

C. B. sues C. upon his guaranty, and C. raises the defence of want of presentation of the note, and of failure to give him notice of dishonour. Can B. succeed?

7. Upon what principle is the rule based that the release by a creditor of the principal debtor operates as a release of the surety for the indebtedness? What exceptions are there to the rule?

8. A. held a mortgage in fee of lands, made by B. to secure repayment to A. of \$1,000. A., in the presence of a witness, said to his son: "I declare that I hold the mortgage for \$1,000, made to me by B., in trust for you." No consideration was paid by the son for such declaration. A. retained the mortgage until the time of his death, and his son thereupon claimed to be beneficially entitled to the said mortgage, but his claim was resisted by the personal representatives of A. Should the son succeed in his contention or not, and why?

9. Blackacre is worth \$1,000, and A. (the owner thereof), for an expressed consideration of five shillings, conveys the same to B., a stranger. In fact, no consideration was paid. In whom is the legal estate vested, and why?

10. A testator devised his farm to trustees in trust for the testator's son, with a provision in the will that the trustees should lease the farm to a tenant until the son attained the age of twenty-five years, and that the rents and profits, in the meantime, should be applied by the trustees for the maintenance, education, and advancement in life of the son, and that when the son attained the age of twenty-five years, but not before that time, the trustees should convey the farm to him. Upon the son attaining the age of twenty-one years, he forbade the trustees to make a further lease of the land, and he demanded an immediate conveyance thereof to himself. The trustees refused to comply with his demand, whereupon he brought action against them to enforce his claim. Who should succeed, and why?

CRIMINAL LAW.

Examiner: W. D. Gwynne.

1. State and explain shortly the several methods of bringing a person to trial before the code. How has the code altered the law?

2. What disposal may be made of a person arrested on an endorsed warrant?

3. How may a witness for the accused, who resides at Ottawa, be compelled to appear before a justice in Hamilton on a preliminary enquiry?

4. What course is adopted when a prisoner wilfully refuses to plead? What was the former practice?

5. What are the provisions of the code with regard to the form and contents of counts?

6. How may the accused avail himself of defects in an indictment?

7. In what cases may a person indicted for one offence be found guilty of another?

8. What is meant by entering a *nolle prosequi*, and what is the substitute under the present practice?

9. In what cases may a criminal court award compensation?

10. If during the trial the prisoner is taken so ill as not to be able to remain in court, what course may be adopted, and what was the former practice?

11. State the proceedings to be taken where a previous offence is charged.

12. At a coroner's inquest in regard to a fire of supposed incendiary origin, a witness' deposition is duly taken and signed. This witness is subsequently indicted, and tried as the incendiary and for perjury before the coroner.