

#L-603

11/9/81

First Supplement to Memorandum 81-70

Subject: Study L-603 - Probate Code (Holographic and Nuncupative Wills)

Attached to this Memorandum as Exhibit 1 is a letter from HALT, a national organization which is supporting enactment of the Uniform Probate Code in the various states. HALT supports the Commission's recommendation to enact the UPC provision on holographic wills in place of the restrictive California provision. However, HALT takes no position with respect to the recommended repeal of the nuncupative wills provisions.

Respectfully submitted,

Robert J. Murphy III
Staff Counsel



An Organization Of

AMERICANS FOR LEGAL REFORM

EXECUTIVE COMMITTEE

Kathy Ekedahl
Paul Hasse
Dan Lewolt
Robert Tigner
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California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94306

Nov. 4, 1981

Gentlemen,

HALT-an Organization of Americans For Legal Reform supports the California Law Revision Commission Tentative Recommendation Relating to Holographic Wills. We support the use of holographic wills as a means of allowing persons to independently arrange for the disposition of their property.

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Because the current technical requirement that a holographic will be "entirely in the handwriting of the testator " often invalidates wills that otherwise represent the intent of the testator, we agree that the amended UPC provision should be enacted. It seems clear, as the CA. Law Revision Commission has indicated, that a "material Provisions" statute will protect heirs against fraud while reducing the number of wills found invalid for technical reasons only.

Without further information on nuncupative wills, we will not offer any position on abolishing the present Ca. law allowing nuncupative wills for personal property of less than \$1,000.

HALT is a national consumer organization of over 12,000 Californians (75,000 citizens nationwide) who are dedicated to making the legal system more responsive to their needs. The inequity of overly technical and burdensome probate laws is of great concern to our members. Our rapid growth in the last three years (recently, 500 to 1000 new members each week) demonstrates that consumers are interested in simplifying laws that directly affect their lives and their property.

The self-help movement, regardless of any impetus or hindrance to its development, is growing rapidly. In this context, ensuring that the law matches consumer expectations is extremely important. Technical requirements such as California now has make the will-writing process unnecessarily difficult to perform effectively. Because many people are writing their own wills anyway, this change will be catching up to present expectations of the public.

HALT therefore recommends implementation of the amended UPC provision 2-503. We recommend implementation of the remainder of the UPC for similar reasons.

Sincerely Yours,
Michael Richards
Michael Richards