

I.
(30 minutes)

simultaneous death? No!

120 hour survival statute apply? Yes! 3rd disposition operates

- Wm.'s later will doesn't operate because statute deems him to have died first

class gift or individual gift to Donald, Marvin & William?

- anti-lapse statute apply to William's share? Yes!

- will is ambiguous re class gift: devisees named; but will says they should be treated equally; conclusion: no class gift; William's children take in his place

- surviving wife does not take under anti-lapse statute

adopted child statute apply? Yes! Georganne is a child

omitted children statute apply? No! Georganne adopted before will; she is disinherited

II.
(90 minutes)

12-2-87 will: is holographic -- not valid in Mo.

is nuncupative -- valid only to distribute \$500 of personalty
remainder of estate goes by prior will or intestacy

4-4-65 will: sufficient number of witnesses, but one is dead

absent notarized attestation, cannot prove signature; can dead witness signature be verified?

when only carbon copy of will can be found, will is presumed revoked ("lost will")

unless there is evidence on no intent to revoke here, envelope notation suggests revocation occurred

revocation is holographic -- not valid in Mo.

conclusion: will fails

5-5-52 will: provisions in favor of former wife rendered void by divorce, but not by death

anti-lapse statute does not apply, since wife's survival is required by will
estate goes by intestacy

conclusion: will of 12-2-87 distributes \$500; remainder goes by intestacy

no other wills are valid

intestate distribution: [insert]

- Judith Anne is an heir -- gets 1/2

- his children share equally 1/2

- because Ellen is a child of a former marriage, wife does not get the first \$20000

- Richard is an acknowledged illegitimate child; therefore is also an heir with the other children

III.
(45 minutes)

1. suit by heirs
 - testamentary capacity re stroke?
 - proper will execution re desire of testator to sign will, signature, "presence of witnesses"?

2. suit by residuary legatees
 - secret trust
 - enforceability of oral "pour over" [personalty]?
 - effect on validity of trust of revocation clause?

3. suit by LuAnn Jacobs's creditors
 - enforceability of spendthrift provision?