

it was mediation, if they want to, going off on one side, talking to somebody confidentially, and then meeting with the other person confidentially, discussing what they might consider for settlement terms, trying to get the two parties to agree. If at the end of the mediation the two parties are not in agreement and have not given each other an agreement that they can reach, they have then authorized the mediator to change roles and become an arbitrator. And unlike the role of a mediator, which is to facilitate discussion, that mediator becomes the arbitrator and is called upon to settle the issue, knowing as much information as they do. This is a dispute resolution system that doesn't fall in either of the two that we have before us listed. So that's another form of dispute resolution. Understand that that method has to be entered into voluntarily. Secondly, that it is only if...and whatever result occurs from that can only survive in the event there is not a legal defense or an equitable defense to that action, and only under such conditions as the Legislature should, at some future date, authorize. That is an example of what that form can be used for. I would also indicate that I believe that there is a possibility for future development of dispute resolution systems, I want the body to be able to use those. Senator Chambers and I have two basic areas of disagreement. One, I think we have a difference of opinion as to whether or not the Legislature will act judiciously and wisely in authorizing arbitration. I think the conditions under which we will authorize them will be fair. I think Senator Chambers' argument is that we are not to be trusted with that power. There is a second area that we have a disagreement about, and that is our relative reliance or sense of virtue about litigation, so much so that we will not permit parties to enter into binding arbitration agreements when they don't know the dispute. Now, Senator Chambers thinks that's reasonable because arbitration is such a bad idea. Our second dispute is our sense of faith in the litigation process. I don't have as much faith as Senator Chambers does. I don't think litigation is necessarily an...the most inherently fair system. I think it's slow, I think it's costly, I think anything you can say about the rights of the powerful can be set in litigation that you can in arbitration. If you don't know that the powerful have litigation costs, litigation lawyers to control that mechanism, you are as innocent as Senator Chambers thinks we are. Litigation is slow, it's costly, it's, I think, as influencable by the power of the rich as litigation,...