

Supreme Court of California

STATE BUILDING
SAN FRANCISCO

HIS H. BURKE
ASSOCIATE JUSTICE

September 26, 1969

Members of the Special Committee
National Conference of Commissioners
on Uniform State Laws

Gentlemen:

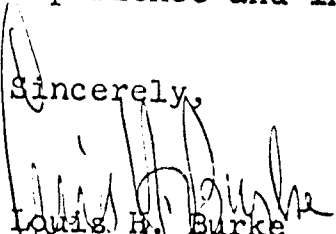
I am taking the liberty of sending you a copy of my letter of April 30 to Mr. Dunham concerning one phase of the proposed uniform divorce law which troubles me very much. It appears from my review of the proceedings in committee of the whole that the tentative views of its members at least are opposed to the point of view which I am expressing.

I understand that the committee's studies thus far have been based in part upon the studies and recommendation of the California Commission which recommended a proposed statute to the state Legislature. As presented, the ultimate effect of that statute, although purporting to permit divorce upon a court finding of irretrievable breakdown of the marriage, was to require a divorce decree upon the request of both or of one of the parties. I opposed this feature of the measure for the same reasons indicated in my letter to Mr. Dunham, and as finally enacted this feature of the bill was removed and as the new law now stands no dissolution may be entered until there is a finding by the court based on the evidence that there are irreconcilable differences which have caused the irretrievable breakdown of the marriage. I respectfully submit that if marriage is to be terminable by unilateral action without any judicial determination that the marriage is in effect dead, then the proceeding has no business in a court of law and should be relegated to a ministerial function in the marriage license bureau.

The great tragedy would be the burial of thousands of marriages which but for want of a little professional assistance and encouragement could be restored to a state of good health, and as to many of them an even stronger bond than existed before.

In speaking of these matters I am not indulging in theory but from my own personal experience and interest in this field.

Sincerely,


Louis H. Burke
Associate Justice

Enclosure

UMDA 01336