

1950

## Virginia Procedure: Final Examination (August 17-18, 1950)

William & Mary Law School

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FINAL EXAMINATION IN VIRGINIA PROCEDURE

August 17, 1950

PART I

1. In what two ways may the Virginia Supreme Court of Appeals sit?
2. In a felony case the Commonwealth failed to introduce any evidence that the alleged crime was committed in X County where the accused was being tried. While the jury was considering the case, the attorney for the defendant moved to dismiss the case because of that fact. What should the trial court do?
3. The process of the court in equity suits shall be \_\_\_\_\_.
4. Unless the plaintiff expressly declines to reply to an answer, he shall be doomed to have filed \_\_\_\_\_.
5. Defendant answered plaintiff's bill of complaint in two days. Five days later he filed a plea in abatement. Plaintiff moved that the plea in abatement be stricken. Should the motion be granted? Give reasons.
6. P duly sued D for \$5000 arising out of a personal injury. D defaulted. P demanded a jury trial on the amount of damages. D was not notified of this demand. Should the court impanel a jury?
7. In what particulars have the New Rules changed the law with respect to set-off and recoupment?

PART II

I. X of York County owed D of Ohio \$1700. D came to Virginia in his car to see X about the debt. While D was in Charles City County, he drove into P's house, causing P \$1200 damage. D returned to Ohio and engaged A, an Ohio attorney, to defend him against any suit that might be instituted. P wishes to sue D in the Circuit Court of Charles City County. Discuss points involved that concern jurisdiction, venue, and the right of A to represent D in Virginia.

II. X died intestate while seized of Blackacre in fee. He was survived by a widow, W, and a brother, B. W took possession of Blackacre and died ten years later, devising same to her sister, S, who then took possession and made \$500 worth of improvements. The net rental value of the premises averaged \$500 per year. After the lapse of seven more years, B brought an action of ejectment against S. What are B's rights, if any? Give reasons.

FINAL EXAMINATION - VIRGINIA PROCEDURE

Second Day- August 18, 1950

1. P's motion for judgment brought under the New Rules showed on its face that it was barred by the statute of limitations. Should the defendant demur? Give reasons.
2. D broke and entered C's house in the night time with the intention of stealing whatever he could carry away. He stole property worth \$250 and was indicted and tried for burglary and larceny. He received a ten year penalty for burglary and a two year additional penalty for larceny. Discuss the validity of the above verdict.
3. D asked the Court to give an instruction which the court refused in an action in the Circuit Court of York County. How, if at all, can the refused instruction be made a part of the record?
4. X took out a life insurance policy. He became insane and died. While he was insane he hid the policy, so that it was not discovered until fifteen years after his death. Does the insurance company have a defense? Give reasons.
5. In what three ways do divorce suits differ from other suits in equity?
6. P filed a petition for attachment of D's property before a trial justice. At the trial it appeared that D was a non-resident, that P had purchased land from D, and that there was a shortage of some three acres and a misdescription of the property. The trial justice found for P. D appealed to the Circuit Court. That court permitted P to transfer his case to the equity side thereof so that the deed could be reformed. What errors, if any, have been committed?