

1966

Business Associations: Final Examination (January 17, 1966)

William & Mary Law School

Repository Citation

William & Mary Law School, "Business Associations: Final Examination (January 17, 1966)" (1966). *Faculty Exams: 1944-1973*. 158.
<https://scholarship.law.wm.edu/exams/158>

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BUSINESS ASSOCIATIONS - Final Examination - January 17, 1966

I. Partners, A, B, C & D employed E to act as Comptroller "for and during the balance of the term of the partnership" which was to run for twenty years. Quite a few years before the partnership was to expire C and D withdrew from the partnership. A short time later A and B incorporated the partnership and E was discharged. E brought an action against A, B, C and D for improper discharge. What are E's rights? Explain.

II. May an unqualified foreign corporation transacting intrastate business in the state sue for infringement of a federally registered trademark, assuming the Virginia statute applies? Explain.

III. How sound is the conclusion of *Robertson v. Levy*, 197 At.2d 443 (one of the cases in the casebook) that the impact of the Model Business Corporation Act Section 50 "Effect of issuance of certificate of incorporation" and Section 139 "Unauthorized assumption of corporate powers" when considered together eliminates the concept of estoppel corporateness? Explain.

IV. D borrowed money from P who as payee was styled in the note as the "L-W Hardware Company". When sued on the note the defendant filed a general denial and argued there was no competent evidence of corporate existence. A witness testified the plaintiff was running a hardware store and that he inferred it was a corporation from its mode of business. He also testified a bank president told him it was a corporation. The defendant argued this did not even show de facto existence of the corporation. Discuss the problem and state how it should be resolved.

V. The organizers of a corporation agreed with a promoter just prior to incorporation that the corporation would issue shares of stock to the promoter in return for services which he was to perform for the corporation. The organizers became the board of directors or officers of the corporation during the time the services were rendered but no corporate action was ever taken with respect to the contract. Can the promoter after rendering the services recover from the corporation on the contract? Explain.