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19 (IV) LWEV 4-1

2017

**LAW OF EVIDENCE**

Paper : 4-1

Full Marks : 80

Time : Three hours

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

1. Fill in the blanks with appropriate answer given in the brackets :  $1 \times 10 = 10$

(a) \_\_\_\_\_ drafted the bill for the Indian Evidence Act, 1872. (Lord Macaulay/ Sir James Fitzjames Stephen)

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Contd.

- (b) The Indian Evidence Act, 1872 came into force from \_\_\_\_\_. (1st January, 1872/1st September, 1872)
- (c) An affidavit \_\_\_\_\_. (cannot be used as an evidence/can be used as an evidence if specifically permitted by law)
- (d) A is accused of a crime. The fact that, soon after commission of the crime, A had sudden and urgent business at the place where he went are \_\_\_\_\_. (relevant/relevant only to the extent that A had sudden and urgent business there)
- (e) A confessional statement includes \_\_\_\_\_. (only the admission of an offence/not only the admission of offence but also other incriminating relevant facts such as motive etc.)

- (f) A person making a confession \_\_\_\_\_ before hand that the statement would be used against him. (should be warned/need not be warned)
- (g) The question is, whether a horse sold by A to B is sound. A says to B — "Go and ask C. C knows about it". C's comment is \_\_\_\_\_. (an admission/not an admission)
- (h) The plea of alibi postulates physical impossibility of the presence of the accused at the scene of offence by reason of his \_\_\_\_\_. (presence in another place/innocence)
- (i) A sues B for Rs. 1000/- and shows entries in his account-books showing B to be indebted to him to this amount. The entries are \_\_\_\_\_. (sufficient to prove the debt/not sufficient without other evidence to prove the debt)

(j) Courts can take judicial notice of \_\_\_\_\_ . (all laws/law of the land only)

2. Write short notes on : 2x5=10

- (a) Direct evidence
- (b) Procedural law
- (c) Extra-judicial confession
- (d) Burden of proof
- (e) Hostile witness.

3. "The rules of evidence are in general the same in civil and criminal proceedings". — Explain the statement and point out the differences, if any, between evidence in civil and criminal proceedings. 12

OR

Explain the differences between :

4x3=12

- (a) Public Documents and Private Documents
- (b) Estoppel and *res judicata*
- (c) Oral evidence and Documentary evidence.

4. "Relevancy and admissibility are not co-extensive terms". — Explain clearly with suitable examples. 12

OR

Discuss the law relating to confession to Police. 12

5. Explain the relevancy of character in civil and criminal proceedings. 12

**OR**

What is the justification for relevance of dying declaration? Write a judicial standard for appreciation of evidentiary value of dying declaration.

12

6. Enumerate the various rules relating to burden of proof. Is there any differences between burden of proof and onus of proof?

12

**OR**

Explain the rules of evidence relating to exclusion of oral evidence by documentary evidence under the Indian Evidence Act, 1872.

12

7. Who is a competent witness? Discuss the competency of child witness and dumb witnesses.

2+5+5=12

**OR**

Explain the term "Privileged Communications". To what extent the professional communications, communications with interpreters, clerks or servants are privileged communications?

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