

1 ROYAL COMMISSION OF INQUIRY
2 ON GENETIC MODIFICATION
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9 Commission: Sir Thomas Eichelbaum (Chair)
10 The Rt Rev Richard Randerson
11 Dr Jean S Fleming
12 Dr Jacqueline S Te M Allan
13 (Absent)
14
15
16 Mr Grant Pearson, Counsel
17 Assisting the Commission
18
19
20 Ms Therese McLeod (Clerk)
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24
25 Stenographer: Ms Rawinia Hauraki
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27 Scopist: Mrs Jacqui Kennedy
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32
33 Venue: 11th Floor
34 Dalmuir House
35 114 The Terrace
36 Wellington
37 NEW ZEALAND
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42 Date: 31 January 2001
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44 Commencing: 9.30am
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1 PRESENTATION BY NATIONAL NUTRITIONAL FOODS
2 ASSOCIATION OF NEW ZEALAND
3
4

5 CHAIR: Good morning, Mr Law, is it?
6

7 MR LAW: Yes.
8

9 CHAIR: We're looking forward to hearing your
10 presentation.
11

12 MR LAW: Thank you.
13
14

15 ***
16

17 [9.31am]

18 MR LAW: My name's Ron Law, I represent the New Zealand
19 National Nutritional Foods Association, which is an
20 Association of Industry Supplement Companies,
21 including manufacturers, suppliers, distributors and
22 retailers. We also have a few practitioners but not
23 - we don't represent those per se.
24

25 Our organisation members contribute approximately
26 100 million dollars to the economy in terms of sales,
27 substantially more than that in economic terms.
28

29 I don't want to go through the submission that we've
30 already presented to you in detail, you can read
31 that. You can read there that we believe that our
32 consumers have the right to informed choice, and for
33 us informed choice is about giving people information
34 and treating people as - our consumers as intelligent
35 human beings, so that they can actually make
36 decisions for themselves. And, my experience as a
37 lecturer, at the Auckland University of Technology, I
38 don't represent them today but that's my day job, my
39 experience with students even, is that if you give
40 them information and you set their minds free, and
41 enable them to look at the information they're given
42 from different perspectives, then they actually -
43 there's a huge intelligence there that enables them
44 to reach decisions that they themselves are
45 comfortable with.
46

47 We have a concern amongst our members about the
48 development of the dual food chain, and the extra
49 costs involved in that, compliance costs.
50

51 Now, having said that, the overwhelming majority of
52 our members would be weighted in favour of not having
53 GE rather than having GE. However, not all of our
54 members have one view. So, what I want to do today
55 is to go through some of our experiences in terms of
56 regulating of foods, and to critique a number of the
57 Australia/New Zealand Food Authority documents and to
58 hopefully show that ANZFA is in fact not following
59 their own policy, but in fact they have not done risk
60 analysis, and, in fact they - the basis on which they

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1 are making their decisions is not a scientific basis
2 at all.
3
4 Now, to support that, the NNFA - we complained to the
5 Parliamentary Select Committee, Regulations Review
6 Select Committee, and this was in relation to a
7 regulation that was imposed by the Ministry of Health
8 here in New Zealand regarding the labelling of bee
9 products, and in particular Royal Jelly, but there
10 were other bee products as well.
11
12 Now, this - there are two documents, there's the pink
13 document and the blue document. The blue document is
14 actually the report of the Select Committee that was
15 tabled in Parliament in July 1999. Now, this
16 Parliamentary Select Committee was chaired by
17 Jonathan Hunt, Right Honourable Jonathan Hunt, and
18 they moved in the House of the Parliament of
19 New Zealand that these regulations be revoked.
20
21 Now, that's only the second time in the history of
22 New Zealand that a Select Committee has moved; the
23 Chairman of the Select Committee has moved in the
24 House of Parliament that regulations be revoked, and
25 their conclusion was that the Ministry of Health, and
26 therefore ANZFA, because ANZFA was the driving force
27 for these regulations, the Ministry of Health abused
28 their regulatory powers and they did not follow
29 scientific process, they did not do risk analysis, as
30 they not only were supposed to do, but as they said
31 they had done. So, if I could just table that as a
32 report.
33
34 Now, this, you will appreciate, is a scanned copy,
35 it's on the net at Beekeeping Association's website;
36 you can get it at Whitcoulls in its formal form as
37 well.
38
39 As a consequence of that report, and lobbying from
40 our Association, the Minister of Health at the time
41 was forced to, or he decided to, undertake a
42 scientific review of bee products. And he
43 established a five-person review group, and there
44 were five Terms of Reference. And in all five Terms
45 of Reference this review group found against the
46 Ministry of Health. And, in essence, they therefore
47 found against ANZFA. And they found that, if the
48 Ministry of Health had undertaken the risk analysis,
49 proper risk analysis, they would have reached
50 different conclusions.
51
52 Now, ANZFA has, to this day, refused to accept the
53 findings of this report. This report has been
54 released over a year; they have proposed a
55 modification to the warning labels on bee products,
56 particularly Royal Jelly, but in doing so they have
57 created another anomaly, and that is being delayed,
58 and as I'll go through some of the evidence, there
59 are reviews going on in Australia as we speak.
60

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1 Now, as sure as night follows day, there will be a
2 significant Inquiry in Australia into the regulating
3 of Royal Jelly, and the falsified and fabricated data
4 that is being used to impose the regulations.

5
6 This report, the scientific review, finds that two
7 Coroner's Inquests' conclusions were wrong in
8 science, in fact, because they had been fed wrong
9 information.

10
11 That's a very strong opening gambit, I appreciate - I
12 realise that, but I want to now just go through some
13 of the regulatory issues that concern the NNFA.
14 Personally I have had a great deal to do with this
15 over the last few years, I have had a great deal to
16 do with ANZFA, and the Therapeutic Goods
17 Administration.

18
19 You might ask why I'm talking about Australian
20 organisations, twofold. ANZFA is an Australian
21 entity that the New Zealand Government has ceded
22 sovereignty in relation to the establishment of food
23 standards. The New Zealand Government pays the
24 Australian Government about one and a half million
25 dollars a year, or thereabouts, to administer food
26 standards for New Zealand.

27
28 The Food Standards Council that actually finally says
29 "yay" or "nay" to food standards, there are nine
30 Australian Ministers on that committee, and one
31 New Zealand Minister; one vote out of 10. So, it's
32 hardly a joint bi-national entity.

33
34 The Therapeutic Goods Administration does not, in
35 theory, have any role to play in administration of
36 laws in New Zealand, but there are moves in the wings
37 that are happening, to incorporate a joint
38 Therapeutic Goods Agency for Australia/New Zealand,
39 and it's intended, my understanding, that this would
40 be on a 50/50 basis. But, given the size of the
41 Australian system, the size of the New Zealand
42 system, it's quite evident that the weight of
43 influence will emanate from Australia.

44
45 I also want to raise an issue in relation to ERMA,
46 and I'll start with this; it won't take very long,
47 and then I'll move into the Australia/New Zealand
48 Food Authority experience.

49
50 E-mails - e-mail is a fascinating technology, and, as
51 with all technologies, it can be used for good, it
52 can be used for bad. As a person who uses e-mails
53 every day, I probably get 100 or more e-mails every
54 day. My wife, I think, would be seeking counselling
55 before too long in terms of the amount of time I
56 spend corresponding with e-mail. I realise that
57 sometimes it can be a trap.

58
59 These e-mails I'm going to present to you now, I'm
60 not going to divulge who they came from. If you want

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1 to know I can give you that, so long as that is not
2 disclosed any further, but I'm willing to give you
3 the name of the person so that - if you wish, and you
4 may even choose to go and speak to that person in
5 private.

6
7 CHAIR: We don't do that actually, Mr Law. We don't speak
8 to people in private.

9
10 MR LAW: In this particular case that may actually be
11 worth considering. But anyway, if I can just present
12 these three little e-mails first, and that's for you
13 as a Commission to decide.

14
15 This is on a risk analysis e-mail, and I joined this
16 because I wanted to talk about risk analysis, about
17 what risk analysis had done for genetically
18 engineered food, because I couldn't find any. So I
19 thought, what better means than to go not experts to
20 ask the question.

21
22 "In response to Ron Law I would like to point out
23 that New Zealand HSNO legislation does not require
24 ERMA to carry out risk analysis, it requires the
25 applicant to carry out risk analysis". This is the
26 first response to a request that I asked.

27
28 This was followed up the same day. "Hello Ron, it
29 may be more useful to continue this off-line since,
30 while the issue is of general relevance, our
31 correspondence need not be. I am not using my ERMA
32 signature because I'm not speaking for ERMA on this,
33 but I am" - and I've deleted what - who the person is
34 or what they do, "hence my interest in cleaning up
35 on-line what ERMA's role and responsibility is. You
36 are, of course, correct with regard to ANZFA and the
37 links between ERMA" - what I said was that there is
38 no formal link between the two, and ERMA can approve
39 the insertion of human genes into cattle and the
40 volume of cattle can be ramped up so that there are
41 millions of cattle or sheep in our paddocks, and then
42 there's pressure to do something with the surplus
43 stock, and so then ANZFA approves that for food, the
44 incorporation of the food chain.

45
46 The question I was asking at the time was, do we want
47 human genes in the food chain, re - put back into the
48 food chain? We've moved away from cannibalism. Part
49 of the debate was, you know, is one gene cannibalism
50 is two, three, ten, one hundred, how many genes?
51 Where do we stop?

52
53 You are, of course, correct that if the research is
54 successful, the applicants will then proceed to
55 request release, this is in relation to the Belgium
56 sheep, and will apply to ANZFA for a food standard,
57 but under the legislation that cannot be an issue for
58 ERMA when considering the present application. You
59 might say it ought to be, but it isn't. You are also
60 correct that the risk analyses that we get with

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1 applications, are not "formal" risk analyses.
2 However, we have had some reasonable attempts - this
3 is ERMA, a representative of ERMA - we have had some
4 reasonable attempts, and we continue to encourage
5 applicants to get more formal. We expect to publish
6 a Risk, Cost and Benefits Technical Guide shortly.
7
8 This is a third e-mail which says, "I am appending my
9 direct response" - blah, blah - "conscious" - I agree
10 that the law and practice are often quite different,
11 and other issues we face is the difference between
12 what was intended when the law was written and how
13 lawyers interpret it. As stated several times, we
14 have only had qualitative risk analyses presented to
15 ERMA, and they are not very good. But applicants on
16 the whole are willing and, with one notable
17 exception, trying to do the best they can to ensure
18 that containment is maintained.
19
20 I think that the key here, in this particular e-mail
21 here, is, they have only had qualitative risk
22 analyses presented, and they are not very good. And
23 yet, it's on the not-very-good risk analyses that we
24 have a statutory organisation in New Zealand making
25 decisions about the release, or even containment in
26 the first instance, of a brand new technology; we
27 haven't been there before, we don't know where it's
28 going.
29
30 Qualitative risk analyses presented, and they are not
31 very good.
32
33 I'd like to - that's all I want to speak to in terms
34 of ERMA.
35
36 In terms of ANZFA: This is from ANZFA's submission
37 to the Royal Commission. "Under the Treaty,
38 (Annex C), New Zealand may 'opt-out' of a food
39 standard if it considers the standard to be
40 inappropriate on the grounds of exceptional health,
41 safety, third country trade" - blah, blah - "To date
42 New Zealand has not formally opted out of any food
43 standard". That's true and you will notice that they
44 say they have not formally opted out. In fact,
45 New Zealand has opted out in terms of the
46 Royal Jelly. The regulation that was imposed wasn't
47 what had been imposed in Australia, and the reason
48 for that was because the Ministry of Health was
49 grossly uncomfortable with the severe warning - the
50 severe wording of that label.
51
52 As we speak, the Ministry of Health still has not
53 changed the warning label as recommended by the
54 committee, they are waiting for ANZFA's response.
55
56 When I've asked them, why doesn't the Ministry of
57 Health just take a unilateral position? Seeing as
58 Australia has been proven wrong, ANZFA has been
59 proven wrong, scientifically, methodologically,
60 procedurally it has been proven wrong. And this is a

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1 quote from a senior health official, and the Ministry
2 of Health has been echoed if - by a senior official
3 in the Ministry of Commerce, nobody will establish a
4 precedent in terms of opting out. No official will
5 put their Minister in such a position.
6

7 So, we have a clause, an opt-out clause, but we have
8 officials saying that nobody will enable it because
9 they don't want to be seen to have set the precedent.
10

11 We have a Select Committee that says that ANZFA was
12 wrong, we have a scientific review that says ANZFA
13 was wrong, and yet ANZFA won't accept that they're
14 wrong.
15

16 BISHOP RANDERSON: Before you go on, Mr Law, just on that
17 point; I mean the view of the Select Committee and
18 the scientific review, are they just sort of
19 recommended industry things for ANZFA to consider?
20 They don't have any binding or mandatory power to
21 require ANZFA to make a change?
22

23 MR LAW: In terms of the Select Committee recommendation
24 the House in New Zealand could have revoked the
25 regulation. Unfortunately for us, the election
26 interceded which meant that the motion lapsed on the
27 floor of the House.
28

29 BISHOP RANDERSON: So the path should be by changing the
30 law, until the law was changed, ANZFA carries out the
31 law as they have received it?
32

33 MR LAW: Yes. And, no politician will want to stand out
34 from ANZFA, because that will create an international
35 precedent.
36

37 This is from an ANZFA document "Under the
38 Microscope". This is ANZFA's wording, "ANZFA
39 assesses the safety of GM foods by carefully
40 examining the new genetic material, new proteins and
41 other characteristics of individual types of
42 GM foods. To ensure that assessments are based on
43 the best current scientific knowledge, large amounts
44 of information and detailed scientific data are
45 obtained from a variety of sources".
46

47 The question I would like to ask is, where is this
48 large amount of information? Where is it?
49

50 I have looked; I can't find it in any of ANZFA's
51 documents. Now, in this document they have their
52 references, and they talk here about, "Based on best
53 current scientific knowledge", this is their
54 statement.
55

56 This is a list of references in one of their
57 assessments --
58

59 CHAIR: Mr Law, where did you take the previous extract
60 from?

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1
2 MR LAW: This is from the website document.
3
4 CHAIR: This is ANZFA's submission to this Commission?
5 Sorry, I just want to identify it.
6
7 MR LAW: Just off the top of my head I can't answer that,
8 but it's certainly off their website. I suspect it
9 is, but I can find that out for sure. Most of these
10 I have actually got.
11
12 MR HODSON QC: If I can be of any help, sir, it looks as
13 though it's very likely to be an extract of the book
14 I produced two or three days ago.
15
16 CHAIR: The one with the fancy cover?
17
18 MR HODSON QC: That's the one.
19
20 MR LAW: The key thing is, these are ANZFA's words, these
21 are ANZFA's words, "Based on best current scientific
22 knowledge".
23
24 If we look at the references they provide, this is in
25 the assessment of corn, we can see a reference, 1999,
26 which is their guidelines. There's a 1995, a 96, 96,
27 96, 95. Now, this is their best current scientific -
28 and they've done a rigorous scientific research. If
29 we look at that a little bit more fully. If we look
30 at that a little bit more fully; we break them up
31 into five year groups, we can see that in the last
32 five years there are two scientific articles in their
33 reference list. Now, to be fair to ANZFA, if you
34 actually go through the documents there are, with two
35 or three references, they haven't put on their
36 reference, they've referenced - they've put a name
37 and a year, but they haven't included in this other
38 list, and this list does not include the half a dozen
39 documents from Monsanto that they received.
40
41 But, they've done a rigorous literature search, etc,
42 etc, and there are two scientific documents current
43 in the last five years; five in the last decade. And
44 ANZFA is having us believe that they have rigorously
45 looked at the last - at the current scientific
46 literature.
47
48 In their scientific - in their safety assessment
49 report, ANZFA says, "There is a comprehensive set of
50 analytical data for the safety and assessment of the
51 transgenic corn". Where? Where is this
52 comprehensive set of analytical data? Where is it?
53 ANZFA says, "Similarly, there is no evidence to
54 suggest that the transgenic corn would be more likely
55 to cause allergies than the conventional
56 counterpart". Now, it says that corn is not a known
57 allergen.
58
59 Now, based on substantial evidence, having concluded
60 that corn is not a known allergen, that means it's

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1 equivalent to normal corns; we don't have to do any
2 more studies. This took me about five minutes to
3 prepare. [Shows document]. I went to Medline,
4 PubMed. I put two words into the search engine,
5 "corn" and "allergies", I hit the "search" button,
6 and I hit on abstracts and text, and then copied it
7 over into my word processor. It took me five minutes
8 to prepare this document, this is the mauvey-purple
9 one. In here you will see there are 59 references in
10 Medline to corn and allergies. I didn't go
11 allergens, I didn't go allergy, I just put those two
12 words in.

13
14 Now, admittedly, not all of these references refer to
15 allergy - corn allergies. It might be an article
16 about allergies, and they just happened to mention
17 the word "corn", but most of them are.

18
19 I'd like to draw your attention to reference
20 number 6, which is on page 3. This is the purple
21 document. And this is a study in 1998, which I
22 suspect - I would classify as current, in relation to
23 food allergies and children up to 5 years of age in
24 Poland. Now, it's written in Polish, and if you are
25 familiar with western medical thinking, anything in a
26 foreign language, in a language other than English is
27 of dubious scientific value.

28
29 If you read through here you will see that corn is a
30 significant allergen in this group of children in
31 Poland.

32
33 If you turn over the page to reference number 11, you
34 will see here that corn pollen is a significant
35 source of allergies in this group of children - child
36 asthmatics in South Africa. ANZFA states, "Corn is
37 not a known allergen, therefore we don't have to do
38 any tests on it". I submit that corn is a known
39 allergen, and we know that the more a food is
40 consumed, the more of a problem it becomes, from an
41 allergenic point of view.

42
43 For example, in New Zealand rice is not a significant
44 problem, from an allergy point of view. In Japan, it
45 is, because in Japan rice is the main food, staple
46 food.

47
48 Where is ANZFA's evidence to say that transgenic corn
49 will not be more likely to cause allergies than
50 conventional corn? This is from GM Foods and the
51 Consumer, which I suspect was the book you were
52 talking about. It's a book for everyday - for
53 citizens to read. "Setting the standards for
54 GM foods, in doing so, ANZFA takes an extremely
55 cautious approach to GM foods". "Extremely cautious
56 approach to GM foods". ANZFA's words to the public.
57 "In the future the same approach will be applied to
58 the safety assessment of other foods that have not
59 previously been present in our diet (novel foods and
60 irradiated foods)". These are ANZFA's words. "The

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1 same approach will be applied to the safety
2 assessment of other foods".
3
4 If you go to the food standard, or the guidelines for
5 amending the food standards for novel foods, you will
6 see some interesting points here. You will see, they
7 do mutagenicity studies, three month rodent studies,
8 long-term rodent studies if required, human
9 toleration studies, post-market monitoring of adverse
10 effects. In the case of any of the GE foods, ANZFA
11 has not done any of those, nor have they requested
12 any of those to be done, that I'm aware of. They say
13 "three month rodent studies", this is for
14 toxicological and nutritional data, this is for macro
15 components. For extracts of plants, allergenicity
16 studies, mutagenicity studies.
17
18 If we look at single ingredient foods, I suspect corn
19 starch will be one of these potential for
20 allergenicity, three month rodent studies,
21 mutagenicity studies, post-market monitor of adverse
22 effects. ANZFA say they apply the same standards.
23 In all my reading of ANZFA documents, to deem that GE
24 foods are safe, there was a rat study of 14 days, a
25 couple more rat studies of one month, I think, so
26 there was a 6 week study and 10 week study. I have
27 never seen a study lasting for more than ten weeks,
28 and ANZFA is telling the public that they are taking
29 an extremely cautious approach, and that they are
30 going to use exactly the same standards for novel
31 foods. Yet, when you compare what they are doing
32 with what they are saying, two totally different
33 things.
34
35 Now, I've got a reasonable amount - more evidence to
36 go through, but I'd just like to state at this point,
37 that what we're seeing here is exactly the same as
38 what we saw with the Royal Jelly. ANZFA made up
39 their mind and then they went looking for evidence to
40 substantiate their opinion, their mind. They did not
41 go into the research process with an open mind.
42
43 And what we're seeing here, they do one thing and
44 they say another. Now, this is a strong statement,
45 it's exactly what we put to the Select Committee,
46 what we put to the Scientific Review, and what I'm
47 putting to you now, is that ANZFA says one thing and
48 does another.
49
50 Now, all I'm doing is critiquing ANZFA's own
51 documents, I'm stacking ANZFA's own documents side by
52 side.
53
54 BISHOP RANDERSON: Can I just ask, leaving aside the
55 Royal Jelly question, but other novel products that
56 your members might be bringing, you know, on to the
57 market, I mean they would be subject to ANZFA testing
58 as well, would I be right?
59
60 MR LAW: At the moment no, because dietary supplements are

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1 actually outside of ANZFA. Now, having said that,
2 bureaucracy - I still haven't got to understand
3 bureaucracy; I hope none of you are bureaucrats
4 but --

5
6 BISHOP RANDERSON: Certainly not.

7
8 MR LAW: ANZFA regulates foods, except dietary
9 supplement. If you sell Royal Jelly, for example, if
10 you sell it in a jar and you eat it with a spoon,
11 that's deemed to be a food. If you put it in a
12 capsule, that's deemed to be a dietary supplement.
13 So ANZFA regulate the jarful of Royal Jelly, but not
14 the Royal Jelly in the capsule. So, ANZFA, by law,
15 can put the warning label on to the jarful of
16 Royal Jelly, and then we've got this discrepancy
17 because this Royal Jelly has a warning, this
18 doesn't - so we must fix this discrepancy. So,
19 therefore, we must put the warning label on to the
20 capsule.

21
22 BISHOP RANDERSON: As far as your members are concerned,
23 there's nothing, apart from the Royal Jelly, that
24 would come under the oversight of ANZFA, because
25 they're all dietary supplements?

26
27 MR LAW: If Vitamin C is sold in the jar, and you eat it
28 by the spoonful, it's food, if it's in a capsule,
29 it's a dietary supplement.

30
31 Also, as was being said, which was news to me, and I
32 have great deal of dealings with ANZFA, it was news
33 to me that there's a new Australia/New Zealand Food
34 Authority being set up next year. That's news to
35 me. I know it's being worked through for
36 therapeutics. What I do know is that dietary
37 supplements are going to be brought in under the
38 Australian system one way or the other.

39
40 BISHOP RANDERSON: If this were, then would you expect the
41 same tests, that you've got asterisked here, to be
42 applied to them, as you are suggesting they should be
43 to GM products?

44
45 MR LAW: Okay, what I'm highlighting here is the total
46 inconsistency in ANZFA's procedures and their
47 methodology. Which one's right or wrong, I'm not
48 making a judgment call on that, I think each
49 particular food item needs to be looked at
50 individually. I don't think there is a "one size
51 fits all". But what I do - I'm an extremely strong
52 proponent of evidence-based regulation, and I'm a
53 strong proponent of good regulatory practice, and --

54
55 BISHOP RANDERSON: Yes, I don't have any difficulty with
56 that. The point of my question was just, that
57 whether you felt that the inconsistency, that you
58 described in ANZFA, applies equally to non-GM foods,
59 as it does to GM foods?

60

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1 MR LAW: Royal Jelly was the very first food in the world
2 to have a warning label on it, and when I talked to
3 pharmaceutical companies they said the warning label
4 was more severe than any drug that they know of.
5

6 BISHOP RANDERSON: I've taken that point.
7

8 MR LAW: So, inconsistencies. ANZFA says that it follows
9 internationally recognised practices. Now, there's a
10 yellow document that I have given you there. This is
11 General Decisions of Codex Alimentarius Commission.
12 Codex is a World Health Organisation, United Nations'
13 joint venture for introducing food standards around
14 the world. So, what ANZFA is doing for
15 Australia/New Zealand, Codex is doing for the whole
16 globe.
17

18 When you read through their principles, they talk
19 about here, the role of science in decision-making
20 process, and talk about food safety, risk
21 assessment.
22

23 And, over the page - it's from the MAF website, and
24 MAF in New Zealand are the point of contact for
25 Codex, they talk there about the role of science.
26 The first principle maintains of preeminence of
27 science. And it goes through four principles there.
28

29 Over the page, on page 3 there, there are eight
30 principles that the World Health Organisation and
31 United Nations, or Food Agricultural Organisation,
32 eight principles in relation to risk management.
33 Then, over the page, talks a little bit about risk
34 analysis.
35

36 Now, if you go through, and when you go through, and
37 I really would encourage you to spend a considerable
38 amount of time, and even bring expertise in to help
39 you work through things if need be, when you go
40 through ANZFA's risk analysis documents, it states in
41 the heading "risk assessment"; from then on it talks
42 about "safety assessment".
43

44 It's my conclusion that they're not actually doing
45 risk analysis, they're doing safety analysis. Now,
46 risk analysis looks for risks, safety analysis looks
47 for safety.
48

49 So, if you look at their risk analysis documents, it
50 does not follow risk analysis procedure, it does not
51 even follow their own framework, as I'll get to soon.
52

53 Now, this is risk analysis, final report. This is in
54 relation to potatoes. Now, what's intriguing here is
55 the relationship between ANZFA and the Ministry of
56 Health.
57

58 Now, we like to think that the Ministry of Health is
59 responsible for ensuring safety of our food in
60 New Zealand. That's not true. The Ministry of

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1 Health makes submissions to ANZFA, the same as you or
2 I do. And this is just to give evidence of that,
3 "The New Zealand Ministry of Health stated in their
4 submission" - ANZFA does not have to listen to the
5 Ministry of Health. The Ministry of Health here
6 stated that, "An investigation of the combined
7 chronic toxicity carcinogenicity of newly expressed
8 proteins would strengthen the safety assessment
9 report". The New Zealand Ministry of Health is
10 saying this; hey, we need longer studies.

11
12 So, what's ANZFA's response? They state
13 that, "Several types of data are required to provide
14 a reasonable certainty that no harm will result from
15 exposure to the novel proteins". "Several types of
16 data". And then they go on and they mix toxins and
17 allergens. They say here, "The information is
18 intended to show that the proteins behave as would be
19 expected of ordinary dietary protein, are not
20 structurally related to any known toxins (or
21 allergens)". Now, toxins and allergens are totally
22 different beasts, they shouldn't be mixed, and
23 allergens certainly shouldn't be put in brackets.
24 "And do not display any oral toxicity when ingested
25 at very high doses".

26
27 Now, in fact that was one study with one dose, and
28 the mice or rats were monitored for 14 days. And at
29 the end of the 14 days the organs weren't even
30 weighed, the organs weren't even examined under the
31 microscope. Now, this is what the Ministry of Health
32 is saying, "Hey, look, we need longer studies".
33 Here's ANZFA saying, "Look, we've done the studies,
34 one test, one group of rats, one dose, two weeks,
35 Hey, it's safe".

36
37 Interesting too, this little adding "high doses" when
38 they've actually stated earlier that it was a single
39 study.

40
41 "Acute oral toxicity tests are done because it is
42 known that when proteins are toxic, they generally
43 act". Now, "generally act" would suggest to me that
44 there's a degree of uncertainty there. If it said
45 they "always act", I would say, hey, that's cool,
46 certainty. "Generally act", that's telling me that
47 there's a little question mark there.

48
49 Now, when you go through a risk analysis, a proper
50 risk analysis, this here would come under a potential
51 hazard, if they generally act, it means that
52 sometimes they don't. Now, that should be taken out,
53 the window should be opened and examined. They just
54 rationalise it.

55
56 "ANZFA considers that the use of acute toxicity
57 tests, combined with other information about the
58 protein, such as digestibility and structural
59 similarity to known proteins, should enable the
60 identification of" - "should", that's an

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1 uncertainty. If it said "does", that's a certainty.
2
3 Now, there's another little window of opportunity for
4 something to go wrong. ANZFA should have opened that
5 window up and investigated it more; they didn't.
6
7 "Further toxicological investigations, such as the
8 chronic studies and carcinogenicity studies,
9 suggested by the New Zealand Ministry of Health,
10 would generally only be triggered" - again, another
11 uncertain - another non-definitive word.
12 "Generally", where's the judgment call? If it's
13 generally, would "only be triggered"; where's the
14 decision-making trigger?
15
16 Ministry of Health's concern, no worries, we've done
17 a test. One test, one dose. I venture to suggest
18 that if you took a large dose of mercury, it wouldn't
19 kill you. If you took a lower dose of mercury every
20 day for your life, I suspect you wouldn't live very
21 long.
22
23 In their submission to the Royal Commission, Draft
24 Risk Analysis Report, it states - and this is in the
25 corn line, it states, "There are no known naturally
26 occurring toxins in corn, and it is not regarded as
27 an allergenic food", which is what I mentioned
28 before. You do the literature search and there is
29 more than enough literature there to raise a question
30 mark. I would have thought that, if you went to an
31 area in Poland or an area in South Africa, where
32 there were known allergies to corn, it would be a
33 useful place to do some clinical studies.
34
35 And here again, "Furthermore, an acute oral toxicity
36 study" - one. Here's a food that's going into the
37 food chain forever; one study, toxicity study, and
38 they say it's sweet.
39
40 I'd like to just read from a letter, and I got this
41 from the net; a wonderful tool, the internet. In a
42 letter dated 14th December 1999, to the USA
43 Environment Protection Agency, Sally van Wert,
44 W-E-R-T, PhD, Manager, Regulatory Affairs,
45 Biotechnology, Agrevo, A-G-R-E-V-O, USA, said this,
46 "There are currently no validated models (in silico,
47 in vitro, or in vivo) for the prediction of whether a
48 given protein possesses the necessary characteristics
49 to elicit clinical symptoms of food allergenicity in
50 humans. There are currently no validated models. It
51 is estimated that some 1 to 2% of the adult
52 population may suffer from food allergies. With
53 today's technology it is virtually impossible to
54 predict from any single test, with any certainty, the
55 allergenic potential for specific proteins to affect
56 humans". This is from a biotech company to the
57 Environment Protection Agency in the United States,
58 with today's technology it is virtually impossible to
59 predict from any single test with any certainty the
60 allergenic potential for specific proteins to affect

1 humans.
2
3 And this is a quote from ANZFA. ANZFA says, "At
4 present no suitable animal models exist that can be
5 used to test the allergenicity of food or new
6 proteins in food. However, several methods have been
7 developed, based on current knowledge, to assist in
8 predicting the allergenic potential of new proteins
9 in foods that have been produced using modern gene
10 technology. As this is a rapidly developing field,
11 it is likely that more predictive methods will be
12 developed in the future to assist in the assessment
13 of potential allergenicity".
14
15 Now, what these two statements say is that there are
16 no single tests, as we know, to predict with any
17 certainty the allergenic potential for specific
18 proteins to affect humans. And here we have ANZFA
19 doing one test, single dose, on one group of mice and
20 monitoring - looking at the mice for two weeks, and
21 determining with certainty that the food is safe.
22
23 Now, I'm not saying the food is not safe. What I'm
24 saying is, there is something terribly wrong with
25 ANZFA's methodology. They are making a definitive
26 judgment based on one test, when the scientific
27 community says there is no one test that enables you
28 to predict with any certainty. So, they are
29 decreeing that it's safe, based on one test with a
30 huge question mark over it.
31
32 Again, this is from the document, GM Foods and the
33 Consumer. This is a fascinating little bit of
34 writing here. If we go through, I'll read the lot.
35 "The long-term safety of foods and substances found
36 in food is a subject of ongoing debate. Substances
37 added to food (food additives and processing aids)
38 and substances used in food production (agriculture
39 and veterinary chemicals) undergo thorough safety
40 testing before being approved for use. In most cases
41 the type of testing undertaken for these substances
42 cannot be used to assess the safety of whole foods.
43 None of the foods in the traditional human diet have
44 been tested in this way - none of them have been
45 tested in this way. GM foods undergo a thorough
46 safety assessment that is appropriate for whole
47 foods". Wow, who wrote this? They say for food
48 additives you've got to do all these fancy tests, for
49 whole foods in the diet. We don't do them.
50
51 And so, GM foods undergo a thorough safety assessment
52 that is appropriate for whole foods that we don't do
53 any tests on.
54
55 "There is no reason to suspect that the long-term
56 safety of GM foods will be any less than that of
57 conventional foods". I suspect that a lot of the
58 witnesses before you have been giving you a whole -
59 reasons to suspect that the long-term safety of GM
60 foods may be less than that of conventional foods.

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1 How can ANZFA reach the conclusion that these foods
2 are safe when they start with a mindset that they are
3 safe. And, because they are safe, we don't have to
4 do any tests on them.

5
6 ANZFA, I thought by law, had to do risk assessment,
7 but they do safety assessment.

8
9 In this lovely document to the public, same document,
10 "Will GM foods be safe in the long-term?
11 Nevertheless, the level of public concern has been so
12 great that some countries are looking into the
13 possibility of monitoring GM foods in the
14 marketplace, for any long-term relationship that may
15 emerge between the consumption of these foods and
16 health".

17
18 I would like to submit to the this Commission, I'd
19 like to go on record, that once the GE foods are in
20 the food chain, it would be impossible to determine
21 if they have an adverse effect on human being health,
22 because there will be so many confounding issues
23 raised.

24
25 Now, I'd like to give you an example of long-term
26 studies and how these are being misused by officials.

27
28 Now, folic acids: Folic acid is a vitamin, one of
29 the B vitamins that is receiving huge scientific
30 interest. It's got tremendous potential - we know
31 that it prevents over 75% of spina bifida, cleft
32 pallets, it prevents a significant percentage of
33 cleft pallets, birth deformities. There's good
34 evidence that it has a major impact on heart disease,
35 there's good evidence that it has an impact on
36 Alzheimer's.

37
38 Harvard University have been following a group of
39 nurses for, I think something like 20, 25 years. It
40 started out about 100,000 nurses, and every few years
41 they send out a questionnaire to, "What are you
42 eating?", etc, etc.

43
44 Now, with folic acid, a certain percentage of these
45 nurses take dietary supplements, they take a
46 multivitamin that contains 400 micrograms of folic
47 acid, so it's possible to determine which of these
48 nurses are taking folic acid and which aren't. Now,
49 if they were eating corn fritters and potato, corn
50 chips and all the other things, nobody would know
51 whether they are eating GE corn or not. You know if
52 you're taking a capsule, okay?

53
54 Now, this demonstrates a significant flaw in most
55 clinical studies in medicine. The title of this is,
56 "Reduction of risk of cancer of the colon with
57 long-term folic acid multivitamin. Now, it's been
58 identified that folic acid is probably the most -
59 it's the active - the one that's making the
60 difference. When they follow these nurses, and this

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1 is the relative risk of cancer of the colon, so
2 relative risk of 1. After about 5 years there is no
3 difference. After, sort of 5 to 9 years, there is a
4 little bit of a drop, but statistically not
5 significant. And, again, at 15 years, there was a
6 little bit more of a drop but not significant.
7

8 Okay. So, if I did a clinical study of folic acid,
9 and studies have been done, say, for beta carotene,
10 and they've stopped them here, and they said, "Look,
11 8 years, doesn't make any difference, it doesn't
12 work. It costs too much to carry these studies on,
13 it costs hundreds of millions of dollars to carry
14 these studies on". This one here, they've noticed
15 that after 15 years of use, long-term use, the
16 incidence of cancer of the colon drops off by 75%.
17 Now, they have - they've been brave enough to go out
18 into the wide world and say, "If you take a folic
19 acid multivitamin, it will reduce the risk of cancer
20 of the colon by 50%", because they don't want to
21 commit themselves to - I mean 75%, who would believe
22 them.
23

24 DR FLEMING: Can I clarify something there, we are still
25 talking about this long-term study of nurses. Are
26 all these women about the same age?
27

28 MR LAW: Mixed ages. Mixed ages, I mean some of them now
29 are retired and some of them are younger.
30

31 DR FLEMING: Okay, thank you.
32

33 MR LAW: What this highlights is that, if we do a test for
34 14 days, or for one month, in terms of long-term
35 effect, I mean it's totally meaningless. If we did
36 it for 5 years, in the case of folic acid we don't
37 find anything. 10 years/15 years, we don't find
38 anything. If we carry this on for more than
39 15 years, hey, look, what we've found.
40

41 This is interesting because our health officials
42 refuse to accept this data. They're saying, oh, we
43 need clinical studies. Clinical studies, going to
44 take at least 5 years to set up and at least another
45 15 years, probably going to take 30 years to
46 complete, by the time it's all published, and
47 everything like that. Then there will be a huge
48 debate and somebody will find something wrong with
49 it, another generation's gone.
50

51 Now, no study like this will ever be done on GE
52 because you don't take GE in a capsule, it's just,
53 you just eat it, it's just there, you don't know that
54 it's there, it's ubiquitous.
55

56 Now, if there's something, and I'm not saying there
57 is, but if there's something in any of these GE foods
58 that, for example, reduces the efficacy of folic
59 acid; let's say there's something there that reduces
60 the absorption of folic acid, what's going to happen

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1 in 15 years? You see, 5 years, 10 years, 15 years,
2 everybody's still happy, healthy, 15 years we start
3 seeing problems.
4
5 ANZFA has not considered that in their risk analysis
6 at all. They've done a single toxicology study, one
7 dose, studied the rats for two weeks and declared it
8 safe. When the Ministry of Health said, "Hey, we
9 need long-term studies", ANZFA has said, "No worries,
10 we don't need them".
11
12 The question I would like to ask is, you know, what
13 confidence can society have in a regulatory body that
14 says it undertakes rigorous scientific methodology?
15
16 From the same reference; "Wherever possible the
17 composition of a GM food is compared with its
18 conventional counterpart, both through direct
19 experimentation, and comparison with acceptable
20 ranges of nutrients reported in the scientific
21 literature. Typical analyses comprise; vitamin and
22 mineral analysis".
23
24 Now, I saw fatty acid analysis, I saw amino acid
25 analysis; in all of ANZFA's documents I have never
26 seen a vitamin or micro mineral analysis. I've never
27 seen an analysis for selenium, for example. Now,
28 here in their own documents to the public, to
29 reassure the public, "Trust us, we know what we're
30 doing". And, yet, when you go through their
31 methodology, they're not following what they are
32 saying they're doing, they're not following their own
33 policy. Now, it may be there, I haven't seen it.
34 Where is the vitamin analysis?
35
36 I made reference just before to the World Health
37 Organisation General Principles of Food Safety.
38 Principle 3 states that, "Risk management should
39 include the identification and systematic
40 documentation of all elements of the risk management
41 process, including decision-making, so that the
42 rationale is transparent to all interested parties".
43
44 Now, I would like to go on record, I'm an interested
45 party and I cannot find the rationale, or the
46 elements of the risk management process, in any of
47 ANZFA's reports; it's not there. They've done a
48 safety analysis, they haven't done a risk analysis;
49 they haven't identified the hazards, they haven't
50 characterised them, they haven't looked at the
51 exposure of the population to these, they haven't
52 looked at the potential, what could go wrong, they
53 haven't looked for options for management of those
54 risks.
55
56 This is attachment 4, I believe this is to the Royal
57 Commission, and it states - this is about the World
58 Trade Organisation, and ANZFA says that we subscribe
59 to the World Trade Organisation agreements, we're a
60 signatory to it, we're bound by international law to

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1 the World Trade Organisation protocol. "The World
2 Trade Organisation agreements are predicated on a set
3 of underlying principles, that standards and other
4 regulatory measures should be based on sound
5 scientific principles".
6
7 I would argue that a great deal of what ANZFA does is
8 not based on sound scientific principles. There are
9 scientific principles there but I would argue that
10 they are not sound. "Developed using consistent risk
11 assessment practices". I did a word search on one of
12 their final risk documents, and I've looked through
13 others, but I did a word search on the word
14 processor; the only time "risk assessment" came up
15 was in the header at the beginning. From then on it
16 was "safety assessment". I cannot see in all of the
17 documents, and if I'm wrong please point it out to
18 me, they have not done a risk analysis.
19
20 "Transparent". I would question the transparency.
21
22 I could make some more comments, I won't.
23
24 This is ANZFA's own document, it's not in the pile
25 that I've given to you. But this is their framework
26 for the assessment and management of food-related
27 health risks , September 96. I've checked with
28 Hugh Baber, this is their document. The contents in
29 here, if I could just read through it. It talks
30 about the concept of risk, it talks about
31 food-related risk. Then it goes, "Steps in the risk
32 assessment process". And, this is a diagram from
33 their own document. It says, "Risk assessment
34 includes hazard identification". Now, if this was
35 transparent, if they had followed procedure, there
36 would be a section in the document headed up
37 "Hazard Identification", or words to that effect.
38 And then they would go through, and the various
39 issues that have been raised before you over the last
40 weeks, and in weeks to come, they will be there and
41 they will be addressed, and there will be literature
42 from some of the witnesses that you've heard from;
43 it's out there, but it's not used because it's not in
44 current thinking.
45
46 Hazard characterisation, exposure evaluation. Now,
47 these foods, everybody's going to be exposed to them,
48 and risk characterisation. If you go through the
49 ANZFA documents you will not find any of this, and
50 yet this is their procedure for risk analysis. They
51 simply haven't done it. It's a wonderful document
52 but they've never used it.
53
54 They even have a section which defines all of the
55 terms here. They talk about risk assessment, the
56 scientifically-based process consisting of the
57 following steps: Hazard identification, hazard
58 characterisation, exposure assessment, risk
59 characterisation. They haven't done it.
60

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1 So, a question I would like you folk to answer in
2 your deliberations is, why has ANZFA only undertaken
3 safety assessments and not risk assessments?
4

5 Now, this is again from one of ANZFA's documents, "If
6 it is accepted, that all foods should meet such a
7 basic level of safety, then the purpose of a safety
8 assessment of a food produced using gene technology,
9 is to provide this basic level of safety, and to
10 confirm the substance as a food, with all the
11 benefits and risks normally associated with food",
12 and that's from guidelines for the safety assessment
13 of foods to be included in their standard A18. It's
14 off their website.
15

16 So, essentially what they're saying here, the purpose
17 of a safety assessment of food produced using gene
18 technology, is to provide this basic level of safety,
19 and to confirm the substance as a food, with all the
20 benefits and risks normally associated with food. To
21 confirm the substance as a food. The purpose of what
22 they are doing is to confirm i.e. we believe it's
23 safe, we want to confirm that it's safe so that we
24 can deem it to be a normal food, i.e. it's
25 substantially equivalent, therefore we don't have to
26 do any tests on it, because we don't normally do
27 tests on normal foods, and this is a normal food.
28

29 Which brings us to the Precautionary Principle. This
30 is from an Inquiry report into soybeans. Some
31 submitters raised the question about the
32 Precautionary Principle. They proposed that the
33 Precautionary Principle should be adopted as a
34 working approach to the analysis of the risk
35 associated with foods produced using modern
36 technology. ANZFA's interpretation, the
37 Precautionary Principle is a risk management approach
38 and was developed in relation to environmental risks
39 and may be exercised in a situation in which risks
40 are completely unknown, or in instances in which
41 studies are incomplete, or have conflicting or
42 contradictory answers. It has not generally been
43 applied in relation to food safety. And again, that
44 lovely world "generally".
45

46 Now, the EU is pushing for Precautionary Principle.
47 The United States doesn't want a bar of it. The
48 United States is arguing in terms of science-based
49 risk assessment, risk analysis and the United States
50 position argues that uncertainty is built into the
51 risk analysis process. And I agree with that, and I
52 have no problems with what the United States is
53 proposing. Now, unfortunately, the Precautionary
54 Principle has a little bit of a history, where
55 regulators say, we don't want this on the market or
56 whatever, therefore, as a precaution, we'll use the
57 Precautionary Principle to ban it, so we'll ban it
58 just in case. And there are plenty of examples of
59 that.
60

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1 But what is the Precautionary Principle that's being
2 proposed? And on various e-lists I hear all sorts of
3 things. Again, one of the ways I operate is to try
4 and go back to source documents and review them for
5 myself where I can.

6
7 Now, October 1998, and this is the orangey-coloured
8 document, the European Commission put out the
9 Guidelines to the Application of the Precautionary
10 Principle. And, it goes through, and there are
11 six principles, or six guidelines. If you flick to
12 the back page can you see these.

13
14 The Precautionary Principle is a risk management
15 approach that is exercised in a situation of
16 scientific uncertainty, reflecting a need for action
17 in the case of a potentially serious risk, without
18 awaiting the results of scientific research. This
19 approach should be based on the following
20 six guidelines, and then it says, "Implementation of
21 an approach, based on the Precautionary Principle,
22 should start with an objective risk assessment,
23 identifying at each stage the degree of scientific
24 uncertainty".

25
26 Now, I don't think anybody would disagree with that.
27 The Americans wouldn't disagree with that.

28
29 "All of the stakeholders should be involved in the
30 decision to study the various management options that
31 may be envisaged once the results of the risk
32 management assessment are available, and the
33 procedure be as transparent as possible". Now, with
34 ANZFA, for example, I would suggest that all
35 stakeholders are superficially involved. They can
36 make a submission, what recognition that submission
37 is given, my experience is that it's not given very
38 much if it disagrees with ANZFA's position.

39
40 "Measures based on the Precautionary Principle must
41 be proportionate to the risk which is to be limited
42 or eliminated". So, if you put a warning label as
43 opposed to banning, or a dosage restriction or
44 something like that.

45
46 Now, if you read through these six points here, point
47 by point, I can't see how ANZFA would disagree with
48 any of that. I can't see how the Americans would
49 disagree with any of this. I'll come back to that in
50 a minute.

51
52 The next document is from the Commission of the
53 European Communities, February of 2000, and this is
54 in response to, again, America rejecting the
55 Precautionary Principle. So they've come up with -
56 in good bureaucratic fashion, they've gone from
57 11 page up to a 30 paged document, just to clarify
58 things. [Green document].

59
60 Again, when you go through this document, it actually

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1 makes sense. It says, "When you are not sure,
2 proceed with caution", and I think that's - I mean,
3 that's a pretty good philosophy in life for most
4 people.
5

6 If I could just illustrate, I think the difference in
7 the practice of the two - the difference in the view
8 of the Precautionary Principle. The European Union's
9 got a problem with mad cow disease. According to
10 ANZFA's rationale, mad cow is substantially
11 equivalent to cow, because their assessments are done
12 on macro traditional aspects. I mean, it just does
13 not enter their vocab, in terms of any of this, they
14 haven't even bothered to study vitamins, as I can
15 see. So look at the macro elements, if it looks like
16 a cow it must be a cow.
17

18 In the 80s the British Government took a
19 substantially equivalent, hey, we can't see anything
20 so there can't be a problem approach. And when they
21 started studying it, they said, we have no evidence
22 of that, therefore there's no problem.
23

24 So, if you envisage a stick, at one end of the stick
25 you start by saying, hey, there's no evidence of
26 risk, let's go for it, generally regarded as safe
27 let's go for it. The other end of the stick says,
28 hey, look, we've got no evidence about this, we must
29 proceed with great caution, we've got no evidence of
30 safety. Now, in theory, given time, both positions
31 should come to the same point, because more evidence
32 will emerge over time.
33

34 The mad cow is actually a - really, example of seeing
35 bureaucrats who, up till now have rejected the
36 Precautionary Principle, and now they're actually
37 utilising the Precautionary Principle. Mad cow's a
38 really good example of what Precautionary Principle
39 is all about.
40

41 And, this is just January of this year, a couple -
42 three weeks old, it's a press statement from ANZFA.
43 We don't have to go too far to find the - here we've
44 got one document saying, hey, we don't want to go to
45 the Precautionary Principle, that can be used, blah,
46 blah, blah. Here they've extended the ban on the
47 importation of beef products to Europe, from a select
48 group of countries, to a wider group of countries.
49 "It is becoming clearer now that more countries in
50 Europe may be affected by BSE in their cattle. While
51 the number of cattle involved in these countries is
52 still small compared to the UK, Federal Health
53 Minister, Dr Michael Wooldridge, has taken action, in
54 conjunction with other relevant Ministers, to exclude
55 these products from sale in Australia as a
56 precaution". In other words, what they've done is
57 they've acted upon the importation, based on the
58 Precautionary Principle.
59

60 The United Nations just this last week, and I haven't

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1 got a copy to put in front of you, but just this last
2 week the United Nations has said mad cow disease
3 looks as though it is a global problem.
4

5 In the United States the FDA just recently said, "Do
6 not have a problem with mad cow disease". I suggest,
7 if you want to just have a look and see what's there
8 in relation to similar - go and put Mad Deer Disease
9 or Mad Elk Disease, and you'll have screenfuls of
10 information. They have got exactly the same problem
11 in the United States in their deer herds, and in
12 their elk herds; see nothing, doesn't exist.
13

14 So, the question I would like to ask is, what if
15 ANZFA's wrong? Now, I'm not saying they are wrong in
16 their conclusions, but what if they are wrong?
17

18 What if the weight difference between rat groups is
19 significant? In one of the studies, a group of rats
20 lost weight from the GE food. ANZFA rationalised it
21 saying, oh, there was a little bit more of a risk
22 acid, the fatty acid, and they didn't like the food
23 so they didn't eat it.
24

25 What if the extra body fat in the chickens is
26 significant? In one study, one study, the fat
27 content of the chickens was 25% more. They
28 said, "Oh, that's not significant. We're talking
29 about a low-fat diet, and 25% extra fat is not
30 significant".
31

32 What if the extra fat in the milk is significant? In
33 a study with cows there was extra fat in the milk.
34 They said, "Oh, it's because there was increased
35 energy in the food". I would have thought you'd want
36 to go and redo the studies. I would have thought you
37 would have wanted to do studies on human beings and
38 see how it affects human beings. After all, this
39 stuff is going to be put into the food chain.
40

41 What if the lesions in rats' organs are relevant?
42 You will be hearing evidence about that from another
43 witness.
44

45 What if? What if? What if? "What if", in
46 scientific terms, equals "uncertainty", and,
47 according to ANZFA's methodology, as I say before,
48 BSE cow is substantially equivalent to cow. What if
49 they are wrong?
50

51 We talk about near misses, there's already been a
52 case where ANZFA has approved a GE food and then more
53 evidence is found. "ANZFA scientists conducted a
54 rigorous evaluation of the supplementary data". So
55 they've already done a rigorous evaluation. Now,
56 they've done another rigorous evaluation after they
57 were told that there was a bit of DNA there that they
58 didn't know about in their initial studies, they
59 found some extra DNA.
60

National Nutritional Foods Assoc of NZ

1 What if it was a prion? When would we find that
2 out? 15 years, 20 years?
3
4 "The new information demonstrates that the
5 additional DNA was present in the original seeds
6 approved in 1999, and in all other progeny derived
7 from the original line". This DNA was there all
8 along, but the rigorous scientific methodology had
9 failed to pick it up.
10
11 Now, in conclusion, from my personal experience with
12 ANZFA in relation to the Select Committee report, the
13 scientific review; now, neither of those two reports,
14 and in fact the Select Committee refused to accept
15 evidence from me in relation to false, falsified and
16 fabricated data in the scientific literature in
17 relation to Royal Jelly, and that's going to be -
18 there will be another Inquiry in relation to that for
19 sure.
20
21 ANZFA has used false expert evidence in establishing
22 food standards, and that's the case in Royal Jelly.
23 They had an Expert Committee looking at labelling of
24 foods, and particularly looking at allergies in
25 foods, and this expert presented absolutely totally
26 provable false evidence; no scientific evidence to
27 support it. And this was incorporated into the
28 Expert Committee's report, and incorporated into
29 ANZFA's food standards.
30
31 ANZFA's used false, falsified and fabricated,
32 published in peer-review journals, the best of their
33 medical journals, in establishing food standards.
34 That is the case with Royal Jelly. There are two
35 publications that said, this skin prick test was not
36 done; in the third publication there was a result for
37 a skin prick test. That was never done.
38
39 ANZFA's therapeutic sister, TGA, the Therapeutic
40 Goods Administration, has altered its official
41 records, and this is true, I have before and after
42 copies, and this is being worked through with TGA as
43 we speak, it has altered its records in February of
44 98 to make them fit the false evidence. They've
45 changed the age of a patient, they changed clinical
46 details, they've changed - they've added skin prick
47 test results into the records.
48
49 ANZFA has failed to follow its own risk management
50 protocol.
51
52 ANZFA has failed to follow International Best
53 Practice, as required by International Treaty.
54
55 ANZFA has continually refused to accept that it made
56 any wrong decisions, despite the Parliamentary
57 Secretary Committees findings, and the Ministerial
58 Scientific Review.
59
60 Now, those are strong statements. I have made them

National Nutritional Foods Assoc of NZ

1 all before in various foray; needless to say, I don't
2 receive a Christmas card from ANZFA, our President
3 does, I don't. But the issue with Royal Jelly, that
4 will be followed through to conclusion.
5

6 But our concern is that, having gone through that
7 experience, and I suspect, as far as I know, we're
8 the only ones who have challenged ANZFA and taken it
9 as far as we have, and we will win. My concern is,
10 having gone through and read ANZFA's material in
11 relation to genetically engineered food, and their
12 assessment of its safety, they're making exactly the
13 same mistakes. They've a predetermined mindset; this
14 food is safe, how do we prove it's safe? If we can
15 prove that it's substantially equivalent to normal
16 food we don't have to study it, because normal food
17 doesn't get studied.
18

19 So when they say, "This is the most studied food in
20 the history of humanity", you've got to appreciate,
21 that's coming off a very very low base, because most
22 foods have never been studied.
23

24 What I would urge you as a Commission to do, is to
25 contact doctor Stephen Hathaway, he works for MAF if
26 you're not aware of him. He is the Deputy Chairman
27 of the United Nations World Health Organisation Risk
28 Management Committee in relation to risk management
29 in foods, and I would urge you to commission him to
30 undertake an audit of ANZFA's Risk Management
31 Protocol procedures. Not just their methodology, but
32 their actual procedures.
33

34 Our view as an Association is that, we do not have
35 any confidence in ANZFA undertaking objective risk
36 analysis. We've got no evidence that they've done
37 that, and I think, from what I've shown you today,
38 you know, I would hope that I've raised sufficient
39 concerns for you to look at that more closely.
40

41 So I'd like to thank you for your patience, thank
42 you.
43

44
45 DOCUMENTS PRODUCED:

- 46
47 H 163 - "General Decisions of the Codex Alimentarius
48 Commission", (Yellow document).
49 H 164 - "Corn Allergy Abstracts", (Pink document).
50 H 165 - "Complaint relating to the NZ Food Standard 1996,
51 Amendment No.11", (Blue document).
52 H 166 - "Report on Findings of the Bee Product Warning...",
53 (16-17/08/99), (Pink document).
54 H 167 - "Communication from the Commission on the
55 Precautionary Principle, Brussels", (02/02/00),
56 (Green document).
57 H 168 - "Guidelines on the Application of the Precautionary
58 Principle", Brussels, (17/10/98), (Orange document).
59 H 169 - OHP presentation.
60

National Nutritional Foods Assoc XXN by Mr Hodson QC

1
2 CHAIR: Thank you very much Mr Law. We'll take the
3 morning break now.
4
5
6 Adjournment taken from 10.53am to 11.15am
7
8
9 CHAIR: Mr Law, will we be able to get copies of your
10 overheads?
11
12 MR LAW: Can do, yes.
13
14 CHAIR: Cross-examiners, Mr Hodson. Anyone else? [No
15 comments].
16
17
18 ***
19
20 [11.13am]
21 MR HODSON QC: Mr Law, my name is Mr Hodson and I'm
22 retained by the Life Sciences Network. I'd just like
23 you to amplify two or three of the points you've made
24 please. Could I start with the history of the
25 Royal Jelly, which you've outlined for us, and I'd
26 like to summarise it to see if I've understood it.
27
28 Following a death in Australia in 1997, at least
29 after a Coroner's Inquest, there was an amendment
30 which required a very strong label to be placed on
31 Royal Jelly products. Is that right?
32
33 MR LAW: The Coroner's Report was 97, yes.
34
35 MR HODSON QC: And the matter eventually reached the
36 Regulations Review Committee at the House, which
37 recommended, in effect, that the amendment to the -
38 which required the labelling, wasn't properly passed
39 and referred, the issue of what should happen to the
40 working party you've described.
41
42 MR LAW: Uh-huh.
43
44 MR HODSON QC: And that working party reported in 1999,
45 and suggested that Royal Jelly be labelled with a
46 different warning of a less strong nature.
47
48 MR LAW: Yes.
49
50 MR HODSON QC: Now, I'm not quite clear, is it your
51 position that that report is critical of the
52 Ministry?
53
54 MR LAW: That report found against the Ministry on all
55 five Terms of Reference.
56
57 MR HODSON QC: Found against - could you just refer us to
58 - how you take that out of it?
59
60 MR LAW: [Refers to pink document].

National Nutritional Foods Assoc XXN by Mr Hodson QC

1
2 CHAIR: The reference is to H166.
3
4 MR LAW: The Minister asked five questions of the working
5 group, and when the working group went through each
6 of those questions, they found that the Ministry of
7 Health had not - if they had done things differently,
8 they would have reached different conclusions. And
9 essentially, for all five Terms of Reference they
10 found that the Ministry of Health didn't do things
11 the way they should have done. If they had done
12 things properly, they would have reached different
13 conclusions.
14
15 MR HODSON QC: All right, I hope we're talking about the
16 same document. The document I have, part 3 is
17 entitled "Terms of Reference".
18
19 MR LAW: Which one's that?
20
21 MR HODSON QC: The report on the findings of the Bee
22 Product Review Working Group. Is that the document
23 we're talking about?
24
25 MR LAW: You've got a different colour there, but which --
26
27 MR HODSON QC: Part 3, Terms of Reference.
28
29 CHAIR: Can you give us a page?
30
31 DR FLEMING: Page 19.
32
33 MR LAW: Yes. If we go through each of those Terms of
34 Reference, one it says, "To advise the Minister on
35 whether the precautionary approach is appropriate for
36 decisions related to mandatory warning labels for
37 dietary supplements". What they are saying there is,
38 they say, "No". They're saying that the application
39 of the approach is mostly likely to be necessary when
40 there is insufficient scientific information for
41 decision-making. In the case of bee products, the
42 working group considered that they had sufficient
43 information to reach a well-founded risk management
44 decision. So, in other words, they said that we
45 didn't need to apply the precautionary approach
46 because the evidence spoke for itself.
47
48 MR HODSON QC: And the second one?
49
50 MR LAW: "To advise the Minister on whether there are any
51 circumstances where the decision after Coroner - on
52 cause of death, should be further investigated". The
53 Ministry of Health had argued that the Coroner had
54 ruled, and that was final. What they state here is
55 that, "The New Zealand Coroner's Act clearly states
56 that, 'If satisfied that since an inquest was
57 completed, new facts have been discovered that make
58 it desirable to hold another, the Solicitor General
59 may order another to be held'". In other words --
60

National Nutritional Foods Assoc XXN by Mr Hodson QC

- 1 MR HODSON QC: Wasn't it an Australian death and an
2 Australian Coroner?
3
- 4 MR LAW: Indeed, and the New South Wales Coroner's Act is
5 the same. The question here, though, was whether the
6 Coroner's decisions could be questioned? And the
7 fact is, yes, they can be questioned. They were -
8 the working group was actually given copies of the
9 New South Wales Coroner's Act as well. They chose
10 just to quote this one.
11
- 12 MR HODSON QC: I think, Mr Law, that what you are saying
13 is that - very diplomatically, and it does seem to be
14 phrased in diplomatic language, this is a rebuff to
15 the Ministry.
16
- 17 MR LAW: Oh, absolutely. And, in fact, if you go through
18 this report, there are actually 15 points in this
19 report. 14 of those, their findings are against the
20 Ministry, or different to the Ministry's, and one was
21 a draw.
22
- 23 MR HODSON QC: And is the present situation that it's
24 still under review, and the TGA is to report in March
25 of this year?
26
- 27 MR LAW: TGA have said they will be reporting in March of
28 this year. Our history with both ANZFA and TGA is,
29 the timelines that they give you, you can add on
30 months. We're still, for example - yesterday we were
31 still debating with TGA, the minutes after meeting
32 that we held in October to decide that this Inquiry,
33 that's presently taking place, what was actually
34 decided at the meeting.
35
- 36 MR HODSON QC: So, we'll wait and see.
37
- 38 MR LAW: We will be waiting, I would suspect, for a bit
39 longer than we were told we will be.
40
- 41 MR HODSON QC: Paragraph 8 of Form 1 of the NFA's
42 submission, states that, "The tryptophan disaster of
43 the late 1980s early 1990s were a faulty batch of GE
44 produced tryptophan" etc.
45
- 46 MR LAW: Yes.
47
- 48 MR HODSON QC: You are probably aware that a good deal of
49 evidence has been produced about that?
50
- 51 MR LAW: Yes.
52
- 53 MR HODSON QC: And the general preponderance of it has
54 been that the disaster was caused by a faulty process
55 relating to filtration. But we were told yesterday
56 that, privately, a witness had been told by the FDA
57 that the question of whether the GE was - element was
58 implicated, may still be open.
59
- 60 MR LAW: I've heard that as well. If you take the

National Nutritional Foods Assoc XXN by Mr Hodson QC

- 1 position that GE technology is safe, then you
2 wouldn't want to be linking the tryptophan disaster
3 with GE technology.
4
- 5 If it was a simple case of the filtering causing the
6 problem, and what happened was that they effectively
7 halved the amount of activated carbon that was being
8 used to filter out the toxins, if that was the
9 problem, then I would suspect that it would be easily
10 replicated, and nobody's been able to replicate
11 that. They've tried, they've had no carbon
12 filtering, and they haven't been able to get whatever
13 the toxin was.
14
- 15 The best hypothesis I've seen, as to what the cause
16 of the problem was, was for - the technology
17 increased the production of tryptophan to the point
18 where you had two tryptophan molecules actually
19 merging, because there was such large concentrations
20 of tryptophan in the cell. And so, you've got the
21 dimer of the two tryptophans merging.
22
- 23 The point is, people say that there's no evidence of
24 GE causing problems. Here is a case study where GE
25 technology was introduced. There was - there was a
26 major catastrophe; whether we like it or not, GE was
27 involved. Whether GE was the cause or not is still
28 being debated.
29
- 30 I would say that this is a huge question mark of
31 uncertainty, you know, here's an association - at
32 least a very strong association between GE technology
33 and a public health disaster. Now, if that had been
34 in the food chain, not in a capsule, it would have
35 been much much more difficult to link the two, that's
36 the first thing.
37
- 38 The second thing is that, this showed up within
39 weeks, maybe two or three months. If it had been a
40 year or two, or 5 years, or 20 years down the track,
41 and this exact disaster happened, who would be able
42 to link it back?
43
- 44 MR HODSON QC: I think you put it in proportion, Mr Law,
45 and I have no difficulty with your proposition that,
46 it is still a subject which is being debated.
47
- 48 MR LAW: And, essentially, there are two sides to that
49 debate, yes.
50
- 51 MR HODSON QC: Thank you. Could we look please at your
52 recommendations. On pages 5 and 6 of Form 1 you
53 recommend that the Royal Commission itself undertake
54 an independent assessment of GE technology.
55
- 56 MR LAW: Yes.
57
- 58 MR HODSON QC: Would you like to suggest a little more
59 detail to the Commission, how it should undergo that,
60 given its constraints of time, resources, and the

National Nutritional Foods Assoc XXN by Mr Hodson QC

1 Terms of Reference?

2

3 MR LAW: Firstly, I'm not aware of too many Commissions
4 that have not had time extended if required, or extra
5 money allocated if required. So, whilst in theory
6 those are constraints, I suspect in practice they're
7 not.

8

9 The second is, I think that because this is a world
10 first, this Royal Commission on GE, there will be a
11 lot of countries that will be looking towards the
12 results of this Commission as a definitive statement,
13 and it will be a landmark report.

14

15 And, I think as part of New Zealand's membership of
16 humanity, I think that it would be good form for
17 New Zealand to actually make this contribution to the
18 debate.

19

20 My personal view is that Stephen Hathaway, as I
21 mentioned before, and I'll keep singing his praises;
22 now, he was involved in that working group, I was
23 singing his praises before he was ever involved in
24 that group, I had never met the man, but I warmly
25 encouraged his participation in that working group
26 because I had read his methodology, and I think his
27 methodology, his thinking, his mind is very sound,
28 and I don't think you'd get a better person on this
29 planet that would do such - do a job like that.

30

31 MR HODSON QC: Thank you. Your second recommendation is
32 that New Zealand reclaims its sovereignty so that it
33 can implement an appropriate evidence-based
34 regulatory system, rather than the present regime.

35

36 MR LAW: Yes.

37

38 MR HODSON QC: I think, essentially, you mean by that, we
39 start by expelling the Australians?

40

41 MR LAW: What I mean by that is, what I had mentioned in
42 my presentation earlier, was that ANZFA is an
43 Australian entity, it's an Australian legal entity,
44 it has no legal standing in New Zealand, other than
45 the fact that it is recognised as a body to which
46 New Zealand has ceded sovereignty in the
47 establishment of food standards.

48

49 The Ministry of Health makes submissions the same as
50 you or I. It does - however, they have phone links
51 and e-mails and whatever, so there is a bit more
52 communication. In talking to people like Bob Boyd,
53 who's the Manager of Safety here at the Ministry of
54 Health, Dr Bob Boyd, effectively the Ministry of
55 Health makes a submission the same as everybody else.

56

57 My view is, therefore, New Zealand has ceded
58 sovereignty to Australia, which therefore means that
59 we have no control effectively over our food
60 standards.

National Nutritional Foods Assoc XXN by Mr Hodson QC

- 1
2 MR HODSON QC: Have you given any considerations to what
3 the cost of going it alone, and what resources that
4 would be required might amount to?
5
- 6 MR LAW: I know what the cost to our Association has been
7 in trying to put right a wrong, and that's tens of
8 thousands of dollars to our Association alone. One
9 company of our members has probably cost them 2,
10 \$300,000. So, I think, rather than thinking about
11 what's the cost of doing things right, you know,
12 what's the cost of doing things wrong?
13
- 14 MR HODSON QC: Over the page, on page 6 you make the same
15 recommendation in respect of sovereignty, and then
16 you point - want to "ensure that regulations are
17 based on independent, objective, evidence-based risk
18 assessment, not bought expert opinion". Do you mean
19 there, regulations setting out how the process is to
20 work? Or do you mean something in the nature of the
21 amendment which brought in the Royal Jelly warnings?
22
- 23 MR LAW: Royal Jelly is a case study, and I mean here, in
24 general, for food standards in general. Now, what I
25 find fascinating in clinical - medicine, as medicine
26 is moving towards an evidence-based paradigm, is
27 they've introduced these four levels of evidence,
28 which the highest level being the randomised control
29 studies, through to the lowest evidence, which is
30 actually expert opinion. And what I find is the
31 culture of ANZFA is, they actually give more weight
32 to expert opinion than they do to hard scientific
33 evidence. They've actually tipped the scale up the
34 other way. So Level 4, which is the lowest level of
35 evidence; actually given the highest credence.
36
- 37 And, as I mentioned before with the Royal Jelly, and
38 that's just a case example, no scientific evidence
39 was submitted to the Expert Committee, but an expert
40 opinion was stated which is actually false in fact,
41 and that expert opinion was accepted as fact, and the
42 evidence in fact was rejected.
43
- 44 So, when I say an "evidence-based regulatory system",
45 I mean an evidence-based regulatory system, not an
46 opinion-based regulatory system, or a paradigm-based
47 regulatory system, or whatever.
48
- 49 MR HODSON QC: If I could just ask it this way. Is it
50 your position that the present regulations and the
51 prescribed process, which ought to be followed, is
52 satisfactory, but in fact your concern is that ANZFA
53 doesn't follow its own rules?
54
- 55 MR LAW: Absolutely.
56
- 57 MR HODSON QC: That's it, thank you.
58
- 59 MR LAW: And if you look at the methodology, it's
60 brilliant, but they don't use it.

National Nutritional Foods Association QD by Mr Pearson

1
2 MR HODSON QC: In that case, Mr Law, may I say that your
3 concern, that the best possible process be found to
4 allow us to proceed with caution where there's doubt,
5 is one that our side of the table entirely shares
6 with you. Thank you very much.
7
8
9 ***
10
11 [11.30am]
12 MR PEARSON: The first thing I'd like to explore with you,
13 Mr Law, is the products that the members of your
14 Association sell, produce, and in some cases
15 distribute. Would I be correct in understanding that
16 vitamin supplements, and products of that kind, are
17 included amongst the products that they deal with?
18
19 MR LAW: Sure, yes.
20
21 MR PEARSON: Is it correct that a significant proportion
22 of vitamins of that kind are produced by genetically
23 modified bacteria?
24
25 MR LAW: Some are. Some companies choose not to use such
26 product, and that's an issue within our industry.
27 Our position as an Association is, that consumers
28 have the right to know.
29
30 MR PEARSON: Some of your members would in fact be
31 distributing vitamins that have been produced by
32 genetically modified bacteria, wouldn't they?
33
34 MR LAW: No question, yes.
35
36 MR PEARSON: One of the issues of most concern, that you
37 raised, was the tryptophan issue, and you identified
38 the number of people who had died and others being
39 harmed by that. Now, that is an example of a dietary
40 supplement being produced in the very same area as
41 your members are working in, in terms of the type of
42 manufacturing processes, and the type of product,
43 isn't it?
44
45 MR LAW: Yes.
46
47 MR PEARSON: Now, you have discussed in some detail things
48 that you think should apply to food, and ensuring
49 food safety. Would you tell us what the members of
50 your Association have done in relation to the
51 products that they have; that they are producing,
52 that are the products of genetically modified
53 bacteria?
54
55 MR LAW: Okay. You will appreciate that with an
56 Association such as ours, there's a very wide
57 spectrum of membership. So, as I indicated at the
58 beginning of my presentation, any answer that I give,
59 there's no "one size fits all" answer.
60

National Nutritional Foods Association QD by Mr Pearson

1 The approaches that our members would be taking would
2 range from, steady as she goes, nothing, through to
3 doing a total audit, to ensure that there is no
4 connection between their products and GE technology.
5 And, you've heard evidence from Comvita, which is a
6 bee product company, how they've done audits and done
7 that.

8
9 MR PEARSON: I'm really asking about the ones who are
10 involved with GE bacteria in products.

11
12 MR LAW: It's exactly the same. There will be some
13 companies that, as a reflection of humanity they've
14 got no problems with GE technology, and they will
15 market it as such - you know, they'll just market
16 it. And there are others that, that are extremely
17 concerned, and they're spending a lot of money
18 auditing their supplies to make sure there's no
19 connection with their ingredients and GE. So they'll
20 be sourcing from non-GE sources wherever possible.

21
22 MR PEARSON: The bottom line would be that many of your
23 members in fact have products that are the products
24 of genetically modified bacteria on the shelves in
25 health food stores.

26
27 MR LAW: That's true, yes.

28
29 MR PEARSON: And they're not labelled as such, are they?

30
31 MR LAW: It hasn't been an issue until recently, and if
32 you look on the shelves you would find an increasing
33 number of product that is being labelled as "GE-free"
34 or "May Contain GE", or whatever. You will know that
35 issues like that take some time to resource and to
36 make a decision at a board level, a strategic
37 decision and change their position. So, our industry
38 is a reflection of society; it's learning about GE,
39 it's learning how to deal with it, it's learning
40 about the ethical issues relating to it, and
41 companies make judgment calls as to whether they
42 agree with it or not.

43
44 MR PEARSON: Yes, but --

45
46 MR LAW: Our position as an Association is that GE-related
47 products should be labelled as such; no question.

48
49 MR PEARSON: In fact, if someone goes into a health food
50 store and buys Vitamin E, certainly over recent
51 years, and in many cases, at the present time they'd
52 buy a product that was the product of GE, and it
53 wouldn't be identified as such at all, would it?

54
55 MR LAW: If people wanted to source non-GE product they
56 would be able to go in and source non-GE product.

57
58 MR PEARSON: But they would very readily buy a product
59 that was a GE product and not identified as such?

60

National Nutritional Foods Association QD by Mr Pearson

- 1 MR LAW: Consumers, again, reflect the views of society
2 from a laissez faire, who cares, to - through to
3 ensuring that everything that goes through their lips
4 is GE free. So, if you want GE-free product, you are
5 able to get it.
6
- 7 MR PEARSON: Now, would I --
8
- 9 MR LAW: Could I just add one more to that?
10
- 11 MR PEARSON: Yes.
12
- 13 MR LAW: Our industry is very much a market-driven
14 industry. For example, regardless of what's said and
15 maybe what you hear on the road, adverts and things
16 like that, in New Zealand it's actually illegal to
17 make therapeutic claims. It's illegal, for example,
18 for a supplier of folic acid, dietary supplement
19 folic acid, it's illegal in New Zealand to tell
20 mums, "If you take folic acid your child has a 75%
21 decreased risk of getting spina bifida". For a
22 pregnant mum, it's silly to say that about that
23 product. It's illegal to say "folic acid reduces the
24 risk of cancer".
25
- 26 Our industry is market driven because we're not
27 allowed to tell the truth about the product,
28 therefore it's very much a pull - people are choosing
29 to use our dietary supplement. As there is
30 increasing demand for GE-free product, then there's
31 more pressure on manufacturers to change their source
32 of ingredients for their product, and source GE
33 product. And some companies have actually taken a
34 strategic position to go GE-free totally.
35
- 36 MR PEARSON: But in the case of vitamins, in some cases
37 it's quite difficult to produce them without
38 resorting to GE bacteria to do so, isn't it?
39
- 40 MR LAW: I'm not an expert in that area but I know - all I
41 can say is companies, whereby possible - some
42 companies, where possible, are sourcing from non-GE.
43
- 44 If I could just add. If it's not possible to get
45 GE-free vitamins, I'm not saying you can't, but I'm
46 saying if it's not possible, I think what that
47 highlights is, that's a warning I think to society
48 that, once GE takes hold, you've got no choice.
49
- 50 MR PEARSON: It is the members of your Association who
51 have promoted the vitamins being available in that
52 form, isn't it, rather than just as part of a food.
53
- 54 MR LAW: Members of our Association source ingredients
55 from suppliers the same as every other business
56 entity, or business group.
57
- 58 MR PEARSON: What I'm saying is, they do promote the use
59 of vitamins isolated from food, don't they?
60

National Nutritional Foods Association QD by Mr Pearson

1 MR LAW: Sure, yes.
2
3 MR PEARSON: And, so I'm just having a little bit of
4 difficulty with your point, that there should be
5 concern that genetic engineering has given rise to
6 the demand, rather than the demand created by, to
7 some extent by either customer perceptions of its
8 being attracted, or marketing it on the part of --
9
10 MR LAW: What I'm saying is, if the customer wants the
11 product, then that increases demand for the product
12 and our suppliers meet that demand, and they have to
13 source their ingredients from certain places.
14
15 Now, I know with some of the vitamins that there are
16 a limited number of companies in the world that
17 actually manufacture them. So, our manufacturers
18 have to go to wherever they can get the supply of the
19 raw material from. And, if GE is the only ingredient
20 available, I guess they don't have a choice. And,
21 one of the things of our Association, as we've said
22 in here, is that people should have choice and
23 informed choice. And, if people haven't known - our
24 manufacturers haven't known that these vitamins are
25 made from genetically engineered bacteria, our
26 position is that they should have known.
27
28 MR PEARSON: There has, in fact, been a rather long
29 history of consumers using GE product in the dietary
30 supplement area than the normal food area, hasn't
31 there?
32
33 MR LAW: I don't know.
34
35 MR PEARSON: What I'd like to explore with you is how your
36 industry has acted to assess possible risks of using
37 GM product. Now, it may be that the product has been
38 analysed and identified as being a chemical that's
39 identical to a naturally occurring chemical,
40 essentially, on the basis of equivalence, it's just
41 been accepted, or it may be that there have been
42 long-term tests undertaken, I don't know. Could you
43 just explain perhaps the various circumstances that
44 the members of your industry have addressed this
45 issue?
46
47 MR LAW: Okay. With our industry, the dietary supplement
48 industry, you will appreciate that it's a generic
49 industry. If vitamins, say Vitamin C for example, is
50 a generic - it's a nonproprietary product. So our
51 companies can't patent - if they discovered Vitamin C
52 they can't patent it, everybody can use it. So what
53 that means is that it's a very competitive industry,
54 we don't have a monopoly on any particular product.
55 Which means that there's not a surplus of funds for
56 research.
57
58 Now, as far as the vitamins and that are concerned, I
59 think the area that you should be asking that
60 question is the medical companies that market

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1 Vitamin Cs, vitamin whatever, as medicines, because
2 they will have had to have gone through rigorous
3 pre-market testing, so we're told by the Ministry of
4 Health, and by TGA, so they should have all the
5 answers for that.
6
7 Now, if Vitamin C has been approved for use as a
8 medicine, why would we need to do any further tests
9 to use it as a dietary supplement?
10
11 MR PEARSON: Yes, but a lot of vitamins that your members
12 do distribute, haven't been through the process of
13 being approved as medicines, have they?
14
15 MR LAW: All vitamins that I know of are registered as
16 medicines as well, and used for therapeutic purposes.
17
18 MR PEARSON: Now, what testing has been undertaken though,
19 to distinguish between those vitamins that are
20 sourced naturally, and the ones that are a product of
21 GE and safety testing in that area? Now, that hasn't
22 been done in the industry.
23
24 MR LAW: Absolutely hasn't, and I think the tryptophan is
25 an excellent example of that, where it was assumed
26 that using the - if we assume that GE was the cause
27 of the problem, it was changed, there was no testing
28 other than in the experiment of life, and it was
29 discovered to be wanting.
30
31 Now, what I find interesting is that FDA and Ministry
32 of Health, and the Australian authorities, have
33 deemed tryptophan to be a dangerous product. And we,
34 as dietary supplement suppliers, can only supply up
35 to 100 milligrams because it's a dangerous substance
36 now. And it's got to be kept as a dangerous
37 substance, because if they say it wasn't a dangerous
38 substance, then they're actually implying that GE was
39 the problem, and we couldn't have that. And yet, the
40 FDA has approved the use of tryptophan with compound
41 pharmacists in the States. So, if you're a
42 pharmacist, the doctor can write out a prescription
43 for any amount of tryptophan, you can go to a
44 compound pharmacist and get it given to you, and you
45 can use it, and that's safe.
46
47 So, even with the FDA we've got this double standard
48 where, if you consume it, having been prescribed by a
49 doctor, it's safe, but if you take it off the shelf
50 in the health food shop, it's not safe.
51
52 If I take a bottle from a health food shop and
53 swallow it, my body does not know that that's come
54 from a health food shop. If I take it from a
55 prescription - as a prescription medicine, my body
56 can't differentiate that.
57
58 So, the question I would have with the health
59 authorities again is, how come when it's taken as a
60 food it's unsafe, but if it's taken as a medicine

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- 1 it's safe?
2
- 3 MR PEARSON: Well, it's not really an issue that
4 L-tryptophan is safe, and R-tryptophan is a toxin,
5 and that's a question of ensuring purity, that the
6 product is L-tryptophan rather than a R-tryptophan?
7
- 8 MR LAW: Exactly the same product was sold as a dietary
9 supplement, as a medicine, and put into baby food.
10 It's still put into baby food. It's still put into
11 pig food to enhance growth. It's still sold as a
12 medicine, but not allowed to be sold as a
13 D supplement. To me, where is the consistency in the
14 decision-makers' processes.
15
- 16 MR PEARSON: What I'm suggesting to you is, it's really
17 simply a question of manufacturing purity, and
18 whatever regulatory regimes there may be, that purity
19 has to be ensured. Is that not really the issue with
20 tryptophan?
21
- 22 MR LAW: Well, that's what people say, the tryptophan was
23 pure. The tryptophan that caused the problems was
24 substantially equivalent to tryptophan that did not
25 cause the problems. It was 95 point - 96% whatever
26 sure, exactly the same purity of tryptophan, but
27 there was --
28
- 29 MR PEARSON: The Commission's heard evidence about L and
30 R-tryptophan, and one's toxic and the other isn't.
31 Is there something further you could add to that
32 issue?
33
- 34 MR LAW: From my readings of the literature, there was a
35 fraction of something in the tryptophan that caused
36 the problem, and that fraction, whatever it was, did
37 not show up in any tests of purity that they did.
38 And, therefore, by definition, the tryptophan that
39 didn't cause the problem, and the tryptophan that did
40 cause the problem, were substantially equivalent.
41 The purity analysis of them was exactly the same, but
42 whatever caused the problem wasn't part of the
43 analysis, so they didn't know. So, any - you could
44 have analysed it till the cows came home, but if you
45 weren't analysing whatever it was that caused the
46 problem, you would never know.
47
- 48 MR PEARSON: Your suggestions of long-term testing in
49 relation to food, does that not apply equally to the
50 products of your members? Should they, in the case
51 of genetically modified products, should that not be
52 withdrawn until the same testing is undertaken?
53
- 54 MR LAW: I personally would have no problem with that.
55 Some manufacturers would have problems with that for
56 two reasons. One, philosophical, they've got no
57 problems with GE. And another is logistical; trying
58 to source product.
59
- 60 I think the difference between medicines, or new

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1 technologies, new substances, new chemicals, and
2 foods, I think with foods, foods have been used down
3 through history. And, if there's a food that's
4 caused a problem, it's been removed from the food
5 chain, or - well, let's put it this way: If rhubarb
6 was introduced as a novel food today, it would never
7 be approved, because we all know that rhubarb's
8 toxic. But down through history human beings learnt
9 that if you cut the leaves off and eat the stalks,
10 it's yummy. If you eat the leaves, you die. Okay,
11 so that was done way before the days of regulators,
12 society did that. And there was some trial and error
13 and people died to find that, and that happens now,
14 tryptophan, people die to discover that there was a
15 problem.

16
17 So, our food chain has actually evolved through trial
18 and error. Now, at the end of the day that is
19 actually the ultimate clinical study. If it works,
20 great, if it doesn't cause problems, great.

21
22 Now, medicine, on the other hand, you're dealing with
23 - and GE technology, you're dealing with creating
24 new chemical entities, and the whole philosophy of
25 medicine is to create something new so that you can
26 patent it. Even about when they take, for example,
27 digitalis from foxglove, which is used as a heart
28 drug, they take it and they change it so that it's a
29 new entity, and they can make lots of money from it,
30 patent and make money.

31
32 The food chain, up until now, has not been like
33 that. And what you've got now is you've got the same
34 companies that make lots of money from selling
35 proprietary drugs; now trying to develop proprietary
36 food, and the only reason that Monsanto spent
37 8 billion dollars buying up half the seed companies
38 in the world, was to give them control over the
39 distribution of their product.

40
41 So, you've got suddenly a change in the food that's
42 taking place rapidly, not evolving over time. It
43 doesn't sort of start with one community and spread
44 slowly.

45
46 MR PEARSON: If we just go back to this issue of long-term
47 testing that you've advocated. In fact, a major
48 impact, if that was applied immediately, would be on
49 the products that your members are producing,
50 wouldn't it? Because, in fact, probably the most
51 readily available source of genetically modified
52 product is what your members are selling in health
53 food shops and supermarkets.

54
55 MR LAW: Our members sell a wide, wide range of products.
56 We've got companies like Good Health, for example,
57 and I'll just use that as an example, where they have
58 chosen not to sell vitamins and minerals because
59 that's a very competitive market. We've got single
60 product companies, Comvita, which was primarily a bee

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- 1 product company. So, there is no one company that I
2 could say, this is our industry.
3
- 4 MR PEARSON: No, certainly, but in terms of the impact, if
5 we applied the principles and testing that you are
6 advocating, the initial major impact would in fact be
7 on your members, because they do in fact produce the
8 most readily available source of genetically modified
9 product that consumers in New Zealand are
10 purchasing.
11
- 12 MR LAW: I can see your line of questioning, okay, and we
13 acknowledged, and have acknowledged, that our
14 industry reflects humanity, reflects society, and the
15 whole of society has had this genetically engineered
16 industry catch up, you know, it's been going on for a
17 few years and society hasn't been aware of it. Now,
18 some scientists - and that has been, but society as a
19 whole hasn't been. Our industry has been caught by
20 surprise the same as the rest of society, and our
21 industry is working through that.
22
- 23 Now, you say that - if I get you correctly, you say
24 that if genetically engineered product was removed
25 from the market, that our members would have
26 problems. I recall with the Formula One Racing
27 Circuit a few years ago that there were howls of
28 protest at the thought that they were going to ban
29 turbo chargers on their cars, and they'd have to go
30 back to old aspirated cars; and they thought, gosh,
31 we can't go back to that, that's old technology, we
32 want to go forward, etc, etc. Within two seasons the
33 cars with old technology were going faster than the
34 cars with new technology. And now, who gives a toss
35 about turbo chargers?
36
- 37 So, if the line of questioning is that our industry
38 would be in trouble if GE product was removed from
39 the market, if it was removed like that, yes, sure,
40 maybe some companies. If GE technology was put into
41 a museum and we reverted back to old pre turbo
42 charged days, I think life would go on, and I don't
43 think - I don't think our industry would blink an
44 eye.
45
- 46 MR PEARSON: I'd just like to turn to the strong views
47 you've expressed about the medical profession, safety
48 regulators, and others in society. Now, you've made
49 statements that large numbers of people have been
50 killed by the medical profession, and you've harshly
51 criticised ANZFA and other bodies.
52
- 53 MR LAW: Yes.
54
- 55 MR PEARSON: Now, are you putting forward that as a
56 perception of incompetence, malice or corruption?
57 Could you just explain a little why you have
58 expressed the views in that forceful way?
59
- 60 MR LAW: Okay. I was involved - I was a medical

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1 laboratory scientist for 20 years, from 1970 to 1990,
2 and over the last three years I've been involved with
3 the dietary supplement industry as a part-time
4 Executive Director. I've been - after I had been an
5 avid reader of medical literature for 30 years, and
6 this last year I have been a member of the Ministry
7 of Health Working Group to advise the
8 Director-General of Health on policy regarding the
9 administration of medical error, or the regulating in
10 that of medical error, to try and reduce the carnage
11 that takes place within the medical industry.

12
13 I do have strong views and I've got no problems - I
14 learnt - as a second-year medical laboratory
15 scientist, I learnt to express them. But before I
16 expressed those views I learnt to actually go back to
17 primary source documents, and what we call first
18 principles, and actually establish a very strong
19 platform which can jump up. I learnt early on in
20 life that if you jump up and down on a weak platform,
21 that's not a very good idea. If you establish a
22 strong platform to jump up and down on you've got a
23 good and solid platform to do that, and that's safe.

24
25 If I could just, you talked about my severe
26 criticism. If I could just put it into context. I
27 took the Ministry representing the Dietary Supplement
28 Industry, I took the Ministry of Health to task
29 through a Regulation Review Select Committee. The
30 Parliamentary Committee found against the Ministry of
31 Health, moved in the House that the regulations be
32 revoked. A Ministerial Inquiry was established, or
33 working group was established, that found against the
34 Ministry of Health on all five Terms of Reference.

35
36 If my harsh criticism of the officials was that bad,
37 I would ask the question; why did these very same
38 people invite me on to the working group to advise
39 the Ministry on policy regarding reduction of medical
40 error in the hospital system? And I suspect the
41 answer to that would be, that they wanted somebody
42 with change management skills, I think they wanted
43 somebody with an understanding of risk management,
44 they wanted somebody who was prepared to confront
45 when issues needed to be confronted. But I think,
46 firstly, they would probably have stated that they
47 wanted somebody who could express their views without
48 getting personal.

49
50 Now, if I had got personal, or if my views had been
51 reckless, I doubt very much that they would have
52 invited me to that working group. I was the only
53 person outside of the medical industry, health
54 industry, on that group.

55
56 MR PEARSON: You have, for example, suggested that
57 falsified documents have been produced.

58
59 MR LAW: That's true, yes.

60

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1 MR PEARSON: Now, I don't understand you to have produced
2 the falsified documents to the Commission though. Is
3 that correct?
4

5 MR LAW: Sorry?
6

7 MR PEARSON: You haven't produced those falsified
8 documents to the Commission, is that correct, or have
9 I misunderstood that?
10

11 MR LAW: I haven't, no.
12

13 MR PEARSON: You've criticised the Australian role in
14 ANZFA. Now, is that - do you have more confidence in
15 the New Zealand people who would undertake that role
16 if it was performed here? Is that --
17

18 MR LAW: In the written submission prepared back in
19 October I've also expressed a lack of confidence in
20 the Ministry of Health. I would like to go on record
21 as stating that, in my opinion, in my experience, the
22 Ministry of Health, led by Dr Bob Boyd, has taken
23 measures to up-skill their risk management - their
24 skills, expertise. And Bob certainly has, at a
25 personal level, gone to great pains to improve his
26 understanding of risk management and risk analysis,
27 and to bring that as a platform for the way in which
28 the Ministry of Health operates.
29

30 I don't have the same views in relation to ANZFA. I
31 personally have not seen the change take place at
32 ANZFA.
33

34 MR PEARSON: Well, who do you say should take over the
35 role of ANZFA then?
36

37 MR LAW: I think - ANZFA could work. Now, again, when I
38 teach theory, management theory at the
39 Auckland University of Technology, we say, this is
40 theory A and this is theory B, this is theory C. Not
41 one of those theories is it, but they all are part of
42 the whole.
43

44 Now, if ANZFA operated as it says it operates, I
45 wouldn't be here today, because I wouldn't have been
46 - my emotions wouldn't have been aroused, I wouldn't
47 have gone through the Select Committee, I wouldn't
48 believe that I had a story to tell, because I'd be
49 happy with the way in which they work.
50

51 ANZFA has got wonderful policy procedures in paper;
52 in practice they don't follow them. And, that's why
53 I've put as much energy as I have in the last
54 three years. I'd never heard of ANZFA three years
55 ago, I'd never heard of Royal Jelly three years ago.
56 When I got into the science, when I got into the
57 reports of ANZFA, etc, etc, I smelled a rat right
58 from the word go. It's unjust, it's not right.
59

60 When I looked at the GE food, the ANZFA's regulating

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1 of GE food, and what they say they are doing, and
2 what they are doing, it's exactly the same; it's
3 unjust, it's not right. I would go so far as to say
4 - no, I'm not a lawyer, but I would question the
5 legality of what they're doing, both at an
6 international level and at a local level.
7

8 MR PEARSON: Would it be fair to say your criticism of the
9 Royal Jelly issue was, there was far too much caution
10 in respect of that particular product?
11

12 MR LAW: Sure. Our industry voluntarily - estimates are
13 between 75 and 90% of product had voluntary warning
14 labels on. And if you go down to any health food
15 shop you will look and you will see product there,
16 and I would say a good percentage of product has
17 warnings or caution statements, or whatever,
18 voluntarily. Our industry is a caring industry, it's
19 an industry that has grown out of caring for
20 humanity. Traditionally it hasn't been a
21 money-grabbing industry. Now, of late, folk have
22 come in with that philosophy.
23

24 Our concern was they went way overboard; the evidence
25 was wrong, certainly the expert evidence was false,
26 there was scientific misconduct, proven scientific
27 misconduct, the two journals have published notices
28 of duplication, stating that one of the authors
29 rewrote the article without telling the other
30 authors, changed ages, clinical details - this wasn't
31 in the notice of duplication, but it also altered
32 fabricated results. Now, that's happened,
33 highest-end scientific misconduct, and ANZFA was
34 regulating based on all of that. And in my humble
35 opinion that's wrong.
36

37 MR PEARSON: Now, you mentioned ANZFA scientists. Who are
38 the people you are identifying as ANZFA scientists?
39

40 MR LAW: Where do I say that?
41

42 MR PEARSON: In the course of your address this morning, I
43 recall you mentioning ANZFA scientists.
44

45 MR LAW: I think what I was referring to was the Expert
46 Committee where they bring together "experts" to
47 advise ANZFA on certain issues.
48

49 MR PEARSON: Do you know how these people are retained,
50 who pays them?
51

52 MR LAW: They are by invitation as a rule, in this
53 particular one, was ANZFA got those people together.
54 I know in some other cases like, for example, the
55 casein one, there was a consumer group that was
56 invited to nominate somebody. I don't know exactly
57 how they do it. I presume it's different for each
58 case.
59

60 MR PEARSON: Did you have any issue with the selection

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1 process, or --

2

3 MR LAW: That had been done way before my time, so I have,
4 I've got no comment on that. The only comment I
5 would make is that, if certain members of that group
6 were appointed to any other working group now, ANZFA
7 would have a string of e-mails at least, and certain
8 politicians as well.

9

10 MR PEARSON: On page 10 of the submission, Section B(j),
11 you said, "Interestingly, many of the experts who are
12 now reassuring consumers, and even this Commission,
13 are those who were reassuring the public regarding
14 mad cow disease, 'It couldn't happen here', they
15 said". Who are the experts that have addressed this
16 Commission, that you are referring to?

17

18 MR LAW: That's a very general statement, that's a good
19 question, and I think part of any good peer review
20 process is to work through documents and weed out
21 issues that are debatable. I would - at this stage I
22 would like to withdraw the comment about, "Even this
23 Commission", on the basis that I have not read very
24 many of the submissions to this Commission, and I did
25 that deliberately so that my views were my views and
26 not other's views. I would ask that that reference
27 to "this Commission" be withdrawn, on the basis that
28 I do not know.

29

30 As far as the rest of that sentence, that holds. As
31 far as my reading of press, overseas and scientific
32 reports, Government reports, etc, overseas, and even
33 with ANZFA here, in terms of - we said that they've
34 changed their mind in terms of mad cow disease just
35 this last month, these last few weeks.

36

37 MR PEARSON: Now, on page 12 you mention "concern", this
38 is page 12 of your submission, this was the
39 conclusion. You said, "A dual food chain is an
40 unwelcomed advent to modern society". Now, I'd just
41 like to explore with you the question of a dual food
42 chain, because you'd, of course, be aware that there
43 are other dietary concerns that people have, we have
44 people who are vegans, and Jewish people want kosher
45 food, and Islamic people want halal food, people who
46 have extreme reactions to nut protein and various
47 other things. On the face of it, it's not really a
48 question of duality, there are all sorts of issues
49 that people have about food.

50

51 Now, is there something that I'm missing that makes
52 GM food totally different from anything else, so that
53 you do have a duality?

54

55 MR LAW: I think with the likes of kosher foods and
56 specialist foods, those are niche markets. It's easy
57 for a farmer, for example, to grow food to a certain
58 production method, alongside another farmer that's
59 growing food to a different production method.

60

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1 With genetically engineered food it's different in
2 that the pollen doesn't see the fence. So, pollen
3 from one crop moves across a fence into pollen of
4 another crop, which makes it very difficult for the
5 farmer - if a farmer wants to plant GE-free, and the
6 neighbour's planting GE, how does the farmer with the
7 GE-free stop the pollen from migrating over into that
8 person's crop?
9

10 MR PEARSON: Well, that's a contamination issue, but it's
11 just this point of the dual food chain. Yes, what
12 you're saying rather than a dual food chain, there
13 won't be a dual food chain.
14

15 MR LAW: At the moment if you want to have GE-free, you
16 have to ensure from the seed, when you put the seed
17 into the ground, that it's GE-free seed, you have to
18 ensure that pollen doesn't come over the fence, you
19 have to ensure that the truck that comes to pick your
20 crop up is not contaminated with residue seed or
21 whatever, or whatever, from the neighbouring crop or
22 the previous delivery that the truck has made. When
23 it goes to the silos the silos have to be totally
24 separate. When it goes on to ships, the ships have
25 to be totally separate. When it goes into the
26 processing factory it has to be totally separate, it
27 has to be guaranteed etc. So the costs with a dual
28 system at a macro level.
29

30 The kosher, that's a niche market, people produce for
31 that particular market. But when you get into the
32 macro level it's huge costs to the economy and to our
33 suppliers. I mean one company had to build a
34 separate facility because they had two lots of
35 quarantine, because they had to keep them apart to
36 ensure that they didn't sort of contaminate - they
37 didn't get them mixed up.
38

39 So, if people want choice, and there is a
40 considerable portion of our consumers who want
41 GE-free, their manufacturers have to operate in a
42 dual food system, and that's expensive, and I
43 personally don't believe that it would be possible to
44 keep non-GE produce, non-GE for long, because the
45 pollen will just cross pollinate and it will just
46 become an ubiquitous. In my mind scientists will be
47 happy because they can reap royalties from everybody.
48

49 MR PEARSON: You raised this question of tracing these
50 back to the farm. Do you see that as being
51 practicable on an international scale?
52

53 MR LAW: Absolutely, that's going to become the standard
54 question, have good manufacturing standards, you have
55 to know where your product has come from. We talk
56 about good agriculture practice, and good
57 agricultural practice is keeping records of where
58 everything's come from, where it's gone to etc.
59 We're talking now and you've read through Government
60 documents, you may have had this mentioned here, the

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1 seed to the plate, or plough to plate, or fork, farm
2 to fork, all these different terms that are used, and
3 as we introduce global standards people have to be
4 able to account for where these foods have come from,
5 how they've been treated, sprayed etc, etc, so
6 everything about the food chain is becoming
7 documented so that there is an audit trail all the
8 way through.

9
10 So our manufacturers that are GM-free audited,
11 certified, those companies know - like if we've got a
12 product here and it's got 20 ingredients, they know
13 where each of those ingredients have come from, they
14 have to be able to trace that back.

15
16 MR PEARSON: And you will be confident that product coming
17 from countries that are corruptible, and things of
18 that kind?

19
20 MR LAW: Are we talking Australia, or --

21
22 MR PEARSON: I'm not talking Australia, but from time to
23 time in parts of the world there will be issues about
24 reliability, about the documentation?

25
26 MR LAW: That's a brilliant question, that's a good point
27 you brought up, because what - we're talking about a
28 humanity. And from my experience in life is,
29 wherever you have humanity you have corruption, you
30 have red tape, you have the ability for people to get
31 around red tape, and it doesn't matter how much red
32 tape you put in, you can have the most prescribed
33 economy in the world, people will find ways around
34 it.

35
36 So, what you've actually illustrated there is, is the
37 nature of humanity, and if you bring that back to
38 researchers - for example, we see in Australia just
39 recently some researchers; oops, mistake, we've just
40 discovered - we've just invented this horrendous
41 virus, or whatever it was, bacteria, whatever it
42 was. Now, you could argue that they were good guys
43 because they didn't actually use it for bad purposes,
44 but then they go and publish the research. You think
45 well, gosh, you know, that means anybody can do that
46 now.

47
48 DR FLEMING: Can I clarify that? Would it have been
49 better for them not to have published the research?

50
51 MR LAW: I don't know, that's one of those - in a free
52 society with free speech, I think that's one of those
53 really hard questions. I just - do you bury it? Or,
54 do you just put it out there for everybody to make
55 use of?

56
57 Now, in a purely humanistic, you know, the optimistic
58 view of humanity, you put it out there because human
59 beings essentially are good, etc, etc. But, it only
60 takes one bad apple to spoil the box, and I don't

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1 know the answer to that, no. I don't think anybody
2 really does. But I'm just pointing out that this
3 happened, it - they could have gone to Saddam
4 Hussein, or whatever in Iraq, or gone to the CIA, or
5 wherever. They didn't.
6

7 DR FLEMING: I go back to Mr Pearson's question of malice
8 versus incompetence. Like, this is the question,
9 isn't it?
10

11 MR LAW: It is, and with - and that's another good issue in
12 relation to ANZFA, because the Royal Jelly issue -
13 and it's not about Royal Jelly, Royal Jelly is just a
14 case study. The whole thrust of wanting to ban
15 Royal Jelly, there were two issues. One was, there
16 was a group of medical - a core of medical folk who
17 believe that dietary supplements being freely
18 available to human beings is an anathema to anything
19 decent. They're saying that dietary supplements have
20 no benefit, and besides which, they can do harm, they
21 should be regulated, not supplemented, as drugs.
22

23 And, it's my view that there is a small group in
24 Australia, and I could name probably four or five, I
25 won't, but I could, who saw Royal Jelly as an
26 opportunity to discredit complimentary healthcare.
27 Unfortunately some of the evidence that they used was
28 actually a product of scientific misconduct.
29

30 Now, if I can give another example. In New Zealand
31 here, about 13, 14 months ago I made inquiries to a
32 university here in New Zealand, I won't mention it, I
33 could. About some research that was allegedly - had
34 allegedly been done at this university. It's never
35 been published, but this researcher has established a
36 company and has marketed a product, and has distorted
37 the market to the tune of millions of dollars,
38 literally millions of dollars. We asked the
39 university for the research because, when we went
40 away - and members complained, came to me,
41 said, "Could you look at this?" I went away; looked
42 at the research. The research that's out there in
43 the scientific arena didn't match what this person
44 was saying.
45

46 Went to the Vice-Chancellor of this university and
47 asked for research, can't give it to us. We made a
48 formal complaint to this university 14 months ago;
49 that's still not been addressed.
50

51 Now, that's just a simple case, it's my view that the
52 research has never been done, but I don't know that.
53

54 Now, the point that you raised is actually - what you
55 are stating is that, human beings are unpredictable,
56 and that has to be built into a risk analysis, it has
57 to be built into policy etc, etc, and it hasn't been.
58

59 MR PEARSON: Are dietary supplements supplemented in the
60 United States?

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1
2 MR LAW: Yes.
3
4 MR PEARSON: Who regulates them? Is it the FDA?
5
6 MR LAW: The FDA supplements them under the Health
7 Education Act, which was currently called DSARE(?).
8
9 MR PEARSON: Do you know what proportion of the FDA's
10 budget is devoted to dietary supplement regulation?
11
12 MR LAW: I don't. I know that it's increasing and that's
13 because the Congress and Senate are actually
14 compelling it to take an interest in dietary
15 supplements. I do know what proportion of the budget
16 the Australians use for regulating complimentary
17 medicines, which is what we call dietary
18 supplements. The Therapeutic Goods Agency roughly -
19 it's just under 20% of their budget for regulating
20 medicines, dietary supplement or complimentary
21 medicines, nonprescription medicines and medical
22 devices. Just under 20% of it goes to regulating
23 what we call dietary supplements here.
24
25 MR PEARSON: Well, on page 9 of your submission, and it's
26 in your evidence as well, you had a table. Above
27 that you said that 10% of TGA's resources to go
28 towards trying to reduce a 0.0001% risk.
29
30 MR LAW: Since then I thought their 4.5 million dollars,
31 that they get from industry, I thought that that was
32 for cost recovery. I've since found out that it was
33 just over half of cost recovery, that they actually
34 spend somewhat more than that.
35
36 MR PEARSON: The point appears to be that, that low risk
37 is in a regulated environment. Now, you're implying
38 that the risk at 0.0001% is an actual incidence of
39 risk, but in fact it is the risk in a regulated
40 environment, and it may well be that spending that
41 amount of money is very successful.
42
43 MR LAW: There is - in Australia, dietary supplements are
44 regulated as medicines. In other words, they are
45 unsafe until proven safe. In New Zealand they're
46 regulated as foods, in other words, they're generally
47 recognised as safe or "GRAS" is what it's called. In
48 other words, they're regarded as safe until proven
49 unsafe. So, this is a debate taking place in terms
50 of harmonisation of dietary supplement regulations.
51
52 Our argument is, that given New Zealand's hands-off
53 regulatory system, and given Australia's very much
54 hands-on regulatory system, there is actually no
55 difference in risk to consumers, and there's no
56 evidence at all that dietary supplements are more
57 hazardous in New Zealand than they are in Australia.
58
59 Now, given with the Precautionary Principle document
60 there, it talks about the proportionality, about the

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1 risk management measure being proportional to risk.
2 I would venture to suggest that when you've got a
3 risk of 0.0001 consuming even 10% of the budget, when
4 - if you look up to "properly prescribed and used
5 drugs" is 5.1 - I think that's about a 20 something
6 thousandfold difference. There's a 20,000 fold
7 difference in risk, and only a fourfold difference in
8 the effort. That doesn't seem right to me.
9

10 MR PEARSON: Is there any significance in those figures
11 when the dietary supplement which is - in fact, is a
12 major source of GE product?
13

14 MR LAW: We're not talking GE there.
15

16 MR PEARSON: No, but I'm just making the point to you,
17 you've identified it as very low risk, you want less
18 regulation. But paradoxically, looking at the major
19 themes in your evidence, it is indeed the Industry
20 that is producing a significant amount of GE
21 product.
22

23 MR LAW: Okay, there's two things. If you take ANZFA's
24 argument, then the product that we are using is not
25 GE, because it's a highly refined - it's highly
26 refined, and there's no DNA and no --
27

28 MR PEARSON: Just let's be straight. We are talking about
29 a product of genetically modified bacteria, aren't
30 we?
31

32 MR LAW: We're talking about ingredients sourced from
33 bacteria that are genetically engineered in some
34 cases, and I don't know what the proportion is. So,
35 we can't say that all product is from GE bacteria,
36 okay. So, I don't know what the mix is, okay?
37

38 The point that I've made is that tryptophan was
39 marketed as a dietary supplement, it's a blight on
40 our industry, and we can look back and say, look,
41 there's tryptophan, it's a blight on our industry,
42 and there are maybe two other cases where there are
43 blights on our industry. One of those was from GE;
44 one group of people argued that that was GE. Another
45 group of, mainly scientists associated with the
46 genetic engineering industry, or with regulators,
47 would argue that it was a filtering problem.
48

49 My view is that if it was a simple filtering problem,
50 they'd be able to replicate the problem; they haven't
51 been able to do that, which would lend weight towards
52 it being a genetically engineered problem.
53

54 What I am saying in my evidence here, and the
55 Association is saying here, is that there is
56 evidence. Now, whether it's 100% bullet proof, I
57 don't know, nobody knows, perhaps never will know,
58 but there is evidence that a product associated with
59 GE has already caused death and severe harm to
60 thousands of people, death to as many as 100; but

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1 most estimates around the 50, and serious harm to
2 perhaps 5,000, give or take.

3
4 If dietary supplements were causing a problem, if the
5 GE and dietary supplements was causing a problem, I
6 suspect that would be picked up, because people know
7 if they are consuming dietary supplements.

8
9 Now, for example with tryptophan, the fact that
10 tryptophan was causing the problem was picked up
11 because of the people who were using dietary
12 supplements. It wasn't picked up because of the
13 babies that were eating the food that had tryptophan
14 added, it wasn't picked up from the pigs that were
15 eating the food with the tryptophan added, it was
16 picked up because of the dietary supplement. So, in
17 that sense you could argue that the dietary
18 supplement industry was the most sensitive indicator
19 to a problem in GE technology.

20
21 Now, if that's the case, that's a hypothesis; that
22 the dietary supplement is a sensitive indicator,
23 because people know if they're taking supplements or
24 not, you don't know what's in your food necessarily.
25 Then effort should be put into monitoring consumers
26 of dietary supplements to see if any issues arise.

27
28 Now, if ANZFA proposed that as part of their
29 monitoring programme, I would say "here, here;
30 absolutely go for it, that's wise counsel, that's -
31 you're actually monitoring, looking for ongoing
32 risk". But if you read through ANZFA's documents,
33 ANZFA says it is not their role to monitor the
34 long-term use of these products, all their role is,
35 to produce the standard and get it on to the market.
36 It's not to monitor, that's somebody else's job.

37
38 MR PEARSON: Thank you Mr Law.

39
40
41 ***

42
43 [12.27pm]

44 DR FLEMING: I'd like to clarify something, and that is
45 concerning your need for long-term testing and human
46 clinical trials on GE food. And just going back to
47 the discussion previously, concerning who the
48 scientists are and who would fund them, who would be
49 the scientists that you would get to do the long-term
50 food testing and monitoring presumably?

51
52 MR LAW: I think there are two issues here. One is, who
53 benefits from GE food? And I think it would be fair
54 to say that just about all of the benefit, the
55 benefits of GE technology to date have been the
56 companies that own the patents. We hear about the
57 Golden Rice, but when you actually look at the amount
58 of Vitamin A that's in the Golden Rice, it's not
59 going to make a difference. You'd have to eat kilos
60 of the stuff; people don't do that. So that's more

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1 an experimental thing.
2
3 So, to date, all of the benefits, essentially, have
4 been to the proprietary owners of the technology.
5
6 So, I would argue on that basis that there is good
7 grounds for, if they are introducing a proprietary
8 industry tax into our food chain, up till now the
9 food has been --
10
11 DR FLEMING: Sorry, I am unclear. You say the company
12 should be funding the long-term research?
13
14 MR LAW: I'm saying there's good argument that the company
15 should. On the other hand, we're talking about a
16 public good, we're talking about public health.
17 Isn't that what people pay taxes for, to monitor the
18 well-being of humanity and to implement public policy
19 that provides a safe environment for people to be
20 nurtured and to live and to get on with life?
21
22 So, I think you could argue both ways, I believe,
23 that the companies do one or the other. But, if I
24 can just add to this.
25
26 We've seen evidence that they - for toxicology tests,
27 they did one test on one group of mice.
28
29 DR FLEMING: Who did?
30
31 MR LAW: I presume Monsanto, in the application - whoever
32 it was, the people who were researching the safety of
33 the GE food. If we are going to jump from doing one
34 test on one mouse - one group of mice, and say, yep,
35 that's safe, and then put it out into the food chain
36 for the whole of humanity, it just seems to me that
37 that's a huge leap.
38
39 DR FLEMING: I understand your point there. I'm really
40 more concerned with exactly which scientists are
41 going to do this long-term testing, and also
42 monitoring, who would you trust? Who would be
43 sufficiently independent and who would fund them?
44 That's really what I'm interested in.
45
46 MR LAW: Well, I mean those are all good questions, I hope
47 you come up with the answers.
48
49 DR FLEMING: Thank you.
50
51 MR LAW: Because again, you're talking about humanity, who
52 do you trust? Okay. I mean we're in the middle of a
53 gene rush here, we had gold rushes in the past, we
54 had goat rushes in the 80s, this is a gene rush.
55 Where you get money, heaps of money, ethics just -
56 for some people just goes out the window. So, who do
57 you trust? I mean, that's on a case-by-case
58 individual-person basis. But the simple fact is,
59 that no studies have been done.
60

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1 Now, if I had seen research in here, in the ANZFA
2 report, that they said, okay, now, having established
3 in this one test on mice, and then we actually did a
4 test on mice over, say, three months, as all their
5 procedures say it should be, for three months, and
6 then they said they fed it to a herd of pigs and
7 there was no problems there, and then they introduced
8 it to this town or this locality, whatever, if I'd
9 seen that progression, I'd have a lot more assurance
10 in the process.

11
12 But what I see is, it's a bit like a blind person
13 looking at an elephant, and they've handled the
14 bottom, you know, the tubby stubby bits, the trunk,
15 and you know an elephant's like a tree, or somebody
16 takes their tail, and it's like a snake or whatever,
17 you know. I mean how do you get from one test on a
18 group of mice to, it's safe for humanity? How do you
19 get there? There's no progression.

20
21 DR FLEMING: I understand what you're trying to say.

22
23 MR LAW: No, what I'm saying with ANZFA, it's missing, you
24 can't take a toenail and draw a picture of what the
25 animal looks like.

26
27 BISHOP RANDERSON: Just one question on ANZFA. You
28 mentioned, as we know, that there's only one
29 New Zealander on it, and of course you could assess
30 ANZFA in terms of Trans-Tasman politics, and it's
31 nine against one, and we don't have much chance.
32 But, I think the essence of your submission, in terms
33 of what ought to be, is that the substance should
34 actually match the theory, that what they say they're
35 going to do, they should in actual fact deliver on?

36
37 MR LAW: Absolutely.

38
39 BISHOP RANDERSON: It seems to me that that's not so much
40 a question of Australia versus New Zealand as, you
41 know, truth versus falsity.

42
43 MR LAW: Absolutely.

44
45 BISHOP RANDERSON: And I wonder whether you have enough
46 confidence that there may be, you know, some of the
47 Australian representatives who might be willing to
48 pitch in on the subject of truth? I'm mindful, for
49 example, that when the debate over labelling came up
50 last year, that what Canberra wanted, it was not
51 supported by many of the states in Australia, so that
52 there was division within Australia. And I just
53 wonder whether you feel that there's hope, therefore,
54 that in pursuing better delivery on the promise that
55 there may be Australian colleagues, that might side
56 with New Zealand ones in achieving that result?

57
58 MR LAW: Absolutely. And, I mean, it wouldn't worry me if
59 these decisions were made in Timbuktu. You know, if
60 the process was prescribed or was stated, and

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1 followed and transparent, and the proportional, and
2 all these other things, who cares where it's done? I
3 mean it's part of the global paradigm, you know, it
4 doesn't matter where it's done.

5
6 But I think, as far as the ANZFA issue is concerned,
7 and this is raised in the presentation I did before,
8 was accountability. Now if things go wrong, when
9 things start to go wrong, there has to be
10 accountability. And from that point of view, one
11 vote out of ten; New Zealand has no authority to hold
12 ANZFA accountable. And when you have your officials
13 stating that nobody is going to exercise the
14 stand-out clause because they're not going to set
15 precedent, you may as well throw away the stand-out
16 clause; it doesn't exist. In fact, it's there in
17 law, but in practice we do something different.

18
19 BISHOP RANDERSON: So the tail needs to be prepared to wag
20 the dog on occasions.

21
22 DR FLEMING: Or the elephant.

23
24 MR LAW: I think the politicians need to wake up and smell
25 the roses. We're not dealing here with some sort of
26 inert or - we're dealing with food, we're dealing
27 with the essence of humanity, you know. I mean, we
28 are what we eat. So, it's not something, and ANZFA
29 in their report state this, that from the risk
30 management point of view there's lots of issues,
31 there's the science and then there's the ethics, and
32 all these other things. And ANZFA in their
33 statements say that they're not interested in all
34 these other things, that's for the politicians. Now
35 they're not even getting the science right.

36
37 BISHOP RANDERSON: No, I take your basic point. Thank
38 you.

39
40 CHAIR: Do you see food as in a special category? Because
41 it seems to me, looking back through the history of
42 mankind, that mankind tends not to test things for
43 15 or 20 years, but if there's a good - what seems to
44 be a good idea that comes along, they want to use
45 it.

46
47 MR LAW: Human beings are funny creatures. Can I just -
48 I've been working on - I've worked in an academic
49 career as well, as in industry, and I've actually -
50 I'm working towards, or progressing the start of my
51 PhD, which you will appreciate, that to get to the
52 start line there's a lot of work involved. I've been
53 trying to sort of synergise my industry involvement
54 and my academic involvement.

55
56 So, could I just put up the model I'm working
57 towards, for a regular industry model for dietary
58 supplements, and it interfaces with foods and
59 medicines? It won't take long.

60

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1 CHAIR: I'm not sure that that's what I was really asking
2 you, Mr Law. I was asking you whether you regard
3 food as being in a special category. And, it's quite
4 an open question; it might well be.
5

6 MR LAW: I think this will answer your question, because I
7 think that at the moment we've got two categories,
8 we've got food and we've got medicine, and with our
9 industry, our industry is coming in the middle where
10 some of our products are sort of to top up the
11 nutrients, the vitamins, the minerals and that, and
12 others, for example, some of the phytoestrogens are
13 sort of on the therapeutic medical end.
14

15 And I think we've got this divide, and I think we
16 need to get away from that and we need to look at
17 things from a risk point of view.
18

19 [Mr Law approaches whiteboard]
20

21 If we look at a high risk up here, and a low risk
22 down here, and whether it's food, whether it's
23 dietary supplement, whether it's medicines, we need
24 to look at something when it first comes on the
25 market, and we need to say, okay, what do we know
26 about this product? You know, do we know a lot about
27 it?
28

29 Now, ANZFA's view is, yes, we know a lot about corn,
30 and this is substantially equivalent, so we put it
31 into the low-risk category. Other people would say,
32 look, we don't know much about GE technology, so
33 let's put it up here.
34

35 Now, after 15 years or so I suspect that these will
36 move down here, and from here, so you actually end
37 up, in 15 years or so, somewhere between here and
38 here, based on experience.
39

40 Okay, and we do that in medicines. A new medicine
41 comes out, it's high-risk, doctor only, maybe
42 specialist only. After 10, 15 years can you go and
43 buy it off the counter, because, hey, it's not a
44 problem. Foods come on the market, or a drug comes
45 on the market, a dietary supplement. This drug thing
46 that was in the paper just the last day or two, it's
47 come in through a loophole, it's a diet S. Suddenly
48 there's a problem, oops, it gets pushed up here
49 because the problem surfaces quick. What happens if
50 it doesn't surface for 159 years, folic acids in the
51 food chain. You noticed it in 15 years time. The
52 model I'm working towards is, you have a continuum of
53 risk rather than black and white.
54

55 And that based on experience, based on evidence as it
56 comes to light, you move things one way or the
57 other.
58

59 Ten years ago mad cow was down here; now it's up
60 here. Basically 10, 15 years experience.

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1
2 So, you have to have monitoring processes in place to
3 be able to pick this up.

4
5 Now, with my involvement with the Medical Error
6 Working Group, one of the huge concerns I have for
7 what's being proposed is the fact that there's no
8 monitoring put in place to see if, not only - there
9 will be monitoring for compliance, and ANZFA state in
10 one of their documents that their role in monitoring
11 is to make sure that there is compliance, but there's
12 no role to make sure that the policies - the food
13 standards that are put in place, are actually
14 effective; doing the job. And there's a big
15 difference between complying; being effective,
16 because you can make a wrong decision and comply with
17 it, it's not effective. You have to have a
18 monitoring process so that you keep revisiting. In
19 any good risk management protocol it will have a
20 monitoring, a continual renewal, revisit etc.

21
22 There's none of that in the system. They make a
23 decision, that's it, until there's a disaster. Did I
24 answer the question?

25
26 CHAIR: You've given me some information, Mr Law, thank
27 you.

28
29 Well, thank you very much for coming along today and
30 for the interesting debate that we've been able to
31 have with you.

32
33 We'll adjourn until 9.30 tomorrow.

34
35
36
37 Hearing adjourned at 12.41pm

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42 ***

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