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19 (3-IV) LWEV

2014

## LAW OF EVIDENCE

Paper : 4-1

Full Marks : 80

Time : Three hours

*The figures in the margin indicate full marks for the questions.*

*Answer all the questions.*

1. (A) Choose the correct answer :  $1 \times 10 = 10$
- a. The Evidence Act 1872 is a (substantive law / procedural law).
  - b. The provisions of the Evidence Act 1872 do not apply to / apply to proceedings before an arbitrator.
  - c. The law of evidence is the *lex for* / *lex loci*.
  - d. An extra judicial confession can be made / cannot be made to any person or to a body of person.

*Contd.*



- e. Confession made in the custody of a police officer can be / cannot be proved against an accused.
- f. Primary evidence means the document itself produced for the inspection of the court (true / false).
- g. Birth during marriage conclusive proof of legitimacy is to be found in section 112 / 113 of the Evidence Act 1872.
- h. The contents of electronic records may be proved in accordance with the provisions of section 65A / 65 B of the Evidence Act 1872.
- i. Leading questions may be / may not be asked in an examination-in-chief except with the permission of the court.
- j. There can be an estoppel / no estoppel against a statute.

(B) Answer the following :  $2 \times 5 = 10$

- a. What do you understand by fact in issue ?
- b. What is confession ?
- c. What is the value of opinion of expert in the Evidence Act 1872 ?

- d. What do you mean by burden of proof ?
- e. What do you mean by privileged communications ?

2. Discuss the main features of the Indian Evidence Act 1872. What is the object of the study of Law of Evidence ?  $8+4=12$

Or

Define 'Evidence'. What are the different kinds of evidence ?  $4+8=12$

3. "In courts we are concerned with legal relevancy and not logical relevancy of facts". Explain that 'relevancy' and 'admissibility' are not co-extensive terms. 12

Or

'Facts, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant whether they occurred at the same time and place or at different times and places.' Discuss with the help of decided cases. 12

4. What is dying declaration ? Discuss the ingredients and evidentiary value of dying declaration under the Evidence Act 1872. 12



*Or*

Discuss the rules relating to relevancy of character in civil and criminal cases. 12

5. Distinguish between : 6×2=12
- Public documents and private documents
  - Patent ambiguity and latent ambiguity

*Or*

Write short notes on :

- admissibility of electronic records in evidence.
  - Estoppel
6. Who is competent to be a witness ? Discuss with the help of case laws the law relating to competency of witness under the Evidence Act 1872. Is a child below seven years of age competent to be witness ? 12

*Or*

What is 'Examination-in-chief, 'Cross Examination' and 'Re-examination' and discuss the order in which such examination can be done? Can a witness be cross-examined by a party who has produced him ? 12

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19 (3-IV) CPCL

2014

### **CIVIL PROCEDURE CODE & LIMITATION ACT**

( New Course )

Paper : 4-2

Full Marks : 80

Time : Three hours

*The figures in the margin indicate full marks for the questions.*

*Answer Q. No. 1 & 2 and any five from the rest.*

1. Choose the correct option from the given options : 1×10=10
- Any order of dismissal for default is not a decree
- True
  - False.



(ii) In default in filing of written statement, pronouncement of Judgement is

- (a) Mandatory
- (b) discretionary
- (c) either (a) or (b)
- (d) directory.

(iii) Section 17 of the Limitation Act takes into consideration

- (a) Frauds
- (b) Mistakes
- (c) Concealments
- (d) all of the above.

(iv) The court may allow either party to alter or amend the pleadings

- (a) at any stage of the proceedings
- (b) only before evidence is bad
- (c) after the decree is passed
- (d) All of the above.

(v) The plaint can be rejected —

- (a) when it does not disclose the cause of action
- (b) where the relief claimed is undervalued
- (c) where court fees are not paid
- (d) All or any of the above.

(vi) A receiver may be appointed

- (a) during the pendency of the proceedings
- (b) after the decree
- (c) either (a) or (b)
- (d) before the institution of the suit.

(vii) Case may be referred for opinion to —

- (a) The High Court
- (b) The District Court
- (c) City Civil Court
- (d) All of the above.



(viii) A party filing an affidavit in court —

- (a) can be cross-examined upon it
- (b) the other party can adduce evidence to contradict it
- (c) cannot be cross-examined
- (d) (a) and (b) above.

(ix) A permission to sue as pauper once granted —

- (a) can never be withdrawn
- (b) can be withdrawn under certain circumstance

(x) A judgement can be reviewed on the ground of —

- (a) Discovery of new important evidence
- (b) Mistake or error of fact of the record
- (c) (a) and (b).

2. Answer the following questions :  $2 \times 5 = 10$

- (i) Who is an indigent person?
- (ii) Who is a Next friend of a minor?
- (iii) Equitable set-off
- (iv) Caveat
- (v) What is mesne profit?

3. Discuss the Provisions under Code of Civil Procedure dealing with Jurisdiction of the courts. 12

Or

What are pleadings? When can pleadings be amended? On what grounds court may reject an amendment sought to be made in pleadings?  $4+4+4=12$

4. When is defendant to enter appearance in a suit? What consequence the defendant is to face for non attendance after summons was duly served? What remedies are available to such a defaulting defendant?  $4+4+4=12$



*Or*

What do you understand by 'issues of fact' and 'issues of law'? How far the court is bound to frame issues? How the issues are framed by court?  
4+4+4=12

5. Explain the powers and procedure of civil court in granting temporary injunctions. Can the court grant ad-interim injunction against the Government or Public Officer without serving notice.  
8+4=12

*Or*

What is 'attachment before judgement'? Discuss the provisions relating to powers of court for such attachment.  
4+8=12

6. On what ground a second appeal lies? Distinguish between second appeal and revision. 12

*Or*

Under what circumstances the High Court can exercise its revisional power under the Code of Civil Procedure? Discuss the extent and limitations of the High Courts power of revision.  
8+4=12

7. "Limitation bars the remedy but does not extinguish the title". — Explain. 12

*Or*

Explain the objects and reasons for the Law of Limitation. 12



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19 (3-IV) PRLW

2014

## PROPERTY LAW

(New Course)

Paper : 4-3

Full Marks : 80

Time : Three hours

*The figures in the margin indicate full marks for the questions.*

*Answer all questions.*

1. Fill in the blanks with appropriate words :—  
1×10=10
- (a) A right of easement is a ————— (movable property / immovable property)
- (b) Transfer inter-vivos means ————— (between living persons / between non-living persons)
- (c) Attestation requires ————— two attesting witnesses. (minimum / maximum)

Contd.



(d) Wilful abstention from inquiry or search is a \_\_\_\_\_ notice. (actual / constructive)

(e) Transfer of property is defined under section \_\_\_\_\_ of the Transfer of Property Act 1882. (Sec 5 / Sec 3)

(f) Right to future maintenance is a \_\_\_\_\_ property. (Transferable / non-transferable)

(g) Sec.19 of the Transfer of Property Act, 1882 deals with \_\_\_\_\_ interest. (Vested / Contingent)

(h) Doctrine of Election is dealt with \_\_\_\_\_ of the Transfer of Property Act, 1882. (Sec 53 / Sec 35)

(i) Transfer by Ostensible owner is provided under sec \_\_\_\_\_ of the T. P. Act, 1882. (sec 41 / sec 45)

(j) Transfer for the benefit of an unborn person is dealt with sec. \_\_\_\_\_. (sec 14/ sec 13)

2. Write short notes on :

(a) Constructive Notice

2×5=10

(b) Instrument

(c) Lease

(d) Gift

(e) Exchange

3. Whether property can be transferred to an unborn person under the Transfer of Property Act, 1882 ? Explain the 'Rule against perpetuity, with its exceptions. 4+8=12

**Or**

What is Doctrine of Election and how is it applicable in the context of transfer of property ? 12

4. Whether property can be transferred during the pendency of suit ? State the legal consequences of it. 12

**Or**

Write notes on :

6+6=12

(a) Transfer by Ostensible owner

(b) Doctrine of Part-Performance



5. Give a brief account of :
- Essentials of sale
  - Hire-purchase agreements
  - Marshalling

4×3=12 total number of printed pages-7

19 (3-IV) ADLW

2014

### ADMINISTRATIVE LAW

Paper : 4-4

Full Marks : 80

Time : Three hours

*The figures in the margin indicate full marks for the questions.*

- What do you mean by 'Sale' and 'Contract for Sale'? State the rights and liabilities of buyer and seller.
- 5+7=12
6. What is Mortgage? What are the different kinds of mortgages?
- 12

*Or*

Define Lease. Describe the rights and liabilities of lessor and lessee.

12

7. What are the essentials of a Valid Gift? When a gift may be suspended and revoked?
- 12

*Or*

Write on :

- Universal Donee
- Transfer of Actionable claim.

6+6=12

1. Answer the following with appropriate answer given in the brackets : 1×10= 10

- \_\_\_\_\_ was the originator of the concept 'Rule of Law'. (Sir Edward Coke / A.V. Dicey)
- According to \_\_\_\_\_ Administrative law may be described as those rules which are recognized by the courts as law and which relate to and regulate the administration of Government. (Jennings / Garner)



- iii. In *Sarbananda Sonowal vs. Union of India* (II), the apex court observed that the Order of 2006 had been issued as cover-up for non-implementation of the direction of the court and the action on the part of the Government was not \_\_\_\_\_. (bona fide / mala fide)
- iv. Henry VIII clause is associated with the function that delegates to executive on (Prescribing punishments / removal of difficulties).
- v. By \_\_\_\_\_ amendment Parliament has been authorized to constitute Administrative Tribunals for settlement of disputes and adjudication of matters specified therein. (42<sup>nd</sup> / 44<sup>th</sup>)
- vi. Justice should not only be done, but manifestly and undoubtedly be \_\_\_\_\_ to be done. (seen / recorded)
- vii. Private persons \_\_\_\_\_ immune from the writ jurisdiction of the Supreme Court as well as of High Courts. (are / are not)

- viii. The Doctrine of Proportionality ordains that administrative measures must not be more drastic than is necessary for attaining the desired result. (True / false)
- ix. Public corporation has become a '\_\_\_\_\_ arm' of the Government. (second / third)
- x. Central Vigilance Commission was recommended by the \_\_\_\_\_. (Santhanam Committee / Reddy Committee)

2. Write short notes on : 2×5=10

- a. Conseil De Etat
  - b. delegata potestas non potest delegare
  - c. Judicial obstinacy
  - d. Doctrine of Legitimate Expectation
  - e. PIL.
3. "The truth is that each of the three functions of the government contains of the other two and that any rigid attempt to define and separate those functions must either fail or cause serious inefficiency in government" (Friedmann & Benjafield)



Discuss the above in the light of the theory of separation of powers. Explain its applicability in Indian context.

6+6=12

*Or*

What is Red light and Green light theory? Write a brief note on historical growth and development of Administrative law in India. Add a few lines on nexus between administrative law and Constitutional law.

3+5+4=12

4. What do you mean by delegated legislation? Discuss the reasons for growth of delegated legislation in this modern era of welfare state.

4+8=12

*Or*

"Delegated legislation has become inevitable but the question of control has become crucial. Delegated legislation does not fall beyond the scope of judicial review. Court can decide the validity or otherwise of delegated legislation mainly applying two tests-substantive ultra vires and procedural ultra vires".

What is 'substantive ultra vires' and 'procedural ultra vires'? Discuss the circumstances in which a delegated legislation may be held invalid on the ground of 'substantive ultra vires'.

4+8=12

5. Narrate the following aspect of natural justice citing relevant case laws :

2+4+4+2=12

- Audi alteram partem
- Whether reasoned decision is a part of natural justice?
- Circumstances for exclusion of the rules of natural justice.
- Post Decisional Hearing.

*Or*

Discuss the following :

3+3+3+3=12

- Objectives of Administrative Tribunals Act, 1985
- Characteristics of administrative tribunal



- c. Distinction between Administrative Tribunal and Court of law.
- d. Whether Administrative Tribunal is bound by the decisions of Supreme Court and High Court ? Refer case laws.

6. What do you mean by judicial review ? Write an exhaustive note on the position of judicial review in India. Whether is it a basic feature of the Constitution of India ? Cite relevant case laws.  
3+7+2=12

*Or*

What is Prerogative Writs ? Discuss the various kinds of Writs that can be issued by the courts of law in India.  
4+8=12

7. Write notes on : 4+4+2+2=12

- a. Doctrine of unjust enrichment
- b. Tortious liability
- c. Procedural safeguards to Civil Servants
- d. Right to know.

*Or*

What is public corporation ? Discuss the liabilities of public Corporation in India. Whether public corporation is 'State' under Art.12 of the Constitution of India ?  
3+6+3=12