



THE UNIVERSITY OF OKLAHOMA

NORMAN, OKLAHOMA 73069

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Professor Herma H. Kay
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Dear Herma:

At last I've had time to get over your draft, which I now return, with longhand suggestions and comments, which I hope are legible and intelligible.

In addition, let me make a few other suggestions.

One, very minor, is that the term "petition", as used in Sections 4 and 5, will present no novelty, in many jurisdictions. In Oklahoma, in all actions, including actions for divorce, the initiatory pleading is termed a petition. Hence we would not be substituting a "neutral" term for an "adversary" term, as your comment suggests. I do not believe it is highly important to change the name of the pleading. The important thing is that we do away with the necessity of stating a "cause of action", with its invocations of adversary concepts. So, perhaps it would be sufficient, as well as proper, simply to bracket the name of the pleading, leaving each state free to use whatever name is used in its established practice.

I am not sure that I agree, either as matter of policy or of expedience, with your Section 9. As your comment indicates, the section ultimately established divorce at the will of either party. I'm not sure that the court ought not to have some discretion. Compare Schlesinger v. Schlesinger, 399 F.2d 7 (3d Cir. 1968). By the way, have you seen my doggerel in 11 Oklahoma Law Review 430, which may strike you as not wholly in accord with these expressions. However, that deals with different statutory language. I think that, if Section 9 were