

**The Chairman:** Yes. Under subsection 2, they really provide for a form of subrogation such as you find in your insurance policy where, if the insurance company pays a damage claim and you think you have rights that are subrogated by you, they can sue in your name and, if they are successful, you get judgment. But in subsection 2 it says:

Where he deems it necessary the Minister may require as a condition for the payment of any compensation to a farmer under this Act, the consent of that farmer for the Minister to pursue on his behalf any legal action against any manufacturer or person referred to in paragraph (b) of subsection (1).

First of all, this is complicated; and, secondly, to compel a farmer—and I do not know where he may be in Canada or how well informed he may be—to go out and take action as the basis for being able to collect any money, this is just playing ducks and drakes with the statute and any rights they pretend to be giving under the act.

I thought we reached the conclusion this morning: Yes, it was right to insist on getting a subrogation from the farmer. In other words, if the farmer-producer qualifies for entitlement to compensation, and the fault for the pesticide residue is the fault of the manufacturer, then I think the minister should have the right, as a condition of payment, to demand that the farmer sign a form of consent, which is stipulated in subparagraph 2, so that action can be taken against the person who has caused that. Why should the farmer do that? You have the Department of Health and Welfare making the order which creates the situation this is adulterated food; you have the manufacturer who may be the contributing cause for the adulteration; and the farmer, the innocent victim, the whole way down the line, and they tell him he has to do all the work. I cannot add that up and find any ground certainly why I should support section 5 in the form in which it is.

It seems to me there could be a very simple section 5. That is, if we took subparagraph 2 and used that as the main paragraph in section 5, saying, "Where the Minister deems it necessary he may require as a condition for the payment of any compensation that the farmer give his consent"—and then the minister goes ahead and prosecutes the action.

Then I added another one this morning. I thought that if the minister settles on the amount of compensation the farmer is to get

and then demands a consent from him and sues the manufacturer, he might conceivably get a judgment for a larger amount of money than the amount that he has agreed to pay the farmer, or say, "This is the amount I will pay you." I do not think that extra amount should be for the benefit of the minister, but for the benefit of the farmer.

**Mr. Phillips:** Is that not in here, Mr. Chairman?

**The Chairman:** Where?

**Mr. Phillips:** It is on his behalf. I thought the implication of that was that since it was on his behalf, it is only offset.

**The Chairman:** This is on the minister.

**Mr. Phillips:** I assumed it was on behalf of the farmer.

**The Chairman:** The doctrine of subrogation is that the person who has the right is the farmer.

**Mr. Phillips:** Yes.

**The Chairman:** So the farmer has to give a consent so that the minister can maintain an action in his name.

**Mr. Phillips:** In the name of the farmer?

**The Chairman:** That is the only way in which he can maintain the action.

**Mr. Phillips:** Yes.

**The Chairman:** When he gets the judgment, who gets the money?

**Mr. Phillips:** I take it, Mr. Chairman, that any excess over the compensation goes to the farmer. I am not a lawyer, but the wording...

**The Chairman:** The minister has the authority to say that there will be a maximum provided in the regulations, and there will be a minimum below which he will not pay anything. That is the way I read it.

**Mr. Phillips:** Yes.

**The Chairman:** If the minister says to the farmer: "I agree to pay you X dollars", and then takes action in the farmer's name and gets a judgment for X plus Y dollars, who is entitled to the Y dollars? Obviously the farmer is entitled to that amount—at least, he is in my view.