Hon. Mr. Baird: Do not the courts in Ontario also operate at a loss?

Hon. Mr. Roebuck: Yes. The fees in the provincial courts are much less than here. We charge more than the courts. I am not considering solicitors' charges when I speak of the expense of processing a petition. The petitioner may have to pay in addition a considerable amount to his lawyer. My impression is that our fees are about as high as they reasonably should be, but, if any honourable senator cares to propose an increase, I have no doubt we will consider the matter very carefully. At present we have made no move in that regard.

New Rule 142 makes no real change in the existing practice. At the present time the Committee is supposed to review the pleadings, the advertising and what not, to see that everything is regular. At the beginning of each session we pass a resolution transferring those duties to the Chief Clerk of Committees. So Rule 142, as rewritten, regularizes to some extent and confirms the practice that has been followed in the Senate Committee for a very long time.

Section 4 of the proposed new Rule 142 reads:

If the circumstances of the case seem so to require, the Committee, before proceeding to hearing and inquiry as hereinafter required, may make such order as to the Committee seems requisite and just for effecting substitutional service by registered letter or otherwise.

As honourable senators are aware, that is a proceeding followed by courts almost everywhere; where the defendant cannot be found, substitutional service is permitted in proper cases.

Let me illustrate what we do here. A two-man committee composed of the chairman and a member of the Standing Committee on Divorce—in this instance, although not necessarily so, the honourable senator from Huron-Perth (Hon. Mr. Golding)—hears the applications for substitutional service, just as the Master of the Court hears interlocutory applications in court proceedings. This committee of two makes the necessary orders of substitutional service. By this proposed amendment to the Rules we are regularizing what we have done in the past.

Paragraph 1 of the new Rule 145 will read:

If adultery be proved, the respondent or a co-respondent

We have added the words "or a co-respondent".

may nevertheless be admitted to prove connivance at, or condonation of the adultery, collusion in the proceedings for divorce, or adultery on the part of the petitioner.

The only change there is the addition of the words "or a co-respondent".

The new Rule 146 provides that the co-respondent may be heard before the committee in person or represented by counsel, as the respondent has been in the past.

Hon. Mr. Connolly (Ottawa West): Is that not the case at the present time?

Hon. Mr. Roebuck: There is no rule providing for it. I am sure that if a co-respondent appeared in person or if counsel appeared on his behalf we would never refuse a hearing. Now we are making it clear that the co-respondent has a right to be heard in person or represented by counsel.

Hon. Mr. Reid: What have been the rights of the co-respondent in the courts in this regard?

Hon. Mr. Roebuck: I am sure that a co-respondent would be heard in the courts, and certainly if a co-respondent is named as a co-defendant he may be represented by counsel in the courts.

Hon. Mr. Aseltine: Is that situation not covered by the present Rule 152, which applies to cases not provided for by the Rules?

Hon. Mr. Roebuck: The present Rule 146 provides that the petitioner and respondent may be heard in person or represented by counsel, and there would be no harm in extending this right to the co-respondent. That is the only change proposed in this rule.

The amended Rule 147 adds the co-respondent to those who may be heard under oath. The present Rule provides:

The petitioner and, if the respondent appears, the respondent, and all witnesses produced before the Committee shall be examined upon oath . . .

We recommend it should be changed to read:

The petitioner, the respondent and a co-respondent, appearing before the Committee, and all witnesses produced before the Committee shall be examined upon oath . . .

Hon. Mr. Connolly (Ottawa West): Is that not conferring a right on a person who might not otherwise be a party to the proceedings? I am not quarrelling with it. I think perhaps it is a good thing, but that Rule would give the co-respondent the right to come in and give evidence with reference to the matters in issue.

Hon. Mr. Roebuck: And it makes it perfectly clear. He would be heard in any event, of course, but it is far better to have his right set out.

Hon. Mr. Aseltine: He would never be refused a hearing anyway.