Letter from Louisiana: An Obituary for Forced Heirship and a Birth Announcement for Covenant Marriage

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I regret to announce the death of one of the oldest members of Louisiana's family of legal institutions, but happily I can also announce the birth of a new and promising member. The first of these events took place in October 1995 when the people of Louisiana ratified by a two-to-one vote a state constitutional amendment to abolish forced heirship (i.e., *"réserve"* or *"légitime"*) for most descendants. The second event occurred in July, 1997 when the legislature created a second kind of marriage, "covenant marriage," which can be chosen by a couple who are about to marry or who are already married, and which can not be dissolved as easily as the other kind of marriage. Both of the changes increase freedom of choice but in different directions vis-à-vis the family. In the case of forced heirship the choice that is facilitated by the change in the law is the parent's choice to disinherit his adult child, a potentially anti-family choice. The choice facilitated by the new dual marriage scheme, on the other hand, will make divorce harder to obtain, a potentially pro-family choice. Although it may not be as apparent in the case of the change in forced heirship as in the case of covenant marriage, both changes came about because of the high incidence of divorce and remarriage. The changes demonstrate society's conflicting attitudes toward this phenomenon.

I. FORCED HEIRSHIP

Prior to 1995 Louisiana law reserved up to one-half of the decedent's estate (augmented by the value of inter vivos gifts) for the descendants.[1] The Civil Code also stated specific grounds for which a parent could disinherit a forced heir, such as attempting to kill the parent, cruelty toward a parent, marrying while a minor without the parent's

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1. The history of Louisiana's law of forced heirship and of the recent controversy is recounted in Spaht, Lorio, Picou, Samuel, & Swaim, *The New Forced Heirship Legislation: A Regrettable "Revolution,"* 50 LA. L. REV. 409 (1990) and Katherine Shaw Spaht, *Forced Heirship Changes: The Regrettable "Revolution" Completed*, 57 LA. L. REV. 55 (1996).

consent, etc. The state constitution, adopted in 1974, contained a provision forbidding the legislature to abolish forced heirship. This provision reflected a consensus at the time on the centrality of family to society, even to the point of restricting a parent's testamentary freedom.

Soon, however, tension appeared between the interest of the decedent's children and that of his surviving spouse. The tension was especially serious in cases where the decedent, having children by a first marriage, had remarried after a divorce. This tension subsided somewhat in 1982 when the Civil Code was amended to permit the decedent to grant by will to the surviving spouse a usufruct over the forced portion of the children, even children of a previous marriage. In addition, the death benefits of pension plans and the proceeds of life insurance were exempted from the rules of forced heirship, thus allowing these amounts to go entirely to the surviving spouse if the decedent so desired.

Forced heirship was also criticized for allowing "bad" children to receive forced inheritances. This criticism was blunted somewhat in 1983 and in 1985 when the code was amended to allow a parent to disinherit a child who was convicted of a felony involving life imprisonment or death and a child who had failed to communicate with the parent for two years. To make it easier for a parent to disinherit a bad child, other amendments to the code in 1985 and 1989 shifted the burden of proof in a case of disinherison to the forced heir and required proof of reconciliation to be in writing.

Despite the significant elevation of the position of the surviving spouse vis-à-vis the decedent's descendants and the changes making it easier to disinherit bad children, pressure to abolish forced heirship continued for various societal reasons. The chief reason, in my opinion, was that divorce and remarriage had caused many parents to become estranged from the children of their earlier marriages. These parents wished to leave everything to the current spouse and the children of their current marriages. They argued that the children of the current marriage are younger, and, therefore, often needier than the older children of the earlier marriage. Likewise, after a son's or daughter's divorce, some parents became estranged from their grandchildren. If the son or daughter were to predecease the parent, the estranged grandchildren would be forced heirs by representation of their deceased parent in the grandparents' successions. These grandparents no longer wanted the estranged grandchildren to be forced heirs. Furthermore, in Louisiana illegitimate descendants whose filiation is established have the same rights to inherit as legitimate descendants; grandparents who disapproved of a grandchild's illegitimacy found the possibility of the grandchild's claiming as a forced heir by representation especially repugnant.

For a different reason migrating retirees were in favor of abolishing forced heirship. People who retired in Louisiana after living in other states wanted to leave everything in full ownership to the surviving spouse, as is the testamentary custom in other states unless the estate is very large. Louisiana's protection of adult children from unjust disinherison, unique in the United States, was totally foreign to immigrant retirees. They took vociferous objection to it despite the fact that Louisiana law already allowed the testator to provide adequately for the surviving spouse by giving the spouse the usufruct over the légitime as well as full ownership of the disposable portion, and despite the risk that the testator's children might never receive any of his property upon the surviving spouse's death if the testator had made a bequest of the entire estate to the surviving spouse in full ownership.

In 1989 the opposition to forced heirship received crucial support from a wealthy Louisiana politician and his second spouse who were feuding with the adult children of his first marriage. The adult children had not been guilty of any acts that would have constituted grounds for disinherison. Because his wealth consisted in large part of land, an asset he could not move to another state to avoid Louisiana law, he and his second spouse led and financed a campaign to change Louisiana law. The change that they wanted necessitated an amendment to the state constitution which at the time prohibited the abolition of forced heirship. The couple hired a lobbyist (!) to procure the two-thirds vote of the legislature that was required to propose a constitutional amendment and paid for advertising and organization. The campaign to abolish forced heirship conveniently coincided with the popularity of free market, individualist philosophy that eschews restraints on the transfer of property and welfare for the able-bodied. Hence the argument for abolition often heard was: "It's my property. The government should not force me to leave any of it to my able-bodied adult children."

Several colleagues and I tried to defend forced heirship, but we lacked the financial means to communicate broadly to the public. We argued that forced heirship was a just compromise between the decedent's duty to his children and his freedom of testation, a compromise especially necessary as a means of protecting the children of divorce from disinherison. We pointed out that the alternative to the abolition of forced heirship would not prove to be absolute freedom of testation, as the abolitionists supposed. Instead, without forced heirship disinherited children would contest the will of the parent on grounds of lack of capacity or undue influence. Time and money would be spent on acrimonious and scandalous law suits. The proof of this argument lay in

the experience of the other states where such suits by disinherited descendants are common, whereas in Louisiana, they were non-existent.

Although the largest newspaper in Louisiana, the *Times Picayune* (New Orleans), recommended against the abolition of forced heirship, the newspapers in other parts of the state were in favor of abolition. In the end, forced heirship as a right of inheritance for adult, able-bodied children was voted down. Since the enactment in 1996 of legislation implementing the constitutional amendment, forced heirs in Louisiana have been a small, restrictive class consisting only of (1) descendants of the first degree who have not attained the age of twenty-four (this group is still protected as forced heirs in the state constitution) and (2) descendants of any age who are permanently incapable of taking care of their persons or administering their property.[2] There is now a special rule for representation where forced heirship is concerned that is different from the rule for representation *ab intestato*. When a child predeceases his parent, the child's child can not represent him as a forced heir of the grandparent unless the predeceased child would not have attained the age of twenty-four before the death of the grandparent.[3] This odd rule makes representation depend on the age (including the fictitiously advancing age after death) of the predeceased child who is represented, instead of on the age of the grandchild who is the representative. It thus makes it possible in Louisiana for a grandparent to disinherit an orphaned grandchild of tender years if his dead parent was or would have been at least twenty-four years old when the grandparent died.

Except for the anomaly of the orphaned grandchild, forced heirship in Louisiana now appears to partake as much of support as it does of inheritance. The young, that is, children not yet age twenty-four when their parent dies, are "supported" by a forced share of the parent's estate because until a child reaches that age he most probably will not have completed his basic university education, plus a year or so of graduate or professional training, and will not be able to earn a good living on his own. Seriously handicapped descendants are "supported" by a forced share because they cannot earn their own living. But like an inheritance, the amount received by both kinds of forced heirs is a fixed amount that does not necessarily correspond to actual need. While many states give minor children an alimentary claim against the decedent's estate during

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2. LA. CIV. CODE art. 1493. Another significant change was that the inter vivos gifts that augment the active mass for purposes of computing the legitime in an action to reduce excessive donations are now limited to those made within three years of death.

3. By exception to this rule, representation by a permanently incapable grandchild is allowed regardless of the age that the child represented would have attained when the decedent died.

the administration of the estate, Louisiana is still unique in the United States in enforcing a post mortem duty of support for certain young and handicapped descendants through the mechanism of a forced inheritance. The use by Louisiana of a forced inheritance for the purpose of support has the advantage of certainty and judicial economy, since no court award is necessary, but lacks the flexibility to ensure adequate support or prevent over-payment.

As one would imagine with such an enormous change in the fundamental law of donations, many loose ends remain. There are discrepancies between the state constitutional amendment concerning forced heirship and the legislation passed to implement the constitutional amendment. Also, the grounds for disinherison have not yet been revised. Now that forced heirs are only the young and the handicapped, a parent should not be able to disinherit them. A forced heir should be susceptible of disqualification only for acts of unworthiness like any heir *ab intestato*. But the opponents of forced heirship intend to expand the grounds for disinherison.

Similarly, the law of collation ("*le rapport*") was weakened by amendment though it need not have been changed simply because of the change in forced heirship. Collation is the process whereby at partition of the parent's estate each child who has received a gift from the parent as an advance on his inheritance is called upon either to give back the gift to the mass of the estate or to take less from the estate by the value of the gift.[4] Collation is premised upon a presumption that the parent intended to treat his children equally; however, the parent is free to designate a gift to a child as an extra portion thereby dispensing that child from having to collate the gift even though the gift produced an inequality among the children. Thus the parent has control over whether a gift must be collated at partition; the parent is not forced to treat his children equally. But apparently the opponents of forced heirship thought that to require a parent who wishes to treat his children unequally to designate a gift to a favored child as an extra portion was too great a burden on the parent's freedom. They thus sought also to abolish collation. Here they did not succeed. Since the equality produced by collation was not mandatory, the legislature saw no reason to abolish collation.

As a compromise, however, the legislature amended the law of collation in such a way that has left it incoherent. The demand for collation may now be made only by forced heirs (i.e., the young and the handicapped); other descendants coming to the succession cannot demand collation but are none the less obliged to collate gifts made to them by the

4. LA. CIV. CODE arts. 1227-1288, 1352-1364.

decedent within three years of the decedent's death. This asymmetry in the law of collation may create inequality among the descendants where the parent intended none. I hope that Louisiana will reinstate the law of collation as applicable to all descendants, whether or not forced heirs, who are called to the succession.

The amended law of collation also has a new rule arbitrarily excluding from collation gifts made more than three years prior to the parent's death, regardless of the value of the gift.[5] Instead, Louisiana should treat gifts under a certain amount (e.g., $10,000 per year—the amount of the annual exclusion from United States Gift Tax) automatically as extra portions without the parent having to designate them as such. Such a rule would automatically exclude from collation gifts that parents customarily make on such occasions as birthdays, or for estate planning reasons, but would not automatically exclude an extraordinary gift such as that of the family business; the parent would still be required to designate the gift of the business as an extra portion if he does not intend it as an advance on the inheritance of the donee.

Finally, Louisiana should amend its law forbidding the making of a contract whose object is a future succession. In states that do not have this rule, a divorcing couple can bargain to require each spouse to leave a part of his or her estate to the children of the marriage. A stipulation in favor of children of the marriage is presently allowed in Louisiana in an antenuptial agreement; it should be allowed also in an agreement at divorce.

Although forced heirship as we knew it now rests in peace, its spirit at least lingers on to protect young and handicapped children. The rules for the calculation of the forced share and the reduction of excessive donations remain in the Civil Code to protect the new restricted class of forced heirs. Lawyers will still need to be familiar with the workings of this legal institution. Forced heirship will remain in their consciousness as a possible solution to the problem of unjust disinheritance. Reinstatement of forced heirship in Louisiana in the near future is unlikely from a political standpoint and would require another amendment to the state constitution. Should Louisiana ever make the

5. LA. CIV. CODE art. 1235. In implementing the constitutional change in forced heirship the legislature amended the code to exclude from the calculation of the active mass for reduction of excessive donations any donations inter vivos that were made more than three years prior to death. LA. CIV. CODE art. 1505. The legislature apparently thought that the same rule should apply to collation. However, the active mass for reduction of excessive donations and the active mass for partition of the estate have never been the same under Louisiana law and need not be the same.

political decision to re-adopt forced heirship,[6] the continued presence of the legal structure of forced heirship in the Civil Code will make the technical reinstatement of the concept a simple matter.

II. COVENANT MARRIAGE

In 1995 the tide of divorce was primarily what swept Louisiana's law of forced heirship out to sea. But in 1997 when the tide came in again, it contained an unexpected hostility to divorce. In 1990 Louisiana had streamlined its law of unilateral no-fault divorce (i.e., a divorce that can be obtained even if an innocent spouse is unwilling, the judge having no discretion to deny the divorce because of hardship) by requiring merely a six-month separation.[7] The cause of action for legal separation from bed and board was eliminated. Louisiana was thus very close to having immediate divorce on demand by one spouse.

By 1997, however, research had revealed the dark side of divorce. Popular books like *The Divorce Culture* challenged the "broader moral assumptions and empirical claims" of divorce, especially the claim that children are better off if their unhappy parents divorce.[8] Another well-publicized empirical study showed that divorce was harmful to children, that children's resilience had been overestimated, and that their suffering persisted over time.[9] Divorce was also known to have had a greater negative economic effect on women than on men,[10] one reason being that no-fault divorce took away the bargaining power that the innocent spouse, usually the wife, had under the fault system to agree to divorce only in exchange for adequate alimony, child support, and property.[11] To offset the disparate negative economic effect on the wife of no-fault divorce, the Louisiana State Law Institute, the official law reform agency of the state, recommended that the legislature enact rules permitting higher awards of spousal support (i.e., alimony) after divorce. The proposal would have benefited the spouse whose career had been to keep the home and rear the children. The legislature, however, declined to enact the "standard of

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6. Academic voices outside of Louisiana calling for protection of children from unjust disinheritance are beginning to be heard. *See, e.g.*, Ronald Chester, *Should American Children Be Protected Against Disinheritance?* 32 REAL PROPERTY, PROBATE & TRUST JOURNAL 405 (1997).

7. LA. CIV. CODE art. 102.

8. BARBARA DAFOE WHITEHEAD, THE DIVORCE CULTURE (1997).

9. WALLERSTEIN AND BLAKESLEE, SECOND CHANCES: MEN, WOMEN, AND CHILDREN A DECADE AFTER DIVORCE (1989).

10. Atlee L. Stroup & Gene E. Pollock, *Economic Consequences of Marital Dissolution*, J. OF DIVORCE AND REMARRIAGE 22 (1994) and WILLIAM J. GOODE, WORLD CHANGES IN DIVORCE PATTERNS (1993), recounted together with other empirical studies in GLENN T. STANTON, WHY MARRIAGE MATTERS: REASONS TO BELIEVE IN MARRIAGE IN POSTMODERN SOCIETY 142 (1997).

11. *See* MARY ANN GLENDON, ABORTION AND DIVORCE IN WESTERN LAW 81 (1987).

living" measure of support after divorce. By 1997 those who were frustrated in their attempt to better the economic situation of divorced women and those who were newly alarmed over the effect of divorce on children joined forces with those who objected to easy divorce on religious or moral grounds. They united in an effort to try a different approach.[12]

Borrowing from an unenacted bill first introduced in the legislature of the state of Florida, the coalition opposing easy divorce succeeded in getting the Louisiana legislature to superimpose upon Louisiana's existing no-fault divorce a new, voluntary form of marriage called "covenant marriage," which carried stricter grounds for divorce.[13] Louisiana thus became the first state in the United States to enact a dual system of marriage and divorce.

Under the new system, when a couple obtains a marriage license, the couple will indicate whether or not they choose covenant marriage.[14] They will be allowed to choose covenant marriage only after declaring that they have received pre-marital counseling which apprised them, among other things, of the stricter grounds for divorce under covenant marriage. The grounds are (1) adultery, (2) commission of a felony and sentence to death or imprisonment at hard labor, (3) abandonment for one year, (4) physical or sexual abuse of the spouse or child of one of the spouses, (5) living separate and apart for two years, and (6) living separate and apart for one year (or one year and six months if there is a minor child of the marriage) from the date of a judgment of separation from bed and board. Judicial separation from bed and board, a legal status resurrected under the covenant marriage scheme, may be obtained on the same grounds as divorce and on the additional grounds of habitual intemperance of the other spouse, excesses, cruel treatment, or outrages of the other spouse so as to render living together insupportable. At the time covenant marriage is chosen the couple must also have agreed that, in the event of marital discord, they will use all reasonable efforts, including counseling, to preserve the marriage.

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12. *See A Stealth Anti-Divorce Weapon*, ABA JOURNAL, Sept. 28; Katherine Shaw Spaht, *For the Sake of the Children: Strengthening the Definition of Marriage,* NOTRE DAME L. REV. (1998).

13. La. Acts No. 1380, Reg. Sess. 1997. The act amends articles 102 and 103 of the Civil Code to exempt covenant marriage from the causes for divorce there stated. The grounds for divorce and separation under a covenant marriage are found in La. Rev. Stat. 9:307-09. Requirements for a covenant marriage are found in La. Rev. Stat. 9: 224-25, 234, 245, and 272-275.

14. Couples who are already married may also choose covenant marriage by executing a declaration. LA. REV. STAT. 9: 275.

Except for the counseling requirements and changes adding physical abuse and abandonment as grounds for divorce, the rules for dissolving a covenant marriage are almost identical to those for dissolving a marriage in Louisiana that were in effect from 1938 to 1979.[15] Living separate and apart for two years is actually a no-fault ground for divorce since under it one spouse may obtain a divorce even if the other spouse, who is innocent of any fault, wants to continue the marriage. This ground appears inconsistent with the religious and moral reasons supporting covenant marriage and, indeed, it was not part of the original bill. The two year period of separation, familiar to Louisiana citizens from 1938 to 1979, was added to the covenant marriage bill by the legislature as a compromise to secure the bill's passage. Proponents of covenant marriage hope that the two year period will be long enough to effect a reconciliation by giving counseling an opportunity to succeed, or if reconciliation is impossible, will be long enough to force the spouse who wants an immediate divorce to offer an adequate financial inducement to the innocent spouse to sue for an immediate divorce should the innocent spouse have grounds for such a divorce. Furthermore, during the two year period of separation prior to divorce, the amount of spousal support (alimony) awarded will be based upon the couple's standard of living during the marriage without reference to factors that might lower that amount for post-divorce spousal support.[16] Proponents of covenant marriage hope that the higher amount of support during a longer period of separation will aid the dependent spouse in making an adjustment to a new life.

While the direct inspiration for covenant marriage is the unenacted Florida bill, the idea of two kinds of state-recognized marriage has an antecedent in France.[17] In 1947 Henri Mazeaud proposed to the commission to reform the Code Civil that the law should allow couples to choose between indissoluble marriage, for which there would be no divorce, and dissolvable marriage, for which divorce would be possible.[18] He argued that as a matter of conscience, religion, and fundamental

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15. From 1979 to 1990 the period of living separate and apart before a spouse could seek a divorce was one, rather than two, years, and in 1990 it became six months.

16. *Compare* LA. CIV. CODE art. 113 (interim support) with art. 112 (final support). La. R.S. 9:308A allows a spouse who is not judicially separated but is living separate and apart to sue for support.

17. There are also countries that have different family law for different religious or ethnic groups, e.g. Senegal.

18. *Travaux de la Commission de Réforme du Code Civil, Année 1947-1948*, 498-511. *See also* L. Mazeaud, *Solution an problem du divorce,* Recueil Dalloz 1945, 11-12, René Savatier, *Le Droit, L'Amour, et la Liberté*, 72-76 (2d ed., 1963) (acknowledging that this reform was not realizable at that time considering the individualistic, anti-clerical climate). I am indebted to Professor Jacques M. Grossen for calling my attention to the Mazeaud proposal.

liberty, couples should have the freedom to choose indissoluble marriage. He thought it would also have the salutary societal effect of reducing the number of divorces by removing the possibility of divorce at least for those who chose indissoluble marriage. Furthermore, a requirement that the couple choose their kind of marriage might prompt couples to reconsider their decision to marry whenever the refusal to enter into an indissoluble marriage revealed too casual an attitude toward marriage. Mazeaud was met with objections that consent to indissoluble marriage would never be truly free and informed, that couples would give up their liberty to divorce without sufficient thought or experience, that religious couples could honor their faith simply by not suing for divorce even if the law allowed it, and that if divorce was so bad for society, it should be forbidden for everyone. The commission rejected Mazeaud's proposal by a vote of nine to two.

At the time the commission deliberated Mazeaud's proposal, a religious spouse who wanted an indissoluble marriage had only to refrain from committing fault in order to remain indissolubly married, a point made in opposition to Mazeaud's proposal by L. F. Julliot de la Morandière. At that time France had no no-fault ground for divorce that would have allowed the spouse at fault unilaterally to obtain a divorce, nor was any proposed. One effect of a couple's choosing indissoluble marriage under Mazeaud's proposal would thus have been to protect a spouse at fault from being divorced.[19] By contrast, Louisiana's optional covenant marriage forms an alternative to a scheme that allows the spouse at fault to divorce an unwilling innocent spouse after only six months of living separate and apart. By extending the period of time before a unilateral no-fault divorce can be granted, the choice of covenant marriage will give greater protection to the innocent spouse than otherwise would exist under Louisiana's streamlined no-fault system. Mazeaud's idea of two forms of marriage thus serves a more compelling need in Louisiana than it did at the time in France.

By providing some grounds for divorce in a covenant marriage, the Louisiana version of a dual system of marriage and divorce answers the concern of the opponents of Mazeaud's proposal that inexperienced couples would saddle themselves with "holy deadlock." Nevertheless, in Louisiana I hear the objection that covenant marriage will not be freely chosen, but will be forced upon immature couples by their parents, priests, ministers, or rabbis. A situation of true duress by parents and

19. Mazeaud said that innocent spouses were being blackmailed into suing for divorce by threats from the guilty spouse concerning custody and alimony, and thus indissoluble marriage was needed to protect the innocent spouse. *See* Henri Mazeaud et al., *Leçons de Droit Civil: La Famille*, bk.1, vol. 3, no. 1414, p. 1330 (3d ed. 1963).

clergy could be remedied by invalidating the couple's consent to the covenant marriage and treating the marriage as a non-covenant marriage. But when the choice of covenant marriage is a result not of duress, but of religious or moral scruples instilled in the couple from childhood, the choice should be considered free and binding, especially since the marriage will not be absolutely indissoluble.

Further objections are that covenant marriage will reinsert into the legal system all of the problems of the fault system seen in this country in the past: collusion and perjury when both spouses want the divorce, trumped up evidence against the innocent spouse who is unwilling to divorce, expensive trials, and disrespect for the law.[20] Some of these problems festered in part due to the lenient attitude of lawyers and judges toward divorce at a time when the legislation was strict as to all couples. But when a couple has voluntarily chosen a strict regime of divorce after premarital counseling on the subject, there is no justification for the lawyer or judge to manipulate or allow manipulation of the law or evidence to effect a divorce for such a couple. Covenant marriage will not add much to the expense of divorce in Louisiana. Even without covenant marriage fault is still a factor in determining an award of post-divorce spousal support (i.e., post-divorce alimony), thus fault is already litigated in connection with support.

Finally it is argued that it is useless for Louisiana, or any other state, for that matter, to try to tighten its divorce law. A spouse intent upon divorce can simply establish residency in a state with a lenient divorce law and there obtain a divorce that Louisiana and other states are forced to recognize by the "Full Faith and Credit Clause" of the United States Constitution.[21] Application of the Full Faith and Credit Clause thus results in one law of divorce for wealthy Louisianians who can afford to go to a lenient state for a few months to establish residency, and a different law for other Louisianians. Admittedly, the availability of "migratory divorce" undercuts the effectiveness of Louisiana's new law. But that situation is beyond Louisiana's control. Louisiana can only do

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20. *See* Jeanne L. Carriere, *It's Déjá Vu All Over Again: The Covenant Marriage Act in Popular Cultural Perception and Legal Reality*, 72 TUL. L. REV. 1701 (1998), for an excellent critique of covenant marriage. Professor Carriere notes that the agreement to seek counseling for marital difficulties, if interpreted as a requirement for a divorce, will be dangerous in marriages where one spouse has physically abused or might physically abuse the other spouse or children. Mental and social work professionals advise spouses in these relationships to break off contact with the abuser, but counseling, if a requirement for divorce, will entail maintaining contact. Treatment of the counseling agreement as aspirational rather than as a requirement would solve this problem, but LA. R.S. 9:307A appears to make counseling a requirement before the judgment of divorce can be obtained.

21. Covenant marriage legislation is currently pending in Georgia, Virginia, Kansas, Oklahoma, Arizona, Alaska, Alabama, and Ohio. It was rejected in Mississippi and Washington.

what she has the power to do: enact bold, positive measures for Louisianians.[22]

Divorce affects all of the legal institutions pertaining to the family and family property. The recent demise of forced heirship indicates an acceptance of the breakup of families by easy divorce and a victory for the will of the individual parent. The birth of covenant marriage, on the other hand, indicates discomfort with this situation. Louisiana law today, like society generally, is not consistent in its regard for the family.

22. Since the passage of the covenant marriage law only 120 couples have chosen covenant marriage at the time of obtaining the marriage license, but 3000-4000 couples who were already married have converted their marriages to covenant marriages. Letter of Katherine Shaw Spaht to Author, March 2, 1998.