

First Supplement to Memorandum 83-100

Subject: Study L-650 - Execution of Witnessed Will

We received the following comment from The Honorable Mr. Justice Zelling, Chairman, The Law Reform Committee of South Australia, concerning the tentative recommendation relating to execution of witnessed wills:

We have a general Section 12 in our Wills Act under which a Judge, if satisfied that the document produced was intended by the testator to be his last will and to be a testamentary document, can order that the will be admitted to probate notwithstanding any defect in its execution. Again you may think it wise to have a general section such as this rather than deal with details which do not cover all possible cases.

The Commission considered a provision similar to that found in the law of South Australia but declined to include such a provision in our new wills and intestate succession statute. Does the Commission wish to give further consideration to this suggestion?

Respectfully submitted,

John H. DeMouilly  
Executive Secretary