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4 SEM LLB LoE 1 (N)

2016

(June)

LAW

(Law of Evidence)

Paper : 4.1

(New Course)

Full Marks : 80

Time : Three hours

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

Answer the following questions :

1. Choose the correct answers : $1 \times 10 = 10$
 - (i) The rules of Evidence in Civil and Criminal proceeding in general are :
 - (a) same
 - (b) completely different
 - (c) only (a) and not (b)
 - (d) None of the above

- (ii) The cross examination of a witness :
- (a) should be confined to the facts to which the witness is testified on his examination in chief
 - (b) Need not be confined to the facts to which the witness is testified on his examination in chief
 - (c) The examination and cross examination of a witness must relate to relevant facts
 - (d) Both (b) and (c)
- (iii) A confession is a statement :
- (a) consisting of direct acknowledgment of guilt in criminal charge
 - (b) which contains an exculpatory assertion of some facts, which if true would negative the offence alleged
 - (c) which is made by an accused before police
 - (d) None of the above

(iv) Judicial admissions are formal admissions made by a party —

(a) during the proceeding of the case

(b) during police investigation

(c) during commission of the offence

(d) before the proceeding of the case

(v) A dying declaration is a statement made by a dying person —

(a) as to the cause of his death

(b) as to any of the circumstances of the transaction which resulted in his death

(c) Both of the above

(d) None of the above

(vi) In criminal proceedings the fact that the person accused is of a good character is —

(a) Relevant

(b) Irrelevant

(c) Partially relevant

(d) Considered as per court's discretion

- (vii) The court shall take judicial notice of—
- (a) All laws in force in the territory of India
 - (b) The territories under the dominion of the Government of India
 - (c) The usages and tenets of anybody of men or family
 - (d) Only (a) and (b) & not (c)
- (viii) Oral evidence must in all cases whatever —
- (a) need not be direct
 - (b) be direct
 - (c) only (a) not (b)
 - (d) None of the above
- (ix) A lunatic is —
- (a) not competent to testify
 - (b) not incompetent to testify
 - (c) not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them
 - (d) None of the above

(x) The cross examination of a witness —

(a) must relate to relevant facts

(b) may relate to relevant facts

(c) need not relate to relevant facts

(d) None of the above

2. Define 'relevant facts' and 'facts in issue'. Differentiate them with suitable illustrations.

3+3+6=12

OR

Define, explain and illustrate the following

(a) Proved, Disproved and not proved

(b) May Presume and shall presume

6×2=12

3. What do you mean by Confession? Whether confession made by any person to a police officer shall be proved against such person? What are the provisions under Indian Evidence Act regarding Confession? Explain.

3+3+6=12

OR

What do you mean by the term admission? Who are the persons by whom an admission can be made? Explain clearly in accordance with Indian Evidence Act. 12

4. Who is an expert? Under what circumstances the opinions of third person are relevant? What is the difference between expert and an ordinary witness? Illustrate. 12

OR

What is dying declaration? How is it proved? What are the procedures on which dying declaration is considered to be a part of evidence? 12

5. When is evidence given in a judicial proceedings relevant for the purpose of proving in a subsequent judicial proceeding? Discuss clearly with appropriate illustrations. 12

OR

What do you understand by the expression burden of proof? 12

State the rule of Indian Evidence Act, as to the burden of proof in the following matters : **(any three)**

- (a) A man is alive or dead
- (b) Proof of good faith in transactions where one party is in relation of active confidence
- (c) Proof of legitimacy
- (d) Proof as to ownership

6. Write short notes on the following :
(any three) 4×3=12

- (a) Hostile witness
- (b) Leading questions
- (c) Accomplice
- (d) Circumstantial Evidence
- (e) Conclusive proof
- (f) Interested witness.

OR

Briefly explain the following :

- (a) Examination in chief
- (b) Cross examinal
- (c) re-examination.

7. Write shorting on the following : $2 \times 5 = 10$

- (i) Differentiate between Relevant facts and facts in issue.
 - (ii) Doctrine of Res. Gastae.
 - (iii) How much of a statement to be proved ?
 - (iv) What do you mean by public document ?
 - (v) Who may testify ?
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