which can be used for this purpose by any person. In both these contracts, the ship owner as the carrier undertakes the responsibility of carrying the goods of the consignor safely and securely to the destination.

A) Conditions Implied

In a contract for carriage of goods by sea, the following conditions are implied:

1. **Seaworthiness :** This means that the ship is reasonably fit to encounter the 'perils of the sea'. This is an absolute undertaking warranted by the shipowner. Seaworthiness is a relative term meaning that the ship is fit to undertake the particular voyage and to carry the particular cargo.
2. **Commencement of Voyage :** The ship shall be ready to load the cargo and commence the voyage agreed on without undue delay and shall also complete the voyage with all reasonable dispatch.
3. **Non-deviation of Voyage :** It means that if the ship does not carry out the voyage by the prescribed or usual route in the customary manner, the contract becomes void from the beginning of the voyage, no matter when and where the deviation from the usual route took place.

4. Dangerous Goods not to be Shipped : If the shipper ships dangerous goods and if on account of this, the charterer suffers any damage, he can recover the same from the shipper.

B) Charter Party

A charter party is a contract providing for a hiring of a whole ship. Its terms may amount to a leasing of the ship, when the master and the crew of the ship become the servants of the charterer. A charter party may be for a particular period, or for a particular voyage. In the former case it is called a time charter party and in the latter case, a voyage charter party has no specific form; the form varies from trade to trade depending on the customs of the trade.

C) Bill of Lading

A bill of lading is issued when goods are delivered for carriage to a general ship, which offers to carry them. The position of the owner of a general ship is that of a common carrier. A bill of lading may be used even when a ship is chartered. A bill of lading acknowledges the receipt of goods is a document of title to the goods and is also a contract of carriage of goods.

A bill of lading, as a document of title to the goods, can be transferred to another person by endorsement and delivery. This characteristic of a bill of lading resembles that of a negotiable instrument, but in the strict legal and technical sense it is not a negotiable instrument. It may be said that it is negotiable only in the popular sense.

D) Delivery of Goods

The prime duty and obligation of a carrier by sea is to deliver the goods to the holder of the bill of lading, provided proper payment of freight has been made. Bill of lading is commonly drawn in a set of three copies, one of which is sent to the consignee, the second is for the ship's master and the consignor retains the third.

E) Shipowener's Lien

In the event of non-payment of freight and other charges, the shipowner has a right of lien on the cargo. He is thus entitled to retain the goods in his possession until the dues are paid. His lien exists independently of any express agreement in this regards, but ceases upon the delivery of goods.

5.9.4 Carriage of goods by Air

The Carriage by Air Act, 1972 governs the carriage of goods by air. The provisions of this Act apply to domestic flights in the same manner, as they are applicable to international flights carrying cargo.

The various documents relating to carriage by air are briefly described hereunder.

Passenger Ticket

The Passenger Ticket issued by a carrier must show (I) the place and date of issue, (II) places of departure and destination, (III) the agreed stopping place, (IV) the name and address of the carrier, and (V) the statement that the carriage is subject to the liabilities mentioned therein. The absence or loss of passenger ticket does not affect the validity of the contract of carriage, but if the carrier accepts a passenger without a ticket, he cannot enjoy the benefit of limiting his liability.

Baggage Check

For the carriage of baggage, the baggage check, made out in duplicate must contain the following particulars:

1. The place and date of issues
2. Places of departure and destination,
3. Name and address of the carrier or carriers,
4. The number of passenger tickets,
5. A statement that the baggage will be delivered to the bearer of baggage check,
6. The number and weight of the package,
7. The amount of the value declared in accordance with Rule 22 (2), and
8. A statement that the carriage is subject to rules relating to liability stated therein.

If the baggage check does not contain the particulars set out in (d), (f) and (h) above, the carrier shall not be entitled to the benefit of rules limiting liability.

Air Way Bill

This is a document handed over by the consignor to the carrier along with the goods. The Air Way Bill is prepared in triplicate, the first copy being for the carrier, the second which must accompany the goods, is for the consignee and the third is to be retained by the consignor, after the carrier has signed it in token of acceptance of goods.

The Air Way Bill must contain the specified particulars for the correctness of which the consignor is responsible and he will be liable for all damages suffered due to the incompleteness of the particulars. The Air Way Bill is the prima facie evidence of the conclusion of contract of carriage, of the receipt of goods as well as the statement relating to the weight, dimensions, packing of the goods and the number of package.

Limitation of Carrier's Liability

In India the liability of internal or domestic carriers (e.g. Indian Airlines) for passengers and their baggage has been fixed as follows:

1. In the case of passengers 2,50,000/- francs* per passenger;
2. For registered baggage and cargo 250* francs per kilogram, and
3. For articles in the charge of the passenger himself 5000* francs per passenger.

As per international regulations and for the purpose of ascertaining liability the prevailing exchange rate is used by courts.

A carrier cannot reduce his liability but may undertake a higher liability by a special agreement. In the case of damage, the person entitled to delivery must complain to the career forthwith after discover of damage and at the latest within 3 days from the date of receipt of luggage. In case of delay in delivery of goods the complaint must be lodged within 14 days from the date on which the goods have been actually delivered.

5.10 Right to Information Act 2005

Introduction

The Right to Information Act, 2005 has come into force wef 12 Oct 2005 all over India (except the state of Jammu & Kashmir who has her own law in this regard). The RTI Act is a comprehensive legislation that would confer statutory rights on citizens for seeking information from public authorities. The Act is expected to usher in a new era of governance and promote more transparency and accountability. A case has been

taken up by the MoD with DoPT for exemption of Armed Forces from the operation of the Act. However till such time exemption is granted, the Act has to be fully implemented by the Armed Forces. Even if the exemption is granted at a later stage, information on the cases of corruption and human rights violation would still have to be provided.

Right to Information Act 2005 mandates timely response to citizen requests for government information. It is an initiative taken by Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions to provide a– RTI Portal Gateway to the citizens for quick search of information on the details of first Appellate Authorities, PIOs etc. amongst others, besides access to RTI related information / disclosures published on the web by various Public Authorities under the government of India as well as the State Governments

Definition: Information

The Act defines information in sec. 2(f) as any material in any form, including the records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any law for the time being in force. Sec. 2(i) defines the word 'record' as including (a) any document, manuscript and file, (b) any microfilm, microfiche and facsimile copy of a document, (c) any reproduction of image or images embodied in such microfilm and (d) any other material produced by a computer or any other device.

Definition: Right To Information

The right to information is defined in sec. 2(j) as a right to information accessible under the Act which is held by or under the control of any public authority and includes a right to (i) inspection of work, documents, records, (ii) taking notes, extracts or certified copies of documents or records, (iii) taking separate samples of material, (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

The Need for the Right to Information

In recent years, there has been an almost unstoppable global trend towards recognition of the right to information by countries, intergovernmental organizations, civil society and the people. The right to information has been recognized as a

fundamental human right, which upholds the inherent dignity of all human beings. The right to information forms the crucial underpinning of participatory democracy - it is essential to ensure accountability and good governance. The greater the access of the citizen to information, the greater the responsiveness of government to community needs. Alternatively, the more restrictions that are placed on access, the greater will be the feelings of 'powerlessness' and 'alienation'. Without information, people cannot adequately exercise their rights as citizens or make informed choices.

Objective of the Right to Information Act

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government.

Applicability

The Act applies both to Central and State Governments and all public authorities. A public authority (sec. 2(h)) which is bound to furnish information means any authority or body or institution of self-government established or constituted (a) by or under the Constitution, (b) by any other law made by Parliament, (c) by any other law made by State Legislature, (d) by a notification issued or order made by the appropriate Government and includes any (i) body owned, controlled or substantially financed, (ii) non-government organization substantially financed - which, in clauses (a) to (d) are all, directly or indirectly funded by the appropriate Government.

Fees

A citizen who desires to seek some information from a public authority is required to send, along with the application, a demand draft or a bankers cheque or an Indian Postal Order of Rs.10/- (Rupees ten) payable to the Accounts Officer of the public authority as fee prescribed for seeking information

The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the PIO as prescribed by the RTI ACT.

Procedure for obtaining information

The person, who is willing to obtain any information from the public officer, shall make a request to the Public Information Officer in writing under Form- A or through electronic means. For this he has to pay Rs: 20 by treasury challan and cash. Similarly a sum of Rs: 15 will be charged per hour, or any fraction thereof, to inspect the documents. The cost of photocopying one page has been fixed at Rs: 5, for computer printout Rs: 10 per page and for CDs and Floppies Rs: 100 per piece. The name of the person must be included while requesting for the information, though reason for requesting information need not be stated. Firstly the application should be filed before the Assistant Public Officer and he will transmit the application within 5 days to the Public Information Officer, who has to dispose the application within 30 days. A prescribed fee as above stated should be paid to the public authority along with the application for seeking information. If the accurate information is not provided then complaint or application or appeal can be filed to Central/ State Information Commission. For First Appeal Rs: 40 and for Second Appeal Rs: 50 will also be charged. Public Information Officer is bound to find out sources and availability of the information. Frivolous information will not be entertained by the public authority.

Madhya Pradesh was the only first state in India to become actively engaged in securing the Right to Information for the public in October 1996. After which many states have brought out the act into force in the state.

Exemption from disclosure of information:

a) Information which affect the sovereignty and integrity of India.

b) Information which has been expressly forbidden by any court of law.

c) Information, if disclosed will lead to breach of privilege of parliament.

d) Information, if endangers lives of the whistle blowers.

e) Information received in confidence from foreign countries.

f) Information containing commercial and trade secrets.

If there is failure on the part of Public Information Officer in providing information and that too without any reasonable cause then penalty in the form of fine can be imposed which will be Rs: 250/- per day but should not extend to Rs/- 25000.

Duties of Public Authorities Under RTI Act

The RTI Act imposes some important duties and responsibilities on the public authorities so as to facilitate the access of information by citizens of the country. Here the obligations of a public authority means basically the obligations of the head of the authority who should ensure that these are met in right earnest. Following are the duties of public authorities:

1. Maintenance and Computerisation of Records: records need to be duly catalogued and indexed in such a manner and form that they may facilitate the right to information.
2. Suo Motu Disclosure of information to the public through various means of communications such as Internet so that the public have minimum need to use the Act to obtain information.
3. The particulars of its organisation, functions and duties.
4. The powers and duties of its officers and employees.
5. The procedure followed in the decision-making process, including channels of supervision and accountability.
6. The norms set by it for the discharge of its functions.
7. The rules, regulations, instructions, manuals and records held by it or under its control or used by its employees for discharging its functions.
8. A statement of the categories of documents that are held by it or under its control
9. The particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof.
10. A statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public.
11. Directory of its officers and employees.
12. The monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations.

13. The budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made.
14. The manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes.
15. Particulars of recipients of concessions, permits or authorisations granted by it.
16. Details in respect of the information, available to or held by it, reduced in an electronic form.
17. The particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use; the names, designations and other particulars of the Public Information Officers.
18. Any other categories of information prescribed by the Government to be published by any public authority.
19. Regular updation of such information every year.
20. Dissemination of information to the public through notice boards, newspapers, public announcements, media broadcast, the internet or any other means.
21. Publication of Facts about Policies and Decisions.
22. Providing Reasons for Decisions: It is mandatory for the concerned public authority to provide reasons for various administrative and quasi-judicial decisions taken to the affected persons.

SHORT NOTES

1. The Consumer Protection Act 1986

The Consumer Protection Act was passed, in the year 1986 by the Parliament of India to honour the representations made by a number of Consumers' Associations in the country. The main object of this law is to protect the consumers of goods and services from the unfair trade practices by the traders.

The is law came into force from 15th April, 1987 and extends to the whole of India except the state of Jammu and Kashmir.

This law has given very clear definitions of goods, services, consumers, unfair trade practices etc. This has constituted Consumer Protect-wn Councils for the overall supervision of the working of this Act. It has also constituted Consumer Redressal Forums and Commissions at district level, state level and national level for the settlement of consumer disputes.

2. Objectives of Consumers Protection Act, 1986.

The objectives of the act are as under,

a) Protection of Consumer's Interest : According to the Preamble of the Act, it seeks to provide for better protection of the interests of consumers. For that purpose, the Act makes provision for the establishment of consumer councils and other authorities for the settlement of consumer disputes and for matters connected with that.

b) Consumer Rights are Protected : The objective of the Act, is to promote and protect the rights of consumers such as,

(i) The right to be protected against marketing of goods or services which are hazardous to life and property.

(ii) The right to be informed about the quality, quantity, potency, purity, standard and price of goods or services so, as to protect the consumers against unfair trade practices.

(iii) The right to be assumed, whenever possible, access to goods and services at competitive prices.

(iv) The right to be heard and to be assured that consumer's interest will receive due consideration at appropriate forms.

(v) The right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers, and

(vi) Right to consumer education.

c) Consumer Protection Councils : Consumer Protection Councils were established at central and state levels to promote and protect the above objectives.

d) Quasi-judicial Machinery : Quasi-judicial machinery has been set up at district, state and central levels to provide fast and simple redressal to consumer disputes.

3. Consumer Rights

a) Right to Safety : The right to be protected against goods which are hazardous to life and property.

b) Right to Information : The right to be informed about the quality, quantity, purity, price and standards of goods.

c) Right to Choose : The right to be assured access to a variety of products at competitive prices, without any pressure to impose a sale, i.e., freedom of choice.

d) Right to be Heard : The right to be heard and assured that consumer interests will receive due consideration at appropriate forums.

e) Right to Seek Redressal : The right to get relief against unfair trade practice or exploitation.

f) Right to Education : The right to be educated about rights of a consumer.

4. Arbitration and Conciliation

The Arbitration and Conciliation Act, 1996 is the prime legislation relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards and also to define the law relating to conciliation and for matters connected therewith or incidental thereto. It repealed the three statutory

provisions for arbitration: (i) the Arbitration Act, 1940; (ii) the Arbitration (Protocol and Convention) Act, 1937; and (iii) the Foreign Awards (Recognition and Enforcement) Act, 1961.

5. Scheduled and Nonscheduled Goods

Scheduled goods are those which are enumerated in a schedule to the Carriers Act. All other goods are known as non scheduled goods. Scheduled goods include gold and silver coins, ornaments, precious stones, clocks and time pieces of any description, bills, hundis, bank notes, maps, writings, paintings, photographs, sculptures, works of art, glass, silks, shawls, furs, opium, articles of ivory, sandal wood or ebony and musical and scientific instruments etc.

6. Central Consumer Protection Council

Section 4 of the Consumer Protection Act provides that the central government may establish a council called the Central Consumer Protection Council. The central council shall consist of the following members.

a) The minister incharge of consumer affairs who shall be its chairman.

b) Such number of other official or nonofficial members representing such interests as may be prescribed.

7. Arbitration Agreement

Arbitration agreement means an agreement by the parties to submit to arbitration all or certain disputes which have arise or which may arise between them in respect of a defined legal relationship whether contractual or not.

8. Arbitration Award

Award means an arbitral award. It is a final judgement of the arbitral tribunal on all matters referred to it. It is in fact a final adjudication by a tribunal of the parties own choice. It is binding in the same manner as the decision of a Law Court.

9. Arbitrator

A person who is appointed to determine differences and disputes between two or more parties by their mutual consent is called an arbitrator. He is an extra-judicial tribunal whose decision is binding on person who is so appointed must also give his consent to act as an arbitrator. His appointment is not complete till he has accepted the reference.

10. Copyright

Copyright may subsist in creative and artistic works (example books, movies, music, paintings, photographs, and software) and give a copyright holder the exclusive right to control reproduction or adaptation of such works for a certain period of time (historically a period of between 10 and 30 years depending on jurisdiction, more recently the life of the author plus several decades).

11. Patent

A patent may be granted for a new, useful and non-obvious invention, and gives the patent holder a right to prevent others from practicing the invention without a license from the inventor for a ceratin period of time (typically 20 years from the filing date of a patent application).

12. Anti-Competitive Agreements

No enterprise or association of enterprises shall enter into any agreement in respect of production, supply, distribution, storage acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition within India. Any agreement which causes an appreciable adverse effect on competition shall be void [Sec. 3(1)(2)].

13. Dominant Position

Dominant position means a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to,

i) Operate independently of competitive forces prevailing in the relevant market

ii) Affect its competitors or consumers or the relevant market in its favour.

14. Unfair Trade Practices

A trade practice, which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any services, adopts any unfair method or unfair or deceptive practice is an unfair trade practice.

Trade means any trade, business, industry, profession or occupation relating to the production, supply, distribution or control of goods and includes the provisions

of any services (Sec. 2(s)). Services rendered by professionals like Engineers, Architects, Doctors, Chartered Accountants, Advocates and others, which fall under any of the unfair trade practices, will be subject to inquiry by the Commission.

15. Consumer Awareness

The consumer movement in India is as old as trade and commerce. Till recently, there was no organized and systematic movement for safeguarding the interests of consumers.

16. District Forum

District forum refers to a consumer dispute redressal forum established at district level. This Act provides for the establishment of a District forum by the state government in each district of the state by notification. The state government may establish more than one district forum in a district if it considers it necessary.

17. Consumer Protection Councils

The interests of consumers are sought to be promoted and protected under the Act by establishment of Consumer Protection Councils at the central, state and district levels. These Councils are advisory bodies. Chapter II of the Consumer Protection Act, 1986 comprising of sections 4 to 8B deals with Consumer Protection Councils.

The Consumer Protection Act postulates establishment of Consumer Protection Councils at the Central and State levels for the purpose of spreading consumer awareness. The objects of the Councils, as per the Act, shall be to promote and protect the rights of the consumers.

18. Intellectual Property Rights

According to WIPO (World Intellectual Property Organization), "intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce." Divided into two categories, IP includes industrial property and copyright. And both are equally as valuable since the ramifications of not protecting these assets can be serious.

19. Recognised Intellectual Properties

The following are some important Intellectual Property rights recognised by the legislation :

a) **Copy rights** of artists, painters, musicians, sculptors, photographers, authors, computer programmers, performers, producers of phonogrammes, broad costing organizations etc.

b) **Trade marks** of traders, manufacturers, producers, dealers of various types of goods offered for sale.

c) **Patent rights** of inventors, discoverers, scientists to make, sell or use of inventions.

d) **Industrial designs,** of designers, plant engineers, creators of integrated circuits.

20. Carriage of Goods Act

Carriage of goods from one place to another within a country or from one country to another plays an important part in the commercial life of the modem world. The contract of carriage of goods must of necessity form an important constituent of it. Goods may be carried by land, sea or air. The persons who carry goods, whether by land, sea or air, are known as carriers.

21. Carriage by Land

The Carriers Act, 1865 and the railways Act, 1890 apply to carriage of goods by land. Carriers act applies only to common carriers as distinguished from private carriers.

A common carrier may be any individual, firm or company, which transports goods as regular business for money, over land or inland waterways. A private carrier, carries his own goods and may occasionally carry goods for selected persons. He is not covered by the Carriers Act but by the Indian Contract Act.

22. Carriage of Goods by Sea

Goods transported by sea are governed by the Carriage of Goods by Sea Act, 1925 and the (Indian) Bills of Lading Act, 1856. Besides, the Merchant Shipping Act, 1958 and the Marine Insurance Act, 1963 are also applicable. Here we shall confine our discussion to the first two of the above mentioned Act.

23. Right to Information Act 2005

The Right to Information Act, 2005 has come into force wef 12 Oct 2005 all over India (except the state of Jammu & Kashmir who has her own law in this regard). The RTI Act is a comprehensive legislation that would confer statutory rights on citizens for seeking information from public authorities. The Act is expected to usher in a new era of governance and promote more transparency and accountability. A case has been taken up by the MoD with DoPT for exemption of Armed Forces from the operation of the Act. However till such time exemption is granted, the Act has to be fully implemented by the Armed Forces. Even if the exemption is granted at a later stage, information on the cases of corruption and human rights violation would still have to be provided.

24. Environment

The Environment (Protection) Act was enacted in 1986 with the objective of providing for the protection and improvement of the environment. It empowers the Central Government to establish authorities [under section 3(3)] charged with the mandate of preventing environmental pollution in all its forms and to tackle specific environmental problems that are peculiar to different parts of the country. The Act was last amended in 1991.

Environmental laws and regulations deal with myriad pollution problems, including the contamination of our air, surface waters, drinking water, ground waters, and land. Pollution or contamination of the environment is found inside as well as outside the walls of factories and other business facilities Those affected include workers and their families as well as other members of their communities.

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   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

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   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	Pledge
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The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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Ans :

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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Ans :

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
Nature and Meaning	
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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

   f) Statutory Meeting. **(Unit-IV, Page No. 225, Topic.4.10.1)**

   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	Pledge
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The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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Ans :

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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Ans :

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
Nature and Meaning	
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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

   f) Statutory Meeting. **(Unit-IV, Page No. 225, Topic.4.10.1)**

   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	Pledge
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The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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Ans :

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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Ans :

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
Nature and Meaning	
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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

   f) Statutory Meeting. **(Unit-IV, Page No. 225, Topic.4.10.1)**

   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	Pledge
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The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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Ans :

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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Ans :

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
Nature and Meaning	
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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

   f) Statutory Meeting. **(Unit-IV, Page No. 225, Topic.4.10.1)**

   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	Pledge
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The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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Ans :

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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Ans :

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
Nature and Meaning	
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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

   f) Statutory Meeting. **(Unit-IV, Page No. 225, Topic.4.10.1)**

   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	Pledge
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The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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Ans :

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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Ans :

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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
Nature and Meaning	
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Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

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Differences between Promissory Notes and Bills of Exchange

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Essential of	
Bailment	**Pledge**
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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

   f) Statutory Meeting. **(Unit-IV, Page No. 225, Topic.4.10.1)**

   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
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5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

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   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

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   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
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3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

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Ans :

Differences between Promissory Notes and Bills of Exchange

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1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
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6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

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OR

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

BUSINESS AND CORPORATE LAW

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1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
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Example for bailment and pledge

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Essential of	
Bailment	**Pledge**
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OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

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FACULTY OF MANAGEMENT

BBA - III - Year Examination

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

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Ans :

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Bailment	Pledge
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FACULTY OF MANAGEMENT

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FACULTY OF MANAGEMENT

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   f) Statutory Meeting. **(Unit-IV, Page No. 225, Topic.4.10.1)**

   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

   j) RTI. **(Unit-V, Page No. 304, Topic.5.10)**

PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

OR

   b) Explain the differences between bailment and pledge

Ans :

Differences between Bailment and pledge

Bailment	Pledge
Nature and Meaning	
The word bailment is derived from the French word bailor which means deliver. Bailment is the delivery of goods by one person to another for some purpose. When purpose is accomplished the goods are returned to or otherwise disposed off according to the direction of the person delivering them.	It is defined as "Bailment of goods as a security for the payment of a debt or performance of a promise is called pledge. Bailor is called pledgor or pawnor and Bailee is called Pawnee or pledgee.
Transfer of possession	
Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

Example for bailment and pledge

Mr. Shukla borrows Rupees ten thousand from Mr. Pritam and keeps his moter cycle as security for the payment of debt. The bailment of motor cycle is called plege.

Essential of	
Bailment	**Pledge**
Bailment is usually created by agreement between the bailer and bailee. In bailment the possession of goods must be delivered by the bailor and bailee	Pledge is concerned with the immovable property. All types of goods and valuable documents are included in it. In case of pledge only possession of goods transferred by the Pawhor to the pawhee
Transfer of Ownership	
In bailment, possession is transferred from one person to another but ownership of goods remains with the bailor. Deposit of money into bank by a customer is not a contract of bailment because the money deposited is not returned in identical coins and notes deposits	In case of pledge, the ownership of the goods remain with the pawhor. It is not transferred to pawhee. Pledge property cannot be used for unlimited interest. When a person pledges goods in which he has only limited interest, the pledge is valid to be extent of that interest only

3. a) Distinguish between a 'Condition' and 'Warranty' **(Unit-II, Page No. 95, Topic-2.4.1)**

OR

b) Explain the characteristics of partnership deed **(Unit-II, Page No. 116, Topic-2.8.1)**

4. a) Distinguish between Promissory Notes and Bills of exchange.

Ans :

Differences between Promissory Notes and Bills of Exchange

	Promissory Note	Bills of Exchange
1.	A Promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay certain sum of money.	A Bill of exchange is an instrument in writing containing any unconditional order, signed by the maker, directing a certain person to pay a certain sum of money.
2.	The promissory note must be in writing. Oral engagement or promise is excluded. It can be in written, printed or can be cyclostyled.	It must be in writing and may be in any language, and in any form. The provisions of promissory note discussed are applicable to a bill of exchange.
3.	It should contain definite and an unconditional undertaking. These writings are conditional. Promise word use is not compulsory, but clearly shown to pay certain amount.	There must be three parties to the bill of exchange like Drawer, Drawee and Payee. The person who draws a bill is called Drawer or Maker.
4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company . **(Unit-IV, Page No. 131, Q.4.2)**

OR

b) Explain the various types of resolutions. **(Unit-IV, Page No. 222, Topic.4.9.1)**

6. a) Describe the rights of consumers. **(Unit-V, Page No. 275, Topic.5.5)**

OR

b) Explain the importance of IPR. **(Unit-V, Page No. 278, Topic.5.7)**

FACULTY OF MANAGEMENT

BBA (Regular) III – Year Examination

March / April - 2017

BUSINESS AND CORPORATE LAW

Course No. 3.3

Time : 3 Hours] **ANSWERS TO MARCH/APRIL - 2017** [Max. Marks : 75

Note : Answer all the questions.

PART - A (10 × 2 = 20 Marks) **ANSWERS**

1. a) Consideration. **(Unit-I, Page No. 76, Q.5)**

   b) Quasi contract. **(Unit-I, Page No. 82, Q.28)**

   c) Agreement to sell.

Ans :

When the transfer of ownership in goods is to take place at a future date the contract is called agreement to sell. Example Mr Bazovka agrees to purchase Mr. Titoo bus for 25 lakhs. But the transfer of bus will take place after one year. It is agreement to sell. The agreement to sell will be on contingent goods. The agreement to sell will be on contingent goods. The agreement to sell is also known as exucutor contract.

   d) Partnership. **(Unit-II, Page No. 106, Topic.2.7.1)**

   e) Memorandum of Association. **(Unit-IV, Page No. 182, Topic.4.3)**

   f) Statutory Meeting. **(Unit-IV, Page No. 225, Topic.4.10.1)**

   g) Negotiable Instrument. **(Unit-III, Page No. 125, Topic.3.1.1 & 3.1.2)**

   h) Bills of exchange. **(Unit-III, Page No. 131, Topic.3.2.2)**

   i) Consumer Dispute. **(Unit-V, Page No. 263, Topic.5.2.1)**

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PART - B (5 × 10 = 50 Marks)

2. a) Explain the essential elements of contract **(Unit-I, Page No. 5, Topic-1.2.2)**

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Transfer of possession of something by the bailor to another person called baillee for some temporary purpose.	The property is either returned to the bailor or other wise disposed of in accordance with the contract of Bailment .

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4.	The instrument must be signed by the maker thereof. The sign or mark would constitute signature, if the maker intended to subscribe to the document. A promissory note cannot be made by two persons payable by either in the alternative.	Section of the act defines payee as the person named in the instrument, to whom or to whose order the money is directed to be paid.
5.	The instrument may be signed by the maker thereof.	The bill must be signed by the drawer.
6.	Promissory notes are chargeable with stamp dirty. An unstamped promissory note is not admissible in evidence.	Bill of exchange is chargeable with stamp duty.

OR

b) Explain the methods of crossing of cheques. **(Unit-III, Page No. 135, Topic.3.2.3)**

5. a) Explain the steps in formation of company. **(Unit-IV, Page No. 131, Q.4.2)**

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FACULTY OF MANAGEMENT

BBA (Regular) III – Year Examination

October / November - 2014

BUSINESS AND CORPORATE LAW

Course No. 3.3

Time : 3 Hours Max. Marks : 70

Note : Answer all questions.

PART – A (10 x 2 = 20 Marks)
[Short Answer Type]

1. Answer the following in not more than 75 words.
   (a) Free consent
   (b) Pledge
   (c) Unpaid Seller
   (d) Partnership Deed
   (e) Promissory Note
   (f) Hundis
   (g) Article of Association
   (h) Winding-up
   (i) Environment
   (j) Intellectual Property

PART – B (5 x 10 = 50 Marks)
[Essay Answer Type]

2. (a) What is consideration? What are the legal rules with regard to consideration?

OR

(b) What is Bailment? What are the duties of a bailor? What are his rights?

3. (a) What are implied conditions and warranties as per Sale of Goods Act?

OR

(b) What is partnership? Who are different types of partners? What are their rights?

4. (a) What is a negotiable instrument? What are the ways in which they get transferred to other parties?

OR

(b) What is crossing? Write about different types of crossing.

5. (a) What are Articles of Association? What are its contents? When and how they may be altered?

OR

(b) What are the different kinds of meetings of the shareholders of a company? When and how are these meetings held?

6. (a) Discuss about the various disputes redressal agencies under Consumer Protection Act, 1986.

OR

(b) What are the main objectives and important provisions of Carriage of Goods Act?

Answers to October / November - 2014

PART – A

1. Answer the following in not more than 75 words.

(a) Free consent

Ans :

Refer to Unit - I, Page No. 76, Short Note - 7

(b) Pledge

Ans :

Refer to Unit - I, Page No. 82, Short Note - 29

(c) Unpaid Seller

Ans :

Refer to Unit - II, Page No. 122, Short Note - 3

(d) Partnership Deed

Ans :

Refer to Unit - II, Page No. 123, Short Note - 9

(e) Promissory Note

Ans :

Refer to Unit - III, Page No. 175, Short Note - 2

(f) Hundis

Ans :

Refer to Unit - III, Page No. 177, Short Note - 9

(g) Article of Association

Ans :

Refer to Unit - IV, Page No. 251, Short Note - 6

(h) Winding-up

Ans :

Refer to Unit - IV, Page No. 253, Short Note - 15

(i) Environment

Ans :

Refer to Unit - V, Page No. 316, Short Note - 24

(j) Intellectual Property

Ans :

Refer to Unit - V, Page No. 314, Short Note - 18

PART – B

2. (a) What is consideration? What are the legal rules with regard to consideration?

Ans :

Refer to Unit - I, Page No. 18, Topic No. 1.5

OR

(b) What is Bailment? What are the duties of a bailor? What are his rights?

Ans :

Refer to Unit - I, Page No. 67, Topic No. 1.13.3

3. (a) What are implied conditions and warranties as per Sale of Goods Act?

Ans :

Refer to Unit - II, Page No. 94, Topic No. 2.4

OR

(b) What is partnership? Who are different types of partners? What are their rights?

Ans :

Refer to Unit - II, Page No. 106, 108, 109, Topic No. 2.7, 2.7.2, 2.7.3

4. (a) What is a negotiable instrument? What are the ways in which they get transferred to other parties?

Ans :

Refer to Unit - III, Page No. 127, 142, Topic No. 3.1, 3.4

OR

(b) What is crossing? Write about different types of crossing.

Ans :

Refer to Unit - III, Page No. 134, Topic No. 3.2.3

5. (a) What are Articles of Association? What are its contents? When and how they may be altered?

Ans :

Refer to Unit - IV, Page No. 186, Topic No. 4.4

OR

(b) What are the different kinds of meetings of the shareholders of a company? When and how are these meetings held?

Ans :

Refer to Unit - IV, Page No. 225, Topic No. 4.10

6. (a) Discuss about the various disputes redressal agencies under Consumer Protection Act, 1986.

Ans :

Refer to Unit - V, Page No. 272, Topic No. 5.4

OR

(b) What are the main objectives and important provisions of Carriage of Goods Act?

Ans :

Refer to Unit - V, Page No. 295, Topic No. 5.9