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19 (III) JUPR 3.3

**2020**

( Held in 2021 )

**JURISPRUDENCE**

Paper : 3.3

Full Marks : 56

Time : 2½ hours

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

**GROUP-A**

1. Fill in the blanks by choosing the appropriate answer : 1×8=8

(a) The concept that 'Law must remain free from social science metaphysical, ethical and moral elements' was propounded by \_\_\_\_\_.

[ Hart/ Hans Kelsen ]

(b) The founder of Historical School of Law is \_\_\_\_\_.

[ Austin/ Savigny ]

Contd.

- (c) Ownership denotes the relation between a person and any \_\_\_\_\_ that is vested in him. [ *privilege/ right* ]
- (d) A claim implies a correlative \_\_\_\_\_ but a liberty does not. [ *duty/ right* ]
- (e) The maxim, *Actus non facit reum, nisi mens sit rea* indicates conditions of \_\_\_\_\_ liability. [ *penal/ civil* ]
- (f) \_\_\_\_\_ define 'right' as a legally protected interest. [ *Jhering/ Hart* ]
- (g) Legal persons are \_\_\_\_\_. [ *Human beings/ Companies incorporated under Law* ]
- (h) Theories of legal realism, like \_\_\_\_\_ look on law as the expression of the will of the state, but see this as made through the medium of the Courts. [ *naturalism/ positivism* ]

2. Write short notes on :

2×3=6

- (a) Hans Kelsen
- (b) 'Social Engineering' thesis of Pound
- (c) Natural Rights.

3. Can a modern day society function efficiently, only on primary rules of Obligation ? Discuss with the help of HLA Hart's 'Concept of Law'. 7

**Or**

Explain Stammler's idea of justice.

4. Discuss Savigny's contribution in the study of law in relation to people's life and their history. 7

**Or**

Briefly discuss the origin and development and failure of 'Natural Law Theory'. What are the causes of its revival in 20<sup>th</sup> century ?

### **GROUP-B**

5. Briefly explain Hohfeldian analysis of the concept of 'right'. Define each term used by Hohfeld. 14

**Or**

How, according to Pound, in any given case, competing interests are to be balanced ? Critically evaluate the balancing metaphor in Pound's theory of Social Engineering.

6. According to Hans Kelsen, 'Norm is an ought proposition and a relation exists between validity, effectiveness and legitimacy in a normative system'. Elucidate the statement in reference to the Constitution of India.

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**Or**

Feminist approach to law can be seen to start from basic assumption about relationship between man and women and the law is informed by and serves to reinforce patriarchal social relationship that is based on male norms, male experience and male dominance that woman's evidence is excluded from the law and the law has contributed to women's oppression." Elucidate the above statement in reference to Indian legal system.

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