

being thrown overboard and which, in the light of public comment, the Australian public were not made aware of.

Vice Adm. Shackleton—Senator, I cannot comment.

Senator FERGUSON—Thank you.

Senator BRANDIS—Admiral Shackleton, you had a conversation at some stage—you will have to help me with the date because I cannot remember—with Brigadier Bornholt about all of this. Is that right?

Vice Adm. Shackleton—About which part of this incident, Senator?

Senator BRANDIS—I am sorry; about the ‘child overboard’ affair, shall we say—the SIEV4 specifically.

Vice Adm. Shackleton—Yes. I had a discussion with Brigadier Bornholt about the veracity of the photographs that were being presented in the media.

Senator BRANDIS—Was the discussion limited to the photographs in relation to the SIEV4?

Vice Adm. Shackleton—Yes, it was.

Senator BRANDIS—You did not tell him anything about these other SIEV incidents?

Vice Adm. Shackleton—I did not discuss those other incidents. I was aware of the other incidents, but my concern at that stage was that the photographs in the paper and on the television were being portrayed as the rescue of children thrown over the side of SIEV4 when in fact they were sailors who had entered into the water—jumped off the side of our ship—to go and rescue those from the sinking vessel.

Senator MASON—Senator Ferguson asked you questions before about press reports. Can I just hand you a document—

CHAIR—Before you hand out other documents, Senator Mason, if Senator Brandis has folded his line of questioning then now is probably an appropriate time for him to—

Senator BRANDIS—Absolutely. I table the document that I have been directing Admiral Shackleton’s attention to. It is a document that was supplied to the committee last Thursday, but I formally table it.

CHAIR—Before you formally table anything—I take that as a statement of intent to table—I just want to say that this is a document in possession of the committee which you have now unilaterally sought to table without first obtaining the permission of the committee so to do.

Senator BRANDIS—If I need to—

CHAIR—If you do not mind, I am speaking, and you will be quiet while I am. The normal procedure, in my understanding, is that the release of documents tendered to the committee is a decision for the committee. I was aware of that when you started and I let you go—so I make that observation: I let you go. But I do think this behaviour of introducing documents that are in the possession of the committee and pre-empting the rights of other committee members to have a say in their public disclosure is something for the committee to debate in a private session. It is not a procedure that I would want to encourage. On this occasion I have let it go, but on a future occasion—and this applies not just to you but to all members of the committee—I think the appropriate course is the traditional one of the committee making decisions about documents in its possession and the release of those documents.

Senator BRANDIS—Senator Cook, may I say in my own defence—and I thank you for your observation—that when I wrote to the Minister for Defence last Thursday I was careful to frame my request as a request that the document be supplied to me and to other members of the committee. As I understand it, the document has been supplied both to the committee corporately and to me individually. Whether it concerns my capacity as a member of the committee and as the personal recipient of the document or my capacity as a person in custody of a document given to the committee, it is the same document, one way or another. I put it before the witness, nobody suggested that this was not directly germane to term of reference (c), The matter has been examined at length without objection and the document is now before you in whatever form is appropriate.

CHAIR—I have said what I have said; I am not going to repeat it. You introduced this document to the committee and, subsequently, I am advised by you and by the secretariat that so did the minister. The remarks I have made are remarks that I do not wish to vary in the face of that explanation. The document is now before us. Is it the wish of the committee to make this document public?

Senator BARTLETT—We have not made public any other document or the other submissions or anything else that we received some time before, have we?

CHAIR—No, we have not.

Senator BARTLETT—So this will be the first document that we publish.

CHAIR—That is my understanding. If it is the wish, that is so granted. The document is now tabled for public information. Senator Mason, do you want to go down this course too?

Senator MASON—Yes.

CHAIR—This concerns a new document which is not in the public domain either—well, it may be.

Senator MASON—Correct. I brought it to the notice of the committee previously—

CHAIR—It is not a document for the committee—I think that is the relevant point. The author and the recipient of this document are outside our immediate purview, so I think you are free to proceed on this document, but would you please identify it for the rest of us?

Senator JACINTA COLLINS—Are we to table this document as well, or are we just providing it to the witness?

Senator MASON—I have no opposition, Chair.

CHAIR—I understand that it is the intention of Senator Mason to ask questions based on this document.

Senator MASON—Just a few questions, yes.

CHAIR—In which case I think it is appropriate that the document on which the questions are based be made available.

Senator FERGUSON—Are you suggesting that in times past either government or opposition senators have not quoted from documents that they have themselves and have not made public to every other senator?

CHAIR—No, and I never said that.

Senator FERGUSON—So why should you make that request of Senator Mason?

CHAIR—I was in the process of identifying what it is. In fact, I think I said to Senator Mason that I do not think that this is a document the origin of which comes from the committee or the recipient of which was the committee, and it is outside our purview. I think I said that, or words to that effect. Therefore, I do not think it is necessary for us to release it. But, because it is going to be the subject of an examination by a member of the committee, I think in due deference to the person being examined and those watching these proceedings they should know what the document is and have access to it. That is fundamental and elementary.

Senator MASON—I think that is right.

Senator JACINTA COLLINS—Courtesy, Senator Ferguson.

Senator FERGUSON—Does that mean we will get all Senator Faulkner's documents that he quotes from in future?

CHAIR—If Senator Faulkner did exactly as occurred here, I would ask him the same question. Circulate it to the committee and provide it to the admiral, please.

Senator MASON—Senator Ferguson mentioned that there was some criticism from the press about the performance of the RAN but not much praise. I wanted to draw your attention to that document. You see a letter from the Leader of the Opposition to the Minister for Defence, Senator Hill, dated 4 March.

Vice Adm. Shackleton—That is what I have in front of me, yes.

Senator MASON—The first paragraph of that letter reads:

Dear Minister

I write to request that you inquire into an allegation that Australian naval ships witnessed a sinking refugee vessel on 19 October 2001, and did not provide assistance.

Vice Adm. Shackleton—Yes.

Senator MASON—If you go to the first page of the letter attached to that letter, it is addressed to the Leader of the Opposition, Mr Crean; the Leader of the Opposition in the Senate, Senator Faulkner; Senator Stott Despoja; Senator Bartlett; Senator Brown; and the Clerk of the Senate. That is correct?

Vice Adm. Shackleton—Yes.

Senator MASON—The heading of the letter is:

Dear Sir/Madam

A REQUEST THAT THE SENATE URGENTLY INVESTIGATE, IN THE CONTEXT OF ITS CURRENT ENQUIRIES INTO NAVAL ENCOUNTERS WITH VESSELS CARRYING ASYLUM-SEEKERS, A SURVIVOR'S ACCOUNT THAT AUSTRALIAN NAVAL PATROL SHIPS WITNESSED A SINKING REFUGEE VESSEL ON 19 OCTOBER 2001 IN THE SUNDA STRAIT, BUT DID NOT TRY TO RESCUE SURVIVORS

Is that correct?

Vice Adm. Shackleton—Yes.

Senator MASON—I think the person who wrote the letter is basing that allegation on an article in the *Australian* of 21 December 2001. In the third paragraph of the letter there is a quote from that story. Let me read it:

“The survivors say two boats, which their rescuers told them were Australian border patrol vessels, shone floodlights on them but did not help.”

A spokesman for the Defence Department said the closest ship was the HMAS Arunta, which was 230 nautical miles south of the spot.”

My question to you is: is it true that Australian naval patrol vessels witnessed a sinking refugee vessel on 19 October 2001 but did not try to rescue survivors?

Vice Adm. Shackleton—Absolutely not.

Senator MASON—That is incorrect—it is wrong?

Vice Adm. Shackleton—Absolutely. It is completely wrong.

Senator MASON—Are you sure of that?

Vice Adm. Shackleton—Yes, I am.

CHAIR—I have got a few questions, Admiral. I think I might just pick up the baton at this point, if I may. My usual procedure is to wait until last, but this time I promote myself up the order. I was going to ask you to tell us what the last document that Senator Mason has kindly provided you with says, but I think I can make this statement: the Leader of the Opposition is not saying that that happened. The Leader of the Opposition is simply seeking advice from the Minister of Defence, having received a complaint which hypothesises that it may have happened. He is seeking comment from the Minister of Defence on what he has to say about this. I might just say, for myself, that I think that is a responsible course of action for the Leader of the Opposition to take.

Senator JACINTA COLLINS—Do you know if the minister has responded?

CHAIR—No, I do not know. That is for the minister to reply to. I also note that the author of the hypothesis contained within that letter has put a submission to this committee. Since this matter is now before the committee, is it the wish of the committee that the submission lodged by Mr Tony Kevin be made public? There being no objection, it is so ordered.

I note as well that in my opening statement this morning I said that people who are referred to under parliamentary privilege will, as far as I am concerned, have the right of reply under privilege to answer any allegations made. I do not think that Senator Mason has made an allegation—I want to say that clearly. He has simply taken a hypothesis and asked the admiral for a reply. I just want to be clear about that. I think, though, that if there is any further weight to be given to this matter—and I express this as my view, and not on behalf of the committee—there is a probable case for Mr Kevin, if he so wishes, to appear and give evidence.

Having said that, let me go to a few questions, if I may. You can refresh our minds on this—at the beginning of your examination by Senator Brandis you made some upfront disclaimer, if I may use those words, that you are not the right person to have these questions asked of, and that there is some other officer who can, I think your words were, tell us ‘chapter and verse’ what actually happened. Is that right?

Vice Adm. Shackleton—I am happy to talk where I can in the broad, but, for the purposes of accuracy, I would defer to others who I know have expert detailed knowledge. I am quite happy to tell you where I think that that can be provided, which might aid you. But I guess that is on a case-by-case basis.

CHAIR—Can you just identify again, for the record, who is the officer that you believe can, as I think you said, tell us ‘chapter and verse’?

Vice Adm. Shackleton—In relation to the SIEV4 incident, blow by blow, I think you would want to talk to Commander Banks. In terms of the detail of other SIEV incidents, in a much higher level of detail than I can talk to you about, you would want to talk to the Maritime Commander, who is Rear Admiral Smith.

CHAIR—I think that, as well, you said—and I am just seeking for you to correct me here, and please do so—that the document from which Senator Brandis quoted in his examination of you was not something that you recall seeing, although you noticed that your name was on the list of people to whom it had been provided. Is that right?

absolute cost of Operation Relex in a box per se. I am not quite sure where the estimates process is in terms of looking at what the difference is between now and then.

Senator FAULKNER—Are you able to provide that differential for the benefit of the committee?

Vice Adm. Shackleton—I would have to take advice on that.

Senator FAULKNER—If you wouldn't mind.

Vice Adm. Shackleton—By advice I mean I would have to seek the minister's agreement to table that.

Senator BARTLETT—Before I start my questions—I could have raised this point at the time but I did not want to be seen to be trying to interrupt the line of questioning—you mentioned before that people named adversely would be given the opportunity to respond. Can I clarify that that means the people on the various boats will get an opportunity to answer the allegations that were outlined today and the assertions that were made about their being evil people who engage in child abuse, moral blackmail and the like? It is a bit difficult when they are all locked away in a foreign land somewhere.

CHAIR—Outside of our jurisdiction—it is a bit difficult but, as I interpret the terms of reference, that is a relevant line of inquiry and we should apply our minds to how we conduct it.

Senator FERGUSON—Mr Chairman, I do not recall anybody referring to them as 'evil people'. Do you?

Senator BARTLETT—I do.

Senator JACINTA COLLINS—Yes, I do, Senator.

Senator BRANDIS—I think I did say that the conduct reported was evil.

Senator FERGUSON—If you heard them talk about evil people then perhaps you can repeat it.

Senator BARTLETT—Certainly I know the words 'moral blackmail' were used. Perhaps you can make a judgment and report about whether they should be condemned to hell, if that fits our terms of reference.

Senator JACINTA COLLINS—Such judgements are a positive, actually.

Senator BARTLETT—Can I ask briefly in terms of the other document that was brought forward by Senator Mason about the concern that was raised—quoting one of the people who survived the ship that sank—that there were Australian vessels in the vicinity that did nothing. Were you aware of that concern before we raised it today?

Vice Adm. Shackleton—Are you talking about the letter of 18 February from Mr Tony Kevin?

Senator BARTLETT—Yes.

Vice Adm. Shackleton—While I was aware that assertions had been made, that that event took place or that an Australian warship was close by, all of our records point to all of our ships being elsewhere doing other things.

Senator BARTLETT—So you had been aware of it previously and investigated it?

Vice Adm. Shackleton—When this allegation was made we checked all of our available information. There is nothing that indicates that we were closer than about 230 miles away.

Senator BARTLETT—Thank you. I appreciate that. It is handy to clarify that it had already been examined. We have heard, in the questions that have been put to you to date, about the impact on the crew's morale—I think 'morale' was the word used; you used another phrase like 'state of wellbeing' or 'psychological happiness'. Navy personnel had to witness children being dangled overboard and the like. This is a general question: I would be interested to know whether you have any comment on the impact on the satisfaction, if you like, of Navy personnel on the overall role they have now been given? As you said, it is a new style of operation; it is not something that Navy personnel are used to being involved in. I am not implying that Navy personnel collapse into a heap of tears every time they are faced with a difficult situation, but I presume that having to engage boats that are significantly overcrowded and marginally seaworthy with distressed people on board—women and children, and babies, in the case of SIEV4—would be difficult for them. Engaging with them generally, I presume, is something that would be fairly stressful for people.

Vice Adm. Shackleton—It is stressful and difficult. We have had to introduce new training to help equip our people to deal with it. We have not been used to this kind of close quarters work in the way that it is for quite some time. When the operation commenced we had not made sufficient preparations to deal with it. We were in catch-up mode insofar as the training of our people was concerned. We have now reached a point where that training is effective and it makes a difference with people being able to deal at such close quarters with people in these circumstances.

Senator BARTLETT—When was that training introduced?

Vice Adm. Shackleton—I would have to check.

Senator BARTLETT—After the SIEV4, for example?

Vice Adm. Shackleton—Can I get some advice on that?

Senator BARTLETT—Certainly. In your role as Chief of Navy, are you aware of dissatisfaction being expressed by Navy personnel, at whatever level, about having to perform this new role?