

which the minister might award or agree to pay to the farmer. The producer would be within the fixed limits here of minimum and maximum by regulation, whereas if the farmer were pursuing rights against the manufacturer, his claim for damages might be greater than the amount of compensation that the minister would award. The object of subrogation I take it is to enable the minister to recover moneys he has paid to that extent, but if the damage figure becomes larger that should go to the farmer, because the farmer is only being reimbursed by the minister to the extent of what the cost is.

Mr. C. R. Phillips, Director-General, Production and Marketing Branch, Department of Agriculture: To the extent of the maximum percentage and the contemplated maximum would be a percentage of the market value rather than a fixed sum.

The Chairman: So if the farmer sued the manufacturer it is quite conceivable that he might get a judgment for a larger amount than what that farmer would have received.

Senator Carter: How would that affect the farmer whose damages have been below the limit? Would they have any recourse to this?

The Chairman: If the amount of the damages determined by any formula of the kind that Mr. Phillips has indicated produces less than a minimum figure the minister does not pay anything.

Mr. Phillips: That is right.

The Chairman: But, the farmer then would have the right to sue the manufacturer if he would work out a positive action. His rights are not being taken away. The only time the minister can proceed and make use of the farmer's right to sue the manufacturer is if the minister is going to pay compensation to him.

Senator Connolly (Ottawa West): Mr. Chairman, if the minister takes an action against the manufacturer for a specific amount and the farmer feels that he has been damaged more than the amount claimed by the minister, is there any right of the farmer—they cannot both sue I suppose in different actions?

The Chairman: There are appeal provisions in this bill.

Mr. E. Russell Hopkins (Law Clerk and Parliamentary Counsel): Elaborate ones.

The Chairman: Very elaborate. If the farmer wants to question the amount...

Senator Connolly (Ottawa West): I am concerned about the position of the farmer. If the minister is subrogated in the rights of the farmer then the farmer has no position in that action, has he?

The Chairman: No, except it is being carried on in his name and he is given a consent to that. The only right he acquires is the right we provided here and that is if the minister collects more than the amount of compensation he has agreed to pay or has paid to the farmer.

Mr. Phillips: Subclause 7 may be covering the point.

The Chairman: In subclause 7 which remains it says:

Except as provided by this Act, no compensation paid under this Act shall in any way interfere with or lessen the right of an aggrieved person to any legal remedy to which he may be entitled.

Senator Connolly (Ottawa West): I think perhaps you have given me the answer. The effective subrogation simply enables the minister to make the action in the name of the farmer and subsection 7 allows the farmer to...

The Chairman: Would you like an example under subsection 7? Supposing the farmer's family or some members of the family suffered damage to their health or were injured by reason of this pesticide residue, on behalf of those members of the family there could be an action against the manufacturer if the fault...

Senator Connolly (Ottawa West): They could take that directly, could they not?

The Chairman: Oh, yes.

Mr. Phillips: There would be no need for subrogation.

The Chairman: They do not come into the problem.

Mr. Hopkins: As to the problem of compensation it is only where the minister requires as to the condition that there is subrogation. It is conceivable that there might not be and then they can sue.

The Chairman: Then the farmer is free to pursue his remedies as well as taking compensation.