



SENATOR SCOTT LUDLAM
AUSTRALIAN GREENS
SENATOR FOR WESTERN AUSTRALIA

The Right Hon William Hague MP
First Secretary of State
Secretary of State for Foreign and Commonwealth Affairs

CC
Senator the Hon Bob Carr
Australian Minister for Foreign Affairs

Dear Mr Hague,

It was with great sadness that I learned of a recent court decision in the United Kingdom which may have put an end to the legal campaign by victims of the British nuclear testing in Central and Western Australia for compensation.

Of the British and Australian veterans who were involved in the testing, and the Aboriginal people in the area at the time of the blasts, only 29 Aboriginal people have ever received compensation from the Australian Government and veterans continue to struggle to obtain the medical support they need despite experiencing unusually high rates of cancer and other ill-effects associated with exposure to radiation.

I understand the legal hurdle at issue is the question of causation to a standard of proof acceptable to the court. It is undeniable that the testing veterans and the Aboriginal local residents were exposed to high levels of radiation, indeed the site is still undergoing remediation decades later (for example, erosion of the massive Taranaki burial trench north of Maralinga, described by officials as "a large radioactive waste repository", has required significant ongoing remediation). It has also been demonstrated that the involved parties have endured an unusually high rate of illness and other ill-effects associated with radiation exposure.


The Australian Greens urge you to consider Act of Grace payments of compensation to the effected parties who should only need prove to a reasonable standard of probability that they were exposed to high levels of radiation as a result of the weapons testing and that they or their children have endured an illness or injury


normally associated with radiation exposure. The requirement to prove causation, in light of the limitations of existing medical technology and the length of time that has passed since exposure, is contrary to principles of natural justice. The legal process to date has also failed to adequately consider medical research conducted by RE Rowland et al

[http://www.mapw.org.au/files/downloads/NZ Nuclear Test Veterans AR0806.pdf](http://www.mapw.org.au/files/downloads/NZ_Nuclear_Test_Veterans_AR0806.pdf)
that documents chromosome aberrations in nuclear veterans from New Zealand.

We encourage you to contact the Aboriginal Legal Rights Movement, located on King William Street in Adelaide, South Australia, which has represented the Traditional Owners in their pursuit of recompense for the harm caused by the atomic testing at Maralinga. We also encourage you to contact the Australian Nuclear Veterans Association and the Australian Veterans and Defence Service Council to discuss compensation for the hundreds of Australian veterans effected by British nuclear testing.

We also hope you will raise the matter with Foreign Minister Bob Carr and Prime Minister Julia Gillard at your earliest convenience.

Sincerely 

 Senator Scott Ludlam
Australian Greens Senator for Western Australia
17 January 2013



SENATOR SCOTT LUDLAM
AUSTRALIAN GREENS
SENATOR FOR WESTERN AUSTRALIA

Senator Scott Ludlam
Senator for Western Australia,
Commonwealth of Australia

The Right Hon William Hague MP
First Secretary of State
Secretary of State for Foreign and Commonwealth Affairs
CC
Senator the Hon Bob Carr
Australian Minister for Foreign Affairs

Dear Mr Hague,

On January 17th I wrote to you in regarding to legal redress and compensation for victims of the British nuclear testing in Central and Western Australia.

British and Australian servicemen and women and Aboriginal Australians in the area were exposed to dangerous levels of ionising radiation as a result of the British Government carrying out nuclear testing. Those exposed have suffered illnesses associated with radiation at an unusually high rate. The Australian personnel, for example, have proven to be 23 per cent more likely to have cancer than the general population, and 18 per cent more likely to die from cancer.

Legal efforts to date have been thwarted by the highly dubious proposition that the victims are unable to prove their illnesses were a result of their exposure.

I reiterate that it is undeniable the veterans and the Aboriginal residents were exposed to high levels of radiation, indeed the site is still undergoing significant remediation decades later, and that the involved parties have endured a high rate of illness and other ill-effects associated with radiation exposure. The British legal system has imposed an onerous burden of proof on the victims of the Maralinga testing, and this has produced outcomes in clear contradiction of natural justice.

In January I urged you urge you to consider Act of Grace payments of compensation to the parties. I have not received a response to date. The question of Act of Grace payments for the victims of the Maralinga testing was raised with you at a press conference during your visit to Australia, and I understand you dismissed the

prospect. I urge you to reconsider. The people exposed to the Maralinga tests were done a great wrong and time is of the essence. They should not incur further indignity due to inability to pay medical costs, nor the further expense and delay of the precarious legal pursuit of long-overdue justice.

The Australian Greens urge you to discuss this matter with Foreign Minister Bob Carr as soon as possible. We also once again encourage you to contact the Aboriginal Legal Rights Movement in Adelaide, South Australia, the Australian Nuclear Veterans Association, and the Australian Veterans and Defence Service Council to discuss compensation for victims of the British nuclear testing conducted on Australian soil.

This blight on the history of both of our nations has gone on too long and the opportunity to make things right will soon pass us by.

Sincerely

Senator Scott Ludlam
Australian Greens Senator for Western Australia
21.2.2013



Ministry
of Defence

THE RT HON MARK FRANCOIS MP
MINISTER OF STATE FOR DEFENCE PERSONNEL WELFARE AND VETERANS

MINISTRY OF DEFENCE
FLOOR 5 ZONE B MAIN BUILDING
WHITEHALL LONDON SW1A 2HB

Telephone: 020 7218 9000 (Switchboard)

Our ref: D/Min(DPWV)/MF MC00807/2013

// April 2013

Dear Senator Ludlam,

I refer to your letters of 17 January and 21 February which were sent to the Secretary of State for Foreign and Commonwealth Affairs. In view of the subject matter, your correspondence has been passed to me at the Ministry of Defence for reply. You have requested Act of Grace, i.e. ex-gratia, payments to be made to Australian citizens who consider their health has been adversely affected by the British nuclear tests conducted in Australia.

In your first letter you made reference to a recent court decision in the United Kingdom which you believe may have influenced the legal campaign by Australian veterans and Aboriginal people in support of compensation. It may be helpful if I set out a brief history of the group litigation and the basis of the Supreme Court decision of 14 March 2012.

For some years ex-Service personnel who participated in the atmospheric nuclear tests in the late 1950s / early 1960s have been claiming that their health had been damaged by exposure (deliberately or accidentally) to ionising radiation. This issue has been raised many times in both Houses and in correspondence with Ministers.

This and previous Governments' frequently stated position is that there is no evidence of excess illness or mortality amongst the veterans as a group which could be linked to their participation in the tests or to exposure to radiation as a result of that participation.

Legal proceedings were served upon MOD in April 2005 on behalf of 655 British, 130 Fijian and 213 New Zealand nuclear test veterans. It was alleged that the servicemen were not appropriately or adequately warned, advised or cautioned of the risks to their health likely to result from their participation in the various testing programmes.

The NTV Group Action was heard in the High Court, the Court of Appeal and eventually the Supreme Court before seven Justices (formerly known as Law Lords). A majority decision was handed down on 14 March 2012, ruling in favour of MOD that the claims were time barred and declined to allow the claims to proceed under the statutory discretion.

Senator Scott Ludlam
Senator for Western Australia
36 Parliament House
Canberra ACT 2600
Australia

Perhaps of greater significance is that all the Justices recognised that the veterans would face great difficulty proving a causal link between illnesses suffered and attendance at the tests. The Supreme Court described the claims as having no reasonable prospect of success and that they were doomed to fail. Lord Brown said "these appeals now provide the court with the opportunity..... once and for all to end the false hopes on which these claims have so far rested".

In light of the Supreme Court decision, the Ministry of Defence's position with respect to paying compensation is unchanged. I am sorry to have to send a disappointing reply, but I hope I have explained the reasons for doing so.

Yours sincerely,

THE RT HON MARK FRANCOIS MP

Mark Francois

Ministry of Defence
Crest Building
Whitehall
London SW1A 2JG
United Kingdom
Tel: 020 7536 5200
Fax: 020 7536 5201
Email: mark.francois@mod.gov.uk