

NORMAN MANLEY LAW SCHOOL  
COUNCIL OF LEGAL EDUCATION

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1987

LAW OF SUCCESSION  
(Friday, August 14, 1987)

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.

QUESTION 1

Draft a Will that you think would be suited to John Brown who, by and large, wishes to benefit his wife and children equally and whose circumstances and assets are as follows:

- i) He is married with five children;
- ii) Peter, aged 15, is retarded;
- iii) Paul, aged 18, is a spendthrift;
- iv) he had last year given \$10,000 to George on the occasion of his marriage.

His assets are as follows:

- (a) Ten acres of land owned as tenant in common in equal shares with his brother, Tom Brown;
- (b) the five-bedroom matrimonial home;
- (c) \$20,000 on fixed deposit in XY Bank Ltd;
- (d) shares representing \$12,000 in the AB Credit Union and in respect of which his wife is nominee;
- (e) insurance policy valued at \$50,000, the proceeds of which are payable to his estate.

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QUESTION 2

John Brown died intestate on January 1, 1987.

In 1970 he married Kim and they had three children. Kim died in 1975.

In 1977 John married Karen and they had one child. Karen died in 1980.

In 1985, John married Julia and they had no children. Julia has survived him.

At his death John left real and personal property valued at \$500,000.

- i) Who may apply for a grant of representation?
  - ii) Advise as to the distribution of the estate.
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QUESTION 3

(a) In what ways may an insolvent estate be administered?

(b) At his death, T's assets amounted to \$50,000. His liabilities amounted to \$80,000. Ten acres of land, part of his assets, is mortgaged to M to secure a loan of \$20,000. His other creditors are unsecured. His creditors wish to proceed against the assets to recover their debts.

Advise the creditors.

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QUESTION 4

John Lawe, an Attorney-at-Law, was instructed to probate the Will of T in which X and Y were named Executors and Mrs. T and her children, beneficiaries.

John Lawe cannot now find the Will but fortunately, he had made a photocopy thereof.

- (i) What steps may be taken with a view to obtaining a grant of representation in the estate?
  - (ii) Make a list of the documents applicable.
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QUESTION 5

John King died in England leaving the following assets:

- (a) £20,000 on savings account in the Westminster Bank, England;
- (b) shares valued at £20,000 in an English company;
- (c) a house valued at \$100,000 in the Caribbean.

John King who was domiciled in a Caribbean territory had by his Will made in England and deposited with his bank there, appointed his nephew N, his Executor and sole beneficiary. N who lives in your Caribbean territory wishes to reap his benefits under the Will and consults you.

Outline the procedure that should be followed and list the documents that should be filed.

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QUESTION 6

Tina died on June 10, 1986, leaving a Will in which she appointed Carmen her sole Executrix. Carmen obtained probate in January 1987, but died intestate before she was able to complete the administration of the estate.

Under the Will pecuniary legacies totalling \$50,000 were given to John, Kay and Harry, and the residuary estate estimated at \$25,000 was given to Joan.

Kay who wishes to establish a beauty salon urgently needs her bequest and consults you.

- (i) List the documents that should be filed with a view to completing the administration; and
  - (ii) Draft the Oath.
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QUESTION 7

John Brown was appointed sole Executor of the Will of Mortimer Jones. Although two years have elapsed since the death of Mortimer Jones, Brown has not shown any interest in applying for probate despite repeated requests by the beneficiaries. In fact, he refuses to let any of the beneficiaries see the Will. He continued, however, to collect the rental income from one of the properties of the estate which he lodges to his own banking account.

- (i) Advise as to the steps indicated; and
  - (ii) make a list of the appropriate documentation preliminary to any grant that may be made.
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QUESTION 8

- (a) James Baker owns a viable furniture manufacturing establishment in which he employs twenty workers.

He now consults you and tells you that he wishes the business to continue after his death and would like to give it by Will to his son, Harry.

- (i) Draft the appropriate clause or clauses only; and
- (ii) draft the endorsements for purposes of identification of the Will.

- (b) What are the powers and duties of an Executor in relation to the business enterprise of his Testator?
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