

[Chairman: Mr. Musgrove]

[1:35 p.m.]

MR. CHAIRMAN: I will call the meeting to order. I should say that I appreciate the progress and decision on Minors' Contracts that you people made at the last meeting. Today we will start with Unified Family Court and will have Mr. Hurlburt start the discussion.

MR. HURLBURT: Thank you, Mr. Chairman. This is a very different proposition. We're talking about court structures rather than what the law itself should be. At the present time there are basically the two courts, the Queen's Bench and, for this purpose, the Family Division of the Provincial Court. The jurisdictions are mixed and overlap and generally are confused. The Queen's Bench has jurisdiction in divorce and can order custody and support in divorce. It also has jurisdiction to do somewhat the same things under the Domestic Relations Act. Then you have the Provincial Court, or the family court, also with custody and support jurisdictions. People can get caught where they have to start in one court and go to another court.

One major difficulty is that most support orders are enforced in the Family Division even if they're made in the Queen's Bench. That is, the Queen's Bench order that one spouse pay support to the other will be taken to the family court and registered there and the family court will enforce it, usually on the basis of a threatened or actual putting in jail for refusing to pay. There is the problem quite often that the Queen's Bench order, by the time it's being enforced in the family court, simply isn't relevant any more. The circumstances have changed, and under the present circumstances, it's simply not a reasonable order. But the family court can't change it. They can only enforce it. The way they have coped with this is to say, "Well, we recognize that this order calls for \$500 a month, but we notice that the earning spouse, usually the husband, really can't pay more than \$250, so we will not put him in jail as long as he pays the \$250," leaving the other \$250 to pile up and nothing done about it. It's very unsatisfactory. That's the sort of thing that happens when you split jurisdiction between two different courts.

Our basic proposal is to establish one court that could and would do everything in family

law: support, divorce, custody, distribution of matrimonial property — anything that involves particularly the breakdown of marriage and sorting out the wreckage that follows.

Since we first published our working paper, there have been experiments — and they're now past the stage of experiments -- with unified family courts. There is one in Ontario, in the Hamilton-Wentworth Judicial District, which doesn't include Toronto but is the area west of it. They put together their court, really, at the district court level and organized it in ways which are rather difficult to understand, but basically it's a unified family court. It has not spread through Ontario, largely, I'm told, because the province and the federal government have trouble agreeing on who to appoint as judges. New Brunswick started an experimental family court a number of years ago, and it has now been put in force throughout that province. Newfoundland has a unified family court. Prince Edward Island has the most unified family court there is: one judge does all the family law work. Saskatchewan has had one going in the Saskatoon area for a number of years. Manitoba has just established a separate family law division of its Court of Queen's Bench to do all family law work. So this is something that is going on across the country. Under the NDP administration British Columbia experimented with what was called a unified family court but really wasn't. It unified court services and put the court together in the same courthouse, but that one hasn't worked quite as well.

MR. CHAIRMAN: There are none of these in Alberta?

MR. HURLBURT: That is correct.

MR. CHAIRMAN: This would be a new court?

MR. HURLBURT: Yes. Our basic proposal is that there be a division of the Court of Queen's Bench which would be the Family Division or the family law division or what have you. It would be part of an existing court but a new division of that court, and it would be a specialized division. I'm afraid that point isn't really made in this handout. It would involve judges who are primarily specialized. We suggest that they should be ex officio members

of the other division of the Queen's Bench and that other judges of the Queen's Bench be ex officio members of the family law division and that, in fact, they do some general trial work, but basically they would be a specialized court. The Family Division at the moment is a specialized court. Its judges basically do nothing but family law work.

MR. CHAIRMAN: Could this court be mobile? For instance, could it sit in different centres?

MR. HURLBURT: Yes. One of the things we have said in our report is that an attempt to improve family law administration cannot be the cause for giving less service than there now is. The mechanics of starting it and getting it so it can operate across the province would have to be carefully worked out. It would have to be quite clear that there wouldn't be any diminution of service, that people who now don't have to go to Edmonton or Calgary would not have to go to Edmonton or Calgary.

MR. CHAIRMAN: One other question. You say they have one in the Saskatoon area of Saskatchewan. Is that the only family court that Saskatchewan has, or do the Queen's Bench and the Provincial Court serve other areas?

MR. HURLBURT: Elsewhere the Queen's Bench and the Provincial Court serve the province.

MR. CLEGG: I'll just clarify the same question from the Chairman. Are the remaining areas in Saskatchewan served by a family court division of the Provincial Court?

MR. HURLBURT: I think I have to take a guess at that one and say yes, Mr. Chairman. I'm afraid I'm not clear on the answer. All I'm really aware of is that there is the unified court in the one place, and whatever the pre-existing court structures were, they're still operating in the other places.

MR. CLEGG: The reason I ask is that it would seem very difficult to go half way, the way they have done, and just have a test period. It would seem rather difficult to have family matters dealt with in Queen's Bench in one part of the province and Provincial Court in a different part of the province, which would be the result of that situation.

MR. HURLBURT: Yes, that could happen.

MR. CHAIRMAN: Any other questions or comments? Carry on, Mr. Hurlburt.

MR. HURLBURT: I don't know whether you've looked through the chart I've handed out yet. The first page is nothing but terms. The second page — oh dear; I'm afraid I changed the order of the pages, and the result is that the columns have no headings, which must make them a little hard to follow. If you look at the third page, you'll see that Queen's Bench is the left-hand column; the family court, or the Family Division, is the centre column; and the right-hand column is the unified family court as proposed by the institute. The first two columns are the existing courts; the third column is the proposed court.

On the point of structure, the Queen's Bench is a court that is created by provincial legislation. Provincial legislation determines how big it will be — that is, how many judges there will be — but the judges are appointed by the federal government, which is part of the rather unusual Constitution that we have. The centre column, the Family Division, is created and maintained by provincial legislation, but the judges are appointed by the provincial government. Provincially appointed judges cannot, constitutionally, have all the powers that what they call a superior court judge can have. Once a judge starts to exercise powers which are like a judge of a supreme district or county court judge, which is the term used in section 96 of the British North America Act, as it used to be called, it is unconstitutional for the province to give him those powers.

So that is part of the backdrop against which this proposal is put forward. Instead of putting the unified family court in the Queen's Bench, or as a superior court, it would be possible to make it part of the Provincial Court, except that a Provincial Court judge can't be given the divorce power and some other powers like that.

As far as structure goes, the institute proposes that there be a division of the Queen's Bench, that the judges continue to be appointed by the federal government. There is another way that we could see it being done, which is to have federally appointed judges and provincially appointed judges in the same court, each doing their own thing. I think that would be a very distinct second best, but it is a possibility.

What we really envisage happening is that at least some of the existing family court judges would go into the new division, or some might be retired or what have you, depending on their various capabilities and ages; that there would then be a division of the Queen's Bench with its own chief justice and federally appointed judges; some interchange, as I have said, between it and the other division, between its judges and the judges of the other division, and also appropriate court services attached to it. What those court services are would be the next report we're coming to.

That is the court structure. I'm sorry; I think this page really does leave a little to be desired, but I can only say that I haven't had as much time to get this one together as I would like to have had.

If you go on, page 3 deals with the jurisdictions of the courts — again, the Queen's Bench on the left-hand side, the family court in the centre, and the proposed unified family court on the right. Basically, you'll see that all the powers of the other two courts in family law would be concentrated in the Family Division of the Court of Queen's Bench. The list will help you grasp what is referred to as family law, which is a term that's been coming into great use over the last 20 years or so. It cuts across traditional legal categories, but it includes divorce — this is the left-hand side — nullity of marriage, judicial separation, and some other odds and ends of matrimonial lawsuits that are still with us, which are entirely within the power of the Queen's Bench and would go to the new court.

Spouse and Child Support. Both courts have powers now: the Queen's Bench both in divorce and separately; and the family court, a summary deserted wives and children type of jurisdiction. Those would all be transferred to the new division. That covers that general heading.

Matrimonial Property. The only court with jurisdiction in that area at the present time is the Queen's Bench. That power would go to the new division of the Queen's Bench.

Guardianship and Custody of Children. Jurisdiction is divided at the present time, or at least the Queen's Bench has overall jurisdiction over all of guardianship, including custody. The Family Division has some power over custody. Guardianship is the sort of broader general term that includes all the rights and powers of a

parent. Custody is the day-to-day care and control of the child and the right to make some decisions. It's possible to be a guardian without having custody, and that's what happens when family problems arise. Both parents may remain guardians, but one will have custody of the child. So there's a division of jurisdiction there.

Under the Child Welfare Act the jurisdiction is in the Provincial Court, in the Family Division. That's supervision orders and temporary and permanent guardianship. At least this will be true when the new Act comes in; I think it's April 1. In the chart, I've used the new Act rather than the existing one. Those powers would go over to the new court. Under the criminal side the important one is the youth court powers, which would also go there.

That is the proposal. We think that this division of jurisdiction at the moment is really not efficient. It means that people have to go from one court to the other, that one court may not be able to give them all they need or decide all that needs to be decided and dispose of everything that needs to be disposed of. So they have to go to the other court, and that's inefficient.

We think also that a court that is doing this pretty well all the time will, on the whole, be a better court for this particular kind of thing. That is a debatable proposition. There are arguments for and against specialized judgments. A recent evaluation of the experimental family courts in New Brunswick, Ontario, Saskatchewan, and Newfoundland has concluded that on the whole they have improved, if you like, the quality of justice; that the people who go there tend to feel that they've been better treated than the people who have to cope with another kind of system, and so on. A change in court structure is not going to fix up our family problems or anything like that, but our belief is that it will help to see that people get treated as well as any sort of mass system can treat them.

The services that should be attached to the court are important, Mr. Chairman. It may be that you want to go on and look at the second report on the agenda for today and then come back and consider whether you think there's something you should do with regard to both of them.

MR. CHAIRMAN: Maybe we should see if there

are any questions or comments thus far.

MR. SHRAKE: Just one. If I understand it correctly, some other provinces have the system that you are proposing; Ontario, for example.

MR. HURLBURT: Part of Ontario.

MR. SHRAKE: And I understand from you that where they've changed the system in Ontario, it is a little more workable.

MR. HURLBURT: Yes, I believe that to be true.

MR. SHRAKE: And in trying to make this change, you don't anticipate we'll have any problems with the federal government. They would not object or fight with us or anything.

MR. HURLBURT: In the Ontario case they pretty well had to be consulted because of the way the court was structured. They have participated in Manitoba; that is, they have appointed judges to the new Family Division, which is now about a year old. So that would indicate that it's possible to have an arrangement made. I do not know whether there is any specific understanding between Manitoba and the federal government about consultation, or what have you, on the judicial appointments. I think it would be very useful to try to get into place a form of true consultation, because you would certainly wish to be sure that the people who are appointed to this kind of court have some sort of special interest in and capability for this kind of work.

MR. CHAIRMAN: In this case, if Alberta were to have a unified family court, is it the institute's proposal to have it universal in Alberta rather than part coverage such as Saskatchewan has?

MR. HURLBURT: Mr. Chairman, I think the answer would be that there are practicalities. You can't necessarily send two judges out to a small, outlying place where the courts sit.

MR. CHAIRMAN: They wouldn't go anywhere they don't go now.

MR. HURLBURT: Oh, yes. The basic idea

would be provincewide coverage. The question would be: when does that become impracticable on a financial basis and as far as manpower goes, and when is there enough work to do. If I can have just a second, maybe I'll glance over the pages.

Basically, as I said in answer to your earlier question, what we're saying is, number one, maintain at least the existing service. Whatever else happens, don't use the establishment of a newfangled court as something that's going to make people come into the cities if they wouldn't have done so otherwise. Secondly, make use of the judges of the other division, give them jurisdiction, and let them sit when there is no judge of the family law division reasonably available. That is, use your judicial manpower as well as you can. I think we have to recognize that this would probably take a while and that it would be some time before this one court would be able to serve all the province. That would be the ideal.

MR. CHAIRMAN: Mr. Alger, you have a question or comment?

MR. ALGER: Mr. Chairman, this sounds a little bit like a style of streamlining the judicial system, if you like. I can't help but wonder if it will lessen the burden on any particular faction, or do we really increase expense and appoint more judges, or what? We always hear about the workload and the backlog of cases, and so forth. So I can't help but wonder if we are really expanding this system to a degree and letting the Queen's Bench handle tougher stuff, as it were.

MR. HURLBURT: This would be a matter for administrative adjustment. I think the early hopes were that greater efficiency would enable your judicial productivity to go up. The study I've mentioned says that they probably don't do more work and they don't do faster work, they just do work that's a little bit better. It still takes a lot of judges.

In Manitoba, I suspect the system has just enlarged, because all of a sudden they appointed half a dozen judges. That's something that the appropriate people would have to look at here. What do we want in total? Do we move some judges over from the existing division who are likely to be happy in family law? Do you add to

your staff, or what do you do? I don't think it necessarily implies either cost saving or greater cost. It's all how you handle it.

MR. ALGER: In your opinion then, Mr. Hurlburt, would more buildings be required, for instance? Is there that kind of workload? Or can we handle this unified family court with our present facilities throughout the province.

MR. HURLBURT: That's a rather large question. My suspicion is . . .

MR. ALGER: The buildings too.

MR. HURLBURT: I don't really see why more would be needed, bearing in mind that there has been a lot of courthouse building in the last while.

MR. ALGER: That's what I'm getting at. I wonder whether or not we'd . . .

MR. HURLBURT: I don't think we're looking . . . If this sort of thing looked like a good idea in general, then there would have to be a lot of hard pencil work done. I certainly would not suggest that, as of tomorrow, the Attorney General announce that there is a Bill in the House to create a new division and there will be 17 judges appointed by next Thursday. It is something we haven't specifically costed. I don't see why it should cost more. There is probably a human tendency to empire-build, which may show its face here if it isn't looked at.

MR. ALGER: Thanks, Mr. Chairman.

MR. CHAIRMAN: Do you have a comment, Mr. Clegg?

MR. CLEGG: Yes, Mr. Chairman, following along the same lines as Mr. Alger asked.

It would seem that the simplest expression of what you're saying is that there would be fewer Provincial Court judges and more Queen's Bench judges. As you've pointed out, some would be suitable and happy to move, and some would not be either suitable or happy. Of course, the Queen's Bench judges get paid slightly more than the Provincial Court judges.

From my own experience in working on family matters, it is not at all unusual that part

of the solution is to be found in Family Court and for the other part you have to go to Queen's Bench to settle that family's problems. It is enormously inefficient. It is time-consuming for the lawyer to prepare for court: he has to have two trial dates, sometimes he has to have two discoveries, he has to prepare his clients twice and have his witnesses twice, and he has adjournments from the other side more frequently. It is not only frustrating to the lawyer handling the case but it is very frustrating and extremely stressful to the parties concerned. My observation is that the level of stress in a matrimonial matter quite often escalates with time, and things just get worse and worse because it's very stressful having unsolved problems.

My personal experience would seem to indicate that there should be a significant gain in efficiency in the rendering of the service. One problem could be handled in fewer judge hours under a unified system than it is presently. In the present system a family court judge will spend an hour and then a Queen's Bench judge will spend an hour, whereas in a unified system maybe all things could be settled in an hour and a half -- just to try to give a very simple mathematical explanation of what I'm saying.

The other point I want to mention is the question of the federal appointments. A constitutional issue raised by some of the Provincial Court justices in Ontario has been their concern that they are operating in a Provincial Court. They are often dealing with the Crown as one side of a case before them, and they were appointed by and dependent upon the provincial Crown. Of course, every judge has to be appointed by somebody, and there's always a risk of feeling in some conflict in the end. But from that point of view there are some constitutional benefits to having more federally appointed judges and fewer provincially appointed ones.

MR. BATIUK: Mr. Chairman, why are divorces under the Divorce Act of Canada and the nullity of marriage really segregated? I can appreciate that some years ago, when it was difficult and probably only adultery was a reason for divorce, nullifying a marriage might have been another way. But today, with our relaxation of the guidelines under the Divorce Act, I wonder whether there is any reason to have that

segregated. Would it not be even more complex to have nullity of marriage than it is for divorce?

MR. HURLBURT: I think this is another of these constitutional mysteries that nobody can understand, Mr. Chairman. Under the BNA Act, or the Constitution Act as it is now called, marriage and divorce are a federal jurisdiction. Offhand, I don't know why the federal jurisdiction over marriage and divorce wouldn't extend to some kinds of nullity, because that seems to be marriage. It probably wouldn't extend to all of them because the province has jurisdiction over solemnization of marriage under another section of the BNA Act. Some kinds of nullity come from wrongful or improper solemnization.

MR. ALGER: By "improper" you mean by unlicensed ministers or something of the sort?

MR. HURLBURT: We're sort of venturing into waters where my knowledge isn't all that hot. But yes; that sort of thing. I think capacity is probably federal and the procedures provincial. Is that a fair statement?

MR. CLEGG: As you said, it's a very difficult area. It's probably argued by the provinces that nullity means there was no marriage, and if there was no marriage, it isn't a marriage issue. But that does seem to me to be a very narrow kind of argument. If they had thought of nullity when they were drawing the divisions of jurisdictions for legislation between the federal and provincial governments or parliaments, I think they would have put it with federal jurisdiction.

There seems to be another part of Mr. Batiuk's question, which deals with whether or not we need the remedy of nullity at all in view of the fact that the grounds for divorce are becoming more relaxed. They are very different things, and in certain cases, I think it would be very important for some people to prove that they were never married rather than that they just got divorced. It might, for example, be a defence to bigamy. It's a rare remedy, but I think that nullity is a very different thing from divorce. I think it has to be retained.

MR. R. MOORE: Mr. Hurlburt did his usual

excellent outline for us. He has broken it into two sections, structure and jurisdiction. I see that in the discussion period we're dealing mainly with jurisdiction and sort of jumping over the structure end of it.

Mr. Chairman, I'd like to make a motion that we approve the alternate proposal, as outlined, for the structure of the courts, which is one group appointed by the province and one group appointed by the federal government.

MR. SHRAKE: Could we have "approval in principle"? I don't mean to split hairs. I think there are a lot of loose ends on that; maybe I'm wrong.

MR. HURLBURT: Mr. Chairman, that may be getting down to a level where I don't know that you really have quite enough. There are problems, not necessarily insurmountable, with two kinds of judges in the same court. You would still have to be careful to be sure that you have the right kind of judge with the right kind of power at the right kind of place. Obviously, I would not object to seeing courts set up on that basis, but I think it should be fairly carefully looked at.

Might I ask the member, and he obviously doesn't have to answer me, if this is with a view to maintaining a provincial sphere in the court or to keeping the province's oar in, shall we say? Is that the general line of thought, or is there some other reason for it?

MR. R. MOORE: I feel that the Queen's Bench court is a provincial matter, and I think the province should retain some say in who those judges are. I don't think it should be a totally federal responsibility. They aren't dealing in federal issues; it's basically provincial issues, within the province, unlike criminal law or things like that.

MR. HURLBURT: That is certainly true.

MR. COOK: Mr. Chairman, I'd like to support the motion moved by the hon. member. I'd like to suggest, too, that what is likely going to happen is that this report and our recommendations will be referred to the Attorney General's office for further study and probably a discussion in the caucus before implementation. So while we might have some questions on the details, I'm not sure that this

committee could make any definite recommendation that is going to hold, both through the Attorney General's office and through caucus. So whichever proposal we adopt, I think it is good to get the process going. I note that the report was prepared in 1978; it's been almost seven years. In the interests of efficiency, I think we should just launch this from the committee and ask Clark Dalton and company to expedite the matter.

With that, Mr. Chairman, I'd like to call the question.

MR. CHAIRMAN: Your proposal is that we approve the concept of unified family court, without structuring where the judges should come from. Is that right, Rollie?

MR. COOK: Just for argument's sake, I'll vote for the alternative proposed by my colleague on my right, recognizing that whatever we do is probably going to be amended or discussed by a number of interest groups.

MR. CLEGG: Mr. Chairman, I'm not sure whether the origin of the appointment of justices of the Queen's Bench is something which is really part of the report. If you were to make a recommendation which implied that the committee was recommending that some or all of the Queen's Bench justices should be provincially appointed, I think it would be a little outside of the reference which is before us at the moment. Also, such a change would require a constitutional amendment to the Constitution Act. The biggest part of the Queen's Bench division duty is dealing with matters which have to be dealt with by a superior court, and the Constitution Act provides that those justices shall be appointed by the federal government. If we introduce that, I think we're introducing a very, very major issue which is not basically a part of this report.

MR. HURLBURT: Actually, Mr. Chairman, the alternative, the second recommendation, isn't that every judge in the court would have section 96 powers; that is, you would have a two-tiered court. The provincially appointed judges would exercise only those powers which provincially appointed judges can exercise. We hadn't thought of getting a constitutional amendment on that point.

I would be rather uneasy if the committee committed itself to this and made it integral to the second proposal. I'm not sure whether your procedure would permit, but if the committee chose to approve the concept of a unified family court and to add a rider that it would really like to see the second alternative, I think I would be happier with that — not that my happiness is very material -- on the grounds that it would seem to me that when that recommendation gets somewhere, you won't have bound into it a rather difficult concept, but you could indicate your preference for the concept.

MR. COOK: Mr.. Chairman, the question has been put. Could we call the vote?

MR. CLEGG: Mr. Chairman, we have before us at the moment Mr. Moore's motion.

MR. CHAIRMAN: The question has been called.

MR. CAMPBELL: What is the motion, Mr. Chairman?

MS CONROY: I move that we approve the alternate proposal for the structure of the courts.

MR. COOK: Mr. Chairman, I think it was a little more specific than that. It was that we concur in the law commission's report on the unified family court section dealing with structure of family courts and, secondly, that the alternate proposal be endorsed.

MR. CHAIRMAN: All in favour? Opposed? Carried.

MR. COOK: Mr. Chairman, we've discussed at some length the Jurisdictions of Courts, the second section of the report. I'd like to move that we concur in the report as presented.

MR. CHAIRMAN: Would you repeat that, Rollie?

MR. COOK: I'd like to move that we concur in the second section of the report, Jurisdictions of Courts: Present and Proposed.

MR. CHAIRMAN: You're agreeing with the institute's recommendation in that case?

MR. COOK: Yes.

MR. CHAIRMAN: Any questions or comments? All in favour? Opposed? Very good.

MR. HURLBURT: Do you wish to proceed with Court Services?

MR. CHAIRMAN: Yes. Would you proceed, Mr. Hurlburt.

MR. HURLBURT: Mr. Chairman, this report deals with the kinds of services that we think should be available to a court which is engaged in family law, whether it's the existing courts or a unified family court. Family law cases are really quite different from other kinds of cases, in part because of the emotional aspects, in part because a lot of the people who are coming to court have no real or satisfactory way of getting legal assistance. A lot of their claims or the things they want adjudicated aren't financially able to support lawyers, to put it bluntly. If a wife is trying to get \$200 to \$300 a month in the first instance and is later trying to enforce collection of the \$200 or \$300 a month, she isn't really in a position to hire a lawyer. The money simply doesn't justify it, and unfortunately we have an expensive legal system.

We have proposed a pattern of services. Most of them exist in some way or other. As was just mentioned, it has been six and a half years since this report came out. I haven't gone around to all the courthouses and found out exactly what is there now; I have some general idea. If this kind of pattern were suitable, we would really be into an administrative problem and, to some extent, a cash problem too. I appreciate that the number of Cadillac systems that the province is going to buy may not be as great in 1985 as it would have been in 1978. I'm not really suggesting that this is one, but it would cost some money.

Again, at the present time we have two courts. You'll see that I've talked of five different kinds of services. The first of those is called intake, a word I don't like. It sounds rather as if you've got a pipe that's sucking something into the system, and maybe that's only too close to the truth. That's what it's called anyway. The family courts usually have somebody there who will at least explain,

usually to the wife, and give her some idea what the system is about and how it works, and help fill out the forms to get things started.

There is no such thing in the Queen's Bench. The need there may not be quite so great because usually there are lawyers there. By the time you get to the Queen's Bench, you are usually talking about divorce, and divorce usually has lawyers associated with it. So the immediate need is not so apparent there; but some sort of service with qualified counsellors to at least give the incoming prospective litigant some idea of what the system is all about, some minimal assistance -- and we're not talking about substantial legal advice or what have you -- in getting into the system. We've also indicated here that we think some help in arranging service of the documents is desirable. This is particularly true in the summary proceedings kind of thing.

So that's the first, and the service does exist, to some extent anyway, at the present time.

MR. CHAIRMAN: These are the services that the institute recommends should be in the unified family court?

MR. HURLBURT: Yes, but more than that. Even if we didn't have a unified family court, they should be available, in our submission, to the existing court.

MR. COOK: Mr. Chairman, I'm not a lawyer and I haven't had time to talk to anyone who practices in family law in order to go over the administration. It seems to me that we're not so much endorsing a principle as we are looking at the administration and services provided to a court. Would it be practical for us this afternoon to basically accept this report and ask the Attorney General's office to show cause why this should not be adopted?

MR. HURLBURT: Mr. Chairman, as long as you make sure that that language isn't associated with me, that's fine.

MR. COOK: Mr. Chairman, I'd like to move it in just those terms, so that there is a requirement for the Attorney General's office to report back to us, with either acceptance or some reasons why it ought not to be done. With that, I'd like to move that this committee not get involved in a line-by-line review of

administration but rather accept the report on court services for family law and ask the Attorney General's office to show cause why this ought not to be done.

MR. CLEGG: Mr. Chairman, on a point of order. I think it may be necessary to phrase it so that the Attorney General's department would report back to the Assembly rather than this committee, unless you specifically wish to defer the consideration of this and call the Attorney General's department before this committee; I'm sure they would come if we invited them. But if you want to do it the way I think you do, it should be worded in such a way that when this committee's report is accepted and concurred in by the Assembly, it becomes in order for the Attorney General's department to report to the Assembly.

MR. COOK: Mr. Chairman, I would accept that as a friendly amendment.

MR. CHAIRMAN: All in favour? Opposed? Carried.

MR. COOK: Mr. Chairman, I'd like to compliment the gentleman on a very fine piece of work.

MR. CHAIRMAN: Is there any other business for today?

MR. ALGER: Mr. Chairman, I'd like to know what the expression "amicus curiae" indicates, please.

MR. HURLBURT: I'm afraid it's one of the Latin barbarisms we haven't got rid of, Mr. Chairman. I only use it because it's used so frequently. Literally translated it means "friend of the court." There are some cases in which some outsider can come in and sort of intervene in a lawsuit. Five hundred years ago it used to be that somebody in the rear of the court would stand up and say, "Oh, you've overlooked such and such a case," or something like that. There are some areas in which a stranger can come in and file a brief or what have you, if the court lets them.

In Alberta a procedure has developed in family law cases. It originated because one judge, Mr. Justice Manning, in 1976 or thereabouts, looked over the bench and saw two

parents very bitterly opposed to each other, a real, true, emotional 'whatchamacallit' going on. He said, "Well, I don't know what to do about the bone" -- which was the child they were fighting over -- "I want another lawyer to look at the circumstances and bring something and put it down in front of me so I can look at it and make some sort of decision." That lawyer, Mr. Rowson of the Attorney General's department, took that on in the first instance. Mr. Hogan of the Attorney General's department has been the main person ever since -- that's not fair, but I won't go into it. The Attorney General's department has made available a member of its legal staff and a budget to hire professionals -- social workers, psychiatrists, psychologists -- as needed, who will make investigations, bring it in if necessary, and lay it in front of the judge. That's the basic system. I think it may be phased out.

I've probably answered your question about 17 times as long as you really had in mind.

MR. ALGER: No, that's fine. Thank you, sir.

MR. CHAIRMAN: We've discussed both topics on the agenda today. Next is Other Business. Is there any other business?

MR. R. MOORE: Mr. Chairman, I move we adjourn.

[The committee adjourned at 2:33 p.m.]

