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19 (II) CPCN 2-5 (H)

2018

**COMPARATIVE CONSTITUTION**

Paper : 2-5 (H<sub>2</sub>)

Full Marks : 80

Time : Three hours

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

1. Answer the following with appropriate answer given in the brackets : 1×10=10
  - (i) The doctrine of separation of powers is associated with \_\_\_\_\_.  
(Montesquieu/Locke)
  - (ii) In \_\_\_\_\_, Supreme Court has held that limited power of Parliament to amend the Constitution is the basic feature of the Constitution of India.  
(Minerva Mills Ltd. vs. Union of India/  
Kesavananda Bharati vs. State of Kerala)
  - (iii) In USA, the process of constitutional amendment involves \_\_\_\_\_ separate stages.  
(Two/Three)

Contd.

(iv) The First Amendment to the U.S. Constitution guarantees freedom of speech in very broad terms.

(True/False)

(v) In USA, the \_\_\_\_\_ shall have power to regulate commerce among the several states.

(Congress/Legislature of the State)

(vi) A. V. Dicey developed the theory, Rule of Law in his classic work \_\_\_\_\_.  
(The Law and the Constitution/The Constitution and the Law)

(vii) Private persons \_\_\_\_\_ immune from the writ jurisdiction of the Supreme Court as well as of High Courts.

(are/are not)

(viii) In India, the constitutional provisions dealing with the Supreme Court can be amended by \_\_\_\_\_.  
(special majority/special majority and ratifications)

(ix) In England the courts \_\_\_\_\_ invalidate any Act duly passed by Parliament on the ground that it has violated the principles of natural justice.

(can/cannot)

(x) The requirement of Principles of natural justice \_\_\_\_\_ be excluded in the public interest.

(can/cannot)

2. Write short notes on :

2×5=10

- (a) Due process clause
- (b) Doctrine of basic features
- (c) Judicial Activism
- (d) Compensatory Tax
- (e) Post Decisional Hearing.

3. Make a critical comparative study of the various essential features of the Constitutions of the USA, UK and India.

12

**Or**

Analyse the origin and development of the doctrine of separation of powers. Compare the relative functioning of this doctrine under the Constitutions of the USA, India and UK.

4+8=12

4. Compare and contrast the various methods for amending the Constitution of USA, UK and India.

12

**Or**

What do you mean by 'commerce clause' in the US Constitution ? Compare the position regarding trade, commerce and intercourse in India with those of the USA and Australia.

4+8=12

5. Discuss the origin, growth and development of the concept of the doctrine of Rule of law. Explain to what extent the Dicean concept of Rule of law is applicable in India and the USA. 8+4=12

**Or**

“Rule of law” is one of the basic principles of the English Constitution. Write a detailed note on the doctrine of ‘Rule of law’ with their exceptions. 12

6. “The Principles of natural justice or fairness is the *sine qua non* of a democratic government”. Give a comparative analysis on it with special reference to India, USA and UK. 12

**Or**

Compare and contrast the constitutional provisions relating to the ‘Principles of natural justice’ under the Constitution of USA and India. 12

7. What do you mean by the doctrine of Judicial Review? Discuss the scope of Judicial Review of Legislation in India, UK and USA by referring to latest judicial decisions. 4+8=12

**Or**

Discuss the present position of Judicial Review in UK, USA and India. Distinguish between judicial review and judicial activism. 8+4=12