

Mr. HOPKINS: I think, senator, that what I have considered and what I have taken into account would be far more evident if I were to read my opinion which I have placed before you.

The CHAIRMAN: I think it would be more just to Mr. Hopkins, whom we asked to give an opinion on the matter, if his opinion is given to the committee and then, perhaps questions could be asked.

Senator POULIOT: I have no objection to Mr. Hopkins reading his paper providing that I have an opportunity of asking him a few questions.

Senator FARRIS: Mr. Chairman, I think we are all wondering a little just what is the relevancy of these questions to the problem we have before us.

The CHAIRMAN: Of course, you know that the senator wants to get at the matter of the word "exclusive," and whether the act excludes the province from doing anything. It is a matter of interpretation. I do not know whether the committee wants the whole of Mr. Hopkins' opinion to be read, or whether it wants just his conclusions. The opinion runs to eight pages. Should we read the whole opinion, or go right away to the conclusions that he has reached on the matter pending before the committee. We could read the whole opinion and give the committee the complete background of his conclusions, or we can read just his conclusions and thus know exactly what he thinks about the whole situation.

Senator FARRIS: Even those of us who are lawyers can hardly be expected to pass on that from a single reading of the document.

Senator STAMBAUGH: Mr. Chairman, I just do not know what the lawyers would consider, but as a layman I think the conclusion is all we are interested in. The reason why he arrived at it does not interest us.

The CHAIRMAN: I am going to read the conclusions, and then it will be in the report of the committee of today so that everyone will have the opportunity to read the whole opinion on receiving the report.

Mr. HOPKINS: Senator, may I suggest you start reading the conclusion from "X" to "Y"?

The CHAIRMAN: Yes. Here is what he says:

However, the Parliament of Canada has never assumed legislative jurisdiction in relation to "Marriage" other than in respect of the validity thereof, and there exists no judgment in which was considered the issue of whether, under the heading "Marriage", Parliament has a jurisdiction going beyond the substantial validity thereof.

While it might be argued from the foregoing that the federal jurisdiction is limited as aforesaid—and undoubtedly it would be so argued—my personal view is that the question is still open. I say this because the courts, traditionally, do not decide questions other than the precise one they are called upon to decide. And they have not yet been called upon to decide the broader issue raised by the present bill.

To illustrate this, may I quote from the introductory words of Chief Justice Duff in the *Adoption Reference* (1938) G.C.R. 398, in which several Ontario statutes dealing with adoption, children's protection and deserted wives were held to be within the legislative competence of the legislature of Ontario.

"We are not concerned with any ancillary jurisdiction in respect of children which the Dominion may possess in virtue of the assignment to the Dominion Parliament by section 91 of the subject