

award for compensation for the carelessness of the farmer or the carelessness of the manufacturer in his formula.

Mr. Jefferson: But the circumstances can arise where you can have several causes for the residue, something associated with the change in tolerance levels, for example, coupled with causes that arise from the manufacturer's action or a spray operator's action, and the purpose of this provision here, and it is discretionary to the minister if he deems it advisable, is that where it appears that a part of the compensation being applied for is associated with some other cause, that rather than expend public moneys to compensate in those cases, to make sure that the compensation is obtained from the sources that were responsible. I would agree and I think I am reflecting the minister's view of this that under this provision in section 5 (1)(b) and even in section 5 (2) there would be no occasion to deem it necessary that those provisions be invoked in a straight case of change in the food and drug regulations or an error in official recommendations for use of a pesticide. It would only come into play as a way of protecting the public where there was a complex of clauses.

Senator Giguere: Who would determine if the pesticide was used properly or not? The inspectors?

Mr. Jefferson: This would be done as a result of an investigation by the inspectors to determine what was used, and how and when it was used, and this would be related to the research data available on the consequences of using the pesticide in an appropriate manner.

Senator Giguere: Their decision would be final?

Mr. Jefferson: No, I do not think their decision would be final. Any matter that is governed under Part I can be appealed under Part II to an assessor, and it is his decision that is final.

The Chairman: I should point out—and Senator Phillips (Rigaud), I think, will be interested in this—that if we look at the conditions entitling the farmer to compensation, there are only apparently two conditions. On page 2, section 3(2), one of the conditions is that the minister has received

from the Minister of National Health and Welfare written confirmation that an inspection of an agricultural product of that

farmer, made under the Food and Drugs Act, has disclosed the presence of pesticide residue and that the sale of that product would be contrary to that Act or the regulations made thereunder;

That is one condition that has to be met.

The only other condition, apparently, in order for the farmer to qualify, would be that the minister

is satisfied that the pesticide residue in or upon the product is not present because of any fault of the farmer,

So, if the manufacturer has been careless, that does not rob the farmer of his right to claim compensation. He only needs two things: "I did not do it, I did not cause this pesticide residue, by any fault or carelessness of mine"; and that it is an adulterated product under the Food and Drugs Act. In those circumstances I can understand why the department might want to preserve a claim against a manufacturer for supplying something that was not properly formulated; but, surely, the burden should not be put on the farmer to do it? Rather, the only thing the farmer should have to do is, at the request of the minister, give his consent and subrogate the rights that he might have.

Senator Phillips (Rigaud): I entirely agree. I think that clause 5 could be deleted completely, because it indicates specifically the duty imposed on the farmer relates to the pesticide residue; and this fits in exactly.

The Chairman: I think the rest of the bill is in order and, if that is the view of the committee, I was going to suggest that possibly we and our Law Clerk should have a good look at section 5 in the light of our discussion, and that maybe we could resume our meeting, say, at 2 o'clock to deal with this part, because we have another matter to deal with now. Is there anyone who has anything more to say on any other aspects of the bill? Are there any other questions?

Senator Desruisseaux: I was curious to know when they would pay compensation. Would they pay a farmer compensation only once, or would they repeat payments so that it could become a yearly affair with a farmer having this kind of situation?

The Chairman: In the way you have put the question there is the suggestion that the farmer might deliberately each year attempt to provide himself with some revenue.