

Admin.

September 30, 2005

Second Supplement to Memorandum 2005-29

New Topics and Priorities: Forced Heirship (Material Received at Meeting)

The following material was received by the Commission at the meeting on September 30, 2005, in connection with the Commission's consideration of new topics and priorities, and is attached as an Exhibit:

Exhibit p.

1. Collected materials on forced heirship (received from Sam Shabot) 1

Mr. Shabot also provided the Commission with copies of the following news articles:

- (1) *Hold on or let go? Why inheriting a home may be the most complicated real estate transaction of your life*, Los Angeles Times, Real Estate Section, On-Line Edition (Sept. 25, 2005) (www.latimes.com/classified/realestate/news/la-re-inherit25sep25,0,6905777.story?coll=la-class-realestate-news)
- (2) *Offspring may inherit a whopping tax break as well*, Los Angeles Times, Real Estate Section, On-Line Edition (Sept. 25, 2005) (www.latimes.com/classified/realestate/news/la-re-inheritside25sep25,0,4936300.story?coll=la-home-realestate)

These articles are available on the Internet as indicated.

Respectfully submitted,

Barbara Gaal
Staff Counsel

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From: Sam Shabot
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Dear Dr. Rougeau,

Your law-review article on the legal history of Louisiana's civil law forced heirship, and why we need to have it, is excellent. I am using it in my attempt to push in favor of pro-child forced-heirship legislation right here in California.

A special problem exists when there is a very high rate of divorce and re-marriage (as is the case with so-called "no-fault" divorce statutes in California), whereby a testator's or settlor's natural-born children from a first or prior marriage are summarily disinherited—either by accident, or by reason of evil influence from the new spouse, i.e., the wicked stepmother variety and the like.

I recommend to you an outstanding and very authoritative book on the specific subject of parental disinheritance and the total lack of protections for children here in the United States: Inheritance Law and the Evolving Family by Ralph C. Brashier, D. Kelly Weisberg (Editor), Temple University Press (January 2004).

Please contact me via regular postal mail with your thoughts, as I need expert support for the legislative proposal I have been asked to write. I do not know all of the nuances that must be considered, such as how to overcome a joint tenancy with rights of survivorship with a parent's new spouse (yet another way second spouses make sure *they* get the property and not the husband's children).

Very truly yours,



07/01/05

SAM SHABOT

Bibliography of Law Review Articles Supporting Forced Heirship Statutes (Children's Statutory Elective Share); Protecting Against Disinheritance of Children by Reason of Divorce and Subsequent Remarriage of Parents; Protecting Children's Rights of Inheritance

Compiled by Sam Shabot

Last Updated: Thursday, September 8, 2005

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OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER

Sam -

Thanks for raising an interesting
issue re mortmain statutes. I've passed
them on to staff; though they're quick
to point out that it's a fundamental
policy matter that the Legislature needs

to resolve, not my Dept.

Thanks for participating in the
LA college seminar.

Best regards,

Bill L.



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September 7, 2005

Mr. Sam Shabot
P. O. Box 3900
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Re: Legislative Proposal

Dear Mr. Shabot:

I received your 68 page fax. This idea, a "forced share" for biological children, is an interesting idea. I do not have a position on this issue.

Very truly yours,



CHARLES A. TRIAY

CAT:lh