

NORMAN MANLEY LAW SCHOOL
COUNCIL OF LEGAL EDUCATION

LEGAL EDUCATION CERTIFICATE
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1988

LAW OF SUCCESSION

(Thursday, August 11, 1988)

Instructions to Students

- a) Time: 3½ hours
- b) Answer FIVE (5) questions only
- c) In answering any question a candidate may reply by reference to the Law of any Commonwealth Caribbean territory, but must state at the beginning of the answer the name of the relevant territory.
- d) It is unnecessary to transcribe the questions you attempt.

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QUESTION 3

In 1986, L was granted Letters of Administration in the estate of D. In 1987, a will made by D was found, in which he appointed X and Y his Executors, but disposed of part only of his estate.

In the meantime, L had sold ten acres of land, part of the estate to P.

Advise X and Y outlining the steps, if any, that should be followed.

QUESTION 4

Mrs. T's attorney-at-law has filed an application for Letters of Administration on her behalf in the estate of her late husband.

A caveat has now been lodged by the brother of the deceased against any grant being made in the estate as it is being claimed that the deceased made a will.

Mrs. T is unaware of any will and is firmly of the view that if there is a will it would have to be a forgery.

Outline the procedure that should now be followed with a view to resolving the issue.

QUESTION 5

T died in 1985 having made a will in which he appointed X and Y his Executors and disposed of his assets. Despite extensive search, the will cannot now be found and there is no available copy.

Y, however, tells you that he has some recollection of the contents of the will.

- a) What grant may be made in the circumstances?
- b) Outline the steps you would take in the matter.

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QUESTION 6

Draft an appropriate will for T in the following circumstances:

- He is married and has three children, aged 20, 15 and 10;
- the proceeds of his life insurance policies are payable to estate;
- he has shares in his Credit Union to which he has nominated N his beneficiary;
- one of the children is mentally retarded and T is particularly concerned as to how best he may provide for him;
- T owns and operates a printery;
- T owns a house and would like to give it to his wife for life only;
- T would like that his residuary estate be sold and the proceeds held upon trust for the benefit of his family;
- T's assets amount to \$500,000 and his liabilities are \$100,000, including a mortgage on the house.

QUESTION 7

(a) Trevor duly executed a will which in part provided as follows:

"I bequeath my bank stock to ^{Mary}Rosina. I bequeath \$500 to Ralph."

Later Trevor pasted a strip of paper over the word "Rosina" and wrote the word "Mary" on it. He also pasted a strip of paper over the figure of \$500 and wrote \$100 on it.

Who gets the bank stock? Does Ralph get anything?

(b) Turner duly executed a will appointing his wife the executrix. He then duly executed a codicil making substantial changes to the gifts in the will. The codicil provided:

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"I give my wife the option of adding this codicil to my will or not, as she may think proper or necessary."

The wife filed an instrument with the Probate Registry declaring that she wished the codicil added.

Advise the Registrar as to the effectiveness of the instrument.

QUESTION 8

Shino died in 1986, having made a will in which he named X and Y his Executors, and left his estate to his wife and children. The will was probated in 1987. A codicil duly executed has now been found and in it Shino confirmed the will but appointed A and B his Executors, and gave \$5000 to his nephew.

- (a) Advise on the appropriate action that should now be taken;
- (b) List the necessary documents for the purpose.

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QUESTION 1

(a) Jane's will was written on two separate sheets of paper. Her signature was, however, written on the first sheet only while the signatures of the two witnesses were written on the second sheet only.

Can the will be admitted to probate?

(b) Mary signed her will and sent it by bearer to A and B who know her signature. A and B witnessed the signature and returned the will. The following day A and B visited Mary and in the presence of them both, Mary said: "Thank you both for witnessing my will."

Can the will be admitted to probate?

QUESTION 2

By his will, T gave pecuniary legacies to X and Y. He then left ten acres of land and shares in Ace Ltd. to A. He also gave the residue of his estate to his wife which includes the matrimonial home, shares in Zenith Ltd. and personal chattels.

At T's death, the following assets were mortgaged to his bank to secure an overdraft, namely, the ten acres of land, the matrimonial home and some of the shares in Zenith Ltd.

In what order should the personal representatives resort to the assets to pay T's debts and the pecuniary legacies
