

an inquirer who knew the subject and could serve the public interest by making substantial and effective recommendations. Mr Hockey appears to have simply tossed a brief to a Liberal Party mate. What the taxpayers paid for was the education of young Malcolm, not a penetrating or constructive insight into the managed investment sector. If the review had progressed the issues, it might have rated a column inch or two at least somewhere in the business pages of the broadsheets. Mr Turnbull seems to have got enough of a flavour of the managed investment business to know that he wanted to be in that business himself.

So much for Mr Turnbull's education, but what about education generally? This year Mr Turnbull strongly advocated the wholesale deregulation of education funding. Interestingly, the Minister for Education, Science and Training, Mr Nelson, attacked him for these views, leading to a stand-off between the Liberal Party chief fundraiser and the education minister—a dispute that Mr Howard had to step in to settle. Should Mr Turnbull's views on education be adopted, it would lead to the massive redistribution of funding away from public schools into private schools. One can conclude that there is one rule for Mr Turnbull and another for the rest of us.

In a speech at Sydney University in September, Mr Turnbull bemoaned Australia's low birth rate since the brain drain and what he referred to as our 'inflexible workplace relations system'. He called for the scrapping of the family support system and its replacement with a flat, non-means tested \$4,000 payment per child per year, irrespective of need or other circumstances. He also strongly advocated a slashing of tax rates for the rich, promoting the US tax system where the top tax bracket is not reached until earnings are \$300,000 or more. This gives him a first in the 'fairies at the bottom of the garden' economics course. It puts him in the magnificently contradictory position of simultaneously advocating tax cuts and spending increases. Certainly, there was no mention of what services were to be cut to pay for either the extra handouts to families above the current thresholds for family pay-

ments or the tax cuts for the rich. He also called for even more deregulation of the workplace relations system, as if there was not enough casualisation of the workforce as it is, and as if it is not hard enough already for Australian workers to be good workers and good parents. So, once again, he is in the contradictory position of advocating a return to traditional family values at the same time as further casualising the work force to make it much harder for those same traditional families to juggle work and family commitments.

You have to say there is a mass of contradictions here. When it suits Mr Turnbull, he wants a return to traditional family values, but not if it affects employment. He wants a tax cut at the same time as he wants spending increases. He wants to shift the burden of education off the taxpayer and onto families, but he is happy to have his own education in his new line of business financed by taxpayers. These are contradictions in his advocacy of public policy. To that extent, he is no different from many Liberals who try to work both sides of the street and have it both ways. Labor, of course, reserves the right to always point out the hypocrisy of that position. Mr Turnbull's behaviour in respect of FTR Holdings warrants further investigation, and I have today drawn it to the attention of the appropriate regulatory agencies. His behaviour in respect of FAI deserves the full attention of the HIH liquidator, and I would urge him to take similar action against Malcolm Turnbull to that he has taken against the Commonwealth.

Immigration: Asylum Seekers

Senator JACINTA COLLINS (Victoria) (1.10 p.m.)—A significant matter of public interest in contemporary terms is this government's management of asylum seekers arriving at our borders. The Senate and the general public are broadly aware of the 'children not-overboard' incident. Many concerns still remain in relation to what occurred with the ship now characterised as SIEVX. Yesterday the Senate called for a judicial inquiry into the handling of SIEVX and Australia's disruption activities in Indonesia. I anticipate strong support for the motion that I will be moving today in respect of

the alleged people smuggler Abu Qussey, the man strongly connected to what subsequently occurred to SIEVX and the loss of more than 350 lives. But today I want to focus on the treatment of asylum seekers aboard the four SIEVs—suspected illegal entry vessels—returned to Indonesia last year. There is a recent Human Rights Watch report dealing with additional information about how some of those asylum seekers were treated. It is important that the Senate note that report and some of the information available therein.

To remind the Senate and the public of the background of matters involved here, a significant change in Australia's approach to border protection occurred in the lead-up to the last federal election. But what many people have forgotten, or had not realised, is that a fundamental change occurred in our management of asylum seekers during the caretaker period leading up to the last election, where the government summarily changed its approach to managing these suspected illegal entry vessels and started returning them to the Indonesian coastline. What we still do not know today, in many respects, is how that return was effected. Perhaps the most concerning aspect of that is in this Human Rights Watch report, where on page 40 under the heading, 'Australian interceptions at sea', we are told:

When Australia prevents vessels transporting asylum seekers from reaching its shores it engages in interception. A number of countries practice interception at sea, but Australia has set a dangerous precedent in terms of how they are conducted and resolved.

In many respects, the Australian parliament and the Australian public still do not know how they are conducted and resolved.

I have some sympathy for the defence officials and the Navy officers and personnel involved in some of these interceptions. Through this and other reports, we have heard stories of Navy personnel in tears as they dealt with some of these asylum seekers. Unfortunately, in some instances I think Navy personnel are bearing criticism for actions that may not indeed have involved Navy personnel. We still do not know precisely which Australian personnel were in-

involved with the handling of asylum seekers on some of these ships. Some of them were other defence personnel, and I would not be surprised if some others were the personnel of other Australian agencies, such as the Australian Federal Police.

What this report does highlight are a few of the cases that, at least in the Australian parliament, we have not been able to test the veracity of. Some of those are enough to make you weep. Looking at one of those cases cited on page 41 of the Human Rights Watch report in relation to the unnecessary use of force aboard SIEV5, we see that the families who were on HMAS *Warramunga* told the Human Rights Watch how they were forcibly put back on the fishing vessel after the Australians had taken them to the edge of Indonesian waters. This practice itself is questioned, but then there is the matter of how it was undertaken—for instance, one man was beaten until he was unconscious. The report quotes one woman as saying:

"We tried to put our babies at the soldier's feet and begged them to have mercy on the children: 'Where are the rights of the children?' I asked in Persian, and a man translated that question for me." When they saw that their pleas were having no effect, her husband moved forward to try to pick up his child, but his sudden movement alarmed the soldiers, who pinned him down on his back on the floor. The baby was left clinging to his chest.

The report further quoted this woman as saying:

They had iron military badges on their shoulders, and one man touched it with his stick to show the electric sparks. Then they beat the sides and ribs of my husband with the electric sticks until he was unconscious. He was hit at least four times. The baby held onto his neck throughout this beating. I thought he had died, and when they moved away from his motionless body I rushed forward to rescue the baby.

Senator Brandis—You know that has been denied by the military, don't you, Senator Collins?

Senator JACINTA COLLINS—Senator Brandis, I am glad that you are happy to have this interchange.

Senator Brandis—You ought to show a bit more loyalty to Australian service per-

sonnel and not uncritically accept what the refugees say.

Senator JACINTA COLLINS—I will refer to anybody, and, in fact, I invite Senator Brandis to make a contribution following my own.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Collins should be heard in silence.

Senator JACINTA COLLINS—I will invite anybody to assess the Australian government's response to some of these claims, and I am simply referring to claims at this stage, Senator Brandis.

Senator Brandis—I notice you did not mention the denials by the people in queues.

The ACTING DEPUTY PRESIDENT—Senator Collins should be heard in silence, Senator Brandis.

Senator JACINTA COLLINS—With respect to these claims, the main concern I have, and the point I made earlier, is our inability to test the veracity of these claims. This is my problem and this is one of my frustrations with much of the material that we dealt with during the 'children overboard' inquiry. But let me move on to some of the other reports and claims. Again, I will not pretend: they are simply reports and claims.

Senator Brandis—Make sure you mention the denials this time.

Senator JACINTA COLLINS—I would like to remind the Senate of a *Four Corners* program where the next concern raised by this Human Rights Watch report, although not actually covered in this Human Rights Watch report, was in relation to the return of SIEV7. The *Four Corners* investigation, broadcast on 15 April this year, deals with how SIEV7 was returned. It appears that the ship was taken by a large Navy vessel to Indonesian waters and perhaps closer to the coast. The ship then retreated and left a vessel, which was marginally seaworthy, to become beached 400 metres from shore. This occurred in the middle of the night. The asylum seekers on this ship claim that, in the middle of the night, their ship started breaking up. They had no choice. They could not remain beached 400 metres from the shore.

They had to make their way to the coast. In the middle of the night, they had to carry people who could not swim and women and children through chest or higher depth water, by the sounds of it, to the coast.

What is claimed—and there are three individuals actually named, and I would perhaps like to name them now in my comments—is that three people simply disappeared. The three people have never been seen again. The *Four Corners* program in April this year reported that no-one saw Hussein Yahia, Thamer Hussein and, the third man, Haithem Dawood. We do not know if they drowned. When I relay this claim to other colleagues, the comment I get back is, 'When we returned these ships, did that not involve any appropriate way of getting them to the coast?' And I say, 'From this story, it appears not.' They say, 'Why, if we are going to return these people are we not guaranteeing that their return is conducted safely?' We do not know the answer to this.

When we look at the preliminary report released earlier than the Human Rights Watch report, one of the criticisms is the manner in which the closure of our coastal border took place, involving, for instance, the detention of men, women and children in 'cruel, inhuman and degrading' conditions on board fishing vessels and the abandonment of dangerously overloaded boats in the open seas rather than their delivery to a 'place of safety'. This is probably one of the significant differences between the Australian Labor Party's policy on asylum seekers and border protection and the way in which the government has conducted this.

Senator Brandis—Do you believe this Senator Collins?

Senator JACINTA COLLINS—I have suspended my disbelief on this, Senator Brandis, until we can actually see some facts.

Senator Brandis—That is what the 'children overboard' inquiry was about.

The ACTING DEPUTY PRESIDENT—Senator Brandis, you are out of order and you are unruly.

Senator JACINTA COLLINS—What I am concerned about is that we cannot see the facts. The government has not provided us

with the facts—the detail of how precisely these four SIEVs were returned to the Indonesian coast. Until I can be confident that I know the facts, Senator Brandis, I do suspend my disbelief on this issue. But the principal issue of difference between the government's policy and our own is that we say, 'If these returns are to be effected, they should be conducted safely.' This is why we do need a coast guard. Our Navy personnel and infrastructure are not geared up for safely returning people to another country's coastline, particularly at a time when our international agreements with that country do not accept that the people should be returned in the first instance. Until we have defence personnel who are trained to carry out this type of very distressing work effectively and until we have the appropriate infrastructure—whether that be ships capable of getting closer to shore rather than large Navy vessels—we have questions. And we do not have the answers.

In the Human Rights Watch report entitled *By Invitation Only: Australian asylum policy* released yesterday, there are very concerning reports. The Senate deserves an answer. The Australian parliament and the Australian people deserve an answer. We need to know that we are breaking up people-smuggling and that we are preventing people coming to our borders through that type of trade but that when we are doing that we are treating those very people with compassion and guaranteeing their safety. That includes knowing that if we are returning them to the Indonesian coastline we are doing so safely. I have, Senator Brandis, suspended belief that that has been the case. In these reports—and I encourage you to read them carefully—you will see Australia's response and you will be able to make your own judgment on how satisfying that response is. I commend this report to all senators. It is the first time apart from that *Four Corners* program in April last year that some of these details and some of the reports from the asylum seekers involved have become available.

I anticipate quite strongly that the Senate will move today that Abu Qussey be pursued more seriously by both the Australian Federal Police and the Australian government. If

we are serious about discouraging people smugglers, we cannot simply wait until 1 January, and he disappears. The Australian government cannot afford to maintain the position that we are hard on people smugglers and asylum seekers—we turn them back to Indonesia; we treat them in some of the ways that have been alleged in this report—but we are not serious about bringing a people smuggler like Abu Qussey to justice. If that man goes free on 1 January next year, let it be on the head of the government that they are not really serious about addressing people smugglers.

**Liberal Party of Australia: Carnell, Ms
Kate**

Human Rights: China and Tibet

Senator BROWN (Tasmania) (1.24 p.m.)—May I congratulate Senator Jacinta Collins on that extraordinary account of the suffering of our fellow human beings and our need as a parliament to do much more to account for it.

Senator Brandis—It was not an account; it was a recitation of denied, unsubstantiated allegations.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Brandis, you may care to let Senator Brown at least get started.

Senator BROWN—I am not worried about Senator Brandis and his churlish interjections. I would have thought that he would have the maturity to get to his feet and make a submission rather than interjecting on Senator Collins's very heartfelt and notable speech. I want to talk today about the preselection process for the Liberals to select a senator for the ACT on the 21st of this month. I note that one of the candidates for that preselection process, putting herself to the Liberal Party voters, is the former Chief Minister of the ACT Kate Carnell. During her period in office as Chief Minister—and I think people considering her candidacy should know this—she made it clear that the assembly of the ACT had no business commenting to the New South Wales government about the destruction of the south-east forests of New South Wales. What is happening with the forests and the wildlife of the Great

world's foremost researcher and inventor in the field'. Tomorrow I will ask the Senate to not only acknowledge this prestigious award and congratulate Professor Green but also note that people like him are not going to hang around in this country if the government continues to say, 'We do not care about research in this field.' (*Time expired*)

Question agreed to.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:

Immigration: People-Smuggling

To the Honourable the President and members of the Senate

The petition of certain residents of Australia draws to the attention of the Senate:

That on Friday 19 October 2001, a grossly overcrowded boat, known as SIEV-X, carrying approximately 397 asylum seekers sank in international waters between fifty and sixty-five nautical miles south of Java, in an area that was at the time under intense surveillance by the Australian Defence Forces as part of Operation Relex; with the loss of approximately 353 lives; and that Australian authorities were aware of the departure of SIEV-X from Sumatra on 18 October, and yet there was no attempt by the Australian Defence Forces or Coastwatch to locate or intercept this boat, with a view to ensuring the safety of the people on board;

That during 2001, the Australian Federal Police conducted a secret People Smuggling Disruption Program in Indonesia, in cooperation with selected elements of the Indonesian Police Force and various other individuals; and that an Indonesian-based informant of the Australian Federal Police, Kevin John Enniss, has claimed to have sabotaged and sunk boats carrying asylum-seekers;

That there is a growing belief in the community that the Australian government and/or its agents deliberately neglected to ensure the safety of the lives of the asylum-seekers on board SIEV-X, and may even have been in some way responsible for the sinking of the boat as a deterrent against unauthorised asylum-seekers attempting to come to Australia by boat from Indonesia

Your petitioners therefore ask the Parliament to urgently pass a motion calling on the Prime Minister to establish an independent judicial inquiry with full powers to subpoena witnesses to investigate all the circumstances surrounding the disruption, departure and sinking of the asylum

seeker boat known as SIEV-X, and all activities of the Australian Government, its servants, agents and collaborators in regard to SIEV-X, including:

1. All surveillance activities conducted by Coastwatch and the Australian Defence Forces in the area between Christmas Island and Indonesia; and all decisions regarding interception or non-interception of asylum-seeker boats and rescue or non-rescue of asylum seekers during the period of Operation Relex;
2. All activities by the Australian Federal Police and its partners, agents and informants to disrupt people smuggling in and from Indonesia;
3. All information reaching the People Smuggling Taskforce in the Prime Minister's Department and the DIMIA/AFP People Smuggling Strike Team, and all decisions made and actions taken by the members of those bodies.
4. All information reaching Ministers and their advisers relating to the above, and all decisions made and actions taken or authorised by Ministers and their advisers.

by **Senator Bartlett** (from 306 citizens).

Environment: Great Barrier Reef Marine Park

The petition of certain citizens of Australia draws the attention of the Senate to our concern that:

- (1) The Minister for Environment and Heritage has approved an Environmental Impact Study for seismic testing for oil and/or gas in the Townsville Trough only 50 kilometres from the World Heritage Listed Great Barrier Reef Marine Park area;
- (2) The Howard Government has not responded to opposition to oil or gas exploration from environmentalists, the tourism industry, the fishing industry, community members and the Queensland Government.

The petition therefore calls on the Senate to support legislation that ensures that no exploration or mining can proceed in the Townsville Trough adjacent to the Great Barrier Reef.

by **Senator McLucas** (from 641 citizens).

Foreign Affairs: Iraq

To the Australian Senate:

We the undersigned call upon the Australian Government not to involve Australia in a war against Iraq.

There is no clear evidence that Iraq poses an immediate threat to Australia or any of our allies.

O'Brien, K.W.K.	Payne, M.A.
Ray, R.F.	Reid, M.E.
Scullion, N.G.	Sherry, N.J.
Stephens, U.	Watson, J.O.W.
Webber, R.	

* denotes teller

Question negatived.

Senator HARRADINE (Tasmania) (4.09 p.m.)—I seek leave to have my name recorded as having voted for that amendment; I was locked out when the bells rang for one minute.

Leave granted.

IMMIGRATION: PEOPLE-SMUGGLING

Senator JACINTA COLLINS (Victoria) (4.09 p.m.)—by leave—On behalf of all opposition senators, the Leader of the Australian Democrats, Senator Bartlett, and all Australian Democrat senators, and Senators Brown, Nettle, Lees, Harradine and Murphy, I move:

That the Senate—

- (a) notes the evidence presented to the Select Committee on a Certain Maritime Incident regarding the central role played by the person known as Abu Quessai in organising people smuggling operations in Indonesia;
- (b) welcomes the statement by the Australian Federal Police that they have issued a further warrant for the arrest of Quessai, in relation to his involvement in people smuggling specifically in relation to the vessel known as SIEV X;
- (c) further notes that the issue of this warrant indicates the strength of evidence linking Quessai with the people smuggling aspects of SIEV X, including the procurement of the vessel, the recruiting of crew, the provision of passage on the vessel in return for payment, the loading of the vessel (including the gross overloading), and the departure of the vessel bound for Australia;
- (d) further notes that Abu Quessai is currently in prison in Indonesia for unrelated immigration offences, and is due to be released on 1 January 2003, with a high risk of him remaining out of reach of Australian legal authorities after that time; and therefore

(e) calls on the Australian and Indonesian Governments to undertake all actions necessary prior to 1 January 2003 to ensure that Abu Quessai is immediately brought to justice:

- (i) on all matters relating to the outstanding warrants relating to people smuggling, and
- (ii) in relation to his involvement with the vessel known as SIEV X, including the foundering and sinking of that vessel with the resultant tragic loss of 353 lives.

This motion welcomes the statement by the Australian Federal Police that they have issued a further warrant for the arrest of Abu Qussey in relation to his involvement in people-smuggling, specifically in relation to the vessel known as SIEVX. It also expresses concern that all avenues be exhausted. The Minister for Justice and Customs, Senator Ellison, assured me at the last round of Senate estimates that the Indonesian government was likely to introduce legislation making people-smuggling an offence which would be used to expedite Abu Qussey's extradition. This is now most unlikely. Whilst I accept that the parliament cannot scrutinise the brief of evidence against Abu Qussey at this stage, given the details about these warrants, several questions can still be answered and remain unaddressed.

Details of why the Australian Federal Police have been unable to establish the location of where SIEVX sank is one example. Details of limited progress with the Indonesian government despite our government's earlier confidence remain unanswered. Details of the Attorney-General's advice as to jurisdictional considerations remain unanswered. All of these questions were raised at the last estimates round and remain unanswered. The government must demonstrate to the Senate, to the parliament and to the Australian public that it has exhausted all avenues regarding this crime of such large magnitude.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (4.11 p.m.)—by leave—The government welcomes Senator Collins's endorsement of the AFP's investigation into Abu Qussey in paragraphs (a) and (b) of her

motion. Abu Qussey is believed to be an Egyptian national who it is alleged has been involved in people-smuggling from Indonesia to Australia since early in 2000. He was sentenced by Jakarta Southern District Court on 4 September 2002 to six months imprisonment for offences against Indonesian immigration law and he is due for release on 1 January 2003.

The Australian government is working with other governments in the region to seek to apprehend Abu Qussey in relation to his alleged involvement in people-smuggling activities and bring him to Australia to face the charges. As people-smuggling is not currently an offence in Indonesia, the dual criminality required for Australia to request the extradition from Indonesia does not currently exist. Australian authorities are continuing to work towards criminalisation of people-smuggling in the region and Indonesian authorities have indicated that legislation would be introduced into the Indonesian parliament this year, criminalising people-smuggling.

The government cannot support paragraphs (c) to (e) for the following reasons. Four first instance arrests warrants have been sworn in Australia in respect of Qussey for alleged offences relating to organising suspected illegal entry vessels, SIEVs. The first three warrants for his arrest were sworn on 3 June 2002 and span alleged offences that occurred between February 2000 and August 2001. The latest warrant for his arrest is in relation to his alleged involvement in organising SIEVX, in which 353 people died when it sank in October 2001. The issue of the fourth warrant in Brisbane on Friday last week follows the compilation of a brief of evidence which was submitted to the Commonwealth Director of Public Prosecutions. This brief of evidence in relation to SIEVX includes evidence from interviews with survivors of SIEVX in Australia. The strength of the evidence supporting any warrant is a matter for the courts to determine. It is therefore not appropriate for the brief of evidence to be scrutinised by parliament prior to any legal proceedings and any public discussion could prejudice the investigation. Once an

existing warrant is acted upon the matter becomes sub judice.

The swearing of first instance warrants means an Interpol alert can be issued and it will ensure that the Australian government can seek to extradite Abu Qussey should circumstances allow. The Australian Federal Police has not been able to establish the location where SIEVX sank. Therefore, it is not possible to establish the relevant jurisdiction for any prosecution relating to the deaths on board. Australia respects that Indonesia as a sovereign state must take its own decision whether or not to investigate any particular matter.

Question agreed to.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator McGAURAN (Victoria) (4.15 p.m.)—On behalf of the chair of the Finance and Public Administration Legislation Committee, Senator Mason, I present additional information received by the committee relating to hearings on the budget estimates for 2002-03.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator McLUCAS (Queensland) (4.15 p.m.)—I present the 16th report of 2002 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills *Alert Digest* No. 16 of 2002, dated 11 December 2002.

Ordered that the report be printed.

Senator McLUCAS—I move:

That the Senate take note of the report.

The *Alert Digest* and the report which I have just tabled will be the last scheduled for the present sittings. This would therefore seem a suitable occasion to review the activities of the committee over those sittings. The function of the Senate Standing Committee for the Scrutiny of Bills is to report on any provisions of bills introduced into the Senate which may, to use broad expressions, trespass against either personal rights and liberties or parliamentary propriety. In order to do