JURISPRUDENCE / विधिशास्त्र

Judge not only make Law, but also discover law — GRAY

Legal ORDER is a Pyramid of Norms — Kelson

" J.. An Separate Branch of Discipline" — ROMAN

Sociology — August

Comparative Method of Study — Maine

"Jurisprudence is Lawyers Perspective" — Pollock

Lawyers Extrovertism : John Stone

• Father of English Jurisprudence : John Austine

2018
82 96
86, 97
95

2015 - 145, 147
146, 148
145

2016 : 145
146
148, 150

Book:
- Theory of Justice — Rawls
- The Morality of LAW — Lon Fuller
- Social Dimension of Law & Justice — RAD CLIFFE
- Concept of LAW — HART
- Province & Function of LAW — Julius Stone
- Province of (J) — Austine

2018 141
2018 85

HART - Fuller Controversy
LAW v. MORALITY

LEGAL MAXIM >

Animus Domini = Intention to held As Owner

Obitur dictum

Ratio Decidendi

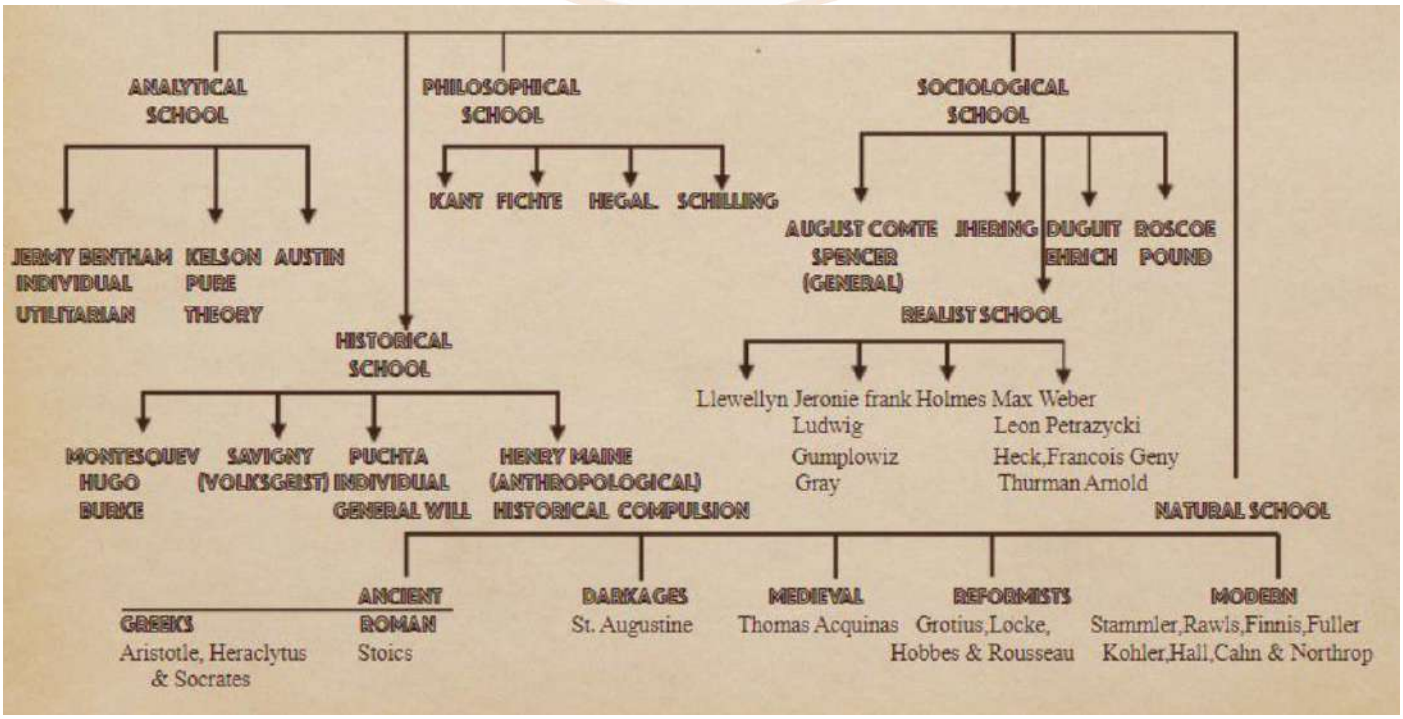
[CASE LAW]

Lifting the Corporate veil : Soloman v/s Soloman

Possession (कब्जा) : Gallie v. Lei

Consti. Morality > Social Morality : -नवतेज सिंह जौहर

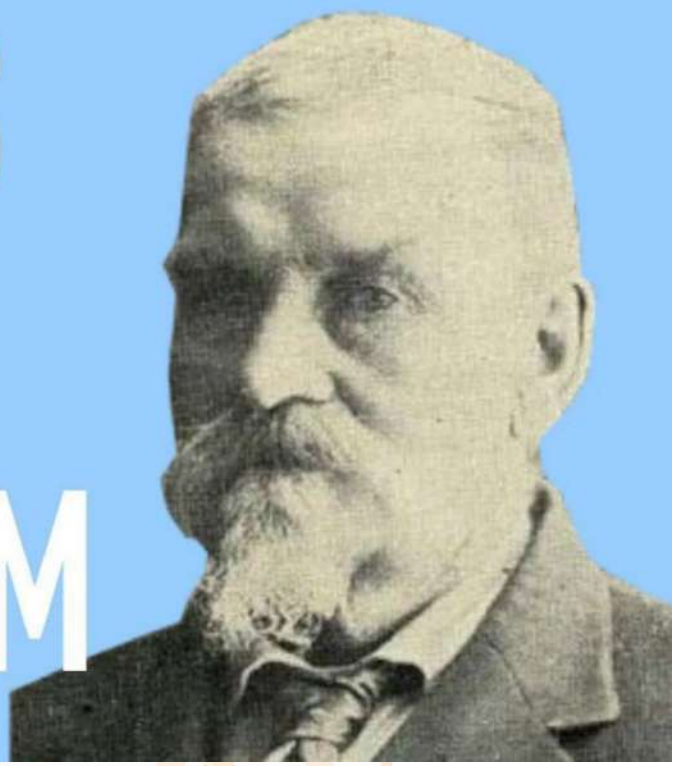
"Preserve One's life ⇒ Highest Duty to Sacrifice [Law Coleridge] — Queen v. Dudley and Stephan 1884



Difference b/w schools of Jurisprudence

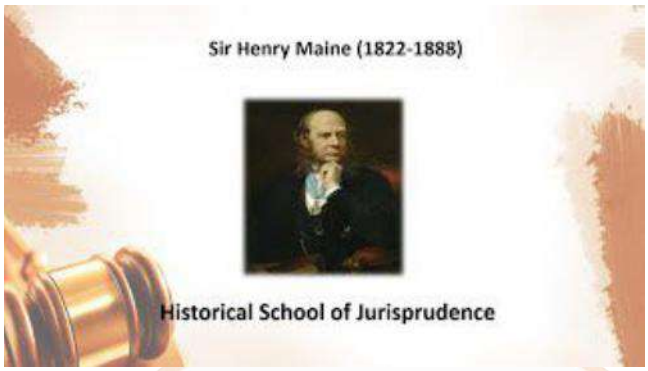
Basis of difference	Analytical School	Historical School	Sociological School	Philosophical School	Natural School
1. Tool of Study	Analysis	Empirical Observation	Societal Processes	Human Intellect & Action	Analogy with Natural Reasoning
2. What is Law	Norms & Code of Conduct	Human behaviour	Channelization & Balancing of Societal Processes	Balance b/w intellect & action	Reason Based Human Conduct
3. Why to Study			Reform in law / Stability	Reform in light of Morality	Reform in light of Human Reasoning
4. Which Law should be Studied	Present existing Law	Existing law in light of past	Past, Present & Future Law	Future	Future

AUSTIN'S LEGAL POSITIVISM



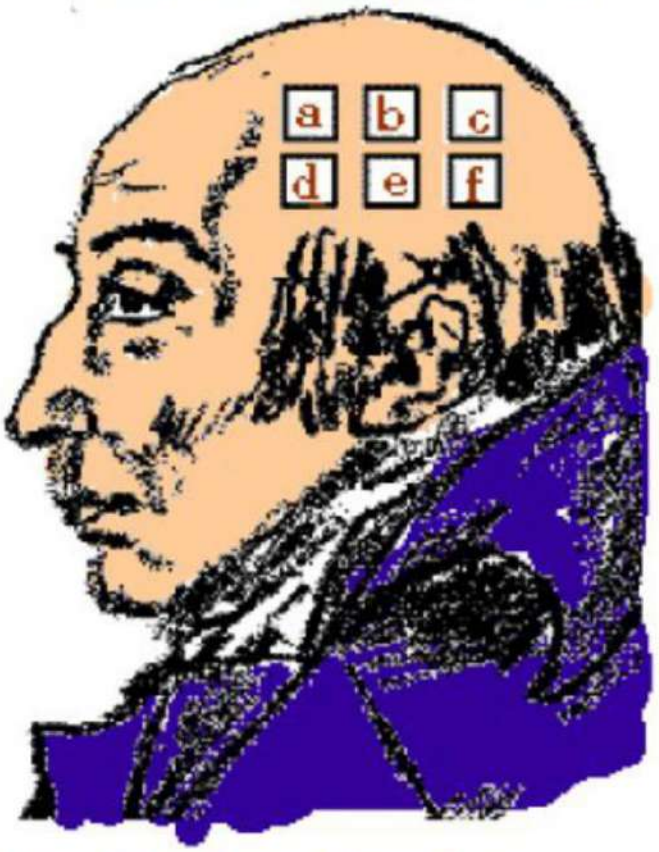
IMPORTANT FACTS

- Real name : Charles-Louis de Secondat/ born in 1689
- Attended a Catholic school and became a lawyer
- Inherited his title from his uncle
- Wrote a book called Persian Letters that criticized French society using humor (satire)



Reality is continuous

The mind objectifies it



The Hegelian Idea of Objectification of Reality

John Austin [1790 AD – 1859 AD]

Jurisprudence is the Philosophy of Positive Law

He Separated the meta – Physical controversy from Legal Enterprise

Criticism

The Term Philosophy & positive law are misleading

Thomas Erskine Holland [1835AD – 1926AD]

Jurisprudence is formal science of Positive Law

Formal Means 'Fundamental Legal Principles'

Criticism

The Term Philosophy of Austin definition led Holland to present this definition

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