

C.S.E LAW (MAIN) – 2004

PAPER – I

Time Allowed : Three Hours

Maximum Marks: 300

Candidates should attempt Questions 1 and 5 which are compulsory and any three of the remaining questions selecting at least one question from each Section.

SECTION A

1. Answer any three of the following (each answer should be in about 200 words) :
 - (a) Federalism has in recent years, witnessed a change - from the dogmatic to dynamic - approach." Discuss the changing approach and point out the main deviations in the working of the Constitution of India. 20
 - (b) "Liberty of Press consists in laying no prior restraints upon publications and not in freedom from censure for matters when published." Explain and indicate how far this liberty of Press is protected under the Indian Constitution. 20
 - (c) "The extensive use of the device of 'reasonable classification' by State and its approval by the Supreme Court has rendered the guarantee of 'fair and equitable treatment' under Article 14 largely illusory." Discuss making clear the constitutional and popular concepts of 'right to equality' in India. 20
 - (d) What is Judicial activism? In this context evaluate the contribution of the Supreme Court of India, which is empowered to act as the guardian of the constitutional provisions. 20
2. (a) "The pardoning power of the Governor is not immuned from Judicial review" Examine this statement in the light of the case of *Satpal Vs. tate of Hariyana* 2000). 0
- (b) Examine in detail the provisions of the Constitution regarding appointment of Judges of the Supreme Court of India. Is it necessary to constitute a Commission to review and reform the prevailing provisions of the Constitution in this regard? Give reasons. 30
3. (a) "The Supreme Court of India has extended theory of basic structure of the Constitution to the constitutional morality in the case of *B.R. Kapur Vs. State of Tamil Nadu*,(2001)." Explain. 30
- (b) What are the grounds, duration and consequences of the Proclamation issued by the President of India pertaining to the failure of constitutional machinery in States? Is such a Proclamation justiciable? 30
4. (a) "Parliamentary privileges is an essential incident to the high and multifarious functions which the legislature is called upon to perform." Discuss the position under the Constitution of India. Will you suggest reforms, if any, in the existing position? 30
- (b) Explain the form of the Government that the Constitution of India has adopted and which has been subject of criticism. What reforms, if any, will you suggest in this regard? 30

SECTION B

5. Answer any three of the following (each answer should be in about 200 words):
- (a) "The controversy whether International law is law or not is meaningless because, in fact, it is law and is generally obeyed." Highlight the views of prominent writers about the above statement. 20
 - (b) "The General Assembly has become more powerful than the Security Council of the United Nations." Do you agree with this view? Give reasons. 20
 - (c) Explain the forcible methods of settlement of international disputes. 20
 - (d) Explain the scope of the concept of freedom of the High Seas and discuss also the legality of nuclear tests in the areas of High Sea. 20
6. (a) Discuss the principles on which the extradition of a fugitive offender is based. Is a state liable to extradite an offender, who has been accused of a political murder in a neighbouring state? Give reasons. 30
- (b) Explain 'Jus cogens'. Examine critically the Articles on 'Jus cogens' in the Vienna Convention. 30
7. (a) "The Law of Sea Convention 1982, does not bestow on landlocked states any definite right of transit." Do you agree with this statement? Give reasons. 30
- (b) Assess the contribution of the Johannesburg World Summit on Sustainable Development (W.S.D.-August, 2002) and New Delhi 8th Conference of the Parties (C.O.P.-8 October, 2002) in combating climate change. 30
8. (a) Discuss the jurisdiction of International Court of Justice. Who will decide as to whether the Court has jurisdiction or not? 30
- (b) "The granting of recognition to a new state is not constitutive but a declaratory act." Do you agree with this view? Discuss the theories of recognition and state which theory is correct in your view. 30

PAPER - II - 2004

Time Allowed: Three Hours

Maximum Marks: 300

Candidates should attempt Questions 1 and 5 which are compulsory and any three of the remaining questions selecting at least one question from each Section.

SECTION A

1. Answer any three of the following (answer to each question must not exceed 200 words). Support your answer with legal provisions and decided cases: 20x3=60
 - (a) "The constitutional validity of Section 124A of Indian Penal Code was questioned in *Kedar Nath Singh* on the ground of the provision of the section being in violation of freedom of speech and' expression." Briefly discuss the contentions and give reasons for or against the decision in the said case.
 - (b) Distinguish between criminal breach of trust and criminal misappropriation of property.
 - (c) "All torts are civil injuries but all civil injuries are not torts." Explain the above statement.
 - (d) Distinguish between tortious liability and contractual liability.
2. Referring to relevant legal provisions, and decided cases, point out what offence, if any, has been committed in the following cases: 10x 6 = 60
 - (a) A soldier *A* fires on a mob by the order of his superior officer in conformity with the commandments of law.
 - (b) *A* sees *B* commit what appears to *A* to be a murder, *A* in good faith seizes *B* in order to bring *B* before the proper authorities. Later on, it turns out that *B* was acting in self-defence.
 - (c) *A* finds a ring on the highway not in the possession of anyone person. *A* picks it up.
 - (d) *A* cuts down a tree on *B*'s ground with the intention of dishonestly taking the tree out of *B*'s possession without *B*'s consent.
 - (e) *A* intentionally gives a sword cut to *B* sufficient in the ordinary course of nature to cause death. *B* dies in consequence.
 - (f) *A* without any excuse, fires a loaded pistol into a crowd of persons and kills one of them.
3.
 - (a) Discuss the law relating to commencement and continuance of the right of private defence of property. When does the right of private defence of property extend to the causing of death? 30
 - (b) Discuss the jurisdiction of various authorities under the Consumer Protection Act, 1986 for the settlement of disputes. 30
4.
 - (a) "In assessing damages, the law takes an account of certain consequences but considers only proximate consequences." State the test by which the remoteness of consequences 'is determined by the courts for this purpose. Refer to judicial pronouncements. 30
 - (b) Critically examine the provisions of 'The Protection of Civil Rights Act, 1955 and highlight the deficiencies, if any, in the said law. 30

SECTION B

5. Answer any three of the following (answer to each question must not exceed 200 words) :20x3=60.
- (a) Whether an agreement without consideration is void? Discuss the rule with exceptions, if any.
 - (b) "The strict adherence to the theoretical consideration that a contract made under mistake as to the identity of parties or identity of the subject matter is void, would lead to absurd result." Do you, agree with this statement? Give reasons.
 - (c) "The contract of sale is consensual and bilateral." Discuss. How does Sale differ from Hire Purchase Agreement?
 - (d) "In determining whether a group of persons is or is not a firm, or whether a person is or is not a partner in a firm, regard shall be had to the real relations between the parties as shown by all the relevant facts taken together." Do you agree with this statement? Give reasons.
6. (a) Distinguish between Holder and Holder in due Course. Support your answer with decided cases. 30
- (b) What are various kinds of Indorsement recognised by law? Discuss the effect of forged indorsement. Give reasons. 30
7. (a) Critically examine the principle of *Caveat Emptor*, highlighting its exceptions in the light of statutory provisions and judicial pronouncements. . 30
- (b) Discuss the consequences of non-registration of partnership firm. 30
8. (a) Discuss the scope of Section 70 of the Indian Contract Act, 1872.Can a State recover cost of training on failure of the defendant to join the service? 30
- (b) "In a 'standard form contract', it is likely. that the party having stronger bargaining power may insert such exemption clauses in the contract that his duty to perform the main contractual obligation is thereby negated" Explain, and discuss the various rules which have been evolved to protect the weaker party. 30