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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE

Reference: Citrus canker outbreak

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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE

Wednesday, 1 March 2006

Members: Senator Heffernan (*Chair*), Senator McEwen (*Deputy Chair*), Senators Ferris, Milne, Nash and Sterle

Participating members: Senators Abetz, Adams, Allison, Bartlett, Mark Bishop, Boswell, Brandis, Bob Brown, George Campbell, Carr, Chapman, Coonan, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Fielding, Hogg, Hutchins, Joyce, Lightfoot, Ludwig, Lundy, Ian Macdonald, Sandy Macdonald, McLucas, McGauran, Mason, Nettle, O'Brien, Payne, Polley, Robert Ray, Santoro, Siewert, Stephens, Trood, Watson and Webber

Senators in attendance: Senators Heffernan, McEwen, Milne, Nash and Sterle

Terms of reference for the inquiry:

To inquire into and report on:

The Department of Agriculture, Fisheries and Forestry's administration of the citrus canker invasion with particular reference to:

- 1) AQIS' response to the allegations of illegal importation of plant material;
- 2) The adoption of the quarantine protocols and management of the emergency response;
- 3) Cooperation between the Commonwealth and States, including funding issues;
- 4) The impact of the incursion on the Australian citrus industry;
- 5) Prevention and management of future incursions; and
- 6) Other related matters.

WITNESSES

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Committee met at 5.29 pm

ADRIAANSEN, Mr Christopher John, General Manager, Plant Biosecurity, Department of Primary Industries and Fisheries, Queensland

TURNER, Mr Bruce, Executive Director, Strategic Policy, Department of Primary Industries and Fisheries, Queensland

CHAIR—Welcome. Thank you for your cooperation in being here today, and we are very grateful for the assistance you have been able to give us so far. I invite you to make an opening statement.

Mr Turner—I will make a couple of quick remarks. I would like to thank the committee for once again affording representatives from the Queensland government an opportunity to appear before the committee today. The Queensland government has previously provided detailed and accurate information to the inquiry through its written submission and appearance before the committee in August 2005. We have also provided to the committee today answers to questions on notice. I apologise to the committee for what has happened there. I was not aware of it until I got down here, so a bit of fur and feather might have flown back in Brisbane. We have accepted a further invitation to appear before the committee to answer any further questions regarding Queensland's evidence to date. We also understand that we have been invited to appear today to respond to any questions or issues regarding the evidence provided by Mr Michael Ramsden, an officer of the Department of Primary Industries and Fisheries. Given that Mr Ramsden has not provided evidence as a representative of the Queensland government, we have not been afforded an opportunity to comprehensively prepare to respond to information which he has provided today. For this reason, we may seek the committee's indulgence to take certain questions on notice, so that we can provide a considered and fulsome report to assist the inquiry.

CHAIR—I am sorry to disappoint you but, because we took the evidence in camera, we are not in a position to ask you any questions about that evidence at the present time. I want it noted, as Mr Adriaansen and I discussed on the plane, that we are very grateful for the cooperation of the department. I would have to say that you would have to be a bloody magician to work out the answers to these questions just cold like this, because it keeps referring to a whole lot of documents. Could I ask two or three questions about the answers?

Mr Adriaansen—Certainly, and I will address them if I can.

CHAIR—We asked what knowledge and expertise the department had at the time in relation to the epidemiology of citrus leaf virus et cetera. You said in your answer: 'DPI&F had limited expertise in regard to the epidemiology of citrus tatter leaf virus and citrus tristeza virus.' What does that mean?

Mr Adriaansen—It means that our level of expertise was limited in those two viruses, therefore we were working with others in the national frame to provide that expertise, to provide guidance in terms of the work that might have to be done for surveillance and other diagnostics et cetera.

CHAIR—One of the criticisms that has come up is that a lot of the team members up there were relatively undertrained or unfamiliar. As you know, we took evidence in Emerald from the manager of the farm, who said he had never seen citrus canker until he saw it in the pamphlet on the plane.

Mr Adriaansen—Just for clarification: when you say 'the team', are you asking about the team that responded in 2001 or the team that responded in 2004?

CHAIR—In 2004. I appreciate it is what you would call some sort of emergency. For future reference, so that what happened up there never happens again, should there be some better training?

Mr Adriaansen—Training has been provided to all of the staff involved in the citrus canker response in Emerald; they have been extensively trained. They were trained before they started. They have been subjected to refresher training at regular intervals. That information has also been indicated quite clearly in our written submission. So in terms of the training levels for those staff, I believe—and the process of review has revealed—that the training has been extensive. The comments made by some other individuals in terms of never having seen citrus canker, that farm manager that you referred to—

CHAIR—Had nothing to do with you. I appreciate that.

Mr Adriaansen—Absolutely not. The other comments that have also been made by some of the other individuals in Emerald about not having been provided with training and access are clearly just not true. We actually have run training courses for those growers. We have provided them with access to specimens to look at, albeit under secure conditions—because the last thing that we were prepared to do was to have an accusation levelled at us that, as a result of that training, we had exposed those growers and their orchards to infestation. So the training that has been provided has been very comprehensive and complete.

CHAIR—Are you training staff now, as other staff leave?

Mr Adriaansen—That is correct. Every staff member who starts with the program is provided with extensive training and, as I said, there is refresher training. So, as we move from one element of the program to the next, as we rationalise and change staff, every time we start a new part of the program, training is delivered to those staff members.

CHAIR—Other questions we asked, which you have answered by referring to a whole lot of documents, were: ‘What was the department’s role in relation to the surveillance proposal put forward in 2002 with respect to the Emerald area? Did it cover residential properties and natural citrus?’

Mr Adriaansen—Native citrus.

CHAIR—It says ‘natural’ here. In your answer you say, ‘See paragraphs XYZ’, and then you say, ‘Note this surveillance was for citrus tatter leaf virus and citrus tristeza virus, not citrus canker.’

Mr Adriaansen—That is correct, because they were the viruses of issue as a result of the material that had been diagnosed from Evergreen Farms. So the surveillance program proposed and discussed in 2001-02 was not for citrus canker; it was for those two viruses. That is clearly outlined in our written submission.

CHAIR—We all have wisdom afterwards. Was that a cock-up?

Mr Adriaansen—Sorry?

CHAIR—Should we have been looking for canker?

Mr Adriaansen—At that stage, certainly we in the Queensland department had not had an issue raised with us in terms of whether or not there was an issue with regard to citrus canker.

CHAIR—When was the initial raid on the property?

Mr Adriaansen—The execution of the search warrant?

CHAIR—Yes.

Mr Adriaansen—My recollection is June or July 2001.

CHAIR—So in that raid you were not looking for citrus canker?

Mr Adriaansen—You would have to ask the Commonwealth on that issue, because that was an issue under the Quarantine Act.

CHAIR—Did you blokes have a role to play in the raid?

Mr Adriaansen—As we explained in our previous appearance and also in our submission, the Department of Primary Industries and Fisheries had one officer present, an entomologist, to assist the officers of the Commonwealth in the execution of that search warrant.

CHAIR—Did he tell you what he was looking for?

Mr Adriaansen—He was looking to assist the Commonwealth in determining whether there were exotic insect pests or whether all the insect pests that were observed on the property were established and widespread insect pests. That was his sole role.

Senator MILNE—In relation to training, to follow-up Senator Heffernan’s question, you said that everybody in Emerald who went out doing things was trained by the department. Does that include everybody who went onto the properties to survey for canker? This is 2004 that I am talking about.

Mr Adriaansen—Yes, that is correct.

Senator MILNE—So they were all trained?

Mr Adriaansen—Yes.

Senator MILNE—Were some of these people farm workers?

Mr Adriaansen—No, these were staff that were employed under the department initially in the emergency response or under the National Citrus Canker Eradication Program as the national response.

Senator MILNE—So you are saying that all of these people were departmental employees or equivalent—

Mr Adriaansen—Yes.

Senator MILNE—and that they all had formal training before they went out on the properties to identify it?

Mr Adriaansen—They were provided with training in the identification of symptoms. We do not expect the field staff to be able to identify citrus canker. That is a pathologist's role. The staff are provided with training in the identification of symptoms or suspicious lesions et cetera and to then identify those trees, sample and return the material for full and professional identification of—

Senator MILNE—Are you satisfied that they had a sufficient level of training to go out and do the survey work?

Mr Adriaansen—That is correct, yes. We have provided extensive training to those staff to be able to do the job that they were employed to do.

Senator MILNE—What is 'extensive training'?

Mr Adriaansen—I will just finish that comment, if I may. Those staff were not employed to identify citrus canker in the field. They were employed to detect symptoms of citrus canker—

Senator MILNE—I understand that is what you said.

Mr Adriaansen—and then to provide that material to qualified pathologists.

Senator MILNE—So what level of training did they have to do that task? That is what I am asking you.

Mr Adriaansen—They were trained, obviously, in the identifications of symptoms, lesions et cetera.

Senator MILNE—Yes, but a day? Half a day? Who did the training? How did you train someone who had no idea to go out and be a survey person?

Mr Adriaansen—In the first instance we started with experienced and qualified staff from the Queensland department. Then, as we were able with additional time to take on additional staff, those people were provided with more extensive training to make up for the fact that they were obviously not experienced and qualified staff. So the level of training depended upon the level of experience of the staff member.

Senator MILNE—If somebody had no experience, how much training did they get?

Mr Adriaansen—In terms of the Citrus Canker Eradication Program, the staff who started with the department under that eradication program were surveillance staff, and they went through a five-day training course. That covered all aspects of their job, including requirements under workplace health and safety et cetera.

Senator MILNE—So this was in around September 2004. You are saying that everybody was up to speed when they went out to do the survey work.

Mr Turner—I would like to respond there. You must acknowledge that we were in an emergency situation—

Senator MILNE—Exactly. That is why I am asking this question.

Mr Turner—and that we had to draw on a whole raft of skills and people within the organisation. It included people like the boating and fishing patrol person from Longreach, for example.

Senator MILNE—Exactly.

Mr Turner—That person came in. So we had to do very intensive training, right up front, and work with our very experienced operators.

Senator MILNE—That is right. So you would concede that there were some people out doing the survey work who were pretty inexperienced in what they were doing.

Mr Adriaansen—They were trained according to the role that they had to undertake. If their role was simply to go through orchards and identify symptoms, that is what they were trained in. They were not trained in the epidemiology of citrus canker et cetera.

Senator MILNE—I understand that.

Senator STERLE—Mr Adriaansen, if the committee were requesting proof of training—who did it, how long for, where it was held and when and also information about the refresher courses—could that be provided?

Mr Adriaansen—Yes, a fully documented training program is one of the quality management documents of the National Citrus Canker Eradication Program.

Senator STERLE—Is the training done at the state level?

Mr Adriaansen—It is done under the National Citrus Canker Eradication Program, so those staff are employed as officers of that national program. They are facilitated through the Queensland Department of Primary Industries and Fisheries as the lead agency of that national program.

CHAIR—The epidemiology report on citrus canker on IP1 was completed?

Mr Adriaansen—A report was prepared; that is correct.

CHAIR—In your answer you said that it ‘has been submitted for information and advice to CCEPP’.

Mr Adriaansen—Yes, the Consultative Committee on Emergency Plant Pests.

CHAIR—When was that?

Mr Adriaansen—I would have to go back and check the exact date, rather than give you an answer off the top of my head. But it was prepared and submitted for their consideration. I think the initial report was in late 2004 or early 2005.

CHAIR—So it was before we asked you the question.

Mr Adriaansen—I am sorry? Before the question was asked?

CHAIR—Yes. We asked you the question last year, but it was submitted before that?

Mr Adriaansen—I believe so.

CHAIR—Can we have that?

Mr Adriaansen—As I have indicated in our answer, that is part of the national deliberative process through the national consultative committee. It is not Queensland’s document to divulge. You will have to approach the chair of the consultative committee.

CHAIR—We will ask the Commonwealth for that. Do you think it might have been a good proposition to set up a lab on the site?

Mr Adriaansen—We had limited laboratory facilities in Emerald to deal with the receipt of material and the appropriate packaging and transshipment of it.

CHAIR—How many samples would you have taken?

Mr Adriaansen—Several hundred have gone through the diagnostic process. But one of the issues we have to recognise is that when we are dealing with an emergency plant pest we need to ensure that we have proper containment facilities for any diagnostic work that we do.

CHAIR—Yes, but do you think it would make more sense, though, for the future, given human failure—we lost a package like that truck driving around Iraq with the gold bars in it and, whoops, one fell out the back—in a strategic plan to have available for this sort of situation a portable lab that just goes onto the site rather than be trucking stuff halfway across Australia?

Mr Adriaansen—It is an aspect that we have been looking at through the national Plant Health Committee. In fact, when I was over in the United States last year we spoke with some of the US DA people et cetera in terms of the mobile facilities that they have.

CHAIR—So you would not be distressed if we recommended that that happen?

Mr Adriaansen—No, that would make eminent sense in many respects.

Mr Turner—And not just for plants.

Mr Adriaansen—That is correct.

CHAIR—We ask here:

Why was canker not detected in 2 rounds of surveillance, for example, on IP3 (particularly when QDPI&F has stated that canker had been on IP3 since January 2004)?

I have a question mark here; I am not too sure I have the question right. It seems to me from a lot of evidence we have taken that some of these infections were a lot older than we thought they were originally.

Mr Adriaansen—There is no information that we have or have been provided with that contradicts the information we have already provided in our written submission and in our appearance in August last year.

CHAIR—Would you like to come down for a week with me and we will go through all the documents that I have to go through to find the answers to all these things? When you have finished that, you can come out and help me fence.

Mr Adriaansen—I think I would rather help you fence—but anyway. In our response to the questions on notice, we have provided very clearly where in our written submission and also in the transcript of our appearance on 12 August the information relative to your questions can be found.

CHAIR—So really we need to get those epidemiology reports, do we not, to get some answers on what the strains were and what was done to find out what the strains were? In question 37 we put to you:

What was [done] to determine the epidemiology of the canker found on IP2 and IP3 in relation to the canker on Evergreen Farms?

Was it the same strain of canker?

Mr Adriaansen—Again, the summary information that you require is contained within our documents.

CHAIR—But you would know the answer to that in the back of your head, wouldn't you?

Mr Adriaansen—The box DNA fingerprinting that was done identified no appreciable genetic difference between the strains of canker found on IP1 and IP2.

CHAIR—That is the best way to answer it rather than refer me to a whole pile of documents.

Mr Adriaansen—It is the same answer as we have in our submission.

Senator MILNE—Mr Adriaansen, can you just remind me because it is a while since we have been through all these documents, as Senator Heffernan said, whether you were the person who was in charge in the department of the citrus canker investigation in 2004? Is that right?

Mr Adriaansen—The response?

Senator MILNE—Yes.

Mr Adriaansen—Yes.

Senator MILNE—Were you coordinating the response?

Mr Adriaansen—That is correct.

Senator MILNE—In that capacity, what was the day-to-day communication with people both up and down—above you and below you?

Mr Adriaansen—Very extensive. We would start and finish every day with a lengthy teleconference with the operational staff in Emerald. That would be followed by discussions within the department and with the other state agencies and the Commonwealth. Basically, our day was full of working through the issues, teleconferences with various levels, various governments, various agencies to be able to run this process. But, as I said, the communication and all of the issues that were coming from the on-ground situation in Emerald were raised and dealt with through the start of the day teleconference and the evening briefing session that we also held with the group in Emerald, and then during the day there was usually at least one other teleconference with the national group and then numerous other communications.

Senator MILNE—So, if people are feeding things up from below and then you have to make decisions about the next level of communication, where it goes from there, were you the person who basically decided how to respond as to what was going on on the ground?

Mr Adriaansen—Part of the operations of the state pest control headquarters is to take the on-ground information and address the response to that information.

Senator MILNE—So, largely, it was your role to listen to what everyone was telling you from below and then make a decision about how that goes from then on.

Mr Adriaansen—With the remainder of the officers within the State Pest Control Headquarters as well. Obviously they were specialists in various areas, including specialists in pathology. I am not a specialist pathologist. Therefore, their information and advice and rationalisation of some of the on-ground information was required as part of the decision-making process. Where those decisions had ramifications in terms of the national response, those decisions had to be passed through the national consultative committee before they were acted upon.

Senator MILNE—Do you think, because you are under pressure and it is an emergency situation, which I totally understand—you are under pressure and you are getting the reports coming from the field—there was adequate discussion at your intermediary level, if you like, before you go to pass it on of the feedback that you were getting to, if you like, ground-truth the decisions you were making? Do you think you gave enough consideration to the feedback you got?

Mr Adriaansen—We gave the best possible consideration that we could to every issue that was put in front of us and made the best decision that we could based on that information.

Mr Turner—We also established a control group within the department, which was chaired by the director-general of the department, and included people like me; so we were trying to actually second-guess and raise questions exactly along the lines that you are indicating. We were a little remote from the actual day-to-day operations, but we were asking those sorts of key questions.

Senator MILNE—Mr Turner, do you think there were things that were put to you that you overlooked that, in hindsight, you should not have or are you pretty confident, having second-guessed and listened and so on, that the best was made of what was given to you?

Mr Turner—We thought we had a very sophisticated operation. You can always improve things with the benefit of hindsight, but we think as an agency that we handled it extremely well.

Senator MILNE—You do not think you made any significant errors?

Mr Turner—No.

CHAIR—When is replanting due to commence?

Mr Adriaansen—On 1 July 2007, provided that there is no detection of citrus canker within the pest quarantine area between now and then.

CHAIR—Who is going around to make sure there are not suckers growing?

Mr Adriaansen—National Citrus Canker Eradication Program staff do—

CHAIR—Have they found any?

Mr Adriaansen—Yes, there has been extensive regrowth on all of the commercial properties. I say ‘extensive’—there has been some regrowth on all of the commercial properties, and that is being dealt with in collaboration with the land-holders, because the land-holders have a legislated responsibility to deal with regrowth on those properties.

CHAIR—At what point in that regrowth do you have to cancel the replant date and go out further?

Mr Adriaansen—If we find citrus canker on any of that regrowth, then obviously that changes the situation and requires a re-evaluation of things like the replant date.

CHAIR—But, if the regrowth has very immature citrus canker on it, you would not see it, would you?

Mr Adriaansen—It possibly would not be evident, but neither would it be infective to the point where it would impact upon the actual eradication of citrus canker.

CHAIR—So when it is infective it is well and truly—

Mr Adriaansen—You have obvious lesions that have bacterial ooze that can spread to other material. But remember that part of the process is to maintain an 18-month host-free period so that, obviously, there is no material there to become infested, that all of the material there is eradicated.

CHAIR—Are you optimistic that that will be the start-up date?

Mr Adriaansen—At this stage we have nothing to indicate that we are not on track for that 1 July 2007 replant.

CHAIR—I understand those epidemiology reports are available under FOI.

Mr Adriaansen—No, not necessarily.

CHAIR—If they were, would they not be public documents?

Mr Adriaansen—I would have to take advice on that. I am not a FOI legislation expert.

CHAIR—But you do not know whether they are available under FOI?

Mr Adriaansen—I know that the approaches that have been previously made in relation to various reports that have been part of the national decision-making process have not been made available through FOI, for the simple reason that they are part of the national deliberative process, and that is the answer that has been provided by both the Commonwealth and ourselves.

CHAIR—So, if there was a report in the room that was obtained through FOI, would you be surprised?

Mr Adriaansen—My understanding and the advice that we have been provided with is that they were not released under FOI.

CHAIR—As there are no further questions, I once again thank yourselves and the government and the department for your cooperation in what has been a very unfortunate episode. I hope we have all learned something from it.

Could the officers from the Queensland department just come back to the table for a second. Thanks very much for your cooperation. I just want to put on the record the fact that there had been what I thought was an unfortunate misunderstanding with Mr Ramsden. You guys, I guess, realised that he was at one stage suspended from his job because there was a view that he may have stepped out of line in a way that was improper. I actually rang him—he did not ring me; I often get into trouble doing this, I have to say, but I like to deal with the butcher as much as the block—and I want to put it on the record that he did not actually give us any information. The secretariat rang him. It was a one-way conversation where we said, ‘Are you this person? Was this your job?’ He was suspended and has been under some duress. None of it was initiated by him; the approach was initiated by me. I just thought that I should put that on the record—because you have a job to do. I do not know whether there was a misunderstanding. I do not know what the guy’s status is even now. All I know is that he was pretty traumatised when he was suspended and I think his phone and everything was taken off him and his gear was taken out of his office et cetera. I am the person that probably you should blame, not him.

Mr Turner—Thank you.

[5.58 pm]

GORDON, Ms Jennifer, Executive Manager, AQIS/DAFF, Department of Agriculture, Fisheries and Forestry

McCUTCHEON, Mr Steve, Executive Manager, Product Integrity, Animal and Plant Health Division, Department of Agriculture, Fisheries and Forestry

TERPSTRA, Mr Wayne, National Manager, Compliance and Investigations, AQIS, Department of Agriculture, Fisheries and Forestry

CHAIR—Welcome. If you would like to make an opening statement, we would be happy to hear it.

Ms Gordon—We do not choose to make an opening statement. I think we have provided the—

CHAIR—Are you able, in an open session, to tell us where it is up all to?

Ms Gordon—Yes, I think we might well be able to do that.

CHAIR—Thank you.

Mr Terpstra—We have received advice from the Director of Public Prosecutions dated 15 February that, in the view of the DPP, the matter does not have a prospect of prosecution. There are a couple of vulnerabilities in the case, but I have that written advice to be tabled to you, if you choose.

CHAIR—Thank you very much.

Mr Terpstra—Do you want me to go through the two vulnerabilities—primarily what was outlined?

CHAIR—Yes, go for your life.

Mr Terpstra—The first vulnerability is that one of the witnesses that provided evidence to AQIS in the early stages of the investigation has been interviewed and provided statements on a number of occasions—the initial statement, Federal Court proceedings, proceedings before this inquiry—and, whilst being interviewed on 22 December, AQIS investigators determined that there was one particular inconsistency in the evidence that was being gathered at that point in time. That information was subsequently provided to the Director of Public Prosecutions, who has determined that, because of that inconsistency, that person's evidence is not suitable for prosecution purposes.

CHAIR—Did that person sign a statement to that effect?

Mr Terpstra—It was a recorded interview.

CHAIR—Yes, but he did not sign a statement?

Mr Terpstra—No.

CHAIR—What is your second one?

Mr Terpstra—The second vulnerability is that there is insufficient evidence to prove to the required criminal extent that Philip Cea actually imported budwood. We have evidence, as this committee would be familiar, that Mr Evans collected Mr Cea on a date in 2001, we have other corroborating evidence to link to international travel and apparently immediate travel back to Emerald, but there remains the defence open, in the event that a prosecution was launched, that the budwood may have been imported by other persons and provided to Mr Cea upon arrival in Australia or in fact that the budwood did not come from anywhere else outside of Australia but from within Australia.

CHAIR—So which is the key bit of the failure?

Mr Terpstra—I think that any prosecution that you try to undertake—all you need is one vulnerability to make the matter—

CHAIR—So if we could clear up one?

Mr Terpstra—It is still not prosecutable.

CHAIR—I intend to clear up one because I think I have a matter that may be a matter for the AFP in terms of people being threatened and feeling intimidated.

Mr Terpstra—Right.

CHAIR—I am very familiar with your first side—and, as you know, I have a curious mind and go straight to the butcher rather than deal with the block—and that particular person is prepared to give up evidence,

preferably in camera, as to the level of intimidation and the reason why he misled that recorded interview. I think it is a very sad and tragic event—which this hearing is full of—where people have felt intimidated. This has been a catastrophic cock-up from day one. The reason probably none of this was ever going to work was that what happened last year should have happened in 2001. I just could not believe it when the original recommendation that was handed up to the DPP was empty. I intend to take this up in a big way. I think that the DPP will have to revisit it and, if necessary, I want this particular person given some sort of protection.

Mr Terpstra—The protection issue will be a matter for the AFP.

CHAIR—I can just say that I am very disappointed with what has happened, and for someone to deliberately recant because they felt threatened does not say much for the process. I do not know where that leaves us today, but I know where it leaves me. I am pretty upset by that, and this is something that I have only turned my mind to in the last couple of days. I do not know whether you know what I am talking about or not, but I do not think it is something that we could deal with in an open hearing.

Mr Terpstra—I have no knowledge of the circumstances that you are alluding to.

CHAIR—In any event, you have reported that the DPP has said there is not enough evidence. None of that surprises me.

Mr Terpstra—The issue now is, given that complication with inconsistencies with evidence, even if there were—

CHAIR—It was always going to be hard.

Mr Terpstra—Even if that issue were clarified, the opening would be available to any reasonable defence barrister to rip that argument apart.

CHAIR—I realise that. The whole process has been shanghaied. Are there any further questions?

Senator STERLE—I am looking forward to our private meeting after this one, Chair.

Senator McEWEN—I have a couple of questions. Would it be possible to get copies of all the reports the department has provided to the Chief Plant Protection Officer?

CHAIR—They are available under FOI.

Ms Gordon—The Chief Plant Protection Officer is an officer of the department. I just need some clarification of which reports you require.

Senator McEWEN—We heard that the Queensland department—

CHAIR—You were referring to the epidemiology reports that were handed to whomever it was.

Ms Gordon—I think my colleague Mr McCutcheon is best able to answer that question.

CHAIR—These are available, I take it, under FOI.

Mr McCutcheon—I am not absolutely clear about which reports you are referring to.

CHAIR—Right, we will go to them.

Mr McCutcheon—If they were reports that were provided to the department—

CHAIR—I will answer the question for you. This is from the Queensland department's answer:

An epidemiology report on citrus canker on IP2 and IP3 was completed, and has been submitted for the information and advice of the CCEPP and its Scientific Advisory Group. Release of this information to the Senate Inquiry should be requested from the Chair of CCEPP, the Commonwealth Chief Plant Protection Officer.

Mr McCutcheon—That is in the context of the Australian Chief Plant Protection Officer's chairing that particular committee. The first step that the Chief Plant Protection Officer would have to take is to seek the approval of the other members of that committee of the report's release.

CHAIR—So it is not readily available under FOI?

Mr McCutcheon—I cannot answer the specific question on FOI because I am not an FOI expert but the reports that you refer to, which were considered by the national committee, would in my view—regardless of FOI—require the consent of the other members of the committee.

CHAIR—Fair enough. If I recall, it says there may have been a report on IP1, 2 and 3 as well, epidemiology? Is that right?

Senator McEWEN—That was my understanding.

Mr McCutcheon—That committee would have considered quite a number of reports as it worked its way through.

CHAIR—It may assist this committee if we could have those made available to the committee. What is your advice to us in respect of whether it is a process for you to provide it and go through the necessary chain of command decisions or whether we have to go through the chain of command decisions?

Mr McCutcheon—I can certainly take the question on notice and seek further advice from the department on what it can and cannot do in respect of the release of those documents.

CHAIR—Senator Milne?

Senator MILNE—Sorry.

CHAIR—You have your mind in Tasmania at the moment, haven't you.

Senator MILNE—No, I am just trying to absorb what this is saying. As you have indicated, Senator Heffernan, the disappointment here is the failure to have enough evidence to mount a prosecution and to provide a key witness. We have never got to the bottom of this case about what happened to Mr Gillies.

CHAIR—Can I just ask a curious question. You say there was evidence taken that was tape recorded. Why wouldn't you have gone to the trouble of getting a signed statement to that effect?

Mr Terpstra—One of the requirements of providing the evidence is that a signed statement is provided to the court, even in cases where you have a suspect—

CHAIR—If the evidence which turned the DPP around turned on evidence provided on a tape, wouldn't it be sounder evidence in a signed document?

Mr Terpstra—They would have equal weight. Both forms, either in paper document or in voice recorded form—

CHAIR—My understanding is that, as soon as the evidence that you took in the taping was provided, the tape was turned off, that was the end of the section and it was out of the room. Who is to know whether you do not just blip the tape? I am not suggesting for a minute that that would happen, but you can do all sorts of things with a tape.

Mr Terpstra—The reason the interview was tape recorded was for note-taking purposes. It was not actually a formal record of interview as one might undertake with a suspect.

CHAIR—But it was enough for you to put in the report, without a written statement, that this guy had recanted.

Senator McEWEN—Was the witness given a copy of the tape at the time of leaving the room?

Mr Terpstra—I am not 100 per cent sure.

CHAIR—I think you have a serious problem. I think this is another 'Dad and Dave' job.

Mr Terpstra—As I have said, the recording was actually used for the purposes of note taking.

CHAIR—But that recording, and its note-taking purpose, was then used to report to the DPP, without a signed statement.

Mr Terpstra—That is correct.

CHAIR—Is that normal?

Mr Terpstra—Given the issues in this case, any vulnerability, and particularly in a case like this one—

CHAIR—I understand all the vulnerability stuff. That is why rent boys on streets are bad witnesses—because they are drug-addled and they vary. It takes a good, smart barrister. That is why the courts are about the law and not the truth, mostly. Every now and then they intersect, fortunately, but not always. I just think it is extraordinary that, given our earlier experience with the DPP on this issue, we have here a very serious document based on a recorded conversation that is not backed up with a signed statement, and no copy of the evidence was provided to the person who was recorded on the tape.

Mr Terpstra—I cannot tell you here and now whether there was or there was not. I am quite happy to clarify it for you.

CHAIR—Do you think that, if it were not, that would be an error?

Mr Terpstra—Natural justice would suggest that it would be advisable to do that, yes.

CHAIR—Alright. I think that, sadly, this episode has not closed for this committee. We are very grateful for your cooperation. We have delayed our processes to enable you guys to do your work. That was with cooperation from this committee, which just proves that we are not out here playing a political game and that we are not going to play politics with people's livelihoods. This has destroyed the vital citrus industry in the district of Emerald, and it seems to me that there will be a lot of hard lessons learned from what is to follow. I am not too sure what we do about that. I am pretty disgusted.

Senator McEWEN—I am curious about the compensation packages. Has any progress been made, that anybody can report, for growers?

Mr McCutcheon—Yes. There is a package called the 'Citrus growers reinvestment and re-establishment scheme'.

Senator McEWEN—Yes, I know what it is. Has anything actually been handed out?

Mr McCutcheon—Yes. It was on the basis that \$80 a tree would be paid to eligible growers after the trees were pulled out, and another \$20 will be paid on replanting in 18 months to two years time. The \$80 a tree was paid out before the end of last year, so the growers have received that money.

Senator McEWEN—Do we know how much has been paid overall? I am sure we have asked this question at the estimates hearings.

Mr McCutcheon—I can give you the answer to that question. It was all fairly open. The total amount paid out was approximately \$9.2 million.

Senator McEWEN—To how many growers?

Mr McCutcheon—I will have to take that question on notice.

Senator McEWEN—I presume there is a list somewhere of who has received what so far.

Mr McCutcheon—There would be a list.

Senator McEWEN—Would we be able to have that provided?

Mr McCutcheon—I will take that on notice.

Senator McEWEN—Thank you.

CHAIR—We have taken some evidence in camera during the course of this business, other than today. Have you interviewed any of the people from whom we took evidence in camera since we took that evidence?

Mr Terpstra—Yes. All of the transcripts, including the in-camera transcripts, that have come out of these proceedings were all checked through for leads, names and avenues of inquiry. Those avenues have been pursued to the full extent available.

CHAIR—Are you saying you have consulted the evidence from the in-camera session?

Mr Terpstra—We went through to look for names from the in-camera session that we attended. Any of the other in-camera material was obviously not available to us.

CHAIR—So you did not actually peep into evidence that we took in camera?

Mr Terpstra—No.

CHAIR—I thought that was what you meant, and I thought: 'God help us! We'll have to get the bloody handcuffs out'

Mr Terpstra—No, it was only the evidence that we ourselves gave. Any of the other material was not available to us.

Senator MILNE—Having just been out of the room I may have missed this, or Senator Heffernan may already have asked the question: given that Mr Gillies had made a sworn statement and an affidavit, why did AQIS reinterview him, tape it and then transfer that tape?

CHAIR—For your assistance, there was no second statement. There was just a recorded interview which was used for note taking.

Senator MILNE—Exactly. That is what I am asking: there was a sworn statement and an affidavit, so why did you reinterview him?

Mr Terpstra—It was basically a request from the DPP that he be reinterviewed to provide additional material. Affidavits are not acceptable in court proceedings as part of the brief of evidence, and the interview

took place in order to clarify some extra material contained in the affidavit that was not contained in the original statement obtained and signed on 17 July 2001.

Senator MILNE—So why was a second statement not prepared for Mr Gillies on the basis of the second interview and that statement then sent to the DPP?

CHAIR—That is the question I have already asked. You can give another answer if you like, Mr Terpstra. Do not vary it, or it will be used against you.

Mr Terpstra—That was indeed the intention of the process at the time. But, given the circumstances of what Mr Gillies actually had to say, that process was terminated midstream and the DPP consulted as a result of the information Mr Gillies provided midway through.

CHAIR—I think that was a serious error in judgment.

Senator MILNE—Was Mr Gillies told that, as a result of the additional evidence he had given, it would be unlikely to succeed? Was it all explained to him, or did this person just go off and send it to the DPP and conclude that there would be no successful prosecution?

Mr Terpstra—I am not sure. I will have to take that on notice. I am not sure whether Mr Gillies was advised subsequent to the advice from the DPP.

Senator MILNE—Did Mr Gillies have a lawyer with him at the time?

Mr Terpstra—No, he did not.

Senator MILNE—Was he offered that opportunity? Why wasn't someone from the DPP there asking the questions?

Mr Terpstra—Because the DPP are there to adjudicate on evidence collected. It is not their role to undertake investigations. Mr Gillies would not have been offered a solicitor. He would certainly have been able to request one but, given that he was a witness not a suspect, those rights are normally only outlined in part 1C of the Crimes Act to people who are being interviewed as suspects rather than as witnesses.

Senator MILNE—My concern here is that Mr Gillies may not have understood that the way in which he was talking in the second interview was going to compromise any proceedings; if he did, did anyone ask him why he changed his evidence?

Mr Terpstra—Yes. That was asked of him at the time.

Senator MILNE—What did he say?

Mr Terpstra—The question was avoided.

Senator MILNE—Was there any follow-up on the fact that the question was avoided?

CHAIR—Who conducted the interview?

Mr Terpstra—One of our senior investigators in Queensland.

CHAIR—Who?

Mr Terpstra—David Cammiss.

CHAIR—It would be fair to say that, when he got the answer to the question, he turned off the tape.

Mr Terpstra—I have not seen the transcript or heard the tape, so I do not know.

CHAIR—Can you provide that to us?

Mr Terpstra—Yes, if that is what you want.

CHAIR—The transcript?

Mr Terpstra—Yes.

Senator MILNE—So, basically, Mr Gillies just walked out of there and that was the end of it?

Mr Terpstra—The interview took place at the home of Mr Gillies.

CHAIR—Can you also provide the tape, along with the transcript?

Mr Terpstra—Yes.

CHAIR—Don't you think it extraordinary that he was not offered that?

Mr Terpstra—I am not sure; I cannot say whether he was or he was not. I am not sure about those circumstances. Once again, I can clarify that.

CHAIR—I will clarify it for you; he was not.

Senator MILNE—It is just extraordinary.

CHAIR—You do not have to be a graduate of the school of detectives to work out this stuff if I could work it out in half an hour yesterday afternoon.

Senator MILNE—Was he asked directly whether he was intimidated?

Mr Terpstra—I am not sure. He was asked why he had reclarified the evidence he had provided earlier, and as I indicated the question was not answered.

CHAIR—Would it not raise the question: what is going on here?

Senator MILNE—Exactly.

Mr Terpstra—Absolutely. But, once again, he is a witness—

CHAIR—We are going to a lot of trouble in this committee to reflect upon the way in which some people—several, not just one or two—have been intimidated. We are dealing with some pretty tough cookies in part of this whole episode. They have a way of dealing with people. I am very unhappy about it. I think it sets a poor precedent for people to give honest evidence if they cannot feel that they are fully protected.

Senator MILNE—I want to follow up on David Cammiss, who did the interviewing. I would like to know what procedure was followed. Logically, if someone were asked by the DPP to try to elicit further information from a witness to assist a case—if your job were to interview that person and do that, and that person gives evidence that is contrary to their original statement—wouldn't the process be that you finish the interview, you prepare an amended statement from the first one and get them to sign it and give that amended statement to the DPP? If that is the process—and clearly it is not the process that was followed—I would like a direct answer as to why that process was not followed and why the investigator chose to send off the tape without allowing the witness the opportunity to amend a signed statement. Would you take that on notice, because I would like to know why.

Ms Gordon—Certainly we will take that on notice, and we will provide you with a statement as to the standard operating procedures for undertaking these interviews and the processes that took place in that particular interview. I think it best that we as a department do not say anything more on it today.

Senator MILNE—Thank you. Like Senator Heffernan I am astounded that this has occurred and that there does not seem to have been any follow-up. Especially in these circumstances, and especially given what we knew and what the investigators knew had gone on with this witness, why wasn't this the next question: has any pressure been brought to bear on you to change your story? I want to know whether that question was asked. If it was not asked I want to know why it was not asked. As the chair has indicated, you do not have to be Einstein to work out what is going on.

Ms Gordon—We will certainly provide the statement to you. But I do note that there are constraints on the way that interviews can be conducted to ensure that you do not taint the evidence in the course of the interview itself. We can clarify that in the answer that we provide to you.

Senator MILNE—I have one other related question. Previously I asked a question in relation to the tristeza virus—I think it was in camera but I just cannot recall, so I want to ask you again. The concern I have is that the reason that the property could not be quarantined in the first place was that the disease that you saw present was the tristeza virus and not the canker, and we all know what happened subsequent to that, and there was some uncertainty about whether it was the variety already in Australia and on the prohibited list. In the closed hearing I think I put it to you that it would be helpful if this committee were to recommend in the findings of this inquiry that the plants for which it is quarantinable had a broader clause that said something to the effect that a property could be quarantined if there was a reasonably held view, assessed by professional people or such, that the disease identified on the property was one that was not currently present in Australia—in other words, it would give you a clause that enables AQIS to take action in quarantining a property if they suspect that is the case but it is not actually on the list.

I made the point at the time that with climate change, globalisation and trade and so on the list is likely to be behind the reality of the diseases that might either come to Australia or are predicted to come to Australia. I would just like to ask you on the record, given you were going away to consider that last time, whether you

have come back with a considered opinion as to whether that would have been helpful in these circumstances, and whether it would be in the future, if we found a form of words that gave confidence to growers that it could not be used in a frivolous way—that it would have to be checked by two or three experts, for example, and allow for that loophole to be overcome so that, if a grower does not want their property quarantined and it is not on the list, they can actually stand against AQIS's judgment.

Ms Gordon—It is our view that the act as it stands is sufficiently flexible to deal with a range of situations where we have evidence of a quarantinable disease. The lists of the diseases that we deal with are contained in schedules which are in subordinate legislation and, as such, they are very readily able to be amended when new or different diseases are identified. So, if we did get a new disease that we had not previously identified—climate change is an example—it would not be difficult in those circumstances. Provided the other provisions of the act are present for all identifying quarantinable diseases—which normally means that there is some sort of importation—it would be quite possible to amend the schedule fairly quickly so we could address that particular issue. But, in this particular case, the other additional factor that needs to be taken into account is that there was no apparent disease present as a result of the potential existence of the virus itself.

In terms of taking action and putting a property into quarantine or taking what is fairly drastic action, it would not only be that there are indications of a virus—there are many viruses that can be identified—but it would also be an indication that the virus was causing disease. There are other provisions in our relationship with the states and territories for diseases that are under active control or that are causing any particular problem. In this case, when the particular strain of citrus tristeza was identified, there did not appear to be any disease expressed as such or causing production problems in the plants themselves. So it did not fall within that category where we would normally, at a Commonwealth level, find that we had power to impose a quarantine order on the property.

Senator MILNE—But that is my problem. AQIS wanted to quarantine the property and were unable to do so, and were in fear of litigation if they did so, because the legislative framework was not sufficiently watertight. I am asking you how the legislative framework can be altered so that that situation does not arise again and how you can put a property into quarantine when people are threatening litigation and have the surety that the legislative framework is secure enough.

Ms Gordon—I think the way the Quarantine Act and the subordinate legislation are constructed addresses where 'quarantinable' diseases are present or are likely to be present. In this case there was no indication that this particular strain of citrus tristeza was causing disease, so there is the distinction between the presence of a virus and the expression of a disease. From our perspective, the way in which the act and the schedules operate allows us to take action in circumstances where we have concerns. In this case, we had no other evidence from the tests that we had done that there were other 'quarantinable' diseases present.

CHAIR—Was this in the 2001 raid?

Ms Gordon—Yes, it was in 2001.

CHAIR—What did you make of the Roundup treatment when you got there—when they sprayed the trees out to kill them?

Ms Gordon—At that stage we were advised that the plants had not been watered, and that they had died because they realised that they were not going to be able to—

CHAIR—I wish I had been there.

Ms Gordon—Also, if you go back to the submission that we provided to the committee, the issues at the time were particular focused on the grape crop, not on the citrus crop. There was no indication that there were 'quarantinable' diseases in the citrus crop so we took action to contain any problems that might emanate from the grape crop, not from the citrus crop.

CHAIR—So, as far as you are concerned, this investigation is over?

Ms Gordon—Unless new and different evidence comes forward.

CHAIR—Can I get an undertaking from you that you will not approach any of the witnesses?

Ms Gordon—At the moment there is no reason why we would want to approach any witnesses.

CHAIR—So you will give us a cast-iron guarantee that your guys will not approach any of these people?

Mr Terpstra—If that is what you are asking for.

CHAIR—I think we have to take some more evidence. We have a serious problem. Thanks very much.

Committee adjourned at 6.32 pm