processed on shore. Perhaps the Government would prefer to return to the simple 1960s where it liked to be selective in the refugee camps. The situation then was a lot cleaner and more orderly. I suppose everyone would like to live in that ideal world, or perhaps everyone would like to relive the past and history. We are no longer in that era. We are in the present attempting to solve the problem faced by us and the international community for the next number of years. Therefore, it is impossible and irresponsible to wish to return to a different era. Governments and nations must take the future in hand and guide us through those treacherous waters and ensure that we come out in a healthy state at the end of the process.

Therefore, a government suggesting that it only wishes to select refugees from abroad, select the young rather than the old, the healthy rather than the ill, the skilled rather than the unskilled, the wealthy rather than the poor, or leaving the women in the camps with the first preference going to the male refugees is not a very realistic or responsible way to go.

For those reasons we cannot accept the safe country concept in the manner it is defined in the Bill without the guarantees and the agreement between the countries on that list, and without agreement that the list will not be drafted by the Cabinet. If there is to be a safe country concept the list should be drafted by the refugee division. We are only prepared to go as far as the Cabinet being able to draw up such a list, but that it only serve in an advisory capacity and not as the law of the land.

The final of the three areas of concern that our Party had a great deal of difficulty with, as did many organizations, is the appeal mechanism. There was a perception that the system is as good as the appeal. In terms of dealing with human beings, mistakes are very costly. Often mistakes can be fatal. Therefore, there was a sense that there was an urgency and a necessity to ensure that there is an appeal process that is as foolproof as possible. An appeal system will never be 100 per cent correct, 100 per cent foolproof. Yet we can strive toward that ideal appeal mechanism rather than stopping at a mediocre system that we have presently.

The present proposal suggests that there is an appeal with leave to the Federal Court only on points of law. It is seriously flawed. First, it is only done with leave rather than an automatic appeal. Second, it is to a Federal Court which most organizations and expert witnesses have stated is the incorrect body to deal with refugee related matters, that is not its area of expertise and a different body is required. Finally, it can only be done on points of law rather than, as we have suggested, to encourage and include points of fact, and circumstances involving the refugee claim. We do not want to have a court that does not look at the actual circumstances but looks at the process if the law was followed.

● (1530)

If the refugee board followed the law, it would not be necessary to consider the claim because it would meet the test

under points of law. It may be seriously flawed, the refugee board may have erred, or new circumstances may have been brought forward by the refugee, but the refugee would not have an opportunity to appeal because they would not be points of law but points of fact and circumstance involving the case.

Rather than allow that appeal system to take place and to shape the new refugee determination system, we moved amendments. We talked about the inadequacies of the Federal Court before which only 2 per cent of appealed cases were successful. This means that 98 per cent of appeals were ruled out of order or not accepted. That is the reality of the Federal Court in respect of current appeals. It is universally maintained that it is not functioning correctly and is certainly not erring on the side of refugees.

Therefore we proposed a number of models. We suggested that perhaps there should be an automatic appeal and not one with leave. This would mean that the Federal Court would decide whether to hear an appeal, rather than saying that if an appeal is triggered the court must hear it. We suggested that it should not be on points of law, that it should be on points of fact and circumstance. Then we suggested other meaningful changes, such as, for example, that there should be an independent refugee body which would listen to appeals. We also suggested the possibility of a paper review, after which an individual reviewing the case would be empowered to order a new hearing.

As well we suggested an appeal to the deputy chairman of the refugee division or to a group of refugee board members who had not heard the claimant's case but would be in a position to review and to recommend a new hearing if a new hearing were justified.

All those models were rejected, even though they were presented to try to deal legitimately, under the process, with the situation that there may be mistakes in the process. Mistakes in this case are not mistakes that we can correct by other pieces of legislation or by a letter. These mistakes may not be correctable, because when a person has gone from being within our borders we may not know what fate awaits him if we indeed made an error. We wanted to assure ourselves that those fatal mistakes would not occur. We wanted a proper appeal mechanism in place in order to attain such a goal.

It was with good cause that many groups suggested that they would approve the Bill if substantial changes were made in terms of the three areas of concern—prescreening, safe country, and appeal. We moved amendments on these three areas in committee, believing quite firmly and genuinely that if amendments were not caused or accepted by the Government, the other amendments it would want to accept or promote would be academic by comparison.

What is the use of crossing the t's or dotting the i's on some page of the Bill if prescreening kept people out, if people were in orbit because of the safe country concept, and if an appeal would not be granted legitimately.