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A Compendium of Essential Legal Principles
From His Opinions as a Justice on the West
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B. *Subrogation*

The issue of subrogation was succinctly, but meaningfully, addressed in *Richards v. Allstate Insurance Co.*⁴²³ Justice Cleckley opined that “[n]o right of subrogation can arise in favor of an insurer against its own insured, since by definition subrogation arises only with respect to rights of the insured against third persons to whom the insurer owes no duty.”⁴²⁴

C. *Stacking*

The issue of stacking automobile policy coverage was focused upon in *Payne v. Weston*.⁴²⁵ *Payne* held,

[t]here is no common law right to stack coverage available for multiple vehicles under the same policy or under two or more insurance policies. The right to stack must arise from the insurance contract itself (as that is the agreement of the parties) or from a statute (as in the uninsured and underinsured motorist coverage statutes).⁴²⁶

The opinion also held that “[a]n insured is not entitled to stack liability coverages for every vehicle covered by his or her policy when the insured received a multi-car discount, when only one vehicle was involved in the accident, and when the policy contains language limiting the insurer’s liability.”⁴²⁷

XVIII. CORPORATE LAW

In *Frymier-Halloran v. Paige*,⁴²⁸ the court held, “W. Va. Code, 11-15-17 (1978), explicitly provides that an officer of a corporation shall be personally liable for any consumers sales and service tax along with any additions, penalties, and

⁴²³ 455 S.E.2d 803 (W. Va. 1995).

⁴²⁴ *Id.* at Syl. Pt. 2.

⁴²⁵ 466 S.E.2d 161 (W. Va. 1995).

⁴²⁶ *Id.* at Syl. Pt. 1.

⁴²⁷ *Id.* at Syl. Pt. 3.

⁴²⁸ 458 S.E.2d 780 (W. Va. 1995).

interest thereon owed by the corporation.”⁴²⁹ The opinion also held that “[i]t is not a defense to individual liability for one who acts as an officer of a corporation to assert that he was not properly elected as an officer.”⁴³⁰

XIX. ELECTION LAW

A. *Enforcing Election Laws*

Justice Cleckley addressed the issue of enforcing election laws through a writ of mandamus in *State ex rel. Sowards v. County Commission of Lincoln County*.⁴³¹

The public policies in protecting fundamental rights, preserving electoral integrity, and promoting both political and judicial economy have prompted a practical approach in assessing whether an election case is appropriate for mandamus relief. The fundamental and constitutional right to run for public office cannot be denied unless necessary to achieve a compelling state interest. It is only when a writ of mandamus has been invoked to preserve the right to vote or to run for political office that this Court has eased the requirements for strict compliance for the writ’s preconditions, especially those relating to the availability of another remedy.⁴³²

B. *Limiting Candidate Eligibility*

The decision in *State ex rel. Sowards v. County Commission of Lincoln County*⁴³³ addressed the legislature’s authority to impose requirements for being eligible to run for a political office. Justice Cleckley observed that “[t]he State of West Virginia through its Legislature retains the authority to prescribe reasonable rules for the conduct of elections, reasonable procedures by which candidates may

⁴²⁹ *Id.* at Syl. Pt. 1.

⁴³⁰ *Id.* at Syl. Pt. 2.

⁴³¹ 474 S.E.2d 919 (W. Va. 1996).

⁴³² *Id.* at Syl. Pt. 3.

⁴³³ 474 S.E.2d 919 (W. Va. 1996).