

Pesticide Residue Contamination

fair and independent judgment, they are in close connection and consultation with the government by the fact that they are entitled to promulgate rules in conjunction with the government. They can only award compensation in two instances; in other words, there can only be an appeal in two instances, one of which is if the amount awarded is less than the maximum amount of compensation prescribed under the act.

I suggest that the minister keep a close watch on what develops with regard to proceedings under the assessors and take up the very sensible point made by the hon. member for Kent-Essex (Mr. Danforth), the first spokesman for our party, concerning the possibility of appeal. The judges are judges of the Exchequer Court or a superior court and they decide in terms of thousands of dollars when they are acting in a civil capacity. When they are acting as judges of the Exchequer Court they make decisions under the provisions of the Patent Act, the Trade Marks Act, the Income Tax Act, as the case may be, and their decisions are subject to appeal. The fact that they have been lawyers and have become judges does not guarantee certainty that their decisions will be sound and proper.

Having in mind all the safeguards with which the government has surrounded this legislation, I suggest to the minister that it would not be unreasonable to hope that he might be prepared to consider, after having had an opportunity to observe the proceedings that take place, the right to an appeal from the assessor under certain conditions to another tribunal which would, of course, be the appellate tribunal of each province. The appeal might be only on matters of law. I am quite convinced that there will be challenges from time to time on questions of jurisdiction, and if the assessor is going to be the sole judge, the person who can finally, completely and solely determine the law as it is applied to the case of a particular farmer, farmers should have the right to appeal. I think the average farmer is left in a situation where, on seeing what is going to happen, he will shrug his shoulders and pass it by. I am talking from my experience as a member of the bar and as a farmer. I know what these people feel with regard to these problems in the law courts. I therefore suggest to the minister that it would not be a bad idea to consider the provision of an appeal.

I also ask the minister to keep a close eye on the matter of costs. There is a provision in

the bill that costs can be awarded against the farmer. I would think that in most of these cases it should be a simple enough issue for the farmer to bring the case himself, to act as his own counsel, to plead the facts and to ask for compensation. I would hope this would be done. In a case where the assessor determined that the minister had not exercised his discretion properly in withholding the compensation asked for I would hope that costs could be awarded against the minister. I would like to think that even if this bill does provide for such costs being awarded—and we cannot do anything about it now—the minister would be very vigilant in determining any costs against the farmer where an appeal is made to an assessor. The bill should have the broadest and most equitable interpretation in order to bring to farmers, in this new approach in our relations with the agricultural industry, the fairness and justice to which they are entitled.

Hon. Marcel Lambert (Edmonton West): Mr. Speaker, it was not my intention to take part in this debate but having looked at the bill in the context of what we heard last week about the enshrinement of a bill of rights in the constitution and then taking a closer look at this bill I find that this is one of the worst violations of human rights that we possibly can have. This is one of those bills where the purpose is generally laudable but where clause after clause represents a violation of rights. The minister can shake his head but I will point out to him quite a few areas in which there is an even greater denigration of the rights of the individual than under many other acts.

First of all, let us look at clause 3(2) under which compensation will not be paid unless the minister is satisfied of "the presence of pesticide residue and that the sale of that product would be contrary to that act", or unless he "is satisfied that the pesticide residue in or upon the product is not present because of any fault of the farmer, his employee or agent, or of a previous owner of the land on which the product was grown." Does this mean that the purchaser of land is going to have to take a certificate of indemnity from his vendor to the effect that no pesticides have been used on the land, that they have not been used improperly, and if they are subsequently found to have been used improperly that there shall be indemnity to the purchaser? I am sure the minister has not even thought of that point.