

Hon. Mr. HARRIS: Could we leave that and in the meantime we will get a written opinion as to the various forms of marriage that would be recognized and present it to the committee.

Mr. HARKNESS: I should think there should be something in the interpretation section as to what legitimacy means as used in this Act.

Hon. Mr. HARRIS: When you see the opinion we might consider whether it should be incorporated or not.

The CHAIRMAN: So clause 11 (*d*) stands.

Mr. BLACKMORE: I understand the minister expects to have a statement for us?

The CHAIRMAN: Yes, that applies to clause 11 (*d*).

Mr. HARKNESS: Why is it that only a male person is described?

Hon. Mr. HARRIS: Now, there are only two cases which can arise. If the child is born of a white woman we are not going to make him an Indian because the father was an Indian. If he was born to an Indian woman illegitimately, he remains an Indian because he is an illegitimate child of an Indian woman.

Mr. HARKNESS: Yes, but you will have the case probably of a man who is of Indian blood but who does not appear on the band list. In other words, the woman is not living with an Indian who does belong to a band; he lives with that woman by marriage according to tribal custom or a common law wife, there are children born. In that case those children are all Indians?

Hon. Mr. HARRIS: They are if he was an Indian and there was a proper marriage.

Mr. HARKNESS: I am taking the case where it is not a proper marriage and from now on the marriage will have to be one that is solemnized according to the laws of the province in order to have it stand up. What then is going to happen to those children? What is more, it is a practical difficulty: where are those children going to go, and what is going to happen to them?

Hon. Mr. HARRIS: Perhaps we should let that one stand and consider it later.

Mr. HARKNESS: There is another point in connection with it besides that. In the case where the registrar is satisfied that the father of the child was not an Indian, he is satisfied the father of the child was a white man, then what happens to the child? Who is going to educate that child, look after it and so forth? The woman is an Indian who is on a reserve but the registrar has decided that the father was a white man and therefore the child is not an Indian.

Mr. MACKAY: But the registrar would not decide that the father was white without having some admission of paternity. He would have to find some evidence and, of course, if he secures the necessary evidence that the child is white then the child is the responsibility not of the Indians but of the province or the municipality concerned. In the absence of evidence of paternity the child would, of course, take the status of the mother.

Mr. HARKNESS: Of course, the evidence of paternity which has been taken in some cases is pretty doubtful.

Mr. MACKAY: Well, I cannot imagine a man giving evidence to the fact that he is the father of the child if he is not.

Mr. HARKNESS: You remember the MacDonald report? There were certain Indians that were put out of band membership on the evidence of two or three Indians that the father was a white man. Whether that evidence was correct or not, I do not know, but it was pretty slim evidence, particularly having regard to the lapse of time.