HOTCHPOT – OR HOTCHPOTCH

Until recently, distribution on intestacy in South Australia was basically governed by the Statute of Distributions, 1670.[1] This scheme of distribution on intestacy posed difficult and intricate legal problems for practitioners. It was not even certain who the beneficiaries of intestates were.[2] The scheme, in times of inflation, also worked unfairness. The widow of an intestate husband was only primarily entitled to one third of his estate. Accordingly in 1975, in line with other Australian states, a new scheme of intestate distribution was enacted in Part III A of the Administration and Probate Act, 1919 – 1980,[3] (hereinafter Part III A). This new scheme came into operation on 29 January, 1976. While it only applied to the estates of persons dying intestate, wholly or partially, after its commencement,[4] it must by now cover almost all intestacies.

While Part III A contains some novel aspects,[5] it is not the purpose of this comment to review Part III A as a whole. Rather it deals with only one aspect – the doctrine of hotchpot – the bringing into account of gifts made *inter vivos* before the intestacy to beneficiaries under the intestacy. In order to do this, however, it is necessary to set down the basic scheme of distribution.[6] Where there is a surviving spouse and no issue, the spouse takes the whole estate. Where there is a surviving spouse and issue, the spouse takes the first $10,000 plus half the balance of the estate plus chattels[7] (which includes vehicles), the issue takes the other half of the balance of the estate. Where there is no spouse but issue, the issue takes the whole of the estate. Where there is neither spouse nor issue, then the estate passes to relatives,[8] if any, and, if none, then to the Crown. For our purposes, the important question is the definition of issue and how the estate is distributed between them. The answer[9] is that where there is a child, that child constitutes the issue. If there is more than one, then the estate is distributed equally between them. Where there are no children, because they have all predeceased the intestate, then a grandchild constitutes the issue. Again if there is more than one, then the estate is distributed in equal shares. However where there is a situation that the intestate dies, leaving some children living and others who have predeceased the intestate leaving issue (*i.e.*, grandchildren of the intestate) of their own, then in that case the estate is divided into portions equal in number to the number of children who survived the intestate or predeceased him leaving issue. The children who survive are then each entitled to one portion, and the issue of each child who died before the intestate is entitled to one portion *per stirpem*. If there is more than one such issue, then they share equally between them.[10]

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1. 22, 23 Charles II, c.10.
2. For example, *In the Estate of Cullen* (1976) 14 S.A.S.R. 456. Other problems included the meaning of advancements to beneficiaries.
3. Enacted by Administration and Probate Amendment Act (No.2), 1975.
4. Section 72a(1).
5. Particularly in relation to *de facto* spouses, who basically share with a legal spouse the spouse's entitlement on intestacy: s.72h(2).
6. The basic section governing distribution is s.72g.
7. Section 72h(1).
8. See s.72j. This defines the way in which relatives rank: parents, then brothers and sisters, then grandparents, then aunts and uncles.
9. See s.72i.
10. See s.72i(e). The same rule applies where relatives are the beneficiaries of the estate: s.72j.

A diagram may assist:

X – intestate

CHILDREN

A predeceases	B survives	C survives	D predeceases
No children	No children	2 children	3 children
			M N P

This estate would be divided into three portions – one for B, one for C, and one to be divided between M, N, and P. There is no portion allocated to A.

Having established the basic scheme of intestate distribution, let us now turn to the doctrine of hotchpot. The doctrine of hotchpot is first found in s. 5 of the Statute of Distribution, 1670, which is quoted in full:

> "...in case any child, other than the heir at law, who shall have any estate by settlement from the said intestate, or shall be advanced by the said intestate in his lifetime by portion not equal to the share which will be due to the other children by such distribution as aforesaid; then so much of the surplusage of the estate of such intestate, to be distributed to such child or children as shall have any land by settlement from the intestate, or were advanced in the lifetime of the intestate, as shall make the estate of all the said children as near as can be estimated. But the heir at law, notwithstanding any land that he shall have by descent or otherwise from the intestate, is to have an equal part in the distribution with the rest of the children, without any consideration of the value of the land which he has by descent, or otherwise from the intestate."

The aim of this "tortuously worded"[11] provision was that if any child of the intestate had received a gift *inter vivos* of any interest in land or any advancement by portion – *i.e.*, to set the child up in life – then that child had to bring the gift into hotchpot in the distribution of an intestate's personalty. By doing so, the share of the child receiving the gift was reduced by the amount of the gift, and that of his brothers and sisters thereby increased. This then achieved a certain equality of distribution, which was deemed to be the intestate's intention. No child was to take more than the others, and any intention of the intestate that things should be otherwise was irrelevant. There were numerous problems with the application of the section – not least, as to what was an advancement by portion[12] – nor can it be said to have always worked equality. It also applied only to cases of total intestacy, and only to intestate estates of fathers. Courts of Equity certainly did not like hotchpot as it only applied to *inter vivos* gifts. In *Maiden* v. *Maxwell*[13] Harvey J. stated:

> "I think the reason why the Courts of Equity did not apply the hotchpot clauses was clearly this, that it would be inequitable to do so, as it would require children advanced in the testator's lifetime to bring their advances into account, while no account would have to be taken of gifts which children received under the will, and inequality, instead of equality, might be the result."

11. See I. J. Hardingham, *The Law of Intestate Succession in Australia and New Zealand* (1979), ch.17. This gives a precise account of the operation of the doctrine of hotchpot. Note that the provision applied only to fathers.
12. *Taylor* v. *Taylor* (1875) L.R. 20 Eq. 155. Other problems included the question of advancements and cases of partial intestacy.
13. (1920) 21 S.R. (N.S.W.) 16, 23.

It was for these reasons, that when Australian states came to consider the modernisation of intestate distribution that many of them decided to abandon the doctrine of hotchpot altogether.[14] As Hardingham says, certain states "clearly considered the doctrine of hotchpot to be more productive of difficulty than justice."[15] The South Australian Law Reform Committee (hereinafter S.A.L.R.C.) however saw the matter differently, and recognising the fact that the Emperor Nero was the first known reformer in the field of intestate succession,[16] felt that the law of hotchpot should be retained. The S.A.L.R.C. commented that;[17]

> "The rule of the civil law was that *'collatio bonorum* was an obligation on the successors to an inheritance to return to the common inheritance, before sharing in the distribution, gifts which they received during the lifetime of the person in whose estate they claimed a share by succession'. The general provision as to collation (*anglice* hotchpot) in relation to all successors was as we have just said the rule of the civil law so that Section 5 of the Act of 1670 must be taken to have expressly reduced the persons who had to bring advancements into hotchpot."

It must be admitted that the S.A.L.R.C. proposed a further easing in the rigid application of the doctrine of hotchpot.[18] The net result was the enactment of the hotchpot doctrine in s.72k which states:

"72k. (1) Where –

(a) an intestate has within the period of five years immediately before his death made any gift to, or settlement for the benefit of, a person (other than a spouse of the intestate) who is, or would if he were to survive the intestate become, entitled to a part of the intestate estate;

or

(b) a person who dies partially intestate leaves a will containing a gift in favour of a person (including a spouse of the intestate) who is entitled to part of the intestate estate,

the property given or settled shall be taken to have been given or settled in or towards satisfaction of the share to which that person is entitled in the intestate estate, or to which he would become entitled if he were to survive the intestate (as the case may be) unless –

(c) the contrary intention was expressed, or appears from the circumstances of the case;

or

(d) the value of the property given or settled does not exceed one thousand dollars.

(2) For the purposes of subsection (1) of this section the value of property given or settled by an intestate in his lifetime shall be determined as at the date of the gift or settlement."

The paraphrase of this section, however less demanding than previous doctrines of hotchpot, still means that where a person has received a gift (not being a spouse of the intestate) within five years of the death of the intestate, or if a person (including the spouse of the intestate) has received a gift in a will

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14. Namely New South Wales, Queensland, and Western Australia. Also New Zealand has no such provision. See Hardingham, *op.cit.* (*supra,* n.11), 97.
15. Hardingham, *op cit.* (*supra,* n. 11), 97 and comments there.
16. *Twenty-Eighth Report of South Australian Law Reform Committee, Relating to the Reform of the Law on Intestacy and Wills* (1974), 6.
17. *Id.,* 9.
18. *Ibid.*

of the intestate, in a case of partial intestacy, then if that person is a person who is entitled as a beneficiary of the intestate estate, that person must bring the gift into account as being in part settlement of his or her share on intestacy. There are two exceptions – first, where the value of the property given does not exceed the value of one thousand dollars. Does this mean that for five years an intestate may give a series of five gifts each less than one thousand dollars, and thereby escape the Act? Or are the values accumulated? The wording of the statute would seem to suggest the former as it refers to the value of "the property" given. The second is where a contrary intention is expressed or appears. A comment on the latter exception will be made later.

At first sight, this section appears to have an admirable element of clarity. One knows when a gift to a spouse is to be hotchpotted, and when not. There is no distinction between total and partial intestacy – all gifts, whether given *inter vivos* or by will, have to be accounted for if given within certain time limits. There is the possibility of manifesting an intention that a gift is a special gift to a favoured off-spring. It does not include only gifts intended to set persons up for life, but includes all acts of generosity. One also knows when a gift is to be valued.[19] In spite of this however, one matter may not have received the attention it deserves. It is submitted that this deficiency, possibly productive of unfairness, may show a lack of wisdom in introducing the section.

In order to consider this deficiency, it is necessary to remind ourselves how the traditional textbook doctrine of hotchpot works. This is best done in the light of Example 1.[20] Suppose an intestate dies leaving an estate valued, after

Example 1

Normal — I – $90,000 estate

	X	Y	Z
	$30,000	$30,000	$30,000
plus advance	$30,000		
	$60,000		

With Hotchpot — Estate
Advance $30,000 to X. — I – $90,000 + $30,000 advance = $120,000

	X	Y	Z
Notional	$40,000	$40,000	$40,000
less advance	$30,000		
Actual	$10,000	$40,000	$40,000

tax, testamentary, funeral expenses etc. at $90,000. The intestate leaves no spouse but three children, X, Y and Z. Two years before his death, the intestate gave X $30,000. This must be brought into account as X is a beneficiary. The estate now has a notional value of $120,000. This is then divided three ways between X, Y and Z who each receive $40,000. X has

19. Section 72k(2).
20. For another and better example, see Mellows, *The Law of Succession* (2nd ed., 1973), 186. That book offers a clear account of the traditional doctrine as it is applied here.

however had an advance of $30,000 – this is then subtracted from X's share giving him only $10,000. By adding X's share of $10,000 to the $40,000 each received by Y and Z, we find that the whole $90,000 in the estate is distributed – miraculous? X, Y and Z have also all received in total $40,000 – a fair result!

Suppose however we now complicate the problem. Suppose the intestate dies leaving not just children, but a spouse and children. Or, more complicated still, a spouse plus children plus grandchildren of a child who predeceased the intestate. We now have the difficulty that people are in competition at different levels. The spouse who from the emphasis of s.72g(b) would appear to be paid first, is in competition with the children and the grandchildren who represent their deceased parent.[21] If one of the children or grandchildren[22] should have received a gift *inter vivos* – say three years before the intestate's death – then this gift will have to be hotchpotted. But at what level? Is it brought in at the top and added to the whole estate? This would seem natural enough. Or is it hotchpotted at the level at which the gift is received – to the share given to the children, or as the case may be, to the grandchildren? The answer to this question either way produces some odd and unfair results.

Again, some examples. Suppose an intestate dies leaving a spouse and three children X, Y and Z. After tax, testamentary, funeral expenses etc. the estate is valued at $130,000. The spouse gets $10,000 plus half the balance. The children get the remainder. (Chattels are hereinafter ignored for ease of mathematics). Two years before he died, the intestate gave X $36,000. Without hotchpot, a simple sum shows the spouse would receive $70,000 ($10,000 + ½ $120,000) and the children would each receive $20,000. Assuming that the correct solution is to add the $36,000 – at the top – into the whole of the estate, we get the following result.

Example 2

With Hotchpot: I – $130,000 + $36,000 to X = $166,000
Advance $36,000 to X
Spouse gets $10,000 + ½ $156,000 ($78,000)
= $88,000

	X	Y	Z	Children get ⅓ of $78,000
Notional	$26,000	$26,000	26,000	
less advance	$36,000			
Actual	NIL[23]	$21,000	$21,000	

It will be noticed that the spouse receives a much greater share from the hotchpot than each of the children but that may be explained by the fact that it is the policy of Part III A to protect the spouse to a greater extent than the previous intestacy scheme. It will also be noticed that Y and Z still do not receive in total as much as their sibling X – nevertheless they do receive $1,000 more than they would have otherwise received. (The reason that the children, Y and Z, do not receive the full notional amount of $26,000 after the distribution of $88,000 to the spouse is that there is only $42,000 left in the actual estate. (This matter is discussed again later.) X misses out totally on the distribution.

21. If this were not so, the spouse would receive no benefit from the hotchpot doctrine.
22. The gifts to the grandchildren are hotchpotted as they are entitled to part of the intestate estate – s.72k(l)(a) and (b) – albeit by representation. Contrast Administration of Estates Act, 1925 (U.K.), s.47(1)(III).
23. X cannot be made to give back the $10,000, by which he exceeds Y and Z for division.

Although Example 2 produces oddities (as between the spouse and children), let us take two even more extreme examples. First suppose an intestate dies leaving the same $130,000 (after deductions). He leaves a spouse, two surviving children Y and Z, and two grandchildren A and B, of his predeceased child X. As in the previous example, the spouse should receive $70,000, Y and Z $20,000 each, and A and B half each of $20,000 ($10,000 each) as they represent the share of their predeceased parent, X. Let us suppose A received $36,000 two years before the intestate's death. When the $36,000 is hotchpotted the result is as follows:

Example 3

With Hotchpot: Advance $36,000 to A	I — $130,000 estate + $36,000 to A = $166,000.		
	Spouse gets $10,000 + ½ $156,000 ($78,000) = $88,000		
Notional	X (dead)	Y $26,000	Z $26,000
	representing X		
	A B		
X share —	$26,000		
less advance —	$36,000		
Actual	NIL to A and B	$21,000	$21,000

It will be seen that the above example produces some alarming results. It will be seen that while the shares of the spouse, Y and Z remain the same as in Example 2, the effect of the gift to A has the effect of totally destroying — or if A had received a lesser sum, partially destroying[25] — any gift to his sibling B. The rationale for taking the gift to A as a total deduction from X's portion is that A represents his parent. To do otherwise presents extreme difficulties. To just deduct A's gift from his notional share of the estate, so as not to affect B, would leave Y, Z and B notionally entitled to more money than actually exists in the estate — for after the spouse's share ($88,000) is taken out, only $42,000 remains. This would mean the money would have to be divided on a ratio of 2 to Y : 2 to Z : 1 to B. When the sums are done, Y and Z would each be entitled to only $16,800. This would be less than the $20,000 they would be entitled to if A's sum had not been hotchpotted in the first place. Moreover such a division of the estate on a ratio basis is scarcely justified by the straightforward wording of the section, assuming the textbook doctrine applies. It would appear that adding A's gift into the whole of the estate means that B must suffer.

Secondly, and this is perhaps an even more extreme example, suppose an intestate leaves a spouse and three surviving children, X, Y and Z. After tax, testamentary and funeral expenses etc. his estate is worth $130,000. Two years before his death, before certain financial losses, he makes a gift of $120,000 to X. As in the previous examples, without hotchpot, the spouse would receive $70,000 and the children $20,000 each. After hotchpot, the result is as follows.

24. See *supra*, n.22.
25. Interested legal-mathematicians could no doubt work out such a situation — space precludes it here.

Example 4

With Hotchpot:
Advance $120,000 to X.

I — $130,000 + $120,000 = $250,000

Spouse — $10,000 + ½ $240,000 ($120,000) = $130,000

		X	Y	Z
Notional		$40,000	$40,000	$40,000
	less	$120,000		
Actual		NIL	NIL	NIL

However it will be noticed that since the spouse has already received $130,000 — all the actual money in the estate — there is no money left to pay Y and Z. The practical effect of the hotchpot is to destroy Y and Z's share altogether, and they get nothing. In answer to this it might be suggested that the spouse should not be paid first but paid contemporaneously with the children, the spouse receiving half the balance, and the children the other half in equal shares. However, if this is done, as there is only $120,000 actually in the estate (after the spouse has received $10,000) the spouse will receive $60,000 and Y and Z $30,000. This will increase the children's share, but the spouse gets *absolutely no benefit* from the hotchpot at all. The spouse would have received $60,000 anyway. This can scarcely be the solution envisaged by those who would add the gift to X into the whole of the intestate estate.[26]

The other solution, given the alarming unfairness of the above examples,[27] is not to add the gift — at the top — into the whole of the estate, but to hotchpot the gift at the level at which it was given. An example of this may be given. Suppose again an intestate dies leaving, after expenses, an estate of $130,000. The intestate leaves a spouse and three surviving children X, Y and Z. Without hotchpot, the distribution would be the same as in Example 4. Suppose two years before the intestate died, he made a gift of $30,000 to X. To bring this into hotchpot at the level at which it was given would make the distribution as follows:—

Example 5

With Hotchpot:
Advance $30,000 to X

I — $130,000

Spouse — $10,000 + ½ $120,000 ($60,000) = $70,000

	X	Y	Z — $60,000 estate plus $30,000 = $90,000
	$30,000	$30,000	$30,000
less advance	$30,000		
	NIL	$30,000	$30,000

This equals the actual money in the estate.

Here the increase goes entirely to the children, Y and Z, who receive in total exactly the same as X. This more accords with the purpose for which the

26. See Hardingham, *op. cit.* (*supra,* n.11), 101. He clearly envisages the spouse is to receive a benefit from hotchpot.
27. No doubt readers will think of others for themselves.

doctrine of hotchpot was invented. Moreover, Y and Z would still receive some increase no matter how large the gift to their sibling, X, was – contrast Example 4.

The same result occurs if the gift to be hotchpotted was given to a grandchild. Suppose, as in Example 3, an intestate dies leaving a spouse, two surviving children Y and Z, and two surviving grandchildren A and B by their predeceased parent X. Again, after expenses, the estate is worth $130,000, and two years before his death, the intestate gave A $20,000. After hotchpot the result is as follows:

Example 6

I – $130,000

Spouse – $10,000 + ½ $120,000 ($60,000) = $70,000

		X	Y	Z	$60,000 to be divided
			$20,000	$20,000	
	A	B	$20,000 to be divided		
Notional	$20,000	$20,000	plus $20,000 = $40,000		
less	$20,000				
Actual	NIL	$20,000	$20,000	$20,000	

Here again B receives, by hotchpotting at the level of the grandchildren, the same amount in total as his sibling, A. The only effect is that the spouse, Y and Z are excluded from any benefit – yet fairness between A and B results. B's share is not decreased as in Example 3.

The question is which of these two solutions is to be adopted. To hotchpot by adding the gift to the whole of the estate would seem the more natural solution. After all, the gifts given by the intestate *inter vivos,* or by will in the case of a partial intestacy, have reduced the total amount available for distribution. Not to hotchpot at the top would also be to exclude the spouse in every case from benefits. This can scarcely be the intention since, in the case of a partial intestacy, the spouse is made to bring gifts received in a will into account.[28] She should not have to account if she does not receive. There is also the problem in the case of, say, a gift to a grandchild if that grandchild is the sole grandchild. By hotchpotting at his level, there would be no one else at that level to take the benefit of the hotchpot. The amount by which his gift was thereby reduced could only then be added to the whole estate, or it would not be distributed at all. There is, moreover, nothing in the S.A.L.R.C. *Report*[29] that does not suggest bringing the value of any gift into the whole of the estate.

The problem is, as hopefully demonstrated, to hotchpot in this way can produce some peculiar results, and some unfair ones! To hotchpot at the level of the gift does at least achieve fairness between those at that particular level. After all, the basic doctrine of hotchpot, founded in s.5 of the Statute of Distributions, was "grounded upon the most just rule of equity, equality."[30] It does however exclude the spouse.

28. Section 72k(1).
29. See *supra,* n.16.
30. *Edwards* v. *Freeman* (1727) 2 P.Wms. 435, 443. See also Sir Joseph Jecyll M.R. – "the end and intent of the statute of distribution [is] to make the provision to all the children of the intestate, equal, as near as could be estimated ..." (439-440). For a general discussion see Hardingham, *op. cit.* (*supra,* n.11), 90.

Seeing then that neither of the above methods is satisfactory are there then any solutions? One solution might be to give a fairly liberal approach to the question of a contrary intention in the intestate, showing the gift should not be hotchpotted.[31] This way gifts that worked extreme results when hotchpotted could be excluded. The extreme result itself could lead to evidence of a contrary intention. However, we must beware of finding a contrary intention where none exists; the result may still be to hurt those on the same level as the donee of the gift, as their share is not increased. Moreover, the whole idea of introducing the doctrine of hotchpot in s.72k is that basically no such intention exists; therefore it is up to the law to achieve equality. Another solution may be, in the case of a gift to a grandchild, to construe the gift as really being a gift to his predeceased parent. That way, the gift could at least be hotchpotted – if the second method of hotchpotting is adopted – at the level of the children. This does however still not help the spouse.

However, another and far more radical solution presents itself. This is to regard s.72k as indeed introducing into Part III A a doctrine of hotchpot, but not the traditional text-book doctrine applied above. It is to regard s.72k as creating a whole new method of hotchpot. Section 72k actually says that "the property given or settled shall be taken to have been given or settled in or towards satisfaction of the share to which that person is entitled in the intestate estate..." This could mean simply that if a child, for example, is entitled to, say, $20,000, and he has already received $20,000 two years before the intestate died, then the $20,000 is viewed as being in payment of his share, and he therefore gets nothing. There is thus $20,000, which, by not going to the child, is available for distribution elsewhere. The obvious thing then to do is, not to bring the $20,000 into account, but simply to distribute it according to the normal scheme of distribution set out in s. 72g – half to the spouse, half to the issue etc.

Let us take an example – the same as that in Example 3. An intestate dies leaving a spouse, two surviving children Y and Z, and two grandchildren A and B of his predeceased child, X. The estate is $130,000 (after deductions) and A received $36,000 two years before the intestate's death. Normally A would receive $10,000, but here he does not as the $36,000 is in satisfaction of it. There is thus $10,000 extra (A's share) for distribution. According to the scheme of distribution, the spouse would receive half ($5,000), the children Y and Z a portion of $5,000 each ($1,667 approx.), and A and B a portion in equal shares ($833 approx.). These amounts would then be added to the rest of their entitlement.

This then raises an interesting question – what is to happen to the $833 allotted to A? As he has already received $36,000 – a sum far greater than the $10,833 B now gets – A should not receive the $833 at all. The answer then is to take the $833 up to the top of the estate again and then repeat the same procedure, giving the spouse half of the $833, the children a portion each, and so on. Each time of course A will have a share – approximately $69 in the second application of the distribution rules – but it will continue to reduce on further applications of the distribution rules, and eventually a *de minimis* compromise will be reached.

31. Section 72k(1)(c).

Example 7 I – $130,000 estate

Spouse $10,000 + $60,000

Gift to A $36,000

X	Y	Z
	$20,000	$20,000

A	B
$10,000	$10,000
less $36,000	
NIL	

$10,000 available for distribution under s.72k.

First distribution –	Spouse	$5,000	
of $10,000	Y	1,667	approx.
	Z	1,667	"
	A	833	"
	B	833	"
Second distribution –	Spouse	416	approx.
of $833 approx.	Y	139	"
	Z	139	"
	A	69	"
	B	69	"
Third distribution –	Spouse	35	approx.
of $69 approx.	Y	13	"
	Z	13	"
	A	6	"
	B	6	"
Total benefits on distributing the $10,000			
	Spouse	5,453	approx.
	Y and Z	1,820	approx. ea.
	B	907	approx.
	A	NIL	

The clear advantage of viewing s.72k as working in this way is that it responds to the principle of equality inherent in the doctrine of hotchpot. In addition, all the different levels of beneficiaries benefit, and *nobody's share can ever be reduced or destroyed.* To abandon the traditional doctrine of hotchpot, and to apply s.72k as it has, perhaps unwittingly, been drafted is to ensure justice for all. The problem with this method of distributing an entitlement that has been reduced by a gift or settlement is that it can produce some intricate mathematical problems. In the example above, several distributions had to be made to eventually distribute A's entitlement of $10,000. If A had received a gift of exactly $10,000 the problem would be easy. A would be entitled like his sibling B to the $833 on the first distribution – that way they would both receive $10,833 in total from the intestate. What however if A's gift was $10,600? When A's entitlement of $10,000 came to be distributed how much would he receive? Presumably he would receive $233 (of the $833) straight away to bring him level with B. There would then be $600

left to be distributed again. This would go $300 to the spouse, $100 each to Y and Z, and $50 each to A and B. In spite however of these mathematical intricacies which, as can be seen, can be overcome, it is submitted that it is far better to regard s.72k as introducing a new method of hotchpot, rather than sticking to a traditional formula which can only be productive of injustice.[32]

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32. I am indebted to no one but myself for any errors in this comment. I would like to thank Mr. J. F. Keeler for some suggestions in its preparation.

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