

Total number of printed pages—4

19 (IV) LWEV 4-1

2019

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 :
1 × 10 = 10

- (a) The Indian Evidence Act came into force on the _____ (1st September, 1872/
2nd April, 1872)
- (b) The present Evidence Act is based entirely on the _____ (English Law of Evidence/American Law of Evidence)
- (c) The Indian Evidence Act is _____ in court-martial. (applicable/not applicable)
- (d) Court can take judicial notice of _____ (all laws/law of the land only)

Contd.

(e) The Principle of English Laws is admissible subject to _____ exceptions. (three/four)

(f) Admission in pleading stand on a _____ than evidentiary admission. (lower footing/higher footing)

(g) The rule of practice is that the court _____ uncorroborated testimony of an accomplice as unworthy of credit (shall consider/is not bound to consider).

(h) The contents of electronic records may be proved in accordance with the provision of _____ of the Evidence Act (section 65A/65B).

(i) Doctrine of *Res gestae* is found in the _____ of the Indian Evidence Act (section 6 section 10).

(j) The question is whether a horse sold by A to B is sound. A says to B-"Go and ask C, C knows all about it?" C's comment is _____ (an admission/not an admission).

2. Write short notes on : $2 \times 5 = 10$

(a) Direct evidence

(b) *Res gestae*

(c) Conclusive proof

(d) Extra-judicial confession

(e) Conclusive proof.

3. What are the main features of the Indian Evidence Act, 1872? Write also the nature and purpose of Law of Evidence in civil and criminal law. $6+6=12$

Or

Define "Evidence". What are the kinds of evidence under the Indian Evidence Act, 1872? $4+8=12$

4. "Facts though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant whether they occurred at the same time and place or at different times and places". Discuss with illustrations. 12

Or

What is retracted confession? What are the grounds for rejecting an extra-judicial confession? $4+8=12$

5. What is dying declaration? Discuss the evidentiary value of dying declaration under the Evidence Act, 1872. $4+8=12$

Or

What is relevancy of judgement? State the circumstances under which the opinion of third person become relevant. $5+7=12$

6. What is Estoppel? State its different types and how does it defer from *Res judicata*. $2+5+5=12$

Or

What is burden of proof? On whom burden of proof lies and under what circumstances it is shifted? $2+6+4=12$

7. Who is competent to be a witness? Discuss the law relating to competency of witness. Is a child below seven years of age competent to be a witness? $2+6+4=12$

Or

Write short notes on : $4 \times 3 = 12$

- (a) Evidence of accomplice
- (b) Privileged communications
- (c) Dumb witness.

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19 (IV) LWEV 4-1

2018

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 :
1×10=10

- (a) Law of Evidence is a branch of _____ (substantive law / adjective law)
- (b) The Indian Evidence Act is divided into _____ principal parts. (three / five)
- (c) The provisions of the Evidence Act _____ applicable to proceedings before Tribunal. (is / is not)
- (d) Doctrine of *Res Gestae* is found in _____ of the Indian Evidence Act. (sec 6 / sec 10)

Contd.

- (e) Any admission made in ignorance of law or under duress _____ bind the maker of admission. (can / cannot)
- (f) Motive, preparation and conduct are _____ under section 8 of the Evidence Act. (relevant / irrelevant)
- (g) The murmuring of 'A' all alone by himself that he has killed 'B' _____ to confession. (amounts / does not amount)
- (h) According to _____, the contents of a document must be proved by producing the original in the court. (section 64 / section 65)
- (i) _____ is rule of legal procedure. (Estoppel / Res-judicata)
- (j) In the Evidence Act a new _____ was added to provide for proof of digital signatures. (section 67-A / section 73-A)
2. Write short notes on : 2×5=10
- (a) Fact in issue
- (b) Primary Evidence
- (c) Retracted Confession
- (d) Privileged Communication
- (e) Accomplice.

3. What is meant by *res gestae* ? State the provisions of Indian Evidence Act relating to *res gestae*. 4+8=12

Or

“All relevant facts are not admissible and all admissible facts need not be relevant.” Discuss the difference between “relevancy” and “admissibility” under the Indian Evidence Act. 12

4. What is Confession ? Discuss the evidentiary value of confession with the help of decided cases. 4+8=12

Or

Who is an expert ? In what situations are opinion of experts admissible in evidence ?

5. What is Oral evidence ? “Hearsay evidence is no evidence”. Are there exceptions to this rule ? Explain. 4+8=12

Or

Define Document. Discuss the relevant provision of law relating to proving of a document by secondary evidence. 4+8=12

6. Discuss the procedure for impeaching the credit of a witness in relation to his former statement. Can a party impeach his own witness ? 8+4=12

Or

Explain and illustrate the following :

6+6=12

- (a) There can be no estoppel against a statute.
- (b) Mere silence does not amount to estoppel.

7. What is the order of examination of witness in court? What types of question can be asked to a witness during cross-examination?

4+8=12

Or

Explain :

6+6=12

- (a) Provision of law relating to disclosure of confidential communication between a party and his legal advisor.
 - (b) Can a witness refrain from answering a relevant question on the ground that the answer will incriminate himself?
-

Total number of printed pages-7

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)

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? 12

Total number of printed pages-4

19 (3-IV) LWEV

2016

LAW OF EVIDENCE

Paper : 4.1

Full Marks : 80

Time : Three hours

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

Choose the correct answer : 1×10=10

1. (a) The Indian Evidence Act was enacted in 1872/1886.
- (b) The Indian Evidence Act is applicable/not applicable in Court-martial.
- (c) Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.
— True/False

Contd.

(d) As far as criminal cases are concerned, prosecution is not expected to prove the motive of any offence.

— True/False

(e) Conviction is not safe merely on the basis of identification evidence.

— True/False

(f) Confession to police officer not to be proved.

— True/False

(g) A dying declaration is admissible in evidence on the principle of necessity and can form the basis for conviction if it is found reliable. — True/False

(h) No fact of which the court will take judicial notice need to be proved.

— True/False

(i) Content of electronic documents may be proved by oral evidence.

— True/False

(j) DNA report is a public document.

— True/False

2. What are the main features of the Indian Evidence Act 1872? Write also the nature and purpose of Law of Evidence in Civil and Criminal cases.

6+6=12

Or

Write short notes on :

- (a) Relevant facts and facts in issue.
- (b) Oral and documentary evidence.
- (c) Circumstantial evidence and Direct evidence.

3. Distinguish —

- (a) Admission and Confession
- (b) Judicial and extrajudicial confession.

Or

Enumerate the rules relating to burden of proof. Give suitable illustrations. 12

4. What is relevancy of judgement? State the circumstances under which the opinion of third person become relevant. 5+7=12

Or

Explain dying declaration and its evidentiary value. 8+4=12

5. What is estoppel? What are different kinds of estoppel? 12

Or

Write notes on :

6+6=12

- (a) Omission as contradiction
- (b) Proof of paternity

6. Explain :

6+6=12

- (a) Privileged Communications
- (b) Dumb witnesses

Or

- (a) Hostile witnesses
- (b) Evidence of accomplice.

7. "Expert-evidence is a weak evidence" — Elucidate. 10

Or

What are the latest amendments to the Indian Evidence Act? Discuss in the light of the Information Technology Act, 2000.

Total number of printed pages—4

19 (3-IV) LWEV

2015

LAW OF EVIDENCE

Paper : 4·1

Full Marks : 80

Time : Three hours

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

1. Choose the correct answer. $1 \times 10 = 10$
- (a) The Indian Evidence Act came into force on the (1st September, 1872/ 2nd April 1872).
- (b) The Indian Evidence Act is (Substantive Law/Adjective Law)
- (c) Doctrine of Res gestae found in the (Section 6/Section 10) of the Indian Evidence Act.
- (d) Court can take Judicial Notice of (all Laws/Law of the land only).

Contd.

- (e) A dying declaration recorded by a police officer is (not reliable/may be relied upon if there was no time or facility for adopting better method).
- (f) 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).
- (g) A person making a confession (should not be warned/should be warned) beforehand that the statement would be used against him.
- (h) Under Section 8 of the Evidence Act (motive/preparation/conduct) is relevant.
- (i) Under the Evidence Act, Fact means (Factum probandum/Factum probans/ both Factum probandum and Factum probans).
- (j) Indian Evidence Act applies to (proceedings before tribunals/ arbitrator/in courts/all of the above).
2. Write short notes on : 2×5=10
- (a) Hostile Witness
- (b) Doctrine of Estoppel

- (c) Conclusive proof
- (d) Primary Evidence
- (e) Privileged communication.

3. 'Hearsay evidence is no evidence'. Explain with the exception, if any, by referring to leading cases. 12

Or

Distinguish between : 6+6=12

- (a) Presumption of law and presumption of fact.
- (b) Direct evidence and circumstantial evidence

4. What is retracted confession? What are the grounds for rejecting an extra judicial confession. 12

Or

Fact which, though not in issue, are so connected with a fact in issue as to form part of the same transaction are relevant, whether they occurred at the same time and place or at different times and places. Discuss with illustrations.

5. What is dying declaration? Discuss the law relating to admissibility of dying declaration under the Indian Evidence Act. 12

Or

Who is an expert? In what situations are opinions of experts admissible as evidence. 12

6. Proof beyond reasonable doubt does not mean proof beyond shadow of doubt. Discuss with examples. 12

Or

What is 'burden of proof'? Enumerate the rule relating to burden of proof. Is there any difference between 'burden of proof' and 'onus of proof'?

7. Discuss the procedure for impeaching the credit of a witness in relation to his former statements. Can a party impeach his witness? 12

Or

What is the order of Examination of witness in court? What types of questions may be put to a witness during cross examination? Can a party to a case put leading question to his own witness. 12

Total number of printed pages—4

19(3-IV) LWEV

2014

LAW OF EVIDENCE

Paper : 4-1

Full Marks : 80

Time : Three hours

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

Answer all the questions.

1. (A) Choose the correct answer : $1 \times 10 = 10$
- a. The Evidence Act 1872 is a (substantive law / procedural law).
 - b. The provisions of the Evidence Act 1872 do not apply to / apply to proceedings before an arbitrator.
 - c. The law of evidence is the *lex for i/lex loci*.
 - d. An extra judicial confession can be made / cannot be made to any person or to a body of person.

Contd.

- e. Confession made in the custody of a police officer can be / cannot be proved against an accused.
- f. Primary evidence means the document itself produced for the inspection of the court (*true / false*).
- g. Birth during marriage conclusive proof of legitimacy is to be found in section 112 / 113 of the Evidence Act 1872.
- h. The contents of electronic records may be proved in accordance with the provisions of section 65A / 65 B of the Evidence Act 1872.
- i. Leading questions may be / may not be asked in an examination-in-chief except with the permission of the court.
- j. There can be an estoppel / no estoppel against a statute.

(B) Answer the following : 2×5=10

- a. What do you understand by fact in issue ?
- b. What is confession ?
- c. What is the value of opinion of expert in the Evidence Act 1872 ?

- d. What do you mean by burden of proof ?
- e. What do you mean by privileged communications ?

2. Discuss the main features of the Indian Evidence Act 1872. What is the object of the study of Law of Evidence ? 8+4=12

Or

Define 'Evidence'. What are the different kinds of evidence ? 4+8=12

3. "In courts we are concerned with legal relevancy and not logical relevancy of facts". Explain that 'relevancy' and 'admissibility' are not co-extensive terms. 12

Or

'Facts, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant whether they occurred at the same time and place or at different times and places.' Discuss with the help of decided cases. 12

4. What is dying declaration ? Discuss the ingredients and evidentiary value of dying declaration under the Evidence Act 1872. 12

Or

Discuss the rules relating to relevancy of character in civil and criminal cases. 12

5. Distinguish between : 6×2=12

a. Public documents and private documents

b. Patent ambiguity and latent ambiguity

Or

Write short notes on :

a. admissibility of electronic records in evidence.

b. Estoppel

6. Who is competent to be a witness ? Discuss with the help of case laws the law relating to competency of witness under the Evidence Act 1872. Is a child below seven years of age competent to be witness ? 12

Or

What is 'Examination-in-chief, 'Cross Examination' and ' Re-examination' and discuss the order in which such examination can be done? Can a witness be cross-examined by a party who has produced him ? 12