

#51

3/2/66

Memorandum 66-6

Subject: Study 51 - Support After Ex Parte Divorce

Attached is a draft of the portion of the 1967 Annual Report designed to carry out the decision made at the February meeting. Upon approval of this portion, we plan to distribute it to those persons who requested copies of our tentative recommendation on this subject so that they will be aware of our decision not to recommend legislation on this subject.

Respectfully submitted,

John H. DeMouly
Executive Secretary

STUDIES TO BE DROPPED FROM CALENDAR OF
TOPICS FOR STUDY

Study Relating to Support After an Ex Parte Divorce

In 1958, the Commission was authorized to make a study to determine whether a former wife, divorced in an action in which the court did not have personal jurisdiction over both parties, should be permitted to maintain an action for support.¹

The Commission requested authority to make this study because the California Supreme Court had held in Dimon v. Dimon,² that a former wife whose marriage had been terminated by an ex parte divorce granted by a Connecticut court could not subsequently maintain an action for support against her former husband in California.³ After the Commission had commenced its study, the California Supreme Court decided Hudson v. Hudson,⁴ which overruled the Dimon case. The Hudson case held that an ex parte divorce obtained by the husband in another state did not prevent the wife from maintaining an action for support in California.

The need for legislation to change the rule in the Dimon case is eliminated by the holding in the Hudson case, and it appears that any problems that may arise in effectuating the Hudson decision would be better resolved by the courts than by legislation. Accordingly, the Commission recommends that this topic be dropped from its calendar of topics.

¹Cal. Stats. 1957, Res. Ch. 202, p. 4589.

²40 Cal.2d 516, 254 P.2d 528 (1953)(Traynor, J., dissenting).

³See 1 CAL. LAW REVISION COMM'N, REP., REC. & STUDIES, 1957 Report at 25 (1957).

⁴52 Cal.2d 735, 344 P.2d 295 (1959).