

(x) details of accreditation of auditors and certification bodies by independent bodies, such as JAS-ANZ [Joint Accreditation System of Australia and New Zealand],

(xi) all details of inspection protocols at the border, including training, qualifications/competency and registration of inspectors, and

(xii) mitigation measures for outbreaks of fireblight in export orchards; and

(b) calls on the Government to extend to 4 August 2011 the period of public consultation by Biosecurity Australia on the draft report, to allow consideration of the documents referred to above.

Question agreed to.

## COMMITTEES

### Finance and Public Administration References Committee

#### Reference

**Senator FIERRAVANTI-WELLS** (New South Wales) (12:10): I move:

That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 18 August 2011:

The Government's administration of the Pharmaceutical Benefits Scheme (PBS), with particular reference to:

(a) the deferral of listing medicines on the PBS that have been recommended by the Pharmaceutical Benefits Advisory Committee;

(b) any consequences for patients of such deferrals;

(c) any consequences for the pharmaceutical sector of such deferrals;

(d) any impacts on the future availability of medicines in the Australian market due to such deferrals;

(e) the criteria and advice used to determine medicines to be deferred;

(f) the financial impact on the Commonwealth Budget of deferring the listing of medicines;

(g) the consultation process prior to a deferral;

(h) compliance with the intent of the Memorandum of Understanding signed with Medicines Australia in May 2010; and

(i) any other related matter.

Question agreed to.

### Legal and Constitutional Affairs References Committee

#### Reference

**Senator XENOPHON** (South Australia) (12:10): Mr President, I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for two minutes.

**Senator XENOPHON:** This relates to matters that have a long history in what many regard as the Heiner affair. I note Senator Joyce's previous advocacy in

relation to this. I have had discussions with my colleague Senator Brown from the Australian Greens in relation to this. My understanding is that they may not be of the mind to support this motion. In the event that this motion is not passed, I will continue to advocate for the passage of this or a similar motion. In good faith, I will have discussions with my colleagues in the Australian Greens in subsequent days and weeks.

I point out that I have a note from Hetty Johnston, the founder and Executive Director of Bravehearts. She said that she believes it is incumbent upon every member of parliament to support this motion, leaving aside the matters around the shredding of the documents, rightly or wrongly; that the matter raises serious issues around the rape and abuse of girls and boys at the John Oxley detention centre; that the same issues that legitimately prompted the original establishment of the Heiner inquiry remain unresolved; and that every member of parliament, especially those who espouse a particular interest in the issue of child protection, owes answers to the children who were so dreadfully treated.

Senator Fielding is patron of White Balloon Day, which is run by Bravehearts. I note Senator Fielding's previous advocacy on this and other issues. I hope this motion is passed at this stage. There are important and unresolved issues of law reform in relation to the protection of documents, cabinet-in-confidence, the protection of whistleblowers and related matters. The victim at the centre of this horrific matter still has not had her say. There have been recent developments in relation to this which I believe ought to be the subject of an appropriate Senate inquiry.

I move:

That the following matters be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 23 November 2011:

(a) the expected role of Government in preventing the destruction and concealment of documents which should be retained in the public interest, including documents in relation to potential legal proceedings;

(b) the circumstances under which documents should be categorised as Cabinet-in-confidence;

(c) the need for a national requirement for documents relating to child abuse, particularly child sexual abuse, to be held for a minimum of 30 years;

(d) the appropriateness of victims of child abuse, particularly child sexual abuse, being required to sign confidentiality agreements as part of any compensation arrangements;

(e) the role state and federal archivists can play in setting standards for the preservation of documents relating to the above matters;

(f) in relation to events relating to allegations of abuse in the John Oxley Youth Detention Centre in Queensland from 1988;

(i) the shredding of documents by the then-Queensland Government in 1990 relating to the alleged rape of a resident at the John Oxley Youth Detention Centre in 1988, and other abuses and the implications these actions had on the ability of victims and others to pursue their legal rights with reference to section 129 of the Queensland Criminal Code, and the need for a national approach to the protection of such documents,

(ii) previous Queensland Government initiated inquiries and Federal Parliamentary inquiries into the matters referred to at the John Oxley Youth Detention Centre,

(iii) whether evidence provided to previous Senate committee inquiries about the shredding of the documents referred to was misleading, or whether evidence was withheld from previous Senate committee inquiries, and whether there is any new evidence relating to these matters, and

(iv) the prevalence of abuse, and how reports of abuse were managed by management at the John Oxley Youth Detention Centre, and whether there should be national standards generally in relation to the reporting and management of such matters; and

(g) any other related matter.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (12:13): Mr President, I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for two minutes.

**Senator BOB BROWN:** I appreciate what Senator Xenophon said, and it is correct. I note, however, that there have been extensive inquiries into this matter by the Senate on at least three previous occasions. We all know the impost. We have just arranged for another extensive inquiry into mental health services in this country. I certainly will enter into talks with Senator Xenophon about this matter, but I am highly averse to an inquiry simply traversing ground that has already been serially traversed by previous Senate inquiries. I have enormous sympathy for people involved in the matters that Senator Xenophon refers to, and we take that into account, but we also have to be very prudent about the way in which inquiries repeatedly come before the Senate for exhaustive, and sometimes more than that, assessment.

**Senator FIELDING** (Victoria—Leader and Whip of the Family First Party) (12:14): I seek leave to make a short statement, Mr President.

**The PRESIDENT:** Leave is granted for two minutes.

**Senator FIELDING:** This is a very personal issue for everyone in this chamber to look at. As someone who has been sexually abused—and I have declared that before, though that is not the issue here—I regard this as a serious matter that has been put forward again, and I have definitely been weighing it up very heavily. Since the notice of motion came through yesterday—I think it was four o'clock when I got it—I have had to

weigh up what has been put forward and what has been looked into before by the Senate. I have to weigh up whether the accusations should continue or whether another inquiry is warranted. And it is not easy to weigh both those issues up. I have had people approach me from both sides on this issue. I suppose that I hate people accusing me of things, but I also do not like sexual abuse and that is why I am torn between these two viewpoints.

I know that there have been a number of occasions when the Senate has considered this issue before, and I do understand that matters proposed for this inquiry have already been investigated by Senate committees on several occasions to the extent of their jurisdiction and there has been found to be nothing to go on with. I am concerned that maybe we are making accusations again and the issue is: what do you do with that? I am concerned about both issues and I am concerned about how many more times we will look into this.

Some people have said to me that we should just continue to do it until we get another answer. I do not think that is right either. I have always taken my vote seriously in this place and I am torn between the two. What has not helped was getting the notice of motion and the detail of it late yesterday. I am being frank: there has been a lot of time—months—for this to be brought forward and for the two issues to be weighed up. I do not think that I can support it.

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (12:17): Mr President, I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for two minutes.

**Senator LUDWIG:** Thank you, Mr President. It seems incumbent upon the government also to state its position. The government does not support the motion. It is not that we do not have—in my personal view and in the government's view—enormous sympathy for child abuse victims. This is not about examining that issue per se; this seems to be about going back and examining a matter that has a number of times been seized by the Senate, with reports and information provided. We seem to have gone through this a range of times. On that basis, I am not sure of the utility of another inquiry in relation to this. If there is any evidence of child abuse, it should be reported to the authorities and the authorities should be dealing with it appropriately. If there are any allegations in relation to concealment of evidence, that is also a matter that should be pursued through the relevant authorities. The Senate is not an appropriate body to be doing inquiries of that nature. The Senate has created a wide remit for what it may look into. It has looked into this on a

number of occasions and I am not sure that the Senate would be well served by looking into this specific issue again.

That is not to detract from what occurred in circa 1988 to 1990. That issue is well known in the public domain and the circumstances surrounding that are well known in the Senate. For those reasons, the government will not be supporting the motion, but I reiterate the importance of highlighting the fact that from the government's perspective the issue of child abuse is an important issue. It is a matter that is being addressed through the various portfolios which have responsibility and through a COAG process, and I would encourage people to use the appropriate forums. *(Time expired)*

**Senator XENOPHON:** Mr President, I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for two minutes.

**Senator XENOPHON:** Thank you for the indulgence of making a second short statement. This motion deals with the issue quite differently from the way that other inquiries into this area have dealt with it. It deals fundamentally, first and foremost, with issues of law reform in relation to the destruction of documents that could be used in legal proceedings. It deals with issues of cabinet-in-confidence. It deals with the way that people have been dealt with in this matter in a way that has not been previously traversed. It is not about digging up old ground; it is about dealing with fresh matters and about fundamental law reform.

The issue here is that the victim at the centre of this was a 14-year-old girl who was raped in 1988 while at John Oxley Youth Detention Centre, and the perpetrators have never been charged. Yet this woman apparently received a payout from the Queensland government just last year. She has had a confidentiality clause attached to that payout and she has been gagged from speaking out. She needs to have her voice heard about this. This is about unfinished business that needs to be resolved. It is not about traversing old ground.

I would urge Senator Fielding to reconsider his position. I am sorry that the matter was only lodged yesterday, but it is something that my office has been working on for some time. I have had good discussions with Senator Fielding's office about this. If Senator Fielding is of a mind to have further discussions right now, I would move that this matter be postponed till later—if that can be done and if there are other matters to deal with—so that I can continue these discussions. But I would urge the Senate to consider this given that there are new matters. There is unfinished business and the victim deserves the right to be heard.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (12:21): Mr President, I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for two minutes.

**Senator BOB BROWN:** I disagree with Senator Xenophon on this matter. He has just indicated that he has been dealing with this matter for some time. We are in the last day of this last week of sitting in the financial year. The senator can bring back a different motion in the future. Senator Fielding is quite right: we all had this very complex and highly charged motion brought before us yesterday afternoon. Senator Xenophon ought to have brought it to senators' attention earlier than this and ought to ensure that there is due time for it to be properly considered. It is not a good process that we are having put upon us. I repeat that there have been three Senate inquiries into this matter. You can come back with differently configured terms of reference, but there needs to be due justification for that, and then we need to absorb that and take it into account. I do not think this process is a good one.

Question put:

That the motion (Senator Xenophon's) be agreed to.

The Senate divided. [12:27]

(The PRESIDENT—Senator Hogg)

Ayes .....	32
Noes .....	32
Majority .....	0

#### AYES

Adams, J	Back, CJ
Barnett, G	Bernardi, C
Birmingham, SJ	Boswell, RLD
Boyce, SK	Brandis, GH
Bushby, DC	Cash, MC
Colbeck, R	Coonan, H
Cormann, M	Eggleston, A
Ferguson, AB	Fierravanti-Wells, C
Fifield, MP	Fisher, M
Humphries, G	Johnston, D
Joyce, B	Macdonald, ID
Mason, B	McGauran, JJJ
Parry, S (teller)	Payne, MA
Ronaldson, M	Ryan, SM
Scullion, NG	Troeth, JM
Trood, R	Xenophon, N

#### NOES

Arbib, MV	Bilyk, CL
Bishop, JM	Brown, CL
Brown, RJ	Cameron, DN
Crossin, P	Farrell, D
Faulkner, J	Feeney, D
Fielding, S	Forshaw, MG
Furner, ML	Hanson-Young, SC
Hogg, JJ	Hurley, A
Hutchins, S	Ludlam, S
Ludwig, JW	Lundy, KA
Marshall, GM	McEwen, A (teller)
McLucas, J	Milne, C
Moore, CM	O'Brien, K

## NOES

Polley, H  
Sherry, NJ  
Stephens, U

Pratt, LC  
Siewert, R  
Sterle, G

## PAIRS

Abetz, E  
Heffernan, W  
Kroger, H  
Minchin, NH  
Nash, F  
Williams, JR

Conroy, SM  
Evans, C  
Wong, P  
Carr, KJ  
Wortley, D  
Collins, JMA

Question negatived.

**Senator JOYCE** (Queensland—Leader of The Nationals in the Senate) (12:30): I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for two minutes.

**Senator JOYCE:** I think it is very important that, on the issue of the Heiner inquiry, which I have been pursuing for quite some time—in fact, in a former time on the backbench I brought the Rofe report into the chamber to try to get it tabled—I express my absolute disgust that we have not seen right a process of getting transparency on this issue. There remains a lady who no-one denies was raped and who is still seeking justice on this issue. Beyond all the so-called issues and other things that are dragged into this, that lady deserves justice. She wants her time to be able to explain her position. We know that she has received money—an amount, basically, to stay quiet. I think this is absolutely disgusting and I have to say on the record that for Senator Fielding, as a person who is a patron of White Balloon Day, to vote against this—

**Senator Bob Brown:** Mr President, I raise a point of order. There is a standing order that senators will not reflect on a vote of the Senate—

*Senator Ian Macdonald interjecting—*

**Senator Bob Brown:** or interject. I ask you to look at that standing order.

**The PRESIDENT:** 'Reflection' means 'in an unparliamentary way'. I will allow you to continue, Senator Joyce.

**Senator JOYCE:** I am also extremely disappointed in the position of the Australian Greens. They too have become party to trying to circumvent the process of transparency. This issue must at some point in time be brought to a position of conclusion and transparency. I believe and have said before that this, in a form, is Australia's Watergate, only this time the perpetrators got away.

## MOTIONS

## Nuclear Energy

**Senator LUDLAM** (Western Australia) (12:32): I move:

That the Senate—

(a) notes:

(i) the ongoing crisis and radiation leaks from the severely damaged Fukushima Daiichi nuclear complex,

(ii) that on 12 April 2011 the nuclear disaster reached INES [International Nuclear and Radiological Event Scale] disaster level 7, the worst possible type of nuclear event due to cumulative radiation releases and contamination of the air, soil, water and food,

(iii) the Comprehensive Nuclear-Test-Ban Treaty Organization and specialist research institutes have documented radiation from Fukushima spreading to Korea, China, Russia, Europe, the United States of America and Australia,

(iv) that seabed, air and soil samples taken in the region record alarming radiation levels that are hundreds of times higher than previously detected in and around Fukushima,

(v) the 7 June 2011 report from Japan to the United Nations indicating that fuel in three Fukushima's reactors have melted through the containment structure,

(vi) the report tabled on 6 June 2011 by Japan's Nuclear and Industrial Safety Agency that doubled the figure for the radiation it believed was released into the atmosphere in the first 6 days, from 370 000 terabecquerels to 770 000,

(vii) the 3 June 2011 disclosure that Japanese authorities had suppressed the 12 March 2011 finding of radioactive tellurium 6 kilometres from Fukushima, the presence of which indicates that the temperature of the fuel rods was more than 1 000 degrees and that a meltdown had commenced before the emergency ventilation of the unit 1 reactor containment, and

(viii) the Declaration by the International Atomic Energy Agency Ministerial Conference on Nuclear Safety in Vienna of 20 June 2011; and

(b) calls on the Australian Government to:

(i) maintain the interdepartmental emergency task force coordinating Australian nuclear expertise and equipment to measure detectable levels of radiation, model the plumes and provide advice to the Australian Government,

(ii) publicly disclose all data held by Australian authorities on inspection and monitoring efforts regarding radiation levels in the environment, including radiation levels in the surface of soil, rain water, tap water, food and air, exposure to which is dangerous to human health, and

(iii) regularly update the Senate on findings by the interdepartmental emergency task force on all data collected by Australian nuclear experts and equipment.

I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for two minutes.