

13.4.88

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN
IN CHAMBERS

BEFORE THE HONOURABLE THE CHIEF JUSTICE

Cause No.91 of 1986

In the Estate of ALFRED MOUNTCLAIR BODDEN deceased

AND

In the Matter of an Application by CLEEVER CLIFTON BUSH
for an order to be appointed Administrator of the Estate
of Alfred Mountclair Bodden, deceased pursuant to S.33
of the Succession Law (Probate and Administration Rules)

Mr. W. S. Walker of W. S. Walker & Co. for the Applicant
Miss J. Conolly, Crown Counsel, for the Attorney General

COLLETT, C.J.

RULING

The Question of law raised by this summons may be succinctly
in
stated. It is whether or not the interpretation of section 29 of the
Succession Law 1975 of the Cayman Islands, the term 'half brother' as
used in paragraph (e) should be interpreted as including a half brother
of the deceased whose relationship is not traced through lawful wedlock.
That is the factual situation here.

Crown Counsel has pointed out that the language of section 35 of
this statute is such that, if the matter of lawful wedlock were not relevant
to the tracing of relationships under section 29 of the Law, then section 35
would have been superfluous. This is one pointer to the true construction of
the earlier section.

Reference to Halsbury Laws of England 3rd Edition Vol. 3 p. 105
shows that the comparable provisions of the former Administration of Estates
Act 1925 were interpreted by the English Courts so as to ignore the claims

of any collateral relatives whose relationship could not be traced through lawful wedlock. That was also the rule at Common Law: see *Dyke v Walford* (1848) 5 Mood P.C. 434. That rule has not been altered in the Cayman Islands although it has been altered by statute in England recently.

In these circumstances I must interpret the section in the sense contended for by Crown Counsel and hold that the estate devolves as bona vacantia upon the Crown in accordance with paragraph (f). The proviso to that section will then apply.

In these circumstances the Applicant is not entitled to a grant of administration and the summons must therefore be dismissed.

Dated the 13th April 1988.


CHIEF JUSTICE