

#L-605

9/21/84

Memorandum 84-85

Subject: Study L-605 - Distribution Under a Will or Trust

The attached letter from our consultant, Professor Gail Bird, contains a comment on the optional distribution provisions scheme that is the subject of the materials listed under Agenda item 14.

Respectfully submitted,

John H. DeMouilly
Executive Secretary



UNIVERSITY OF CALIFORNIA
HASTINGS COLLEGE OF THE LAW

September 20, 1984

GAIL BOREMAN BIRD
Associate Professor of Law

John H. DeMouilly
Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto CA 94303-4739

Dear John:

Enclosed is a copy of the trust termination study requested under my contract with the Commission. If there are additional points that need to be considered, please let me know. I would like to submit the article to the Hastings Law Journal for possible publication. Would this be acceptable to the Commission?

Thank you for the invitation to the dinner honoring the Commissioners. Due to my teaching commitments, I will probably be unable to attend the September meeting, but I do appreciate being included in the invitation.

I would like to comment briefly on one of the issues scheduled for the September meeting - the definition of representation (Memorandum 84-65). I think that including three different definitions of representation or per stirpes in the Probate Code adds unnecessary complexity and technical minutiae to the Code. I wholeheartedly agree with Professor Dukeminier's statement in his letter of July 26, 1984 that we should have one definition, applicable across the board to intestate succession, wills and trusts. I personally prefer the existing definition in Section 240, but see merit in the Waggoner proposal. Either one would suffice. If a particular testator or trustor desires a different distribution, his will or trust can be drafted to carry out his specific intentions.

Thank you for your assistance.

Very truly yours,

Gail Boreman Bird

Enclosures as stated