

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Program 1.1

Question No. 60

Senator Brandis asked the following question at the hearing on 18 October 2011:

Senator BRANDIS: I am not going to press that any further. I am reading from what Senator Carr said to the Senate on 22 September in response to my question. Is it the truth that it is the view of the Office of International Law that the [Migration Act 1958] amendments are 'consistent with Australia's international obligation'?

Senator Ludwig: The government says it is.

Senator BRANDIS: I am asking whether that is the view of the Office of International Law.

Senator Ludwig: You are entitled to ask the question and I am entitled to answer.

Senator BRANDIS: This one is a little different. You see, I asked some questions of Senator Carr about the view of the Office of International Law and he came back into the Senate chamber and asserted that that was the view of the Office of International Law.

Senator Ludwig: I do not recall that.

Senator BRANDIS: Either he was telling the truth or he was not.

Senator Ludwig: Do you have the transcript there?

Mr Wilkins: Can we take that on notice, Senator?

Senator Ludwig: I would not mind looking at the transcript just to confirm that. It is not that I doubt that you are saying it accurately; I just think on that basis that it would—

Senator BRANDIS: I refer you to page 57 of the Hansard of 22 September.

Senator Ludwig: On that basis I am happy to take it on notice.

Senator BRANDIS: Since you are taking it on notice, let me formulate the question very clearly. Is it the view of the Office of International Law that the government's amendments to the Migration Act are consistent with Australia's international obligations under both the UN refugee convention and the UN convention against torture?

Mr Wilkins: I will take that on notice.

The answer to the honourable senator's question is as follows:

It is the long standing practice of governments not to comment on or disclose the nature of legal advice provided.