

STATES OF JERSEY

Corporate Services Sub-Panel Proposed Importation of Bovine Semen

FRIDAY, 20th JUNE 2008

Panel:

Deputy P.J.D. Ryan of St. Helier (Chairman)
Deputy J.A. Martin of St. Helier
Connétable P.F.M. Hanning of St. Saviour

Witnesses:

Senator F.H. Walker (The Chief Minister)
Connétable G.W. Fisher of St. Lawrence
Mr. C. Newton

Deputy P.J.D. Ryan of St. Helier (Chairman):

Good afternoon, Chief Minister. Welcome to Corporate Services. Constable Fisher as well. We are here to talk about the proposed importation of bovine semen. We have seen a lot of people so far. I think I will kick off straightaway with a general question to you. What would be the implications, as you see them, of not lifting the ban on the importation of bovine semen? It is a general one and I am aware that you could probably speak for half an hour just on that but we have got a lot of other questions so if we can try and keep our answers as concise as possible.

Senator F.H. Walker (The Chief Minister):

It was my intention, Chairman, to speak for an hour on this one to prevent you asking me any other questions. **[Laughter]** The implications of not importing bovine semen are, in my view, very serious indeed for the industry. There has been an dairy industry recovery plan now agreed for quite some time and if we were not to import bovine semen it could not be implemented in full. In addition to that, you are aware that there are plans to move to a new dairy on the Howard Davis Farm site with very considerable benefits to the cost base of the dairy and the efficiency of the dairy and hence to the price of milk on the shelves of Jersey shops. The information I have is that the loss of confidence throughout the industry, throughout not only the industry, to be fair, but throughout members of the industry responsible for something like 75 per cent of the dairy throughput currently, the loss of confidence by those producers would be such that it is possible the new dairy scheme would not go ahead and that means we would be saddled with some pretty dubious and very worrying scenarios. We would be

forced to continue with the current dairy, which I think by common consent is now well past its sell-by date. It is very inefficient, it is very high cost and we would be forced to continue with that, and the information I have is that we would be likely to lose a number of significant producers from the industry which in turn has knock-on consequences which I will also come to. We are aware that the number of dairy farmers has been in decline for some time and my view of the information I have received would suggest that that would be exacerbated if bovine semen was not able to be imported. To give you an idea of the dairy issue, the costs currently faced by the Milk Marketing Board in terms of interest only on the outstanding debt that they have, when you boil it all the way down to the end product it equates to something like 4 pence a litre on the price of milk on the shelves of Jersey shops. Now, that is an awful lot of money to many people in terms of the price they have to pay for milk and there is little chance, if any chance, of reducing that without an efficient dairy. I have heard all the arguments, I think, for and against and I was particularly interested in your meeting at the Town Hall on Tuesday, which I thought was excellent. I think I have heard all the arguments and I am sad that there is such a division in the industry but nevertheless that is where we are at. I am sad that that division should exist to the extent it does but I am personally convinced, having heard all the arguments, having studied reams of documentation, that the importation of bovine semen is in the best interests of the dairy industry.

Deputy P.J.D. Ryan:

I suppose that automatically begs the next question, when you say that it is in the overall interests of the dairy industry, because much of the opposition to the importation of bovine semen, certainly when it comes to the economic arguments, centres around the effect that it would have on the importation of liquid milk. Would you like to speak to that, please?

Senator F.H. Walker:

Yes, absolutely. The whole legal aspect of the importation of liquid milk remains unclear. It has never been fully challenged. We are aware that there was a case, of course, that went to the European Court a number of years ago but it was never finally heard and the issue was dropped. So until the issue is heard and judged in a court of law no one can say for sure what the current position is or what the position would be if the amendment to the law was to go ahead. There is a strong body of opinion - and if you have not already met with the Attorney General I am sure you will be - that suggests that the current law is open to challenge in itself and were it to be tried in court it is quite possible that a challenge could be successful to the current law. I think it is a fair point to say that the amendment would remove one of the arguments in favour of maintaining the ban on importation of liquid milk, one of the legal arguments. It does not remove all the arguments at all and if there were to be a challenge then the States would vigorously oppose it. In my view the much bigger threat, much greater possibility of a threat of milk importation, is not legal, it is economic. If the scenario I referred to in answer to the first question was to come about and we ended up in a situation - and I cannot say this is a guaranteed result but nevertheless it is a very high risk - where the new dairy did not proceed, we ended up in a situation

where our herds remained less efficient and less effective as they could, then we would, I am sure, continue the decline in the number of producers which would cause in itself problems and we could easily get to the stage where the industry is no longer capable of producing the needs of the Island. I think you are well aware that the buffer, so-called, between the needs of the Island and what is being produced has diminished massively in recent times. There is no great reserve any longer to fall back so we could end up in a situation where the needs of the Island could not be met, making importation inevitable for the public of Jersey. I think one of the other strong arguments is that unless the difference between the price of milk in Jersey and the price of milk in the U.K. (United Kingdom) particularly, but elsewhere in Europe as well, is narrowed then the threat of a challenge must be higher than otherwise it would be. So the importation of bovine semen would, I think, guarantee the new dairy with the lowering of costs that that would offer, would in time provide us with more efficient and more effective herds, raise the return on investment that our farmers would get and help to encourage them to remain in the industry. The net result would be greater efficiency all round and the very real prospect of a reduced price in the shops, so narrowing that gap. Therefore the threat of a challenge would diminish and our ability to fight off a challenge on economic grounds would be considerably enhanced.

Deputy P.J.D. Ryan:

Thank you for that. Let us now turn to the legal side of things. I am not sure if, Chris, you are going to answer the legal side?

Senator F.H. Walker:

I invited Chris to jump in when he felt like it.

Mr. C. Newton:

I will come in if necessary, yes.

Deputy P.J.D. Ryan:

We cannot lift the restriction on the importation of semen so that only Jersey semen can be imported, we are told. Could you (1) confirm that and (2) tell us why? I think this is what the people of Jersey really want to know.

Senator F.H. Walker:

Yes. Let me say that we would not be putting forward a general importation amendment if we possibly could restrict to pure Jersey semen, but we have been advised consistently that under the protocol 3 arrangements that Jersey has with the E.U. (European Union) it is just not legally acceptable. That is the essence of the argument that any attempt by us to restrict the importation to pure Jersey semen would be in breach of E.U. law and the Attorney General could not, on that basis, support it.

Deputy P.J.D. Ryan:

I hear what you say but I still have to ask why and how. I know that it is difficult because we might have to get into the technicality but for people to fully understand and appreciate that position that you are taking, Chief Minister, unfortunately I think it might be necessary to be as clear as possible as to why. I think that the public of Jersey would say, “Well, we hear but why? Why are we being dictated to in this manner?”

Mr. C. Newton:

If I can chip in. I am sure you can and will get proper legal advice from the Law Officers.

Deputy P.J.D. Ryan:

We can get legal advice but I am asking you, as the politicians, because you are the ones that own that legal advice and it is therefore incumbent upon you to explain as well as you can what that legal advice is telling you.

Mr. C. Newton:

Yes, that is what I am going to do. The fundamentals of this relate back to the Treaty of Rome accession of member states to the European Union and the special arrangements that were negotiated for Jersey under that arrangement. Essentially under protocol 3 the general presumption in the E.U. that there is free trade in agricultural produce is extended to Jersey. So the presumption is that trade in agricultural produce will be allowed across borders. So in that sense both the controls we have on liquid milk and the control we have on semen fly in the face of the general presumption of E.U. law.

Deputy P.J.D. Ryan:

Can I stop you there because the average Jersey person does not think that we are in the E.U. and that we need to take any notice of that. That is the average Jersey person’s view and I think it would be helpful if you could explain why in this probably unique situation to do with agricultural products and protocol 3 we actually are. Could you confirm that and explain why that is.

Senator F.H. Walker:

Let us start at the beginning with the constitutional issue. Jersey is not a member of the E.U. but Jersey has an agreement with the E.U. which was signed at the time the then European Community came into being under protocol 3 and that has remained unchanged since the early days of the European Union as we now know it. We are bound by, unless we wish to renegotiate, the overall terms of protocol 3. You have heard me speak in a similar vein over the issue of stamps in passports. If we wish to make any changes to protocol 3 we will inevitably end up having to renegotiate and have points pressed upon us by other parties, the E.U. of course, which would be inevitably unfavourable to Jersey. It is our very strongly held view that any attempt to renegotiate any part of protocol 3 would be harmful to Jersey’s

interests, so we are not minded to go there. The specific point you make about agricultural issues under protocol 3 is that because of protocol 3 we are obliged to implement what is called free trade in agricultural goods in exactly the same way as other member states. Trade in bovine semen inevitably is trade in an agricultural good, essentially.

Deputy P.J.D. Ryan:

I do not mean to break your flow but do we get an upside? Is there an upside to that?

Senator F.H. Walker:

Yes.

Deputy P.J.D. Ryan:

What are the upsides? So that the people of Jersey understand, what are the upsides to that?

Mr. C. Newton:

The upside is if Jersey wishes to trade in the opposite direction, as in to export, then we will need to be a compliant member of the E.U. club, if I can put it that way.

Deputy P.J.D. Ryan:

So we can send potatoes to the E.U.?

Mr. C. Newton:

Indeed. We can send potatoes, we can send bovine semen. When we get to a point where we have improved our stock to the point that other people want our bovine semen, we will be able to export it to the rest of Europe.

Deputy P.J.D. Ryan:

So that is the upside?

Mr. C. Newton:

That is the upside.

Senator F.H. Walker:

We could also, of course, export animals.

Deputy P.J.D. Ryan:

That is the upside?

Senator F.H. Walker:

Yes.

Deputy P.J.D. Ryan:

I think that needs to be clearly understood.

Senator F.H. Walker:

You are aware of the problems with exporting animals?

Deputy P.J.D. Ryan:

Yes, we have looked into all of that and we have other evidence on that. I am concerned to try to shine a light into this corner to help the understanding of the people of Jersey.

Senator F.H. Walker:

The trouble is it is a purely legal/constitutional argument. I repeat my earlier remark that we would not be proposing the amendment in these terms if it was possible to restrict it to pure Jersey semen.

Deputy P.J.D. Ryan:

What you are saying, correct me if I am wrong, is if we are going to import semen, at the moment we have said no but there has been a court case, we have used various reasons to say in the past why we are not importing semen. Do you think that is a bit iffy?

Mr. C. Newton:

Can I just interrupt? I think you are confusing 2 issues. The court case in the past has been about the importation of milk.

Deputy P.J.D. Ryan:

It has. I beg your pardon, you are right. Sorry, you carry on.

Senator F.H. Walker:

I was just going to add, they were explained in some detail by the R.J.A.&H.S. (Royal Jersey Agricultural & Horticultural Society) team at your meeting on Tuesday evening and I know you have met with them separately. You have, I am sure, been given a great deal of information and detailed information on the controls that the R.J.A.&H.S. would exert and indeed the Jersey Milk Marketing Board would exert as well. So in the event of the amendment being passed there is no means of banning the importation of other semen but the controls that would be introduced, and indeed are already written into the rule book of the R.J.A.&H.S., would be such that the purity of the breed would be protected.

Deputy P.J.D. Ryan:

I am still trying to find our way through the legal minefield.

Mr. C. Newton:

If I can keep going on that?

Deputy P.J.D. Ryan:

Yes.

Mr. C. Newton:

We got to the point of establishing the general principle that there is free trade. We have got some laws in Jersey that pre-dates those agreements, the Treaty of Rome accession, and the 1952 law on artificial insemination is one of them. So that law says point blank we will not import bovine semen, cattle semen.

Deputy P.J.D. Ryan:

That is what we have been relying on.

Mr. C. Newton:

Okay. There is some debate about whether that in itself is subject to challenge because of the fact that it does basically fly in the face of that general principle. There are arguments that we could use that are similar to the ones we have used in respect of milk that may make it possible to resist such a challenge but, again, that has never been tested. That may be one outcome of the States not approving the regulation that has been put forward is that somebody may mount that challenge who wants to do that. We are changing the law by implementing an E.C. (European Community) directive, E.C. Directive 88/407, which is a directive which deals with the health controls around semen movements between member states. If we are going to implement it we have to implement it in full.

Deputy P.J.D. Ryan:

So we are not proposing to start a new law?

Mr. C. Newton:

Not a new law, no.

Deputy P.J.D. Ryan:

What are we proposing to do?

Mr. C. Newton:

If you just bear with me because it is slightly complicated. We are using the general rules that Jersey has adopted that allow us to extend European legislation to Jersey.

Deputy P.J.D. Ryan:

So this is a piece of existing European legislation?

Mr. C. Newton:

Yes. So we are using the Jersey law that allows the extension of E.U. law to Jersey to bring forward a piece of E.U. legislation, which is Directive 88/407, which deals with the arrangements for the transfer of semen between countries and requires us to behave in the same way as another member state, both in terms of the quality control and tests we put around the export of semen from Jersey in the same way as they put tests around theirs. All we can do is bring in that law as it stands. That law does not include, for instance, the ability to differentiate between pure Jersey semen and some other sort of semen. It is not a part of the law, therefore we cannot bring it in as a vehicle into Jersey law.

Deputy P.J.D. Ryan:

I see. So correct me if I am wrong. By using that particular existing European piece of legislation, what advantage would that give us? Why would we not start our own piece of law? Why would we not start a new law? Would it be because it would fly in the face of protocol 3?

Mr. C. Newton:

We need to put in place the processes that that regulation stipulates in terms of the health controls around the movement of semen. We need to do that anyway. So while we could generate our own piece of primary law, in practice it would be virtually identical to the E.U. law that we are able to bring in. So it is a shortcut, if you like, to getting to this place we want to be which is the trade in semen with very strict controls around the health aspects of that.

Senator F.H. Walker:

While Chris has been talking to you I have been thinking can I give you a straightforward, easy answer which would be readily understood and the answer, sadly, is no, I cannot. This is strictly a legal issue and it is impossible, other than I think in the terms we have already explained to you, to put it in any simpler form.

Mr. C. Newton:

One more sentence. Where we end up with is if, for instance, we did want to have a piece of legislation that only allowed in pure Jersey semen we would therefore have to do it through primary legislation because there is no E.C. directive that covers that.

Deputy P.J.D. Ryan:

That you can usefully piggyback, yes.

Mr. C. Newton:

We would have to create that. The first obstacle is the Attorney General would be obliged to inform the States that that piece of legislation was probably not lawful. We would then have to go to the Privy Council who would determine that that piece of legislation was not lawful and we would end up with no result. So that is the fundamental problem why we cannot just import pure Jersey semen.

Senator F.H. Walker:

I repeat again my earlier comment that we would most certainly have followed that route and limited the importation to pure Jersey semen had it been legally possible. I am not talking just about advice received from the Attorney General, I am talking about legal advice received from other sources as well, and it is totally consistent that if we want to make this change in the law, if we want to import bull semen, then we are going to have to follow this route. No alternative has been suggested to us.

Deputy P.J.D. Ryan:

Just bear with us for a second while we confer. Apologies. We have heard about the legal reasons, as far as we can. We appreciate that it is complex, to some degree. Are there precedents for a trade barrier within the E.U. being justified on the basis of conservation of an animal or plant species, protection of the health or genetic integrity of a livestock breed? Would that be a justification?

Senator F.H. Walker:

There may be and in fact there is some precedent for that in the keeping of bees some time ago on a Danish island which I will not seek to pronounce but this is not what we are looking at here. We are not looking at the conservation of an animal, we are looking at the development of a breed, and no one is questioning that this is an issue that would see the end of the Jersey cow or on the endangered list or whatever it may be. So we are not looking at the conservation of the Jersey cow, we are looking at the enhancement of the herd in Jersey. We do not believe it is an issue that falls under that definition.

Deputy J.A. Martin of St. Helier:

I suppose a simple question would be moving semen around Europe from country to country, they have all got this basic ... it is an open semen, it can be any semen?

Mr. C. Newton:

Yes, and it is all covered by the same health regime.

Deputy J.A. Martin:

There is no precedent that there is another country where you can just bring in X or not?

Senator F.H. Walker:

If we could have exploited any loophole we would have done.

Deputy J.A. Martin:

Yes, you probably would have heard of it by now.

Mr. C. Newton:

In direct response to your question, Chairman, you mentioned health grounds. There are many instances where countries impose, in effect, a trade barrier on health grounds. They do not do it as a trade barrier, they do it to protect their animals. For instance, in Jersey we do have an absolute ban on the import of live cattle and we do that in full knowledge and full support of the E.U. and we do it because Jersey is free of many diseases that are endemic both in the U.K. and the rest of Europe. So it would be entirely foolish to bring in live cattle and risk bringing those diseases with them. That is an allowable restriction on trade because of the health grounds behind it.

Senator F.H. Walker:

You heard in any case the States vet talking on health issues the other night and it is obviously an issue which she is far more qualified to talk on than are we.

Deputy P.J.D. Ryan:

Let us just examine that importation of live cattle. Is anything that we are doing here going to overturn that importation of live cattle?

Mr. C. Newton:

No, not at all.

Deputy P.J.D. Ryan:

When does an embryo become a live animal?

Mr. C. Newton:

The normal definition is when something has the capacity to exist on its own, under its own steam, so to speak. So an embryo would not be classed as a live animal in that sense. So the controls that we apply to the Diseases of Animals (Jersey) Law on live cattle would not equally apply to embryos.

Deputy P.J.D. Ryan:

Are we going to be allowing embryos?

Senator F.H. Walker:

We have to.

Deputy P.J.D. Ryan:

We have to?

Mr. C. Newton:

Yes. The change in the law that we are making will remove a section out of the current 1952 law which currently bans the importation of semen, ova and embryos. So the net result of that change is that semen, ova and embryos will be allowed into the Island.

Deputy P.J.D. Ryan:

Do you think there is any danger of rogue embryos?

Senator F.H. Walker:

Again, none of us are qualified to give you expert advice on that because that is very much a specialist area but the very strong advice - and again you heard it from the States vet on Tuesday evening - is no, that the checks and controls that would be in place on semen would equally apply to embryos and there would not be a risk - she was very clear on that - of rogue embryos.

Mr. C. Newton:

Just to add to that. While not being a veterinary expert, the procedures for embryo extraction and embryo implanting are hugely difficult and hugely expensive. It is not the sort of thing you are going to make a mistake on. If you are going to go down that road you will be very sure of what you are taking and what you are getting and where you are putting it and it will be fully controlled by a disease regime.

Deputy P.J.D. Ryan:

Could a non-Jersey embryo be brought in and implanted in a Jersey cow?

Mr. C. Newton:

Yes.

Senator F.H. Walker:

Technically, yes, but the resulting output, that cow could never be on the Jersey register and its milk could never be received or processed at the dairy.

Deputy P.J.D. Ryan:

At the dairy?

Senator F.H. Walker:

Yes. It would not be considered a part of the Jersey breed, because it would not be pure Jersey, obviously, and therefore its milk would not be accepted by the dairy.

Deputy P.J.D. Ryan:

That is the existing dairy? If a farmer were to start his own dairy processing ...

Senator F.H. Walker:

Theoretically, yes, but you have to question whether that would make any sense at all from an economic perspective.

Deputy P.J.D. Ryan:

So from an economic perspective you would question whether that would ever be a viable ...

Mr. C. Newton:

Absolutely.

Senator F.H. Walker:

Can I also make what I think is a relevant point that all these issues of the general importation of bovine semen and because of the legal requirements and the importation of embryos were known to members of the Society before they voted in favour of the importation.

Deputy J.A. Martin:

There are the 2 controls, as you say. They would not be accepted to the herd and they would not be accepted to the dairy. What about subsidy from government? Would they be outside subsidy? They would completely be outside subsidy? So if somebody wanted to start, say, a Holstein, a black and white farm, would be completely out there on their own?

Senator F.H. Walker:

That could change by the will of the government, by the States, in the future obviously but certainly the idea of subsidies --

Deputy J.A. Martin:

It is a question that has been put to us. I just wanted to check. So they would be completely outside the subsidy.

Mr. C. Newton:

The subsidy is payable only to registered animals. So they have to be registered in the herd.

Deputy J.A. Martin:

That answers a question that has just been put to us. Okay, thanks.

Deputy P.J.D. Ryan:

Not completely illegal or not completely enforceable but because of the absence of subsidies ... would there be something else on that? Would the States vet have any control on animal welfare grounds on that?

Senator F.H. Walker:

Yes, absolutely. The controls on animal welfare would apply but we have to accept, as we always have, that there is no theoretical reason why the scenario you have outlined, Chairman, might not happen but from an economic perspective, both in terms of the marketability of the milk product and in terms of the keeping of the animals, it does not look a very attractive proposition.

Deputy P.J.D. Ryan:

Let us move on to a submission from Dr. Stephan Funk who is the senior conservation biologist at Durrell. His submission suggests collecting more relevant data before making a final decision and he also goes further to suggest that Durrell would be willing to assist in that process. Has this been considered and do you think it is right anyway?

Senator F.H. Walker:

No. The answer to both questions is no. We are very grateful for an offer from Dr. Funk and from Durrell but this proposal has been debated on and off, as you are aware, for something like 30 years. Senator Shenton took a proposal 30-odd years ago to the States. The R.J.A.&H.S., and indeed the States, have sought and received a colossal amount of expert opinion. We had the *Promar Report*, the *Bichard Report* and others, both of which endorsed the importation of semen. The importation of semen is not about avoiding inbreeding, which I think is one of the points that Dr. Funk made. The proposition is not about that at all. With the greatest of respect to him and to Durrell, we really do not think they can add anything more of great relevance to the very expert information that has already been received.

Deputy P.J.D. Ryan:

Let us just move on to the Convention on Biological Diversity which was extended to Jersey, and I think voluntarily by Jersey. I am right in saying that?

Mr. C. Newton:

That is right, yes.

Deputy P.J.D. Ryan:

This is the one that protects farm animal genetic resources. Is there anything in the proposal, in P.43, that goes against this obligation? If you are happy that it does not, could you give your reasons why you do not think it does?

Senator F.H. Walker:

Basically the law you refer to, or the convention you refer to, is about preserving species, preserving specimens. That is not what we are talking about here. It is not dissimilar to the previous question and answer. We are talking here about the development of an existing healthy species and not seeking to preserve it as, if you like, a zoo specimen. That is not part of the proposal and nor is it, in our view, strictly relevant to the proposal at all. The straightforward answer to your question is no.

Mr. C. Newton:

If I can add to that from a scientific perspective. The Convention on Biological Diversity talks about the preservation of unique species. So it might be a group of sparrows on the Galapagos that only exist in that one place. When we are talking about the Jersey cow, the pedigree Jersey cow, we have got a worldwide family of Jersey cows with a population in excess of 1 million registered animals of which Jersey Island's population is a part. It is not even a particularly unique genetic resource in the sense that we have taken a genetic resource and given it to the rest of the world. Just let me give you an example. In the recent dispersal of herds from Jersey when the amount of animals in the Island was cut down, entire herds of Island Jersey cows have gone to the U.K. I would put it to you by way of a simple explanation, those cows that now live in Devon are no less related to the cows in Jersey than they were when they lived on the Island of Jersey and when they have progeny, when they produce offspring, those offspring will be no less related to the cows on Jersey than if they had stayed on Jersey. The grandchildren of those cows when they are produced will still be no less related to the cows on the Island of Jersey than they would have been had they stayed on Jersey, and so on and so forth. That is the nature of this worldwide population.

Deputy P.J.D. Ryan:

Would it not depend upon who they were bred with?

Mr. C. Newton:

No, they will not be bred. They are bred with themselves. That is the whole point of the pedigree registration system. All the animals have emanated from the Jersey stock and that is the line traceability of them.

Connétable P.F.M. Hanning of St. Saviour:

With the greatest respect, unless that herd has gone over with 127 bulls, as they had in Jersey last year, they are not going to be able to breed without inbreeding and therefore you have not got a similar situation to what you have in Jersey. In Jersey you have a situation where there has been no incoming genetics from elsewhere. Now, for that herd to do the same it is going to have to stay within its own resources which is not the same as saying that ... well, it will very quickly degenerate. The point I am saying is that the argument we have been given is that the Island herd, for want of a better description, is unique in that nothing has come into it for 200 years and there is nowhere else that has Jerseys in that position. If you take a Jersey herd and put it in England, yes, it is still a unique Jersey herd, exactly the same at that stage, but unless you maintain it only within its own herd you will automatically be bringing in outside genetics.

Mr. C. Newton:

I think we are at odds over the issue of what you mean by outside. What I am saying is the outside genetics, as you call them, will also have been the progeny of Jersey Island cows. They just happen to have gone to England at a different time or they have gone to Australia or New Zealand at a different time. It is still Jersey Island genetics that happen to be, if I can put it simply, living in a different part of the world.

The Connétable of St. Saviour:

Yes, but the difference is that the genetics involved have been cattle that have been open to different illnesses, conditions, viruses, call it whatever you like, things that have not been present in Jersey. There is a very obvious case, when Catherine Vint took her herd to England, it immediately became liable to and went down to illnesses and conditions that were there. Some of it was down to conditions of cleanliness but they were liable. So the point I am saying is it could be and is argued that what you are talking about are not 2 parallel cases.

Mr. C. Newton:

I think the description I have given is a strong one and I will stand behind it. I do think that that is the nature of the worldwide Jersey population. In any case, if you were concerned about the, if you like, genetic museum that Jersey could represent then that museum is already replicated in cryogenic storage. We have in storage all the bulls probably that have existed for a good many decades. So if you wanted to exploit that so-called unique genetic resource you still can because it is all there preserved in the cryogenic museum.

Deputy P.J.D. Ryan:

We are getting evidence from a number of places, including the R.J.A.&H.S., which goes down the route of saying it is a worthwhile thing to do. In fact, put it stronger than that, it is an essential thing to

do, that before anything happens on the Island that all of that store of genetics we should take steps to safeguard it by sending it to the U.S.A. (United States of America), to Australia, to the United Kingdom to Defra (Department for Environment, Food and Rural Affairs) so that all of those genetics are safeguarded in case. What is your view on that?

Mr. C. Newton:

I think it is a very sensible approach. We are talking about a gene bank and a sensible thing to do with any bank is not put all your resources in one place in case something happens to it. So putting it in different places makes sense and bear in mind that what we might be looking for down the road are historic traits that you want to bring forward. So it might not be a milk production trait; it might be just something to do with the confirmation of the cow and the more genetic material you have got to search for that in the better.

Deputy P.J.D. Ryan:

Do you think advances in genome research will have a bearing on this?

Mr. C. Newton:

Very much so, yes. If you are able to literally select individual genes then, yes.

Deputy P.J.D. Ryan:

Do you think public money should be used to ensure that kind of museum is put in place around the world? I am not sure what the resources imply but do you feel that that would be a ...

Senator F.H. Walker:

It is certainly not a question that I have been asked so far but I think it is a question that if it was asked we would have to give serious consideration to. Can I just make a point also about local bull semen. It is, I understand, a fact that the amount of bull semen, of the highest quality bull semen, available in Jersey which is stored obviously is now declining rapidly and we are not so very far away from the days when that will no longer be available and if we do not have the importation producers will inevitably have to turn to lower quality semen if they wish to continue to develop their herds.

Deputy P.J.D. Ryan:

I will ask for your reaction to this. Some people are saying it might be lower quality semen in terms of milk production but it might be higher quality semen in certain other areas.

Senator F.H. Walker:

Yes. I think the point is there that no one is looking purely for milk production. There are a whole range of criteria which establish what is high quality semen and what is not and how it will improve the

breed. Again, I think the R.J.A.&H.S. representatives have made that very clear. They are looking for increased efficiency in milk production, of course they are, they have to, but they are assessing other criteria in terms of how they categorise the quality of semen as well.

Deputy P.J.D. Ryan:

We have probably got one last question and it is to do with the role or possible role or not possible role of Defra in this. Just to be sure of our constitutional relationship with Defra, what is the constitutional relationship with Defra? Let me ask you that question.

Senator F.H. Walker:

They are a U.K. government department and therefore we have no direct constitutional relationship with them but of course they would be looking to ensure that we in Jersey were not in breach of E.U. regulations. As you know, the U.K. Government does have overall responsibility for our international position and it is there where Defra, if they had any concerns or had any involvement, would express it. Defra have no direct ability to determine the future of the Jersey cow in Jersey, nor of the laws that we should pass except where they may be in breach of established E.U. ... but they can advise.

Deputy P.J.D. Ryan:

If we had advice from Defra, how would you treat it?

Senator F.H. Walker:

Very seriously, of course we would. We would look at it in the context of all the other advice that has been received and give it the appropriate weighting. I would encourage you, Chairman, and your panel ... we have had extensive quoting of an official from Defra which I think goes back to 2004-2005. My understanding is that that particular official who is still in post, the quotes that are being attributed to her are only a very small part of the overall statement she made. I understand that she is willing to attend your panel and I very much hope that, time permitting, you will very much invite her to do so.

Deputy P.J.D. Ryan:

Certainly we are intending to do that. Your last little comment there was interesting: "Time permitting"?

Senator F.H. Walker:

Well, we are all aware that you and I and others lost the debate in the States on deferring the States debate to the 22nd and we now have an issue where time is running out, I think, at least that is the advice you have consistently given me which I accept the difficulties you and your panel are faced with.

Deputy P.J.D. Ryan:

What do you say to those then that feel it could be left over to the other side of the summer recess?

Senator F.H. Walker:

I think they are not taking sufficient account of the economic issues of the industry. We know that the profits to sales return, E.B.I.T.D.A. (earnings before interest, tax, depreciation and amortisation), as it is euphemistically known, that the industry is currently experiencing is dismal. We know that there is a considerable amount of investment by producers that is awaiting the decision and has been waiting and waiting. No criticism of your panel but it has been waiting for many months for a decision. We discussed earlier the threat to the new dairy and the longer the new dairy is delayed the longer we go on with the situation where the industry, and the marketing board in particular, has to put up with the very high costs of running the current dairy and consumers have to put up with unnecessarily high costs as well. I personally think this matter has been debated, aired and researched now so thoroughly I cannot understand why it is felt necessary for a delay except that I absolutely, as you know, support the work you are doing and I have said all along that I would hope you would be able to produce your work in the time. The biggest point of all, let me fall back on it, is that I effectively made a promise in consultation with yourself on behalf of your panel to the industry that I would withdraw the debate date of the original proposition on the absolute guarantee that it would be debated before the summer break. I feel that it would be a breach of promise to the industry were we not to meet that obligation.

Deputy P.J.D. Ryan:

Nevertheless I am sure you would join with me in expressing your understanding of the turning over of 220 years of tradition is a very serious proposal. I am sure you would join me.

Senator F.H. Walker:

I absolutely endorse that, of course it is. That is why it has been so thoroughly researched, why so many expert reports have been commissioned. I know the accusation has been made, I absolutely discount it or reject it, that this is being rushed. Well, I find that quite difficult. I utterly reject it. If anything has not been rushed it is this. It has been the subject of debate for 30 years. Obviously it has been a much more intense debate over the last, what, 3 years, I suppose, but it certainly has not been rushed. There cannot be any sustainable suggestion to that effect. Chairman, if we are going to wrap up, which I sense you are going to, could I just make a couple of concluding comments? I will be very brief. First of all, a correction of a comment made by Deputy Duhamel at the Town Hall which I think needs correction. Deputy Duhamel said that if the amendment went through milk importation would be inevitable. We have no idea where he got that information from. It is certainly not the advice that we have received. I just make that point: we do not know where he got it from but it is certainly not consistent with the legal advice that we have received and indeed the other advice that we have received. I have already made a comment about the very low returns that the industry are currently making; even the top producers' return is significantly lower than is necessary to sustain a long-term, viable industry in Jersey and that is

what everybody wants. Everybody wants a sustainable, long-term dairy industry in Jersey based on pure Jersey cows in green fields. That is essentially what we are all looking to do. Everybody wants to protect the breed and there is thankfully no divergence of view between the R.J.A.&H.S. and spokespeople at the Town Hall and Darren Keno and his team, no divergence of view on that at all. Everybody has that as their ultimate goal. The problem that the industry currently has is that the number of cows is falling, the numbers of producers is falling, the returns are falling, the gap between the productivity of Jersey cows in Jersey and Jersey cows in the U.K. is growing. The price differential, therefore, continues to be a problem and would become an even greater problem and if we cannot protect the economic viability of the breed in Jersey - and now I do not believe we can say that we can do that without the importation of semen - then milk importation would indeed, on economic grounds, on supply grounds, become inevitable. I have studied this in some detail over an extended period and I am firmly of the view if we want to protect the Jersey cow in Jersey we have to have a viable industry. If we want to have a viable industry then I am afraid that I believe the importation of bovine semen is essential.

Deputy P.J.D. Ryan:

I think you are saying the converse of Deputy Duhamel which is that if you do not import semen the importation of liquid milk is inevitable.

Senator F.H. Walker:

I would not go so far as to say it is inevitable; I think it is almost certain. Just to be clear, Deputy Duhamel was arguing on some sort of legal aspect. Where he got it from, as I say, I do not know. I am arguing on an economic aspect. I cannot say it is inevitable.

Deputy P.J.D. Ryan:

Okay, because I would put it to you that both opinions are just that, only opinions. There does not appear to be any evidence that you can put either way.

Deputy J.A. Martin:

Deputy Duhamel was going further and we have asked Deputy Duhamel if he has got any evidence to produce it to us.

Senator F.H. Walker:

Good.

Deputy J.A. Martin:

So far have we had any forthcoming? No.

Senator F.H. Walker:

I am very pleased.

Deputy J.A. Martin:

I can do no more than ask him. He says he has the evidence. We have asked him a couple of times now to produce any sort of evidence, legal, wherever it is from, and he has not. I do have a last question for you, Chief Minister. People who have sat at that table, for and against, have said there is another way to go and that is to give money. It has been said on the against side: "You should be able to give the money and basically the public will back that to keep the Jersey cow." Secondly, the people who have said if the vote goes no, no importation of semen, the States better have a damn good package back-up, and it will be financial, it would have to be financial. My question is do we have a fallback financial plan? I would imagine it would have to come in very quickly to regain confidence in the industry.

Senator F.H. Walker:

Have we established a detailed plan of the financial support that would need to be given? No. But the financial support would be considerable. It is also a totally false way of supporting an industry. What industry wants to exist on State handouts when there is an alternative way of it being viable in its own right? Of course, the consequences of that are one or both of higher States expenditure, therefore pressure on rates of taxation, or higher cost to the end consumer. I saw one of the people who gave evidence to you last week mentioned the price to the consumer of £1.25.

Deputy J.A. Martin:

They would swallow that easily, they said. He said they would swallow that easily. Perhaps that is the wrong word, "swallow". **[Laughter]**

Senator F.H. Walker:

I would find it absolutely unacceptable to enter into a strategy which resulted in the consumer having to pay anything like that amount for their milk, given current prices elsewhere. If we want to guarantee milk importation that is the best way of doing it.

Mr. C. Newton:

Could I add with my professional adviser's hat on as well that the payment of States aid you have to be very careful with because it could easily be construed as an anti-competitive trade subsidy and that is open to investigation by the E.U. If it looked like we are putting payments in so the net effect would be potentially to reduce the local price of milk so importation was not competitive, that would be seen as an anti-competitive trade subsidy and open to investigation.

Senator F.H. Walker:

Chairman, could I just go back a little and take slight issue with you on the comment you made just now when you said comparing Deputy Duhamel's opinion with mine was that it is an opinion without evidence to support either. I would argue that I have put forward, and that others have put forward, very substantial evidence to support my argument that economics, if we are not careful, would lead to milk importation. Whereas I understand from Deputy Martin that Deputy Duhamel has not supplied, so far at least, any evidence to support his view.

Deputy P.J.D. Ryan:

Thank you. Point taken. Could you just allow us to confer for one minute?

Senator F.H. Walker:

Yes, absolutely.

Deputy P.J.D. Ryan:

Thank you, Chief Minister. That, I think, concludes this afternoon's hearing. Thank you very much for your time. Ladies and gentlemen, very nice to see so many members of the public attending, and States Members, very nice to see you. I will say that is all. We have still got a lot more work to do. We will do our utmost to do it in a timely manner and report. We have still got more people to see and submissions to come in. I would say generally to members of the public, although time is getting on, if there is any new evidence do not be afraid to send it to us. That is all I can say at this point. Thank you very much and good afternoon. Thank you.