

1969

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William & Mary Law School

Repository Citation

William & Mary Law School, "Family Law: Examination (June 4, 1969)" (1969). *Faculty Exams: 1944-1973*. 203.
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FAMILY LAW EXAMINATION

June 4, 1969

Mr. Phelps

I

A wife, citizen of Germany, is sued by her husband for divorce in State X (assume normal jurisdictional provisions) where she is presently and where the parties had lived as husband and wife. The husband is now domiciled in and a resident of another state. What arguments will be advanced by the wife based on the fact that the court has no jurisdiction. Will she be successful? Explain.

II

A divorce was granted in the District of Columbia to a wife. The court refused to determine the interests of the parties in land in Maryland held by them as tenants by the entirety, although the District of Columbia had a statute providing that on divorce rights by the entirety shall stand dissolved and the court shall apportion property in an equitable manner. It is the rule in the District of Columbia also that a divorce court is not authorized to award a husband's property to the wife in lieu of or in addition to alimony. On appeal what should be the court's holding? If this problem came up in Virginia how should the court deal with it? (Be sure to answer both questions).

III

A wife, whose husband had secured a Florida divorce, applied for and received a survivor's annuity under the Civil Service Retirement Benefit Act. The government is suing for a return of these funds on the ground that she was not decedent's legal widow. The wife claims the divorce was void since she received no notice of it, and it was not entitled to full faith and credit. Florida law provided for a divorce of a non-resident on service by publication with notification by ordinary mail where the residence of the defendant was known. The husband had discovered his wife's address by registered mail with a return receipt requested which the wife signed. The notice of the suit was thereafter mailed to this address by ordinary mail. The wife did not receive this notice.

III (continued)

The wife argues the Florida statute does not accord due process. (1) Discuss this argument, and state how you think the court should rule. (2) What other argument could the wife have made in this case?

IV

A young man of twenty-two induced a girl of fifteen to marry him. She died in childbirth two months later. Her family was wealthy and had given her \$1,000,000 in stock in a family corporation when she was fourteen. The young man was generally of disreputable character, but the girl knew nothing of this. The parents seek an annulment of the marriage claiming they did not consent to the marriage as required by law, and that an annulment was proper based on the bad character of the young man. They ask further for an order granting them custody of the child and that the father be ordered to support the child. What are the issues? How should they be decided.

V

Husband (H) and wife (W) entered into a separation agreement in Virginia providing payments to (W) for her life and support for the children, and providing that if a divorce should be awarded the parties would petition the court to approve and confirm the agreement in lieu of any claim to alimony or to property. Thereafter (H) secured a divorce on the ground of (W's) desertion. (H) requested the court granting the divorce to void the agreement, since the wife was at fault and no alimony should be allowed. (W) requested the court to incorporate the agreement in the decree as provided in the agreement. The court adopted the agreement in lieu of alimony. Five years later, (W) having remarried, and (H) having made no payments as agreed to, (W) brought an action for arrears in alimony and support. (H) was nonresident and notified on service by publication. He made a special appearance contending the court had no jurisdiction to enter a judgment for arrears. The court nevertheless entered the judgment for owed arrears before (W) remarried, and decreed the judg-

V (continued)

ment was a lien on the land of (H) in Virginia. It further held that since (W) had remarried she was no longer entitled to payments in lieu of alimony, and it reduced the amount of the support for the children. Discuss the rulings of the court and indicate how you think the problem should be handled.