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STUDENT NOTES

The Scope of Permissible Cross-Examination of a Party Litigant or Defendant in a Jury Trial in West Virginia

Two fundamental restrictions limit the permissible scope of the cross-examination of a party litigant or defendant in a jury trial.¹ One is the evidentiary restriction limiting cross-examination to those matters discussed in chief, and the second is the constitutional privilege against compulsory self-incrimination. The purpose of this note is to examine the development and application of these restrictions in West Virginia jurisprudence.

¹ To this list could also be added a third restriction, that of incompetency. Under the common law and during the period when this nation was formed, a person charged with a criminal offense was incompetent to testify under oath in his own behalf at his trial. He was at times permitted to make certain statements to the jury while not under oath, but he was not subject to cross-examination on such utterances. This restriction is, however, of little present-day importance since Georgia is the only jurisdiction in the common law world to retain this rule. See, *Ferguson v. Georgia*, 365 U.S. 570 (1960).