

NORMAN MANLEY LAW SCHOOL  
Council of Legal Education

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR EXAMINATIONS, 1987

LAW OF SUCCESSION  
(Thursday, May 28, 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.

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QUESTION 1

By his Will made in 1960, T appointed A and B his Executors and gave his ten acres of land to his three children, Tom, Tim and Jane as tenants in common in equal shares. He left this Will in the custody of his lawyer.

In 1970, T, apparently believing that he had mislaid his Will, duly executed another Will, on a Will Form, containing a revocatory clause. In this Will he appointed A and Y his Executors and gave his ten acres of land to his three children as joint tenants and \$100 to Tom.

In 1980, T visited his lawyer and on his lawyer's advice, duly executed a codicil to the 1960 Will, appointing P and Q his Executors and giving \$500 to Jane, but otherwise confirming the 1960 Will. The lawyer was not told anything about the 1970 Will and only learnt about it when T died in 1986.

What document or documents, if any, may be admitted to probate?

Give reasons.

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QUESTION 4

A probate action has just commenced touching the validity of the Will of George Bell, deceased. The assets include a mortgaged freehold property, a lease, and growing crops on lands in the country. These assets now need attention.

- (a) How would you proceed?
  - (b) (i) List the documents that are indicated in the circumstances; and  
  
(ii) state the functions and powers of the person or persons who may be appointed in the circumstances.
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QUESTION 5

Carl Daye, one of the personal representatives of the estate of Paul Drake, deceased, wishes to purchase the 10-acre farm, part of the assets of the estate. The beneficiaries appear willing.

State fully, citing any relevant rules or provisions, the procedure that should be followed by Carl Daye with a view to acquiring the farm.

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QUESTION 6

John Brown made a Will in which he named X and Y his Executors, and left his estate to his wife and children.

This Will was probated in January 1987. A codicil duly executed by John has just been found. In it he confirmed the Will but named A and B his Executors and gave \$10,000 to his nephew.

- (i) What steps are now indicated?
  - (ii) List the documents that should be filed.
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QUESTION 7

By an alleged Will, Tom Smith, deceased, appointed X and Y his Executors and left substantially all his estate valued at \$100,000 to his friend, Lovette, and the remainder to the Cancer Society and the Heart Foundation.

Tom's wife, Greta, not knowing of the existence of any Will, applied for Letters of Administration in the estate of her husband. However, a Caveat has now been lodged by the Attorney-at-Law for Lovette.

Greta now consults you, and although she has not seen the alleged Will, is firmly of the view that it must have been forged or that it was not made with the necessary testamentary capacity.

State the procedural steps that may be taken by both contending parties up to final judgment.

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QUESTION 8

By his Will, T left:

- (a) his house (valued at \$100,000) at Hialeah to L for life and thereafter to C absolutely (there is an outstanding balance of \$30,000 on mortgage of this property);
- (b) his motor car to M (valued at \$10,000);
- (c) ten acres of land (valued at \$10,000) at Windsor to D. (D predeceased T, leaving issue.)
- (d) pecuniary legacies to X, Y and Z (totalling \$6,000);
- (e) the residue of his estate which includes five acres of land at Kent and shares in PJ Co. Ltd. to R (valued at \$60,000 and \$10,000 respectively).

T's total unsecured debts amount to \$130,000.

Advise the Executors as to the payment of the debts and from what assets and also as to the distribution of any surplus.

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