

**IN THE COURT OF APPEAL OF MANITOBA**

***BETWEEN:***

<b><i>HER MAJESTY THE QUEEN</i></b>	)	<b><i>D. Manning</i></b>
	)	<b><i>for the Appellant</i></b>
	)	
<i>Respondent</i>	)	
	)	<b><i>J. A. Hyman</i></b>
- and -	)	<b><i>for the Respondent</i></b>
	)	
<b><i>JENNIFER DIANE HILL</i></b>	)	<b><i>D. G. Guénette</i></b>
	)	<b><i>for the Attorney General of</i></b>
<i>(Accused)</i>	)	<b><i>Manitoba</i></b>
	)	
- and -	)	<b><i>J. L. Ostapiw</i></b>
	)	<b><i>for the Criminal Defence</i></b>
<b><i>ALAN JAY KARL GOWENLOCK</i></b>	)	<b><i>Lawyers Association of</i></b>
	)	<b><i>Manitoba</i></b>
<i>Appellant</i>	)	
	)	<b><i>Chambers motion heard and</i></b>
	)	<b><i>Decision pronounced:</i></b>
	)	<b><i>August 31, 2017</i></b>

**CHARTIER CJM**

[1] On August 28, 2017, I requested, pursuant to section 3(2) of *The Legal Aid Manitoba Act*, CCSM c L105, that Legal Aid appoint *amicus* to argue the position opposite to that of counsel for the accused and to pay counsel’s reasonable fees and disbursements as may be determined (see *R v Gowenlock*, 2017 MBCA 79 . I decided to exercise my discretion and direct the appointment of *amicus* because I considered it necessary to assist the Court in discharging its function in light of the fact that no one was going to advance submissions, opposite to those of the appellant, on a case of first impression,

where our Court will be called upon to make initial pronouncements on this new provision (r 2.03 of the *Criminal Proceedings Rules of the Manitoba Court of Queen's Bench*, SI/2016-34).

[2] On August 29, 2017, the chair of the Legal Aid Management Council wrote to me to advise that Legal Aid Manitoba declined to fund *amicus* because “the appointment of counsel in this instance is not for a purpose contemplated in the *Act*.” I make no comment on that letter.

[3] For the reasons given in my August 28, 2017 decision, I hereby order the appointment of *amicus*. I leave the selection of *amicus* to the Law Society of Manitoba, with the *amicus*' reasonable fees and disbursements to be paid by the Attorney General's department at Legal Aid rate tariffs.

Chartier CJM