

Senator Croll: Yes.

The Chairman: Then the situation is reviewed there and whatever the award is, either the minister's amount is confirmed or it is not confirmed.

Senator Croll: That is done before the objection.

The Chairman: It can be done at any time, independently or otherwise.

Senator Croll: If it is done before, the farmer has to know how much it is, or how is he to know what he is to say he wants to collect. It would not do for him to say he wants to collect \$1,000 and collect \$3,000; he might say he wants to collect \$3,000 and then collect \$1,000. But in this case he does not do it without a purpose.

The Chairman: In the subrogation, the farmer would give, for the subrogation application, the amount of damages that would be sued for.

Senator Croll: In the natural course of events, the farmer will always feel he is being done in and his damages claim is always higher than the Minister is willing to pay. That is a normal thing. In the end, we have the farmer saying that, anyway, he is not satisfied with this amount and that he is going to sue, anyhow. I understood that the purpose in this section—I was not here for the later discussion yesterday, so I could not follow it—was to deal with the little farmer who cannot afford to sue. Why should he—let the Government do this. He is not at fault. The Government then does it, but you do not get the farmer out of court, and you have an unsatisfied farmer.

The Chairman: You get him out of court. Under the bill, the farmer could be required to maintain an action himself, as a condition of being able to get compensation from the minister. We said that that is not right. We say that, if the minister wants to recover any amount of compensation he is paying to the farmer, he should sue whoever is responsible for creating that situation; and the only contribution the farmer can make to it is to subrogate his rights.

Senator Croll: I follow that. What does Mr. Phillips say on that?

Mr. Phillips: With respect, I would like to speak to the point you made, Mr. Chairman. I

was talking about the intent of the Government, and you were talking about the intent of the words.

The Chairman: The intent of the bill.

Mr. Phillips: In order for us to establish what the bill should say, I believe we can go back to the intent of the Government with respect to the presentation of the bill, and I was speaking to that.

The bill was drafted in a manner to provide intent, in the view of the law officers of the Crown. In the view of this committee there is some question about that.

The Chairman: There is not any question in my mind.

Mr. Phillips: There is certain discussion, and that is why I am speaking to it now. The suggestion is made that, with the amendment of clause 5, you have made three things. But the answer that was given to me yesterday was that anything within clause 5 is not providing a substantive condition. I had argued that it was, because it was part of the bill, and clause 3 said "subject to this bill"; and I say that clauses 3 and 5 are substantive parts of the bill.

The Chairman: You will not get any argument on that, certainly not from me. These sections are substantive law.

Mr. Phillips: I admitted that they are removed from one another and that you have clause 4, with regulations, in between; but they are both substantive parts.

Speaking to the amendment proposed, there are at least two things in there that are improper, in my view. One is, it removed (a) of (1); and that is designed so that, let us say that carrots had a residue on them and the food and drugs section said they may not be sold, and the farmer says he wants compensation and then the minister tells the farmer that if he washes the carrots the residue will disappear, and so the farmer washes them. That is what (a) says.

The Chairman: Which (a) are you talking about?

Mr. Phillips: About (1)(a).

The Chairman: Of clause 5?

Mr. Phillips: Yes.

The Chairman: Very well.