

Third Supplement to Memorandum 92-39

Subject: Study L-608 - Deposit of Estate Planning Documents With
Attorney (Letter from Milton Posnick)

Exhibit 1 is a letter from attorney Milton Posnick, a probate practitioner in San Jose. He objects to making the superior court clerk a depository for wills and other estate planning documents. He urges a single, statewide depository for this purpose. We considered this idea previously and rejected it. We could not find a state agency willing to act as depository, and superior court clerks already must receive wills of decedents under Probate Code Section 8200. The staff still thinks the superior court clerks are the most logical depository for these documents.

Respectfully submitted,

Robert J. Murphy
Staff Counsel

OCT 28 1992

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October 26, 1992

Mr. Robert Murphy, Staff-Counsel
California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303

Dear Mr. Murphy:

It is my understanding that the California Law Revision Commission is considering recommendations regarding the problem of a Will Registry, or similar depository, for the State of California. As a probate attorney who has been in practice over thirty years, I am very interested in this problem.

I have heard that some state offices such as the Bureau of Vital Statistics or the Secretary of State are, or were, under consideration. I have also heard that local Superior Court Clerks may be utilized as depositories of Wills.

I must emphasize that we have very competent people in our Superior Court Clerk's office. I am not that familiar with rural counties, but our Santa Clara County Superior Court Clerk's office is severely understaffed, underfunded, and overworked. There is also a shortage of space. It would be difficult to add a Will Registry to the duties of our Clerks. What's more, there are two gigantic problems with placing a Registry in our local Clerk's office:

1. The duplication throughout the State would be extremely wasteful, expensive, and inefficient.

2. You would be forcing someone searching for an old Will to contact several County Clerks and still not be sure of ascertaining whether or not there is a Will. It seems to me that one central office in Sacramento is the only answer. Even with local registries, you would have to have a state office to coordinate various district or county registries.

Thank you for carefully considering this matter.

Very truly yours,


MILTON POSNICK

MP/kjp