

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

Group 2

Program 1.1

Question No. 26

Senator Brandis asked the following question at the hearing on 12 February 2013:

Senator BRANDIS: On what date, Mr Wilkins, did this legislation go to cabinet?

Mr Wilkins: I am not sure is the answer to that.

Senator BRANDIS: Does anyone at the table know? You seem to be the person with first instance responsibility for this, Ms Glanville. Do you know when—

Mr Wilkins: I am not sure that bills necessarily go to cabinet. The Skehill report went on various occasions to the cabinet.

Senator BRANDIS: I am talking about the legislation which is the subject of the unresolved dispute with the heads of jurisdiction described in this letter. I would like to know when the government made the decision to proceed with this legislation, well knowing that the heads of the two jurisdictions affected by it were unhappy with it.

Mr Wilkins: I will have to take that on notice.

Senator BRANDIS: Was it this year or last year?

Mr Wilkins: I will have to take it on notice because it is also tied up with what processes the bill actually went through in relation to the cabinet itself.

Senator BRANDIS: Given that the former Attorney-General, Ms Roxon, announced her resignation from that office—was it last Friday week?—may we take it that the decision to introduce this bill into the parliament in the face of the objections of the heads of jurisdiction affected by it was a decision of the former Attorney-General, not Mr Dreyfus, the current Attorney-General?

Mr Wilkins: We will have to take it on notice. I do not know the answer to your question. We do not have that date here.

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

On 8 June 2012 the Government announced its response to the Skehill Review, including acceptance of the recommendation that the shared administration arrangements of the Family Court and the Federal Magistrates Court should be formalised.

There was no requirement for legislation directly implementing the Government's decision to be taken to Cabinet.

The Government first became aware that the Chief Justice of the Family Court and the Chief Federal Magistrate had a desire that the Courts and Tribunals Legislation Amendment (Administration) Bill 2012 address broader court structure issues when they wrote to the Attorney-General's Department on 18 October 2012. These issues were raised in response to a limited circulation exposure draft of the Bill, which followed an earlier Departmental discussion paper where no structure issues were raised.

The then Attorney-General considered the proposals contained in that letter but decided that the Courts and Tribunals Legislation Amendment (Administration) Bill 2012 was not the appropriate legislative vehicle in which to address broader court structure issues, noting the importance of the Bill's reforms commencing on 1 July 2013.

The Government verbally advised the heads of jurisdiction prior to the introduction of the Bill on 31 October 2012 that these issues would not be addressed in the Bill but would be given further consideration. At the time, the heads of jurisdiction did not suggest to Government that the Bill should be delayed to address these issues.