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19 (III) JUPR 3-3

2018

**JURISPRUDENCE**

Paper : 3-3

Full Marks : 80

Time : Three hours

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

1. Fill in the blanks by choosing the appropriate answer: 10×1=10

(1) Jurisprudence as a discipline is the \_\_\_\_\_ study of law. [legal/theoretical]

Contd.

- (2) Legal positivism has been one of the most influential schools of jurisprudence which focusses on outlining the \_\_\_\_\_. [law as it ought to be and not law as it is/law as it is and not law as it ought to be]
- (3) A rule based on morality may also be law according to the \_\_\_\_\_ provided it meets the formal criteria of legal validity. [positivist tradition/natural law theory]
- (4) The realist school is similar to the positivistic school in the fact that it believes that the law as it is \_\_\_\_\_ the law as it ought to be. [similar to/ different from]
- (5) \_\_\_\_\_ is best enshrined in the Latin maxim of *Lex injusta non est lex* or 'unjust law is not law'. [Natural law theory/Radical jurisprudence]
- (6) The natural law and its inter-relationship with morality finds mention in the work of Lon Fuller and \_\_\_\_\_ [Ronald Dworkin/H. L. A. Hart]

- (7) The power of legislation vests in the \_\_\_\_\_ of a political community, [sovereign authority/executive authority]
- (8) The idea or concept of legal possession is more or less based on the idea of \_\_\_\_\_. [possession in fact/possession in law]
- (9) According to Holland ownership is a plenary control over an object. According to him an owner has three rights on the object owned possession, \_\_\_\_\_ and disposition. [ownership/enjoyment]
- (10) The law of property is the law of proprietary right \_\_\_\_\_. [in personal / in rem]

2. Write short answers : 2x5=10

- (a) Distinguish between Natural Rights and Fundamental Rights.

- (b) What is the legal personality of a foetus?
- (c) What do you mean by the term, obligation?
- (d) Briefly state the Contribution of Savigny.
- (e) What is 'Social Solidarity'?
3. (a) What do you mean by the term 'Justice'? What are the different kinds of Justice?
- (b) Explain briefly the concept of 'State' and 'Sovereignty'. 12

Or

What are the different sources of Law? What are the requirements of a valid custom to become a source of law? Discuss.

12

4. Discuss the approaches of Ihering, Duguit, Spencer towards Sociological School of Law. How their approaches different from Roscoe Pound's theory of 'Social Engineering'?

12

Or

Write short notes on : (any three)

4×3=12

- (a) 'Social Engineering' thesis of Roscoe Pound
- (b) Concept of 'Grundnorm' according to Kelsen's Pure Theory of Law
- (c) What does Henry Maine mean by "From 'Status' to 'Contract'"?
- (d) Briefly explain the 'idea of obligation' in Hart theory of law

5. How do you distinguish between Possession and Ownership? Discuss two theories of possession with suitable examples. 12

**Or**

What do you mean by the term 'possession'?  
What are different modes of acquiring possession, specifically mediate and immediate possession? 12

6. Define the terms 'right' and 'duty'. Briefly discuss the analysis of legal rights and kind of legal rights. 12

**Or**

Distinguish between Hohfeld's theory of jural relation of power-liability from that of claim-duty relation. 12

7. Discuss the concept of 'Feminist Jurisprudence' and its impact on law. Analyse the recent development of different legislative enactments for the protection of women in India. 12

**Or**

Briefly discuss the origin, development and revival in 20th century natural law theory. 12