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Admission to the West Virginia Bar of One Already Licensed in Another State

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ADMISSION TO WEST VIRGINIA BAR OF ONE ALREADY LICENSED IN ANOTHER STATE.—Instructions given by the judges of the Supreme Court of Appeals to the Board of Law Examiners under date of May 13, 1918, construe c. 119, § 2 of the West Virginia Code relating to the admission to practice as a resident attorney of one already licensed and admitted to practice in another state or in the District of Columbia. The direct question involved was whether the rules and regulations of the Supreme Court of Appeals as to academic education and law study apply to a person seeking admission to the bar who had previously been licensed to practice in another state. The requirements of the Supreme Court of Appeals adopted on May 6, 1915, are as follows:

"Until otherwise provided, it is ordered, under Chapter 119, section 1, of the Code, as follows:

1. Persons hereafter applying for license to practice law in this State under the provisions of section 1 of chapter 119 of the Code must satisfy the following requirements as to period of study and degree of preparation.

(A). A preliminary academic education equivalent to that required for graduation from a high school of the first class in West Virginia, which may be evidenced by a diploma of graduation from such a high school or by a certificate showing equivalent credits from any other school whose credits would be accepted for admission to West Virginia University, or by passing an examination on equivalent subjects.

(B). Three years of diligent law study as a student in the office of, and under the direction of, a member of the bar of this State (or another state), or as a resident student in an approved law school, evidenced by a certificate to the State Board of Law Examiners by the attorney under whom, or the head of the law school at which, such study was pursued, showing in detail the work done. In interpreting the above requirement, not less than ten months, exclusive of vacations, shall constitute one year of office study, and not less than eight months, exclusive of vacations, shall constitute one year of law school study.

The court holds in its opinion that the case of an attorney licensed and admitted to practice in another state

"is not within clauses A and B of the rules and regulations adopted by the Supreme Court of Appeals May 6, 1915 since those regulations were made under section 1 of chapter 119 of the Code, before the amendment of section 2 of that chapter became effective.

"Furthermore, we think clauses A and B of the regulations ought not to apply to applicants contemplated and provided for by said section 2. We construe that section as not requiring either residence in the state for one year or more or compliance with said clauses. In our opinion, the legislative purpose was to admit attorneys authorized and practicing in other states and removing into this state, to practice as resident attorneys, on the passage of such examination as is required for lay, resident applicants and proof of good moral character. Literally, the section may go beyond this, but the somewhat indefinite terms used may be fairly considered as falling under restraint of the general purpose clearly expressed, admission of attorneys of other states after having become residents of this state. Their professional status is recognized and they are permitted to practice in this state, after proof of professional qualification by the test of such an examination as resident applicants are required to take and procurement of licenses. Such a person must submit to an examination, but the intent to permit him to do so immediately after having become a resident, is, we think, clearly indicated by the form in which the requirement is expressed. Before at-

tempting to practice and after he becomes a resident, he must submit to an examination and obtain a license. Residence in the state is made prerequisite, but no period thereof is prescribed or indicated. Requirement of a license before attempting to practice indicates purpose to allow the examination at any time after the change of residence."

THE EFFECT OF MEDICAL TREATMENT AS AN INTERVENING CAUSE IN HOMICIDE.—In a recent case[1] decided by the West Virginia Supreme Court of Appeals, some old and familiar principles of criminal law are applied to a novel combination of circumstances. After the subject of the homicide was shot, but while his symptoms were still normal, an exploratory operation was performed to determine whether the abdominal cavity had been penetrated. It was found that the abdomen had not been penetrated, but that the appendix was diseased. The operating physician, *sua sponte*, removed the appendix. The next day, alarming symptoms developed and death suddenly ensued. The trial court submitted to the jury the question whether removal of the appendix was the sole, or only a contributing, cause of death; holding, by way of refusal of defendant's instructions, that, in order to constitute a defense, removal of the appendix must have been found to have been the *sole cause* of death.

Whether the effect of medical or surgical treatment, as an intervening cause, will prevent an original act from being murder or manslaughter depends upon its relation to the original act. For purposes of discussion, the relationship between the original and the intervening act may be analyzed as follows: (1) they may be contributing causes; (2) the intervening act may be the sole cause necessarily consequent upon the original act and proximately connected with it; or (3) the intervening act may be the sole cause only casually connected with the original act and fortuitously consequent upon it.

Although the wound be not mortal when inflicted, if it afterward become so and result in death by reason of negligent or improper treatment, the original act constitutes murder or manslaughter.[2] However, it is not essential that the improper treat-

[1]State *v.* Snider, 94 S. E. 981 (W. Va. 1918).

[2]1 HALE, P. C. 428; State *v.* Bantley, 44 Conn. 537, 26 Am. Rep. 486 (1877); Crum *v.* State, 64 Miss., 1, 1 So. 1, 60 Am. Rep. 44 (1886); Clark *v.* Com., 90 Va. 360, 18 S. E. 440 (1893); State *v.* Scott, 12 La. Ann. 274 (1857); State *v.* Baker,