

Excerpts relating to Sunrise Unitisation Agreement only



COMMONWEALTH OF AUSTRALIA

# SENATE

## Hansard

**WEDNESDAY, 24 MARCH 2004**

### CORRECTIONS

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# PROOF

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Wednesday, 24 March 2004

**The PRESIDENT (Senator the Hon. Paul Calvert)** took the chair at 9.30 a.m., and read prayers.

#### PARLIAMENTARY LIBRARY MATTERS

**The PRESIDENT** (9.31 a.m.)—I wish to make a statement regarding the Parliamentary Library and the position of Parliamentary Librarian. The 2002 report on aspects of the administration of the parliament by the Parliamentary Service Commissioner, Mr Andrew Podger, and the Senate resolution in August 2003 establishing the Department of Parliamentary Services both included important elements intended to protect the independence of the Parliamentary Library.

The Speaker and I have consulted the joint Library Committee on proposals to give effect to the parliament's wish to protect that independence, and we have reached agreement on a package of proposals that I believe will guarantee that independence for the future.

The package consists of proposals for a more formal establishment of the joint Library Committee, drafting instructions for amendments of the Parliamentary Service Act 1999, and a duty statement and selection criteria for the position of Parliamentary Librarian, to be created as a statutory office.

The proposal to establish the Library Committee on a more formal basis arises from the parliamentary resolution establishing the DPS and will be the subject of further consultation with senators and members. I will write to party leaders and Independent and minor party senators about that.

The Parliamentary Service Commissioner's report proposed that the Parliamentary Librarian have a senior position in the Department of Parliamentary Services. The Senate Standing Committee on Appropriations and Staffing, and the resolutions passed by the Senate and in the other place, proposed that the Parliamentary Librarian should be a statutory position with direct reporting lines to the Presiding Officers and the library committees.

The Speaker and I propose that the act be amended to create a statutory position of Parliamentary Librarian, set out the functions of the Parliamentary Librarian and require those functions to be performed, among other things, in an impartial and confidential manner and on the basis of equality of access for all senators and members.

The Speaker and I believe that it is important to specify the core functions of the Parliamentary Librarian in the act.

Another element of protecting the library's independence is that the bill will require the Parliamentary Librarian to have professional qualifications in librarianship or information management and professional

membership of a recognised professional association in such a discipline.

The bill will contain provisions relating to the statutory appointment that largely mirror those covering the Secretary to the Department of Parliamentary Services, including that an appointment may only be terminated by the Presiding Officers after receiving a report from the Parliamentary Service Commissioner.

As proposed in the parliamentary resolutions, there will be a significant role for the Library Committee in advising the Presiding Officers on the annual resource agreement between the Parliamentary Librarian and the Secretary to the DPS. As well, the Parliamentary Librarian will formally report to the Library Committee at least once a year.

The duty statement and selection criteria reflect the proposed provisions relating to the functions of the Parliamentary Librarian and the qualifications required.

When a draft bill is available, the Speaker and I will consult further with party leaders and Independents. At that stage, provided there is no objection, preliminary recruitment action will begin, although of course an appointment to the statutory position of Parliamentary Librarian will have to await passage of the bill.

I thank the Senate.

#### BUSINESS

##### Consideration of Legislation

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.34 a.m.)—I move:

That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Greater Sunrise Unitisation Agreement Implementation Bill 2004

Customs Tariff Amendment (Greater Sunrise) Bill 2004.

**Senator BROWN** (Tasmania) (9.34 a.m.)—The Greens oppose the motion.

*Government senators interjecting—*

**Senator BROWN**—No, it is not a surprise, as one of the government senators points out. There is no urgency with this legislation—in fact, quite the reverse. It is so important and it will have ramifications for so many years to come for the relationship between Australia and Timor Leste that we should be giving maximum consideration to this legislation. That means that we should have the opportunity to, in the fullest sense, understand Timor Leste's position on this. We should be able to communicate with government, parliamentary and community representatives of our small and very impoverished neighbour, as well as with community groups—including, of course, the oil companies involved, such as Woodside—in particular those com-

munity groups representing Timor Leste's position here in Australia.

The truncated nature of this process, whereby we effectively drop standing order 111, which is meant to facilitate senators to do exactly those things, is wrong. I have yet to hear from the government why this matter is so urgent that we must ignore the cut-off—that we must ignore the parliamentary norm that there be time for consultation. As I said, this legislation will have ramifications for decades. It involves the theft from East Timor of its gas and oil resources by the Australian government, with the involvement of the oil companies. Billions of dollars are involved here. It is a matter that concerns the major resource for the funding of the future welfare of the poorest neighbour in our region, namely Timor Leste. We should be giving this maximum consideration.

On Monday night there was a committee hearing with two witnesses: the conjoint departmental representatives representing the Australian government and one very presentable—but nevertheless one only—non-government organisation from Australia doing the best it could to represent the alternative point of view. That is manifestly inadequate. We are not proceeding with this legislation on the basis of information that is appropriate to its importance. If ever there was a need for us to observe the rules of the Senate—in particular standing order 111—which provide that there should be some time between the introduction of a piece of legislation and the Senate's consideration in voting on that legislation, this is it. So, no, the Greens do not accept that this bill should be exempted from standing order 111. Standing order 111 is precisely there to ensure and to cater for the adequate informing of the Senate before it proceeds on complex pieces of legislation like this one, which does have major ramifications for our relationship with not just East Timor but also the neighbourhood. We object. We do not accept that there should be a cut-off here.

**Senator STOTT DESPOJA** (South Australia) (9.38 a.m.)—The Democrats also oppose the motion before us today to exempt the Greater Sunrise Unitisation Agreement Implementation Bill 2004 and the Customs Tariff Amendment (Greater Sunrise) Bill 2004 from the cut-off, for many of the reasons outlined by the previous speaker. The way this legislation has come to this parliament has been an abuse of process. The way this legislation has arrived in the parliament has been absolutely outrageous. As honourable senators would be aware, it was expected to be debated almost within hours of being introduced in this place. I think we had the legislation for about three hours, and some of us not even that. I acknowledge the government's apology for failing to give the Democrats the bill but giving it to the Labor Party and the Greens. I take on board that apology from Senator Abetz. Within three hours of that

legislation being provided to senators, there was an expectation that that be debated.

More importantly, in relation to the so-called urgency there is actually no compelling reason why this legislation should be debated in such haste, no compelling reason for it to be exempt from the cut-off, no compelling reason for it to have been dealt with in this way and no compelling reason for the committee process to have happened with the alacrity that it did on Monday night. The report was tabled, as senators would know, after 6.30 last night, giving some of us the opportunity to write our supplementary and dissenting reports in a very short period of time. Through you, Madam Acting Deputy President Knowles, that is with all due respect to the secretariat, who handled that process with great aplomb. A committee report was tabled last night, there is a cut-off motion this morning and there is an expectation that we will now debate this legislation.

This legislation is complex. It is not only about issues of great wealth; it is about international jurisdictional issues and maritime boundaries. These are complex issues and they deserve more time for debate both in this chamber and through the committee process. I record my disappointment at the way this process has been conducted and acknowledge that many in the community have also put on record their concerns about the process. Many community groups would have been interested in providing information to the Senate deliberations and they feel that they have not had an adequate time or opportunity to do so.

I acknowledge that these bills relate to resources that are desperately needed by the people of Timor Leste. I do not think any of us can afford to forget that Timor Leste is a fledging nation, one of the poorest in the region and of course an important new neighbour. Why are we treating the government and the people of that new nation in such a way? The Democrats accept, very much so, that it is desirable for both governments to come to an arrangement that provides legal and fiscal certainty not only for governments but, indeed, for those corporations that are involved in this process. But we do not accept that as a reason for rushing these bills through the parliament in a manner which we believe has compromised the proper scrutiny of the legislation. There is no specific commercial deadline for the ratification of the agreement in the way there was a specific date for the ratification of the Timor Sea treaty. Yet one of the effects of rushing these bills through the parliament is that it has severely limited the possibilities for consultation and debate.

I am glad that the Senate Standing Committee on Economics had the opportunity to look at the bills, albeit briefly. I do believe the bills would have been greater served by consideration over a longer period of time. I note that the Timor Sea Justice Campaign indi-

cated to the committee that they were aware of a number of organisations, including large NGOs, that were considering making submissions but that, due to the extremely short time frame and limited nature of the invitation to give submissions, were deterred from doing so. I want to record their view—and they argued this in their submission—that the small number of submissions should not be interpreted as a lack of interest in this particular issue. In fact, on the contrary, I think there is a growing interest. Certainly they indicated that there is a growing interest across various sectors of Australian society regarding Australia's relationship with Timor Leste and the Timor Sea negotiations.

The Democrats want to record today our deep regret at the way this legislation has been rushed through. Not in the committee process nor even today as we deal with this exemption from the cut-off have we been given any compelling reasons or shown compelling evidence to support the suggestion that Australia or Timor Leste would lose any revenue if ratification were prolonged even for a few weeks let alone a few days. There is no evidence to suggest that Australia or Timor Leste would lose out. That we could not even take a few extra hours is an absolute indictment on the parliament. It is particularly disappointing that the Economics Legislation Committee was deprived of the opportunity to hear additional evidence which I think may have assisted its assessment of this legislation and consequently the Senate's consideration of these bills.

For these and many other reasons the Democrats today strongly oppose the exemption from the cut-off. As we can read the numbers in this chamber, this debate will come on. I will move an amendment to this legislation to try and ensure not only that Australia gets a good deal but also that we do not rip off one of the poorest nations on earth—a nation that we have had positive dealings with, particularly in recent times, dealings of which we can be proud and this government can be proud. This process is not one that makes me proud. I am sorry that we will be debating this legislation with such haste.

**Senator HARRIS** (Queensland) (9.45 a.m.)—I also rise to speak to the cut-off motion. In doing so, I want to raise some real concerns from One Nation in relation to what I believe is not only undue but also inappropriate haste. If we want to start anywhere, all we need to do is look at the document I have in my hand which is provided by Woodside. If you look at the diagram at the back of this document—and I will seek leave during the debate to table this document—you will see that it clearly shows that the entire Sunrise field is well and truly in the Timor half of the sea. So this is step one: we should not interfere in a natural resource of Timor. But the situation gets much worse when we look at the way in which the current boundary between

Australia and East Timor was set. It was set with undue haste, it was set in a period when there was considerable turmoil in East Timor and it was set under less than satisfactory circumstances. I also have an article from the *Australian Financial Review* of Friday, 5 March this year. The heading is 'Bribery case rocks Timor Treaty'. The article says:

A \$US30 billion lawsuit accuses major politicians of bribery and questions the validity of the Timor Sea Treaty ...

So not only do we appear to be placing Australian jurisdiction over a resource that, under international law, is well and truly within the confines of East Timor; there is also, in this situation, a clear possibility of bribery being used to obtain what has been set as the boundary at the moment. If we look at a case that has come out of the District of Columbia in the United States, we see a very clear indication of where international law has set boundaries—that is, halfway between the actual countries. This is very clear. I have in my hand a complete transcript of that case. If we want an example of where the boundary should be, this case will give it very clearly and very succinctly. We should not be interfering in a natural resource of East Timor. One Nation will oppose the cut-off.

**Senator O'BRIEN** (Tasmania) (9.49 a.m.)—I have to say that Senator Harris did not let the facts get in the way of a good story with his contribution then. The fact of the matter is that the legislation before the Senate, it has been established by the Economics Legislation Committee's inquiry, reflects the agreement between the governments of Timor Leste and Australia. That was a very appropriate purpose of the Senate's inquiry. Of course, Senator Brown and Senator Stott Despoja did not mention that the treaty itself was the subject of examination by the Joint Standing Committee on Treaties. I believe that committee reported at the end of 2002. So this legislation, we have established, follows a treaty entered into between the two nations. The legislation that is before the Senate accurately reflects that treaty. So it is not as if this has been rushed through the parliament at all, because the question of the treaty has been the subject of a proper inquiry by the Joint Standing Committee on Treaties, which was concluded over a year ago.

If anyone has dragged their heels in this matter, it is the government getting this legislation here—and I intend to be critical of the government in that regard during the second reading debate. There are issues which go to the development of the field. No doubt there are commercial issues. We need to understand that, whatever we do here, nothing will happen in this regard without parallel action from the legislature of Timor Leste. I would not want to have the finger pointed at me or my party if we did not deal with this legislation or have it said that we were responsible for

delaying or preventing a development which will have significant economic benefits for that fledgling nation.

The opposition will be supporting the motion to exempt this bill from the cut-off, because there is no prejudice in dealing with the debate now. The issues about the treaty were dealt with by the Joint Standing Committee on Treaties quite some time ago. If people want to run their case again before the Senate, I think we have to call a halt to that and say, 'You've had an opportunity to present your case'—and indeed they have. The Joint Standing Committee on Treaties has made recommendations. The government has taken quite some time to act on them. The legislation we are considering to be exempted from the cut-off is in line with the treaty; we have established that. We should get on with it and deal with it. And if the government of Timor Leste do not wish to proceed, it will be in their hands.

**Senator LEES** (South Australia) (9.52 a.m.)—I also want to speak against our rushing the Greater Sunrise Unitisation Agreement Implementation Bill 2004 and related bill through this place, and I will be voting against the motion to exempt these bills from the cut-off. The facts of the matter are that we do not need to rush today. Very late last night I was able to obtain a copy of the Senate Economics Legislation Committee's report, and I understand that because of printing problems other senators still do not have a copy. We managed to get a photocopy.

This treaty is simply unfair. Yes, Timor has agreed to it, but the amount of revenue they are going to get, particularly from the Sunrise field which is worth up to something like \$30 billion, is only 18 per cent. As the Labor Party has just said, while they do get significant benefits from it compared with any other revenue opportunities they have—and that is, I think, why they signed: the fact that they will get at least something from it—it is nothing like what they are entitled to. I believe we need more time to air this matter here and publicly. While Australians obviously want their government to maximise opportunities for revenue, to provide the best possible services for Australians, in this case we are going to be doing it at the expense of a very impoverished country, a country that is supposedly our neighbour and our friend. We are going to be doing it in a very rushed and hurried manner when we should, I believe, be opening this up to far more community consultation. I think most Australians will agree that it is far better to support this country by ensuring they get what they are entitled to from this gas field than to continually be giving them direct aid and support to provide basic things such as schools and health services. So I see no reason to rush and will be voting against the motion to exempt the bills from the cut-off.

**Senator BRANDIS** (Queensland) (9.55 a.m.)—I was the Chairman of the Senate Economics Legislation Committee which conducted the hearing into this bill last Monday evening. I want to respond briefly to some of the statements that we have heard from Senator Brown and Senator Stott Despoja, both of whom participated in that hearing, and also from Senator Harris and Senator Lees, who did not. The Greater Sunrise Unitisation Agreement Implementation Bill 2004 and related bill were referred to the legislation committee on 10 March, and I am advised by the committee secretariat that the hearings were advertised in the ordinary fashion on the Internet on 12 March. The secretariat also approached by telephone various interested parties, not only commercial parties but also NGOs who had taken an interest in the legislation. Only two NGOs indicated an interest in appearing before the public hearing, one of which ultimately did not appear. However, written submissions were received from four NGOs—that is, the Timor Sea Justice Campaign, which did appear; the East Timor Institute for Reconstruction Monitoring and Analysis; Australians for a Free East Timor; and Oxfam Community Aid Abroad. Those submissions were before the committee and were considered by it in its deliberations, as were submissions by four interested private citizens. The only commercial party which made a submission but which did not appear before the hearing was Woodside Energy Ltd.

So although it is true to say, as Senator Brown has said, that there were only two brackets of witnesses, that is, Mr Nicholson from the Timor Sea Justice Campaign—and I interpolate to say that I agree with Senator Brown that Mr Nicholson was a very impressive witness—and the Public Service witnesses from the department of industry, Treasury, DFAT and the Attorney-General's Department, nevertheless there were eight other interested parties whose submissions were before the committee.

The next point I wish to make is that the government of East Timor did not make a submission to the committee nor indicate an interest in appearing before it. Perhaps that is not surprising, because all these bills do give effect to an agreement between the government of Australia and the government of Timor Leste. Nevertheless, out of abundant caution I asked the secretary of the committee, Dr Bachelard, to approach the East Timorese embassy in Canberra to inquire whether or not the ambassador wished to make a submission or wished to appear, absent a written submission, at the hearing. That approach by telephone was followed up by a letter which I sent to His Excellency the Ambassador, Mr Teme, on 19 March reminding him of the hearing and again indicating that if he wished to appear on behalf of his government he was welcome to do so but there was no necessity for him to do so. The committee secretariat was contacted by the embassy during

the course of Monday, and it was indicated to the secretariat that they did not wish to appear or otherwise to make a submission. So the suggestion that this has been done in a rush which has prevented interested parties, including NGOs, let alone the government of East Timor, from putting their point of view to the committee simply is not so.

Mr Nicholson, the one witness who not only made a written submission but also appeared before the committee in person, gave a very vigorous critique of the legislation and gave a very good account of himself. As chairman of the committee, I indulged Senator Brown and Senator Stott Despoja by allowing the hearings of the committee to run on for almost three-quarters of an hour beyond the scheduled adjournment time so that it could not honestly be said that there was any constraint on the capacity of Senator Brown or Senator Stott Despoja—two senators who adopted a critical attitude to the legislation—to ask the questions which they wished to ask. No time limit was imposed upon either of them.

Those are the facts. Before I sit down, I wish to comment on something Senator Harris said. This is not the time to debate the merits of these bills, but the record should not go uncorrected. Senator Harris made the assertion that the Sunrise field—which falls across the boundaries of the joint petroleum development area which has been defined in the agreement between the government of Australia and the government of Timor Leste—is in East Timorese territory. The maritime and seabed boundary between Australia and East Timor is still the subject of negotiation between those two nations. The commercial arrangements to which this legislation will give effect and which reflect the agreement of the government of Timor Leste and the government of Australia are expressly, by the terms of the agreement—which is a treaty, or has the character of a treaty, between the two nations—without prejudice to any ultimate determination of the negotiations of the line of the seabed and maritime boundary. Although the JPDA is to the north and west of the median point between the coastlines of Australia and East Timor, it is factually incorrect to say that this area of seabed falls within East Timorese seabed territory, just as it is quite incorrect as a matter of law to say that, ordinarily, the seabed and maritime boundary between two littoral states is the median point between their coastlines.

What Senator Harris did not tell the Senate—perhaps because he was ignorant of the fact—is that the edge of the Australian continental shelf, which projects from the north-western coast of Western Australia, is much closer to the southern and eastern boundaries of the land mass of East Timor than it is to the northern and western boundaries of the land mass of Australia. Senator Harris is perhaps ignorant of the fact that, in the determination of international seabed and maritime boundaries, the locality of the continental

shelf between littoral states is a much more highly relevant circumstance than the median point between the coastlines. The locality of that boundary is now the subject of negotiation between those two governments. This treaty, and the agreement which gives effect to it, are expressly without prejudice to any outcome which those negotiations might produce.

**Senator HARRADINE** (Tasmania) (10.04 a.m.)—I want to express concern. I do not want to get into the debate itself; nor are we allowed, I think, under standing orders to get into the debate. Various assertions have been made. Senator Brandis has made some statements recently. I do not want to discuss those statements or anything that other senators have said. I express my concern at the fact that the way we are proposing to deal with this matter is to make it the subject of a cut-off from the requirements of standing order 111. That is the motion before us. From my point of view that is inappropriate. Others might have known about this beforehand, but I have only just received the report of the Senate Economics Legislation Committee; it is just to hand. I have not had the time to rapidly read through it because I was trying to listen to some of the submissions that were made. I do not know whether I am the only one who has a printed copy. I may have the first printed copy.

**Senator Brandis**—We furnished a copy to Senator Brown yesterday, incidentally, Senator Harradine, before the end of question time. I should have mentioned that in my speech.

**Senator HARRADINE**—Well, you didn't give me one. I am just expressing my point of view in coming upon legislation and trying to understand it. Normally, Senator Ian Campbell, the Manager of Government Business, makes certain that people have the relevant documentation upon which to make a decision.

Senators might say that this legislation is giving effect to a treaty that is already signed. That is an argument that the government may well make, and make validly from its point of view, but we should not take away the rights of others in the arena, including the parliament if it wishes to thoroughly consider the agreement to see whether or not the implementing legislation is appropriate. But, to do that, you do need to have the information. All right, the treaties committee reported some time ago, but this latest report has just come in, as I said, and I did not have the legislation in my hands until this morning. I do not know where the slip-up was, but I have not had a chance to read the legislation.

I just wonder whether a few days here or there would make a big difference. I know some indication has been given that certain honourable senators do not want to be responsible for the lack of flow of what moneys may come out of this for the benefit of the other party—or for the benefit of this party, as far as



that is concerned—but I presume from my brief reading that, if we pass this legislation eventually, the agreement will have effect anyhow retrospective to the dates that presumably are in the agreement. All I ask is for a fair crack of the whip. It is a bit hard to ask an individual senator or senators to make up their minds on a piece of legislation about which we have received information only very recently.

**Senator NETTLE** (New South Wales) (10.09 a.m.)—The Greens are opposing this motion by the government to push through this legislation because we recognise it is not urgent. The government has put a case to say that it believes it is urgent that we grab the oil away from the Timorese before there is a capacity to deal with this in the International Court of Justice, where the matter of the maritime boundary should be dealt with. This government has withdrawn itself from the jurisdiction and so from being able to be involved in that determination about the maritime boundary, and now it is trying to pull through a piece of legislation that does not just put in place a treaty that has already been ratified.

There is a range of questions that will be asked during the debate about the process by which that treaty was ratified, but what we see here in the piece of legislation the government is trying to bring through today is not simply a transferral of what was in the treaty into a piece of implementing legislation. With this piece of legislation, the government is attempting to ensure that if the decision about the maritime boundary between Australia and East Timor is made in the court—the maritime boundary that, if we put it in the centre of the two continents, ensures that the entire gas reserve is on the side of the East Timorese—then that decision by the court will be dismissed.

Firstly, let us remember that the government has withdrawn from the court in which the determination will be made, and now it is attempting in legislation to ensure that if a decision is made in the court it will not be primary to the decision because it will already have a piece of legislation through that will ensure that Australia gets its hands on the oil of the East Timorese. East Timor is one of the poorest nations in our region, a country over which this government made a great fanfare about the role it played in going in and supporting the Timorese at the time of the Indonesian militias. Having been in East Timor after the Indonesian militias had gone through and devastated the country, with many Australians working there, Australians have a responsibility to that country—and it is not to grab the oil out from under their feet before they have the capacity for a determination to be made in the International Court of Justice, where it is right and proper that a determination should be made as to whom the oil does belong.

That is the intention of this government, and its intention in relation to the urgency of this legislation is to ensure that greater pressure than has already been exerted is put on the East Timorese government over the issue of the Timor Sea Treaty. It is not urgent that we grab the oil from the Timorese before they have the capacity to have the boundaries determined under in the International Court of Justice. The Greens will never support this raping of resources from East Timor by the Australian government. It is not urgent that we take their oil, and we will not support this motion to ram through a piece of legislation that ensures that Australia takes from the East Timorese the oil that under international law is rightly theirs.

**Senator IAN CAMPBELL** (Western Australia—Minister for Local Government, Territories and Roads) (10.13 a.m.)—I thank all honourable senators for their contributions to the debate. I particularly thank Senator George Brandis, the chairman of the committee that diligently inquired into this bill. I just make the point that the government, under the standing orders, brings forward legislation. The reason we seek exemption from the provisions of standing order 111 is that we would like to deal with this legislation in these sittings. What occurs on days like today is that the government brings forward a bill and seeks to have it dealt with by the democratically elected Senate of Australia, the Senate will vote on this motion and determine whether or not this legislation shall be dealt with in these sittings by being read a second time today, and so democracy will work.

I note that we circulated a statement of reasons why this bill needs to be introduced and why the government seek passage of it in 2004. In his contribution, Senator Brown said that the government had not given any reasons for that. That is not true. We have given reasons. He may not like the reasons, nor may Senator Nettle, Senator Lees, Senator Harradine or others, but we believe that this is important for Australia and important for the Greater Sunrise development, which is a fantastic project that an Australian company, Woodside, should go forward with. Quite frankly, without being melodramatic about it, I want to say it really is a wonderful week. We had BHP Billiton in Western Australia announcing the go-ahead for the Ravensthorpe nickel project yesterday afternoon—a wonderful project for Australia and a great project for the south-west of Western Australia—and today, 24 hours later, we are debating the need to progress and seeking passage of a bill that will see one of the greatest petroleum projects in the history of mankind progress just off our shores between Australia and one of the world's newest nations, if not the newest nation, Timor Leste. It is a wonderful achievement.

It is entirely appropriate that the Senate deals with it if there is a majority to deal with it. Standing order 111

does not say that you cannot deal with it; it just says that the Senate needs to think about whether it should deal with it in that session. That is what we are doing. It is entirely appropriate that we debate it. The committee that Senator Brandis chairs had this matter referred to it on 10 March, a fortnight ago. Any senator who had an interest either could have been involved physically, as Senator Brown and Senator Stott Despoja were, or could have followed the proceedings if they were unable to attend. The committee report, I am assured, was available less than an hour after the committee reported in this chamber last night. Any senator who wanted to get a copy last night could have had a copy and read the report of the Brandis committee.

Senator O'Brien made the very good point that the treaty itself has been considered by a very worthwhile committee of the parliament. No-one can say that these matters have not been given thorough consideration by the parliament of Australia and most particularly by the Senate of Australia. Any senator who wanted to take an interest in these matters or anyone in the community who had an interest in these matters—it was advertised to the world 13 days ago that there would be an inquiry—could have been involved in the proud democratic traditions of Australia and this Senate's scrutiny of legislation and policy. I commend the motion to the Senate.

Question put:

That the motion (Senator Ian Campbell's) be agreed to.

The Senate divided. [10.22 a.m.]

(The Acting Deputy President—Senator S.C. Knowles)

Ayes.....	41
Noes.....	<u>12</u>
Majority.....	29

**AYES**

Bishop, T.M.	Boswell, R.L.D.
Brandis, G.H.	Buckland, G.
Campbell, G.	Campbell, I.G.
Carr, K.J.	Chapman, H.G.P.
Crossin, P.M.	Denman, K.J.
Eggleston, A. *	Evans, C.V.
Ferguson, A.B.	Ferris, J.M.
Forshaw, M.G.	Hogg, J.J.
Humphries, G.	Hutchins, S.P.
Johnston, D.	Kirk, L.
Knowles, S.C.	Ludwig, J.W.
Lundy, K.A.	Macdonald, J.A.L.
Mackay, S.M.	Mason, B.J.
McGauran, J.J.J.	McLucas, J.E.
Moore, C.	O'Brien, K.W.K.
Patterson, K.C.	Payne, M.A.
Ray, R.F.	Santoro, S.
Scullion, N.G.	Sherry, N.J.
Stephens, U.	Tchen, T.
Troeth, J.M.	Watson, J.O.W.
Webber, R.	

**NOES**

Allison, L.F. *	Bartlett, A.J.J.
Brown, B.J.	Cherry, J.C.
Greig, B.	Harradine, B.
Harris, L.	Lees, M.H.
Murray, A.J.M.	Nettle, K.
Ridgeway, A.D.	Stott Despoja, N.

\* denotes teller

Question agreed to.

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (10.26 a.m.)—by leave—I move the motion as amended:

That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Higher Education Legislation Amendment Bill 2004

Telecommunications (Interception) Amendment Bill 2004.

Question agreed to.

**Rearrangement**

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (10.27 a.m.)—I move:

That intervening business be postponed till after consideration of the government business order of the day relating to the Greater Sunrise Unitisation Agreement Implementation Bill 2004 and a related bill.

Question agreed to.

**GREATER SUNRISE UNITISATION AGREEMENT IMPLEMENTATION BILL 2004 CUSTOMS TARIFF AMENDMENT (GREATER SUNRISE) BILL 2004**

**Second Reading**

Debate resumed from 10 March, on motion by **Senator Ian Campbell**:

That these bills be now read a second time.

**Senator O'BRIEN** (Tasmania) (10.27 a.m.)—The Greater Sunrise Unitisation Agreement Implementation Bill 2004 and the Customs Tariff Amendment (Greater Sunrise) Bill 2004 give effect to the international unitisation agreement between Australia and the Democratic Republic of Timor Leste for the development of the Greater Sunrise petroleum resources. This agreement was signed by Australia and Timor Leste in Dili on 6 March 2003. The interests of both Australia and Timor Leste will be best served by the Greater Sunrise petroleum resources being developed as soon as possible. In particular, the development of these resources will generate for East Timor revenue desperately needed to rebuild an independent and sustainable future.

Labor warmly welcomes Timor Leste into the community of nations and welcomes the progress achieved by the people and government of Timor Leste in work-

ing to build a viable, self-sustaining, independent and sovereign state. The status of Timor Leste as an independent nation amongst all others is a tribute to the resolve of its people. But the resolve of a people is not enough for a country such as Timor Leste to take its place amongst the prosperous nations of the planet. That nation continues to face significant economic and social challenges in its nation building, including the re-establishment of essential social services, revitalising the economy, generating employment and achieving food self-sufficiency.

The development of the petroleum resources of Timor Leste and the funding that will flow from this is vital to that country's economic and social development. The passage of these bills is just a small step for Australia to take in enabling that development to occur. However, more important for Timor Leste than the passage of these bills is the conclusion of a permanent maritime boundary. This government has shown a desire to ram these bills through both houses of parliament in just one day; yet it appears in no hurry whatsoever to meet with representatives of the Democratic Republic of Timor Leste to negotiate a permanent maritime boundary.

Worse than this, its actions with respect to these bills are completely at odds with the concept of negotiating in good faith. There can be no doubt that this was all about bullying the government of Timor Leste and pressuring them in the lead-up to maritime boundary negotiations. Unlike the bullyboy tactics of the Howard government and those particularly of the foreign minister, Labor in government will negotiate in good faith with Timor Leste and in full accordance with international law and it will do all things reasonably practicable to achieve a negotiated settlement within three to five years. I call on this government to match that commitment. The shadow minister, Mr Fitzgibbon, tells me that this government has told East Timor:

... it does not have the resources to meet on a monthly basis on this issue as requested by Timor Leste.

Thanks to the economic reforms which were shirked, might I say, by the current Prime Minister when he was Treasurer but implemented by Labor after 1983, Australia is one of the wealthiest nations in the world. For the Howard government to say that Australia does not have the resources is an affront to the people of Timor Leste, one of the poorest countries in the world.

Such a statement by the Howard government to Timor Leste can mean only one of two things—either it is a diplomatic smokescreen or it is a portent of the state of the Commonwealth budget after the Howard government, lacking an agenda and looking very tired, has attempted to buy itself back into office. Labor considers that Australia should generously assist the people of Timor Leste—the people who assisted our troops so greatly and at great cost to themselves during the

dark days of the Second World War—as they work towards an independent future. We should be comprehensively engaged in supporting sustainable development in that country, and the settlement of a permanent maritime boundary is a critical component of this. The dragging out of negotiations on this issue by this government is shameful behaviour in the international community.

This government can, and I guess in all likelihood will, drag out negotiations on what is the single most important issue for Timor Leste—the permanent maritime boundary—yet it condemned the Labor Party for delaying these bills by just one week after providing less than 24 hours to review these bills when it had a whole year to draft them. This government claimed that referral to the Senate Economics Legislation Committee could delay the bills for a year. Is this government already preparing itself to lose control of the legislative agenda, which under the quaint practices of the Westminster system is in the sole control of the government of the day? If the minister had answered Labor's questions relating to the customs tariff amendment bill when the bills were first introduced, the bills may not have been delayed at all. Woodside's move to immediately address Labor's concern on Australian industry participation puts Minister Macfarlane's lack of knowledge on this matter into sharp focus. Now that Woodside has provided the written assurances that should have been provided to Australian industry and Australian workers by this government, Labor is pleased to give passage to these bills.

Petroleum projects wholly in Australian waters must undertake a process of consultation with Australian industry to maximise Australian industry participation and to qualify for the duty-free entry of goods not able to be sourced competitively within Australia. This process is known as the enhanced policy by-law scheme, item 71 of the fourth schedule of the Customs Tariff Act. In its current form as drafted by the Howard government, the Customs Tariff Amendment (Greater Sunrise) Bill 2004 means that in the case of Greater Sunrise there will be no requirement for these consultative processes to occur. Unlike the anti-Australian business stance of the Howard government, Labor's view is that these processes should occur with respect to the Greater Sunrise area, and Woodside has now committed to undertake them. This government should have been looking after the interests of Australian industry and Australian workers yet it was nowhere to be seen on this issue. The Senate committee process has been important and useful to allow time for this issue to be addressed and resolved and to allow time to more fully review the bills to ensure that they are entirely consistent with what has been already agreed between Australia and Timor Leste and that they will not prejudice Timor Leste's right in the Timor Sea in any way.

As I said before, when these bills were originally introduced into the Senate, Labor had less than 24 hours to undertake this review, while the government had sat on them for a year. The all-party committee has concluded that in all respects these bills are entirely consistent with the Timor Sea Treaty and the international unitisation agreement as they were signed by both the Australian government and the Democratic Republic of Timor Leste in Dili on 20 May 2002 and 6 March 2003 respectively. For that reason—that the bills simply implement what has already been agreed between the two countries—Labor is happy now to give the bills passage. Labor is not happy about the things that have not been agreed, however, and calls on this government to do the right thing and to negotiate in good faith and in a timely manner with Timor Leste to establish a permanent maritime boundary that is just and fair and that reflects the joint aspirations of both countries. The Labor Party is not alone in its deep concern about this issue. This is one of the main concerns raised in evidence to the inquiry.

It is also important to Labor that the passage of these bills in no way prejudices Timor Leste's right in the Timor Sea or the maritime boundary negotiations. I note that article 2(b) of the Timor Sea Treaty states:

Nothing contained in this Treaty and no acts taking place while this Treaty is in force shall be interpreted as prejudicing or affecting Australia's or East Timor's position on or rights relating to a seabed delimitation or their respective seabed entitlements.

I also note, however, the concerns expressed by the Prime Minister of Timor Leste, Dr Mari Alkatiri, that the Howard government's statements and actions are inconsistent with the spirit and the letter of the international unitisation agreement.

While Labor shares these concerns and calls again on the Howard government to act in good faith on these issues, we are satisfied that these bills do not, in themselves, prejudice in any way Timor Leste's rights in the Timor Sea or the negotiations to establish a permanent maritime boundary. The concerns expressed by Dr Alkatiri lie not within these bills but on the shoulders of this government.

The other major area of concern raised in evidence to the inquiry relates to whether any revenue generated from the Greater Sunrise resource should be held in trust or escrow until such time as the maritime boundary dispute between Australia and Timor Leste is settled. According to the Timor Sea Justice Campaign this would remove any incentive for Australia to delay a settlement on the maritime boundary and would remove the possibility of Australia being unjustly enriched at the expense of East Timor. Under a Labor government this will be totally unnecessary because we will negotiate in good faith with the people of Timor Leste and we will do all that we can to settle the mari-

time boundary issue expeditiously. In any case, the Attorney-General's Department said that there is no need for a trust or escrow account because the unitisation agreement itself specifies the allocation of the proceeds between the two countries.

The Senate committee noted that there is provision in the unitisation agreement for either country to request a review of the production sharing formula and for the formula to be altered by agreement between Australia and Timor Leste. The passage of these bills will provide the developers of the Greater Sunrise field with the regulatory certainty that is so important to attract the investment capital and product markets to underpin development, and for which there is intense global competition. Timely development of Greater Sunrise will deliver investment, exports, jobs and revenue to both countries. Timely agreement on a permanent maritime boundary will provide many more opportunities for economic development for both countries, but particularly for Timor Leste in its enormous challenge to rebuild an independent sovereign state and provide for the economic and social welfare of its people.

Labor, as I said, has deep reservations about the conduct of the Howard government over the course of this entire affair—the bullying of the East Timorese and the contemptuous approach the government has taken in the Senate in relation to these bills. As far as I am aware, however, no representative of the Democratic Republic of Timor Leste has asked that these bills not be passed. We also note that Timor Leste must legislate for similar measures for these matters to take effect. In these circumstances, we do not intend to obstruct passage of this legislation. Ultimately, we believe, it will fall to Labor to address the damage to Australia's relationship with Timor Leste that this episode has caused and we will embrace that responsibility when it is presented to us by the Australian people, hopefully later this year.

**Senator STOTT DESPOJA** (South Australia) (10.40 a.m.)—Once again I rise in this chamber to express my disappointment, shame and anger at the way that this government has treated the people of Timor Leste, particularly in relation to its dealings on the matter of the Timor Sea. I think it is a tragedy that a nation which was instrumental in assisting Timor Leste to achieve its independent status could subsequently treat its newest neighbour with contempt.

Let us be clear: when it comes to plundering the rich resources in the Timor Sea, Australia staked its claim from the outset—literally from the first moment of Timor Leste's independence. On 20 May 2000 Timor Leste became the world's newest nation. Before the day was over the Australian government ensured that they had signed the Timor Sea Treaty and an exchange of notes to govern arrangements until the treaty came

into force. The drafting of these agreements was not the only preparation undertaken by the Australian government in the lead-up to Timor Leste's independence. Two months earlier the government had apparently secretly sent officials to New York to lodge declarations in which Australia withdrew from the jurisdiction of the International Court of Justice and the United Nations Convention on the Law of the Sea specifically in relation to maritime boundaries. Later, in the national interest analysis, the government conceded that the secrecy surrounding that mission was intended to prevent any claims being brought against Australia under international law prior to the lodging of the declarations.

There is plenty of evidence to suggest that Australia's withdrawal from UNCLOS and the ICJ has been interpreted as an act of bad faith by the people of Timor Leste. The evidence is out there; it is in the public domain. The evidence is in grassroots reports from non-government organisations. Indeed it is in evidence before committees: the Joint Standing Committee on Treaties and the Economics Legislation Committee that dealt with this legislation. This evidence has been presented to inquiries into this legislation and to the Joint Standing Committee on Treaties during its inquiry into the Timor Sea Treaty. I note that in the previous debate there was an acknowledgment of the fact that the agreement was considered by the Joint Standing Committee on Treaties. The Democrats were involved in that process and we have a report that outlines some of our concerns.

The conduct of Australia in withdrawing from those bodies not only reflects very badly on Australia but sets a poor standard of behaviour for our newest neighbour. In their submission to the Joint Standing Committee on Treaties, the East Timor Institute for Reconstruction Monitoring and Analysis said:

Australia and others in the international community consistently encourage East Timor's new government to implement democracy, the rule of law, transparency and safeguards against corruption as we develop our governmental structures and practices ... at the same time, Australia is not practicing what you are preaching us to do. When your country withdrew from legal processes for resolving maritime boundary disputes, you taught us the opposite message—that when the booty is large enough, the legal principles go out the window.

The Australian Democrats have long believed that it is in our country's best interests to support the structures and principles of the international legal system which have been established to promote collective security, the just resolution of disputes and international peace. In practical terms this means submitting to the rule of law even when this may be contrary to our immediate financial interests.

There is also an obvious point: if Australia is so confident of its claim under international law, why would

we fear submitting it to the jurisdiction of the ICJ as a last resort—that is, if negotiations should fail in any way? If our claim is so strong and we are so confident of it, why would we withdraw from those jurisdictions? Why would the claim fail in the ICJ? Is it that our government may suspect that Timor Leste may just have the stronger claim? After all, the Joint Petroleum Development Area lies on Timor Leste's side of the median line between it and Australia, and the Greater Sunrise field is twice as close to Timor Leste as it is to Australia.

Australia's withdrawal from UNCLOS and from the ICJ was one of the first heavy-handed tactics used in relation to Timor Leste in the history of this shameful saga. There is also the fact that Timor Leste was compelled to sign the Greater Sunrise agreement in circumstances in which it had little choice. This goes to the heart of the bills before us, the Greater Sunrise Unitisation Agreement Implementation Bill 2004 and the Customs Tariff Amendment (Greater Sunrise) Bill 2004. The government has consistently argued that these bills should be passed because they simply fulfil Australia's obligations under the Greater Sunrise agreement. This, of course, is also the argument that has been put forward today and previously by the opposition. That is the justification that the opposition has put forward for supporting the bills that are before us.

The response of both parties to the serious concerns expressed by Democrats, NGOs and others is that the agreement has already been signed and, more specifically, that it was agreed to by Timor Leste. On face value, this argument is accurate. However, the Greater Sunrise agreement must be considered in the context in which it was signed. Prior to the signing of that agreement, Timor Leste expressed serious concerns regarding its terms. These concerns related to Timor Leste's view that most, if not all, of Greater Sunrise falls within its borders under international law and therefore it is entitled to any taxation revenue.

It remains unclear whether or not the agreement would survive a subsequent change to Timor Leste's maritime boundaries or whether it would be possible to amend the agreement to reflect the new boundaries. On the basis of these concerns, Timor Leste wanted the ratification of the Timor Sea Treaty to proceed independently from the negotiations of the Greater Sunrise agreement. However, evidence suggests that it was Australia that insisted that Timor Leste sign the agreement before Australia would proceed with the ratification of the Timor Sea Treaty. This doggedness was compounded by a looming commercial deadline for the ratification of the treaty. It had to be ratified by 11 March 2003 to ensure that the \$15 billion Bayu-Undan development would proceed. We all remember that debate in the chamber. It seems that these debates are

always characterised by rush and haste to get them through.

By insisting that the Greater Sunrise agreement be finalised prior to the ratification of the Timor Sea Treaty, the Australian government compelled Timor Leste to agree to compromise its long-term interests in order to meet its short-term needs. Timor Leste has also indicated that it signed the Greater Sunrise agreement on the understanding that Australia would proceed with the negotiation of the permanent maritime boundaries expeditiously and in good faith. We have heard a lot about good faith in this chamber today. In a press release issued this week, the Timor Leste Prime Minister, Dr Alkatiri, said:

We signed this agreement on the clear understanding that Australia recognised our claims and sought not to prejudice our rights in the Timor Sea, as stated in the IUA, and that consequently, it would engage in good faith negotiations on permanent boundaries.

Yet Dr Alkatiri notes that while Timor Leste has proposed monthly meetings aimed at resolving this dispute expeditiously, Australia claims it does not have the resources to meet more than twice a year. As the release points out, Timor Leste is one of the poorest countries in the world, yet we are one of the richest. Meanwhile the Australian government continues to grant licences and collect revenue in areas of the Timor Sea which potentially belong to Timor Leste.

If we were under any illusions or uncertainty in relation to that last statement, it was clarified in questioning at the Senate committee on Monday night. Certainly, I and others put to the government, to representatives of the departments, that we wanted to know the rationale for the monthly meetings. Indeed, a strong argument was: that is not enough time in which to judge the complexities of this debate and, indeed, the legal debates that are taking place. But I did not hear compelling evidence for six-monthly meetings—meetings twice a year—instead of each month as requested by the government of Timor Leste. We have not heard compelling reasons for such a great period between meetings. That does not smack of good faith—quite the opposite. It smacks of a government that is taking its time; it is not indeed proceeding in an expeditious manner.

The Timor Leste government points out that, since signing the Greater Sunrise agreement, Australia has issued two exploration licences in areas adjacent to the Greater Sunrise field. It has also earned an estimated \$1.5 billion from the Corallina, Laminaria and Buffalo fields, all of which are in disputed areas. I do not think anyone denies that. Once again, I refer to Prime Minister Alkatiri's press release:

Timor-Leste has no maritime boundaries, and securing them is an integral part of the new nation's right to self-determination. The resources that Timor-Leste is entitled to under international law will be crucial in helping to rebuild

the shattered nation, address mass poverty and achieve economic independence.

While I acknowledge that people in this chamber today have put forward potential views, or have speculated about the views of the government of Timor Leste, you cannot get it bolder than that. It is a statement from the Prime Minister of Timor Leste, in the Prime Minister's own press release. They are incredibly concerned about the process and the rate at which it is proceeding.

This brings me to whether or not ratification of the Greater Sunrise agreement is in Australia's best interests. The rhetoric that we so often hear from government officials and, indeed, from the government today in this place is that Australia has a right to pursue its own interests in the same way that Timor Leste will no doubt pursue its own interests. However, this argument is based on the assumption that Australia's best interests are somehow inconsistent with those of Timor Leste.

The Democrats do not believe this is the case. On the contrary, we believe that it is in our nation's best interests to help the people and the government of Timor Leste to become a strong, independent and financially secure nation. As the Timor Sea Justice Campaign argues, it is not in Australia's interests for Timor Leste to have significant debts and to remain dependent on aid. Oxfam Community Aid Abroad have argued:

For Australia, an economically unviable East Timor could threaten national security and that of the region. An unstable East Timor could lead to a flow of refugees to Australia with associated costs. The Australian and international community would expect the Australian government to bear much of the responsibility for increased humanitarian aid and assistance, and the provision of continued peacekeeping and security assistance to East Timor.

The Democrats believe that financial benefit should not be the sole determining factor as to whether a particular action is in the best interests of Australia. Other factors, of course, need to be considered. In this case we believe that the overwhelming negative impact of the Greater Sunrise agreement on Australia's foreign relations and standing within the international community far outweighs—certainly, it is beginning to far outweigh—the financial benefit that will flow from proceeding with ratification at this time. And the timing of the legislation is what we are talking about.

Let us be frank: there are other countries paying attention to this. Many countries are paying attention to how we are handling this. This subject is being viewed by the eyes of the world. Only last week, as we know, 54 Congress men and women from America wrote to our Prime Minister to express their concerns about the way in which negotiations were being handled and ask us to expedite those negotiations. Indeed, part of the letter, as I understand it, also referred to something which Senator O'Brien referred to, the notion of keep-

ing that revenue in trust until the boundaries were finally determined. The letter called on our government to expedite negotiations.

This recommendation in relation to the trust has also been put forward by the Timor Sea Justice Campaign in its submission on the bills. The Democrats believe it is a good recommendation and one which the Senate should adopt. I will move an amendment to proceed in that way. This is the intent of the Democrat second reading amendment: we are calling on the government to hold all tax revenue it receives from Greater Sunrise in trust until the permanent boundaries have been determined. We believe that this will provide an incentive for our government to expedite the negotiations with Timor Leste. It is unfortunate that a financial incentive is required but obviously there is overwhelming evidence to suggest that, in the absence of such an incentive, our government will maintain what we consider is a lax approach to negotiations while still continuing to help itself to revenue that could belong to the people of Timor Leste.

I note that production on the Greater Sunrise field is not due to commence until 2009, which means of course that there is plenty of time for maritime boundary negotiations to be completed without holding up the flow of revenue from the field. In other words, it may be that there is no need to place revenue in trust because the permanent boundaries will have been determined before any revenue is collected. That is certainly what the Democrats are hoping could be achieved.

Significantly, the Australian government has not been able to identify any problems associated with the Democrats' proposal. I specifically asked questions in relation to this at the committee proceedings on Monday night. While a number of officers, I acknowledge, expressed the view that the trust fund requirement was unnecessary, I do not believe that anyone sufficiently identified any problem or specific difficulty that would arise from the adoption of that proposal.

With that in mind, I urge honourable senators to consider the proposal carefully. I certainly call on the opposition, in light of their comments today, to favourably view an amendment which I think would be quite a constructive addition to this debate. We believe that it is important and eminently reasonable. It is a proposal that clearly has support outside this chamber. Its underlying objective is to ensure a just and fair distribution of resources in the Timor Sea in accordance with international law.

I want to make just a couple more comments about the process that has taken place in relation to this legislation. I was very careful in my comments in relation to the cut-off exemption debate not to go into the substantive issues surrounding the bills. I was keen to stick only to process and to speak briefly. While I acknowl-

edge that some senators from the Labor Party and the coalition believe that this legislation has been adequately dealt with because it occurs within the context of the broader agreements that have already been debated and analysed, be it through other committees or specifically through the Joint Standing Committee on Treaties, I have to note that every time we have dealt with legislation pertaining to these agreements—firstly, the Timor Sea Treaty and now Greater Sunrise—we have dealt with them with an alacrity that is undeserved, unwarranted and inappropriate.

On both occasions now, we have run into the chamber, having been given legislation at very short notice. In fact, last time this was due for debate, around 10 March, two weeks ago, senators came in here, having only just been given a copy of the legislation that morning—indeed, all senators except the Australian Democrats, and I acknowledge that was a genuine mistake on behalf of the government; it was not intended. However, it was completely inappropriate; hence our insistence that this legislation be referred to committee. The committee process was expedited on Monday night. Clearly, we had a couple of hours for a hearing. Those of us who could participate did. There is absolutely no negative reflection on the secretariat; I thought they handled the situation incredibly well. Indeed, I acknowledge that people had the opportunity to present both verbal and written submissions. But that does not deny the fact that there are many groups out there who have expressed to me—and, I have no doubt, to other members of the chamber—their concern that it was done very speedily and that there are other groups who, with more time, would have contributed to the debate in a more meaningful way.

I think that the government underestimates the level of community interest in this legislation, not just among the Australian community but also among the Timor Leste community. It does that at its peril. I was not seeking to deny or delay these bills in a way that was unseemly or not constructive. But a couple of days? That is all we are talking about. My amendment seeks to amend the legislation in a way that does not corrupt the substantive nature of these bills despite my concerns with them and the concerns of others in this place. It is at least a reasonable and constructive addition to legislation that for many people has involved a process that has been heartbreaking. Once again, I put on record my concern about not only the process but also potentially what we are doing to the community and the government of Timor Leste. I move the second reading amendment circulated in my name:

At the end of the motion add:

but the Senate:

- (a) condemns the Government's withdrawal from the United Nations Convention on the Law of the Sea and the jurisdiction of the International Court of Justice relating to maritime boundaries;

- (b) calls on the Government to:
- (i) work towards the permanent delimitation of maritime boundaries between Australia and East Timor expeditiously and in good faith;
  - (ii) pending the permanent delimitation of maritime boundaries between Australia and East Timor, hold any revenue that might otherwise have been collected under the *Petroleum Resource Rent Tax Assessment Act 1987* from the area to which the Greater Sunrise International Unitisation Agreement applies, in a denominated interest bearing escrow account; and
  - (iii) upon the permanent delimitation of maritime boundaries between Australia and East Timor, ensure that all monies and interest held in the escrow account be distributed between Australia and East Timor in accordance with the permanent maritime boundaries.

**Senator BROWN** (Tasmania) (11.00 a.m.)—The Greens will be supporting that amendment. In the committee stage I will be moving two amendments on behalf of the Australian Greens: the first to refer the matter of the dispute on the border between Australia and Timor Leste to the International Court of Justice and the second to ensure that if that does not occur—if there is not an end to the disputation on the boundaries—then the agreement that is inherent in this legislation becomes null and void.

I want to reiterate the gravity of the situation that will arise out of this legislation. Timor Leste is the poorest nation in our region. Australia is the richest nation in our region. Following the fall of Suharto—after years of Australian governments of both persuasions supporting the Suharto dictatorship's enslavement of East Timor—Australia went to the aid of East Timor after a very bloody insurrection by the East Timorese people. Remember that there was an East Timorese population of 800,000 and there were estimates of a quarter of a million people killed after the invasion by Indonesia in 1975. Remember the years following of complicity in that illegal occupation by serial Australian governments of both the coalition and the Labor Party. It is a shameful period in Australian history. It was not a position that was supported by the Australian people, but Australian governments took that position in the interests of economics and power politics in the region.

After the act of self-determination in which the great majority of East Timorese voted for nationhood and their own governance, Australia, with enormous support from the Australian people, helped gain the peace and restore security to East Timor. For that the East Timorese people have been hugely grateful. But the oil companies were present in great numbers at the day of celebration of independence in East Timor. I know because I was there. It was quite amazing how many representatives of corporations were there, rather than

people from the general spectrum of the Australian and international communities. We now know that the Australian government has been working in the interests of those companies to cement the theft of the oil and gas fields which lie on the East Timorese side of the border—if it were properly placed, halfway between Australia and East Timor.

Remember that in 1979 Australia agreed with dictator Suharto to a border arrangement with Indonesia which put the boundary between Australia and Indonesia at halfway. But with East Timor there was a different outcome. East Timor has been expendable in terms of justice. It became expendable because there were already very rich people in corporate Australia and elsewhere who could make themselves richer by the theft of resources from the East Timorese people.

I turn to one of the submissions made to the committee—which peremptorily met on Monday night to look at the matter—to put an East Timorese point of view. This submission came from the East Timor Institute for Reconstruction Monitoring and Analysis. It is in the name of Joao da Silva Sarmento, Timor Sea Project Coordinator, and it is authorised by the institute. It refers to the bills that we have in hand. Let me read the submission from the East Timorese people represented in this document. It is addressed to every member of this Senate and it says:

Last year, we pointed out that the Sunrise IUA—the agreement we are dealing with—

as coerced upon the new nation of East Timor, is part of an ongoing effort by the Australian government to deny East Timor's sovereignty for Australia's short-term material gains. We are unhappy to observe that Australian policies over the past year, including the issuance of new exploration licences in disputed areas and the continuing collection of revenue from Laminaria-Corallina and other oil and gas fields claimed by both East Timor and Australia, continues this behaviour.

Under current international law principles, the maritime boundary between two nearby nations' exclusive economic zones is almost always defined along the median line between their coasts. Once again, we urge Australia, as East Timor's government has done officially, to recognise that East Timor has a legitimate claim to maritime resources which lie closer to East Timor's coast than to Australia's, and to seriously and expeditiously negotiate a permanent maritime boundary with your new neighbour to the north. Until that boundary is settled—

and note this, Acting Deputy President Kirk—

Australia's extraction of resources and signing of contracts in this area is tantamount to an illegal occupation of our territory.

And so it is.

**Senator Lightfoot**—Rubbish!

**Senator BROWN**—The honourable government member opposite says 'rubbish' to a clear and unarguable point of view which the government knows to be



true and which the government itself has recognised by withdrawing the International Court of Justice's ability to adjudicate in the matter. This government knows what it is doing is illegal. The submission from the East Timorese goes on to say:

In our previous submission—

that was mid last year—

we explained the self-serving *mare nullius* doctrine that seems to govern Australia's actions, and the current legislation perpetuates that fiction. By repeatedly referring to the "Eastern Greater Sunrise Area" as "sole Australian jurisdiction," you deny the independence that so many East Timorese people struggled and died for over the past quarter-century.

This is the East Timorese people speaking to every senator in this place. They go on to say:

Although Australia is rightfully proud of the role you played in leading InterFET in 1999 to help us emerge from illegal Indonesian occupation, many East Timorese are beginning to wonder if it was a more pragmatic move—the beginning of a new military occupation so that our southern neighbour could continue to steal our oil, just as our northern neighbour formerly took our lives.

One illustration of the content your Government has for our nation is the use of the term "Joint Authority" in the current legislation for an agency which represents only the Australian government. This is intentional obfuscation, but it exemplifies your government's belief that there is no substantive difference between the TSDA joint authority comprised of two sovereign governments, and a "Joint Authority" between two hemispheres of a Commonwealth Minister's brain.

Like many in Australia, we were surprised at the urgent pace with which your Government tried to push this legislation through Parliament last week without prior notice, although the IUA—

that is, the agreement—

was signed more than a year ago, and the JSCT issued its report in July 2003. The unseemly haste with which this legislation is now moving through your Parliament reminds us of 22 March 2002, when your government withdrew from impartial maritime boundary dispute resolution mechanisms under the International Court of Justice and the International Tribunal for the Law of the Sea, informing your Parliament only after the action was taken. At that time, your National Interest Analysis explained:

"The action was not made public prior to it being taken to ensure the effectiveness of the declaration was maintained. Public knowledge of the proposed action could have led other countries to pre-empt the declaration by commencing an action against Australia in the International Court of Justice that could not be brought once the new declaration was made."

Here we have the East Timorese pointing out why the Australian government moved stealthily without informing this parliament, the people of Australia or anybody else: because it did not want a court to be able to be approached to seek justice in this matter. This

was the Australian government acting to avoid the law, and quite deceitfully undermining international law in the interests of the oil companies against its obligation to inform the Australian people and the Australian parliament. It takes the East Timorese to tell us this. How must they feel about what is going on in this place today? Let me finish reading from this telling submission to this Senate from this East Timorese authority. It says:

We do not yet know which of East Timor's legal rights your government is attempting to undermine by the rushed ratification of the Sunrise IUA legislation, but past experience makes us concerned. East Timor is Australia's closest neighbour (as well as the largest, albeit unwilling, foreign contributor to the Commonwealth budget), and we believe that good relations between us, as well as the long-term economic and political stability of our new impoverished nation, are in the best interests of both Australia and East Timor.

Unlike Australia's withdrawal from—

the international court, this agreement—

requires ratification by the Government of the Democratic Republic of East Timor as well as that of the Commonwealth of Australia. We hope that our new and under-resourced Government will act with more fairness, fuller deliberation of all relevant issues, attention to the rule of law, consultation with its constituents, and consideration of the long- and short-term consequences of its action than your Government is demonstrating with its approach to this legislation.

What an indictment of this government and, indeed, this opposition is this submission from East Timor. Here we have the fraudulent, coercive theft of the one great resource this new, poor neighbour of ours has to develop its future and to secure its future.

**Senator Lightfoot**—It was discovered 30 years ago. You can't call that a rush.

**Senator BROWN**—Let me say this against the interjections opposite: there is a matter of security here. You can hear in this submission from the East Timorese the rising tide of anger about this new colonialism being implemented by the Howard government and aided and abetted by the Latham opposition. It is despicable. It is untenable. It is unjust. It has no place in a democratic country which believes it went to East Timor on the basis of principle. It leaves the East Timorese people themselves saying, 'Did you really come to save us or did you come to grab the oil?' We believe increasingly the East Timorese are saying, 'It looks like you are coming to get the oil.' What will the Australian people think of this in the coming years and decades when they recognise this country is involved in high theft and illegal theft and is denying an approach to the international court because it knows it is theft? What a low point this is in Australian governance. What a cheating of the Australian people and their principles the two great parties in this parliament are involved in.

They would not stand up against the Suharto regime when it illegally occupied East Timor and killed hundreds of thousands of East Timorese. Not one of the big parties had the guts to stand up then, not for decades. Now they are moving to thief this oil and gas resource which belongs to East Timor, not to this nation. This is theft. How dare this government and this opposition engage in it. What a rotten past this is. Where is the dignity, the decency and the neighbourliness in this process? How dare we consider this in the rush that is occurring today. How dare it happen. What a rotten position this is. It is left to the Greens, the Democrats and One Nation to stand up to what the big parties are doing. You must all feel ashamed, Acting Deputy President, because I do and so do the other members on the crossbench. What a terrible situation.

If I feel angry about it, how must the East Timorese who know about it feel? Involved in this is the robbery over the next three decades of at least \$8 billion from East Timor. Do you know what, Acting Deputy President? The budget of East Timor represents \$100 per head of population. That is \$1 every third day that the government can spend per person in East Timor. Do you know what our budget is? It is hundreds of billions of dollars. Here is one of the poorest countries on the face of the earth—which needs to develop its schools, its hospitals, its police and security forces and its agriculture; to defend itself; and to build its tourism and hospitality industries—and we are involved today in the process of taking from it its rightful money to do those things for the next three decades. We will live to regret this.

*Senator Lightfoot interjecting—*

**Senator BROWN**—You will live to regret this because involved in the process is a measure of undermining our own nation's security. If you increase the hostility in a neighbour then you increase the insecurity of yourself. To do so illegally makes it all the worse.

There will be questions asked during the committee stages today, but if this government acts true to form then it will not answer many of those questions. Even if it does and the information adds to the already compelling, unarguable case against this legislation and the process it involves, the opposition will go across and vote for this legislation with the government. We are going to live with this for decades, as I have said, and we are going to have to undo it further down the line. Woodside might be happy—it is going to make millions, and so will its shareholders. I will be asking about its contributions to the parties during the course of the committee stages.

Let me just finish on the injustice of this whole process. A government member earlier referred to the fact that there has been no submission from the East Timorese government as such to the committee. So we have almost no notice, hold the committee overnight,

confine it to 1½ hours and then complain when it goes over time. All this for a committee looking at such an important and complex matter as this. The East Timorese government did not appear because it is not for embassies and governments to appear before committees in cases like this—it is a minefield for them. I asked all of the government representatives on that committee if they had been down to the East Timorese embassy in Canberra. None of them ever had been. One of them thought he knew where it was. I could tell them that it was in a disused school building given to the East Timorese delegate through the ACT government, because the Commonwealth did not provide that facility. It has one staff member. Sure, there were lots of meetings with Woodside. Sure, lots of East Timorese have been to the Australian Embassy in Dili over this matter. But nobody in government has been down to the Timor Leste embassy in Canberra. In fact they do not know where it is, in the main. That says it all. (*Time expired*)

**Senator CARR** (Victoria) (11.20 a.m.)—Senator Brown has just delivered a highly emotional response to this issue. I congratulate him on it. I think these are issues he feels very strongly about and it is appropriate that these issues be put forward in a very forceful manner—and Senator Brown has certainly done that today. There is a point of fundamental difference here though. The Labor Party is supporting this legislation. It is not that we disagree per se with the view that this government has let down the people of East Timor. We do not disagree with that view at all. What we do disagree with is a number of assertions that Senator Brown has made today.

The first proposition concerns the actual nature of this debate. Senator Brown has, as I say, in a colourful way broadened out the debate to include a whole range of issues relating to Australia's relationship with Timor Leste. He has, as he is entitled to do, drawn attention to what he sees as some of the implications of this legislation. He has not talked about the legislation itself. What he has emphasised is the failure of the Australian government to reach agreement on the general issue of the treaty and to ensure that there is appropriate support for the government of Timor Leste. He has further put the view that the government of Timor Leste does not agree with this legislation. That is not a statement of fact.

The reason I put that counter view to you, Senator Brown, is that the opposition does not rely upon the assertions of the Australian government on such sensitive matters. The Australian opposition has sought to talk directly to the government of Timor Leste, and the Prime Minister, Mr Alkatiri, spoke with Mr Rudd and Mr Jull last week. Specific questions were put on the issue of whether or not there were problems with the opposition in this country supporting this legislation,

and the response was no. So we feel that the issue of this particular legislation, which should be the subject of this debate, is worthy of support—and I will explain the reasons for that—and that is the view that the government of East Timor is putting to us. We are not relying on hearsay here. We are not relying on press reports. We are not even relying on the Australian government. We are getting it directly from Dili.

This is legislation which gives effect to an international unitisation agreement between Australia and Timor Leste. This agreement was signed on 6 March 2003 in Dili and forms part of Australian and Timor Leste joint obligations under the Timor Sea Treaty. This legislation ensures the speedy development of the Greater Sunrise petroleum resource, which is a matter of great importance to both countries because it provides for the development of a project which will ensure significant numbers of jobs, significant infrastructure development and significant opportunities both for Australian industry and for the people of Timor Leste.

The ratification of this agreement will provide impetus for further exploration and development in the Timor Sea which is essential for the sustainability of the Timor Leste state—and it is important for the sustainability of the region, I might suggest. The development of the Greater Sunrise resource will provide a much needed injection of cash flow into Timor Leste. Revenue flow will allow for the provision of basic services, including hospitals, schools and other infrastructure. But that alone is not enough. More importantly to the government and to the people of Timor Leste, it goes to the broader issue, to which Senator Brown has drawn our attention again today, of the maritime boundaries. There are no internationally agreed maritime boundaries at the moment, and securing them, we in the Labor Party say, is of great importance to the development of the nation of Timor Leste. The resource assets identified will provide capital and revenue for the rebuilding process and underwrite the financial viability of the people of Timor Leste.

In contrast with the haste that has been evident in the way in which the government has sought to pursue this legislation through the parliament, the government appear not to have any real interest in securing that side of the arrangements. In my judgment, they have not negotiated in good faith, and now it appears that they are delaying still further the boundary negotiations. In this discussion here today we have already heard from a number of speakers who point to the fact that the Australian government have been tardy in the way they have addressed the very basic question of the number of meetings that can be called upon to resolve these issues. Frankly, there is no justification for the six-monthly meetings the government propose, and I think that is reason for people to argue the case that the government have not been negotiating in good faith.

Unlike the government, Labor are committed to good faith negotiations to ensure the long-term benefits for the people of Timor Leste. In government, Labor will do this in an expedient way to ensure, in accordance with international law, that our commitments regarding the boundary negotiations will be resolved. We think that the whole range of issues should be resolved over the next couple of years. The Timor Leste people have endured many hardships in their independence struggle. These hardships are over and they are now entitled to look towards their independence and their position within the global community with the support of the Australian people. However, it strikes me that there are a considerable number of challenges that remain for the people of Timor Leste and its government, and there must be a clear priority given by the Australian government to maintain and build a sustainable socioeconomic infrastructure for that country.

We are not entirely responsible but we have a contribution to make there. Labor wholeheartedly supports Timor Leste in all these ongoing challenges: the development of infrastructure, sustainable health and welfare services, balanced economic employment opportunities and, obviously, the requirement for the provision of basic services. Revenue is central to that nation-building role. You cannot sustain a modern state without adequate independent sources of revenue. It strikes me that the exploitation of petroleum resources is one way of facilitating that objective. This an area which is rich in resources, and it is appropriate that Australia facilitate the development of those resources.

This legislation also has important implications for Australian industry and represents huge opportunities for the Australian petroleum industry through the Sunrise joint venture project. Woodside have already invested over \$200 million in exploration, appraisals and concept developments for the project. The total investment is up to \$7 billion for the life of the project. That is a huge investment, and I see that we have an opportunity here to ensure—it is the parliament's obligation to ensure—that development. In a similar way the development of the North West Shelf petroleum resource has generated 70,000 direct and indirect jobs since 1986. That is an example that can be followed as to the opportunities that flow from these sorts of ventures, so long as all the other requirements for approval processes are met and, of course, the appropriate negotiations occur with various levels of government—and that includes the government of Timor Leste.

The project also represents a huge investment in technology. There are opportunities here for further advancement in exploration technologies. The legislation also represents an investment in long-term economic development, which should be able to consolidate gas markets in Asia and further development of markets in the North American west coast. Market ne-

gotiations are currently under way with the joint venture partners. This is a project where there is a requirement to provide some certainty and security for those who are investing large sums of money.

The legal, administrative and financial framework is of key importance to the viability of the project. The international unitisation agreement is a critical step in that process. Ratification of this agreement through this legislation is therefore critical to the ongoing nature of the project. This is why the Labor Party will be supporting it. We appreciate that there are serious questions that need resolution through a proper legislative process. We are, rightfully, concerned about the tardiness of the government—not just in its relationship with Timor but also in its relationship with this parliament. This matter has been appallingly handled. How is it that the department can, presumably, allow the situation to emerge where, in the legislative program, this matter gets shunted back in the way that it has been? I trust that the department was able to provide adequate advice to the government, but I find it extraordinary that circumstances such as these can be allowed to develop to this point.

For the local industry, both in Australia and in Timor Leste, the speedy development of resources means ready and speedy access to other opportunities in construction and manufacturing and other allied industries. These opportunities relate both to the onshore and offshore components of this project. The construction work force alone is likely to peak at around 3,000. I am advised that many of these opportunities will flow through to opportunities for further development with regard to the training and employment of the Timor Leste people. Furthermore, the legislation requires the joint venture partners to meet licensing requirements across both the joint petroleum development area and the Australian portions of the project. The requirement will ensure best practice by the parties and the highest occupational health and safety and environmental standards. These are important considerations in this legislation. I look forward to other senators drawing my attention to where that is not occurring.

Importantly, the legislation we are considering also includes customs duty concessions under the Customs Tariff Amendment (Greater Sunrise) Bill 2004. The purchase of material and plant not available in Australia has always been subject to duty concessions through the Enhanced Project By-law Scheme. The scheme also requires Australian industry participation to be maximised. The Customs Tariff Amendment (Greater Sunrise) Bill 2004 means that these consultations would not be required for the project. That was the sort of thing we were very concerned about. The industry implications of that were matters that Mr Jull drew attention to in the other chamber. The minister, unfortunately, failed to provide satisfactory explana-

tions in answer to our questions. As a result of the failure to provide that advice to the opposition, this matter had to be pursued through the Senate processes. It is important that we identify that Woodside have provided clear and direct assurances on these issues. We will be looking to Woodside to make sure that those assurances are carried out. These assurances of Australian industry participation are undertakings to maximise local content, and the development has been warmly welcomed by the Labor Party. The guarantee of local content delivers certainty and security for the industry and an ongoing impetus for further exploration and development. These combined efforts should prove to be of ultimate benefit to both the Australian and Timor Leste people.

**Senator LEES** (South Australia) (11.34 a.m.)—The legislation before us today, the Greater Sunrise Unitisation Agreement Implementation Bill 2004 and the Customs Tariff Amendment (Greater Sunrise) Bill 2004, effectively ensures that Australia will have control over the huge Greater Sunrise gas and oil field in the Timor Sea. The legislation is so one-sided that East Timor has threatened to withhold ratification of the Timor Sea Treaty with Australia, which was signed to enable the development of these fields. This treaty provides a legal and financial framework for sharing the enormous potential revenue from the billions of dollars worth of gas and oil in the Timor Sea. But the treaty was negotiated under duress. Timor Leste were pressured into signing. They signed believing that we would negotiate proper boundaries in good faith. They signed on the understanding that we were friends and that we would sort out the boundary dispute in good faith. They signed knowing that this was virtually their only opportunity for real revenue, for a real chance to earn foreign currency.

The Australian government now claims that it cannot afford to meet more than once every six months, despite Timor Leste wishing to meet and keep talking each month to get the boundary dispute sorted out. The terms of the treaty state that East Timor will receive 90 per cent of the oil and gas revenue from the small Bayu-Undan gas field. The total income from this, once the field is developed, is expected to be around \$3 billion. However, the terms of the treaty state that Timor Leste receives only 18 per cent of the revenue from the much larger and more lucrative Greater Sunrise field that we are discussing today. The estimated value of this is around \$30 billion. Timor Leste receives nothing from the Corallina-Laminaria field, which is currently providing around \$600 million in revenue to the Australian government.

Obviously, Timor Leste are very pleased to receive any revenue from this gas field, but we should not be happy in settling for so much of it. Yes, if we include our continental shelf, as has been argued again here

today by members of the government, we can get the boundary inched out closer and closer, kilometre by kilometre, towards their coastline, but this is not the usual method used. This resource is about two-thirds of the way across the sea as we head over towards Timor Leste. In other words, it is twice as close to them as it is to us. It is highly likely that under international maritime law Timor Leste can lay claim to a far greater proportion of the Timor Sea oil and gas reserves, particularly if a median line, a middle line, is drawn equidistant from both countries—certainly much more than the 18 per cent they have had to settle for—and we would get a lot less than the 82 per cent that we have basically pressured them into agreeing to.

But Australia has ruled out the option of being involved under international maritime law. We have actually withdrawn from the compulsory maritime boundary arbitration mechanisms of the UN Convention on the Law of the Sea and the International Court of Justice. Effectively, this has prevented East Timor from continuing the process, from seeking an independent resolution under international law, and it has been handed to us—and we are in a far more powerful position—the control over how the boundaries are going to be determined and how the revenue is going to be divided up.

I argue very strongly that Australia should not be acting in self-interest in this issue. We surely must consider what is fair and right. I believe, as a country, we have an international obligation—and surely a moral obligation—to assist Timor Leste whenever we can. We are neighbours, we are supposedly friends and this is certainly not how you treat your friends. Australians have put their lives at risk in East Timor to help the East Timorese get self-determination, and now a wide range of Australians are helping in a vast array of ways as the people of East Timor struggle to get basic services. We have Australian schools linking up with schools in Timor Leste, helping them to get books and other school equipment and passing on second-hand clothes. We have people raising money for the peoples of East Timor with backyard barbecues and all sorts of other functions. We have aid agencies formally working in East Timor to make sure that their basic services, which were largely destroyed during the process of obtaining self-determination, are back and running—even basic infrastructure like roads that need to be rebuilt.

Australians obviously want the government to maximise opportunities for Australians. We want money, we want income to provide Australians with services. But, given the details of what this treaty actually means and what we are doing today, I believe most Australians would want both houses of this parliament to be far more aware of the needs of the East Timorese and prepared to share far more fairly the income from

this very valuable resource. They have virtually no other significant opportunity to earn foreign currency. They do not have a lot of options. To suggest that we will still keep taking care of them, that we will still keep giving them foreign aid, misses the point. They will be able to look after themselves far better if we are able to ensure that they get a far fairer share of this tremendous resource.

This boundary dispute is something that absolutely has to be settled. If we simply cannot agree then it has to go to international arbitration and we have to put aside a large percentage of the revenue—40 or 50 per cent—into a trust fund. As a number of people have suggested—and I was able to listen to some of the committee hearing on Monday—a logical way to sort this out is to let Woodside go ahead. They should be given the green light to operate this field. It is not their problem. It is not up to them how the revenue that they provide to governments is shared. It is up to government, particularly the government of Australia, to make sure that the income generated from this resource is shared fairly between us and East Timor.

As I have said, this is not an issue that we can quickly deal with in this place and hope it will go away. I am very disappointed that the government is pressing ahead today to deal with this legislation so soon after the committee hearing and without, I believe, a proper and adequate airing in the Australian community. Timor Leste is one of the poorest countries on this planet and we are one of the wealthiest. While of course we want to maximise our wealth, it is our responsibility to make sure that it receives its fair share of this resource. I close by saying that, on this issue, Australia is simply being greedy.

**Senator CROSSIN** (Northern Territory) (11.41 a.m.)—I rise this morning to provide some comments on the Greater Sunrise Unitisation Agreement Implementation Bill 2004 and the Customs Tariff Amendment (Greater Sunrise) Bill 2004. These bills put in place the framework that is necessary to give effect to the agreement between Australia and the Democratic Republic of Timor Leste relating to the unitisation of the Sunrise and the Greater Sunrise petroleum fields. We know that this agreement was signed in Dili on 6 March last year and that it governs the unitisation of the Greater Sunrise petroleum resources. Ratification of the agreement by both Australia and East Timor is required to provide industry—and, in particular, Woodside—with the certainty that is needed to proceed to develop this major resource. At this time, though, I am not aware whether East Timor has ratified, or when it will ratify, this agreement.

The Greater Sunrise Unitisation Agreement Implementation Bill puts into place the administrative arrangements for the development of this resource, and the customs tariff bill provides for the duty-free entry

into the Greater Sunrise unitisation area of all goods and equipment required for the petroleum activities. The Greater Sunrise petroleum resource comprises the Sunrise and the Troubadour deposits and, as we know, lies in the Timor Sea. That is approximately 500 kilometres north-west of Darwin. So the development of this resource, the debate we have about this resource and bills such as these are of utmost importance to the Northern Territory but in particular to the city of Darwin.

The field straddles the border of the joint petroleum development area, which is the area of shared jurisdiction between Australia and East Timor established by the Timor Sea Treaty, and an area of sole Australian jurisdiction located within the adjacent Northern Territory area. I understand that a witness who appeared before the Joint Standing Committee on Treaties, which first looked at this last year, proclaimed that this resource:

... is a world-class petroleum resource containing an estimated 8.4 trillion cubic feet of natural gas and 295 million barrels of condensate. It is estimated that 20.1 per cent of these resources lie within the JPDA ... and 79.9 per cent lie outside it.

As I said last year, Australia and East Timor agreed to the unitisation of this petroleum resource. Under the unitisation agreement, East Timor's share of the Greater Sunrise field is calculated by reference to the agreed formula that applies to the sharing of the JPDA, where East Timor has title to 90 per cent of the petroleum resource. There has been much debate about this; I will perhaps go into the sea boundaries a bit later. In effect, this means that under this development and as the Timor Sea boundaries currently stand East Timor receives 90 per cent of the 20.1 per cent of the Greater Sunrise field that lies within the JPDA. Australia's share is the 10 per cent remainder of the 20.1 per cent from the JPDA—the 79.9 per cent of the Greater Sunrise field outside of the JPDA. Allowing for the calculations involved, this means that Australia's actual share of the Greater Sunrise field is around 82 per cent. The Greater Sunrise unitisation agreement will be ratified by Australia and East Timor once both countries have put in place the domestic arrangements required to enable them to fulfil their obligations under the agreement. The bills before us, the Greater Sunrise Unitisation Agreement Implementation Bill 2004 and the Customs Tariff Amendment (Greater Sunrise) Bill 2004, allow Australia to do exactly that.

We know that there have been many objections to these bills. Those objections have been raised by the Democrats, by the Greens and even by Senator Harris and Senator Lees. Let me say categorically that this party does not resile from the fact that we support the concerns that have been raised here this morning, particularly by Senator Bob Brown and Senator Natasha Stott Despoja, about the haste with which these bills

have been dealt in this parliament—they were rushed through a couple of weeks ago in the House of Representatives—and about the demand that the Senate deal with these bills within 24 hours. The bills were in fact sent to the Senate Economics Legislation Committee. They had a public hearing on Monday night. We heard today that some people only received the final printed copies of the report late last night or this morning.

The process has not been adequate. It has been totally inadequate. It is not good enough. There have been no reasons given by the government as to why they would want to rush such legislation through this parliament in such a short period of time. One can only assume that it is because they want this legislation in place before negotiations on the Timor Sea boundaries begin around 25 April, as I understand it. There has really been no reason given for there being such a rush with this. We agree with other parties and Independent senators in this chamber that the process has been totally inadequate. Nevertheless, the bills are before us today. These bills need to be supported so that administrative arrangements can start to be put in place.

There have been some objections to the passage of the bills and these were raised in evidence to the committee on Monday night. It is not the first time they have been raised. Unless this government deals with some of these issues appropriately, it will not be the last time they are raised. In each case, the objections reflected concerns not primarily with the content of the bills but with the content of the agreement, with the processes or with the relationship that this government fails to have with the government of East Timor. The concerns that were raised in relation to these bills go to two issues, though there are a number of other issues that I believe have not been adequately addressed.

Predominantly, the groups that appeared before the committee on Wednesday night—that is, Australians for a Free East Timor and the Timor Sea Justice Campaign—had concerns about whether the Australian government has negotiated and intends to negotiate in good faith with the democratic government of Timor Leste in relation to the unitisation agreement with East Timor. The Timor Sea Justice Campaign suggested that Australia had coerced the government of East Timor into signing the agreement by refusing to ratify the Timor Sea Treaty until East Timor signed the Greater Sunrise unitisation agreement. The discourse between Minister Downer and that country is on the record. I spoke about that matter last year when the agreement was first put through this parliament.

Groups like Australians for a Free East Timor have continually raised concerns about this country's commitment to reaching agreement with East Timor about the maritime boundary between the two countries—a boundary which is in dispute. This morning we heard Senator O'Brien quite clearly outline that the govern-

ment have said they are only prepared to meet with the East Timorese government every six months, not each month as requested by the Timorese. Therefore, one has to wonder what emphasis or priority this government puts on it. As was said so eloquently this morning, this is one of the richest governments in the world negotiating with the poorest country in the world. It seems that we do not have the inclination, time, priority or commitment to meet more regularly. I fail to understand how that can be the case. We ought to ensure not only that we meet as often as the East Timorese government require us to but that we make it one of the highest priorities if we are really serious about trying to provide a better outcome for East Timor in this matter.

The Australian government has withdrawn its agreement for the dispute with East Timor to be arbitrated through the dispute resolution mechanisms of the International Court of Justice and the international treaty on the law of the sea. The government are not only fast-tracking negotiations with East Timor on the boundaries but also saying, 'Where we have disagreement, we're not going to enter the international arena. We don't want to play by those rules. We're not going to join that court. We're not interested in resolving the dispute that way.'

According to Oxfam Community Aid Abroad, although states are obliged under international law to refrain from exploiting resources in areas of overlapping claims, this government has in the past year issued two new permits for exploration in the disputed area. Once these bills go through the parliament, perhaps it will be no longer a priority for this government to negotiate the boundaries in good faith or to do so in any sort of haste. But we will be watching closely and continuing to ask questions about that to ensure that it takes place.

Representations made to me point to the concerns that even the Congress in America has in relation to Australia's treatment of East Timor. In fact I understand that on 9 March members of the United States House of Representatives called on Australia to fairly negotiate its maritime boundary with neighbouring East Timor within three to five years. I understand that in a letter to the Prime Minister, John Howard, 53 members of Congress called on Australia 'to move seriously and expeditiously in negotiations with East Timor to establish a fair, permanent maritime boundary and an equitable sharing of oil and gas resources in the Timor Sea'.

So this is being debated in America and it would seem that, if America thinks we ought to do it, this government should probably be bound to take notice. That seems to be the track record of this government in the last 18 months. It is of concern that the rest of world is watching what we do and how we treat the poorest country in the world. We have the capacity to

expedite the negotiations on the maritime boundary and the Timor Sea but we do not seem to have the will, the time or the commitment to make it a priority. The world is watching, and currently it is an appalling situation.

The Australian Labor Party agree with the Democrats, the Greens and the Independent senators in voicing their concern about that position. We agree that it is not good enough to be holding up this country and ensuring that we get a greater slice of the cake when what underpins the whole thing are the maritime boundaries in the area in which this resource sits. We believe there is a need to go ahead and negotiate a permanent maritime boundary between Australia and East Timor so that, at the end of the day, East Timor gets a better share of the deal.

The Labor Party have a long history of assisting the East Timorese. We warmly welcome Timor Leste into the community of nations, as we have done from day one, and recognise the progress achieved by the East Timorese people and government in working to build a viable, sustainable, independent and sovereign state. We recognise that the status of Timor Leste as an independent nation amongst all others is a tribute to the resolve of the East Timorese people.

**Senator Kemp**—And the leadership of John Howard. What about Whitlam, Hawke and Keating? It is an absolute disgrace.

**Senator CROSSIN**—In Darwin we have a very large community of people who have come from East Timor and chosen to make Darwin their home who still have a number of relatives in East Timor. Can I just say to the minister interjecting that, if the government were really serious about looking after East Timorese people and their relatives, by now it would have created a special migration visa to allow those who are claiming refugee status to be permanent citizens of this country. Instead they have had to obtain that permanency little by little, in a trickle effect—but that is an issue for another day.

We believe that it is in the best interests of East Timor and Australia to facilitate the passage of these bills, which would implement arrangements to which both countries have already agreed. In this way the Sunrise fields can be developed and East Timor can commence benefiting from the job opportunities and the revenue that will be generated from their development. We are satisfied from our examination of these bills that there is nothing in them which prejudices in any way the negotiations relating to the permanent maritime boundary between Australia and East Timor, but we do not believe that this government has the will, the inclination or the commitment to do this in good faith or in a timely manner. We have pledged that in government—which will not be far away, by the looks of things—we will be committed to negotiating with

the East Timorese people to ensure that that is the outcome.

There are two other matters that I want to raise quickly this morning. One other matter that has been raised in this debate is the original lack of commitment to ensuring that there is Australian industry participation in the resource projects in this area. That is a concern time and time again when we look at the major developments that are occurring out of Darwin and involving the city of Darwin and in this instance involving Australian industry participation. It is good to see that Woodside has agreed to write to the minister committing, as the operator of the Sunrise gas project, to maximising local industry participation in the project and undertaking industry consultative processes of the kind normally required of projects under the Enhanced Project By-Laws Scheme.

We believe that this is a good outcome. It has perhaps taken the economics committee inquiry on Monday night to achieve that and to push the point, to push the envelope. I think it reflects a solution by agreement without the need for legislative amendment or changes to the IUA, which would have required treaty negotiations. I notice that paragraph 3.22 of the Senate report says:

... the Committee noted assurances received from Woodside Energy Ltd ... that its practice of maximising local content in its projects would be 'unchanged by the Customs Tariff Amendment (Greater Sunrise) Bill 2004'.

We welcome that announcement and we will ensure and be working with Woodside to ensure that industry participation in this process is maximised.

Finally, one cannot help but make a comment about my colleagues from the Northern Territory in this place. This is the second time we have had bills relating to the Timor Sea and the Greater Sunrise resource coming before this parliament. As I said when I spoke about last year's bills, I am very disappointed not to see Senator Scullion, my fellow senator from the Northern Territory, on the speakers list for the government. This is the second opportunity he has had to espouse the benefits of this resource for this country, for the city of Darwin and for the people of the Northern Territory, and he has failed to take the opportunity. In the House of Representatives we had Mr Tollner espousing what I believe are close to mythological statements in relation to what is happening there. It is one thing to come into this place and talk about a bill; it is another to be fairly loose with the truth, but that is the wont of members of this government from time to time. Mr Tollner said on 10 March 2004, just some weeks ago, in relation to the Northern Territory government:

They are doing nothing to progress the needs for onshore gas ...

He also went on to say in relation to the Northern Territory government:

They are happy to settle for a floating LNG plant which will see all of our gas exported overseas.

Nothing could be further from the truth—nothing at all. I am not sure who does Mr Tollner's research for him. I doubt very much that he does any of his own. I doubt very much that he even stands up for his own electorate with statements such as that.

But what an indictment, not so much of the Northern Territory government—you would expect people like that to play politics with this issue—but of the business community in the Northern Territory, who through the establishment of Team NT have been diligently working with Clare Martin and the Northern Territory government to put a case for gas onshore. Dave Malone, Bruce Fadelli and Steve Margetig in particular have been outstanding. Many others have been involved as well, and of course the work of the Northern Territory Chamber of Commerce deserves a great deal of credit. In a speech that Clare Martin gave some months ago she reiterated that these people have lobbied their national business groups, they have seen federal ministers and they have kept up a relentless but appropriate campaign which has been of great assistance to the efforts of the Northern Territory government to get gas onshore. Clare Martin has done an east coast roadshow, winning support from influential bodies for gas onshore. Advertisements have been placed in the *Australian Financial Review* and the *Australian* leading to strong interest from members of the public. A business group has mailed out a synopsis of its report and has received strong support from 450 Territory businesses. A major outcome of Team NT's work was the announcement by the producers of a review of the domestic gas case. There has been much done in pursuing this. (*Time expired*)

**Senator HARRIS** (Queensland) (12.02 p.m.)—I rise to make One Nation's contribution to the debate on the Greater Sunrise Unitisation Agreement Implementation Bill 2004. What we are addressing needs to be clarified. The name of this bill does not articulate to a person in the street what it is about. It is clearly about the division of petroleum resources in the Timor Sea. The Greater Sunrise location in some cases falls within 40 kilometres of the East Timor coastline and lies approximately 450 kilometres from the Australian coastline.

If we look at the history, we see that Australia was a very strong participant in establishing the international law of the sea. Australia's participation goes right back to the early stages of the development of that agreement. However, in March last year Australia withdrew its support for that agreement, and that is consistent with the time lines that we see in the development of the Greater Sunrise issue. If we were to follow the ba-



sic intention of the international law of the sea, the resource would fall totally within the jurisdiction of East Timor. Statements have been made here this morning in relation to the division of the resource rental taxes and other revenues from the resource and how Australia is to ensure that 90 per cent of this is transferred to East Timor. However, a briefing note has been provided to us by Woodside. Woodside's participation in this program is in relation to concessions that they have in the area relating to two exploration permits. Woodside says:

The project will generate estimated government revenues of A\$10 billion, to be shared between Australia and Timor-Leste over the 30-40 year life of the project. It is not possible to be absolutely accurate about royalty streams or incomes from the project since contracts are yet to be signed and the project is yet to be completed.

Even Woodside acknowledges that we cannot accurately say what Australia's percentage of the royalties will be and what will go to East Timor. One Nation wants to put it very clearly on the record that we believe that all funds from this resource should go directly to East Timor.

The other concern that One Nation has is in relation to a current court action that the Australian government now finds itself tied up in in the District of Columbia. The action is between Oceanic Exploration Company, a Delaware corporation, and ConocoPhillips Incorporated, also a Delaware corporation. If we look very clearly at the complaint in relation to this case we see that it is listed in various forms such as violation of the Racketeering Influence and Corrupt Organization Act—an American act—intentional interference with a contract, intentional interference with prospective economic advantage, unjust enrichment and unfair competition. The primary action is, as I said, between Oceanic Exploration and ConocoPhillips but cojoined to that there are approximately 20 other Phillips companies that are all Australian registered. Also cojoined in this is the Timor Sea designated authority for the Joint Petroleum Development Area—that is an unincorporated entity—and the Timor Gap Joint Authority for the zone of cooperation, an entity organised pursuant to the Timor Gap Treaty.

I will look at both of those entities. Firstly I will look at the Timor Gap Joint Authority for the zone of cooperation. It was established pursuant to article 7 of the treaty between Australia and the Republic of Indonesia on the zone of cooperation in an area between the Indonesian province of East Timor at that time and Northern Australia. That is known as the Timor Gap Treaty. The joint authority has established a banking relationship with the Chase Manhattan Bank in New York; it maintains and controls deposits and flow-through accounts with the Chase Manhattan Bank in New York; and it directs those entities that owe money to the joint authority for activities in the zone of coop-

eration of the Timor Gap to deposit or transfer such funds by wire to its Chase Manhattan Bank account. So the joint authority, which is an organisation between Australia and the Republic of Indonesia, does not even house its banking in Australia.

Secondly, I will look at the designated authority. This is the Timor Sea designated authority for the Joint Petroleum Development Area, and it is referred to in this action as the designated authority. It is an unincorporated entity established by the joint commission pursuant to article 6 of the Timor Sea Treaty between the government of East Timor and the Australian government. The designated authority is a customer of the Chase Manhattan Bank in New York and the designated authority maintains and controls both depository and flowthrough accounts with Chase Manhattan Bank in New York. The designated authority directs firms that owe money to it for activities in the Joint Petroleum Development Area of the Timor Gap to transfer such funds by wire to its Chase Manhattan Bank accounts.

I would like to make a reference to an amendment that Senator Natasha Stott Despoja has moved. It highlights the importance of those funds at this point in time being held in a trust account until this issue is sorted out. I will now go to the history of Oceanic Exploration, the company that is bringing this action. The saga goes right back to 1642, when Portugal colonised East Timor. Oceanic Exploration, at the end of 1968, applied to the Portuguese government for a concession in the East Timor area, and that was granted. Oceanic Exploration undertook extensive research and study, including the gathering of seismic information and the preparation of detailed prospect maps for exploration and drilling in the East Timor area.

During that period Australia began to adopt the position that it was entitled to the possible hydrocarbon reserves in the East Timor Sea off the East Timor coast. Australia took this position despite the fact that the Geneva Convention on the Law of the Sea codified the principle that maritime boundaries should be an equal distance between the respective countries' shorelines—approximately 300 miles off each country's coast. Australia argued instead that the division for recognition of the exercise of dominion by Portugal and Australia should be drawn a mere 40 miles off the East Timor coast, which would leave discovered oil and gas reserves in the possession of Australia. At the same time Australia conducted negotiations with Indonesia, and on 17 May 1971 Australia and Indonesia signed the Australia-Indonesia continental shelf agreement which delineated the maritime border between Australia and Indonesia. Because East Timor was a Portuguese province the agreement did not address a maritime border in the East Timor Sea between East Timor and Australia. Therefore the boundary line under this agreement

between Australia and Indonesia had a gap for the area between East Timor and Australia. The gap in the boundary line has come to be known as the Timor Gap. That is the history of this whole East Timor sea resource. Australia, I believe possibly for the first time, has been named in a court action in relation to intentional interference with a contract, unjust enrichment and unfair competition.

What are the options for Australia? I believe, firstly, that they may try to challenge the jurisdiction of the actual case, but it will be a little difficult because the appellant, the plaintiff, is the Oceanic Exploration Company, which is a Delaware corporation, clearly American. The defendant that is named is ConocoPhillips Inc., also a Delaware corporation. Again, it is very difficult to challenge the jurisdiction of this case. Secondly, Australia could file a defence. Thirdly, they could cross-claim. This case is actually proceeding. It is in the preliminary direction hearing stage and it is going forward. It begs this question: while there is a legal case afoot based on the 'international law of the sea', why is Australia pushing this legislation through with undue haste? It is because, in one way, this case puts in question the leases that Australia has granted over this area since 1976.

I am not going to pre-empt the outcomes of a law case in America, but if they were to find in favour of the plaintiff then Australia would find itself in a difficult situation, because the next step, obviously, is a challenge to Australia's ability to grant the very exploration licences that this agreement is based on. That is the issue that One Nation brings to this debate. It is not whether the resource or the taxes and revenues from this resource should be divided and in what particular percentage. One Nation questions whether we should be progressing this legislation while this court case is afoot. The outcome of this court case will end up having a profound effect one way or another on these agreements. It is with these closing comments that One Nation places clearly on the record that we will be opposing the legislation.

**Senator O'BRIEN** (Tasmania) (12.18 p.m.)—In terms of the Democrat amendment, while Labor has some sympathy with the sentiments of the Democrats on this issue, these bills, the Greater Sunrise Unitisation Agreement Implementation Bill 2004 and the Customs Tariff Amendment (Greater Sunrise) Bill 2004, relate simply to the implementation of matters already agreed between Australia and Timor Leste. Therefore, only those matters that are agreed should be included. Giving effect to those matters is essential to clear the way for the development of the Greater Sunrise resource so that revenue can start flowing to East Timor—where it is desperately needed to rebuild the country—and to Australia.

In government, Labor will of course negotiate expeditiously and in good faith the permanent delimitation of maritime boundaries with the Democratic Republic of Timor Leste, in full accordance with international law and all its applications, including the United Nations Convention on the Law of the Sea. In the past, we have noted with extreme concern the government's decision to withdraw from the jurisdiction of the International Court of Justice. This has had the consequence that neither Australia nor Timor Leste now recognises its jurisdiction on such matters.

We condemn the government for dragging out the negotiations on the maritime boundary issue and we support the Democrat call for the government to negotiate expeditiously and in good faith. Under a Labor government, the Democrat call for moneys and interest from Greater Sunrise to be held in escrow would be totally unnecessary because we will negotiate in good faith with Timor Leste and we will do all that we can to settle the maritime boundary issue expeditiously. As the committee noted, there is provision in the unitisation agreement for either country to request a review of the production sharing formula, and for the formula to be altered by agreement between Australia and Timor Leste. Accordingly, Labor will not be supporting the second reading amendment of the Democrats.

**Senator ABETZ** (Tasmania—Special Minister of State) (12.20 p.m.)—I thank honourable senators for their contribution to these important bills, the Greater Sunrise Unitisation Agreement Implementation Bill 2004 and the Customs Tariff Amendment (Greater Sunrise) Bill 2004. I note the comments from the opposition. I welcome them and note the opposition's support for the legislation, albeit that, in the other place, the member for Lingiari made some inappropriate comments, I would suggest, in relation to his anti-business stance. But we will let that go through to the keeper. I simply say that, if he wants to be shadow resources spokesman, the way to develop resources within this country and within our economic jurisdiction is to have a good relationship with those companies and enterprises that seek to develop them.

These bills implement an agreement between Australia and East Timor to develop and commercialise the Sunrise and Troubadour petroleum fields in the Timor Sea as a single unit. These fields, known as the Greater Sunrise petroleum resource, straddle the border between the Joint Petroleum Development Area established by the Timor Sea Treaty and an area of Australian jurisdiction. Putting in place the legislative framework for the unit development of Greater Sunrise will contribute significantly to investor certainty—a necessary precondition for the development of the resource.

Development of Greater Sunrise will provide substantial benefits to both Australia and East Timor. From development will flow investment, exports, employ-

ment and revenue. Development can also be expected to enhance the Timor Sea as a destination for exploration activity, to the benefit of both nations, particularly East Timor. I am particularly pleased to note that the economic development of the Northern Territory will be greatly assisted by the development of the Greater Sunrise project. Senator Nigel Scullion from the Northern Territory has always championed the interests of the Northern Territory and this project, because of the benefits that will flow not only to the people of East Timor but to the Territory itself.

This year sees the first phase of petroleum production from the Bayu-Undan field in the Joint Petroleum Development Area. Further development of that project, which includes construction of a liquefied natural gas plant near Darwin, together with Greater Sunrise, will consolidate Darwin's position as a major oil and gas centre. I know that prospect excites not only Senator Nigel Scullion but also David Tollner, the member for Solomon. This government has made economic development in the Territory a high priority, as demonstrated by its support for the Alice Springs to Darwin railway.

The credentials of Australia and East Timor to act in cooperation were established with the ratification of the Timor Sea Treaty, which governs the development of the resources of the Joint Petroleum Development Area. The Greater Sunrise unitisation agreement being implemented by this bill consolidates these credentials. Maritime boundary discussions are in progress between Australia and East Timor, but nothing in the Greater Sunrise unitisation agreement or in this implementation bill allows either nation to use the agreement to support its boundary claims. These are separate issues. The Australian government is pleased to honour its agreement with East Timor by making legislative provision for its implementation. The government looks forward to ratifying the agreement when East Timor's implementation measures are also in place. The bill to implement the unitisation of the Greater Sunrise resource brings closer the day when Australia and East Timor can announce the expected commencement of petroleum production from Greater Sunrise.

I now seek to join issue with some of the matters raised by honourable senators during the debate. There has been some suggestion that there has not been the degree of consultation or meetings that would have been desirable. I indicate to the Senate that since the signing of the unitisation agreement by both countries on 6 March 2003, approximately 12 months ago, the Australian government has been in dialogue with the government of East Timor with regard to the implementation of the unitisation agreement and the Timor Sea Treaty, including those with the Australian Embassy in Dili. Since that time the records of the De-

partment of Industry, Tourism and Resources show that there has been regular contact with East Timorese officials on a range of matters relating to petroleum activities in the Timor Sea, including Sunrise unitisation. Since that date there have been at least 10 meetings. These have been held in Dili, Darwin and Canberra, and there have been telephone conferences. In addition, there have been numerous email and telephone contacts. The Joint Standing Committee on Treaties processes on the unitisation agreement were commenced in May 2003 and hearings were held in Canberra on 23 June 2003. The treaties committee reported on 19 August 2003.

I turn to the issue of East Timor's maritime boundary claims. Australia does not accept East Timor's claims to areas to the east and west of the Joint Petroleum Development Area, which include the Laminaria and Corallina oilfields to the west and part of Greater Sunrise to the east. It is the government's view that these deposits are within areas of the continental shelf over which Australia has sole sovereign rights. Nevertheless, we are committed to negotiating a permanent maritime boundary between Australia and East Timor. It is an important matter and precedent indicates that such a process can take some considerable time. Nevertheless, following scoping talks with East Timor on 12 November 2003, some four months ago, it was established that formal negotiating rounds would be held twice yearly starting in April 2004—that is, next month. It is nothing out of the ordinary for maritime boundary negotiations to occur in half-yearly time frames; given the complexity of the issues as outlined in the committee report, it would be unrealistic to expect otherwise.

I turn to the issue of East Timor's claims to revenues from petroleum activities outside the Joint Petroleum Development Area. We are aware of East Timor's claims to revenues from petroleum fields lying to the west of the Joint Petroleum Development Area. However, the government does not accept that East Timor has jurisdiction over any of the deposits in the claim area and rejects any inference that petroleum companies—or for that matter, as Senator Brown claims, the Australian government—are operating illegally. The suggestion has been made that the Greater Sunrise revenue should be placed in a trust account. The unitisation agreement signed by both countries provides an agreed method for allocating the revenues and we are seeking to simply implement the agreement.

Then there is the issue of the legal basis of East Timor's claims. In Australia's view, international law does not require a state to cease petroleum operations in an area simply because another state subsequently makes an overlapping ambit claim to sovereign rights over that area. The issue of legal action being taken by Oceanic Exploration has been raised. The government

stands by the actions Australia has taken with respect to the exploration and development of the resources of the Timor Sea and refutes any allegation of corrupt practices on its part. Any claims by Oceanic against Australia will be strenuously defended.

The issue of Woodside's local industry participation plan has been raised. The government welcomes Woodside's commitment to encouraging participation by both Australian and Timor Leste industry in the development of the Greater Sunrise resource. The preparation of a local industry participation plan similar to that required under the government's new enhanced project by-law scheme will increase the benefits that flow from the project to both Timor Leste and Australia. But the government could not force the preparation of such a plan because Timor Leste insisted that there be duty-free entry of petroleum production related goods into the Greater Sunrise area.

I have already referred to the issue of consultation, but I amplify that by noting that Senator Brandis, Chairman of the Economics Legislation Committee, which looked into this bill, noted in his report that the bill was referred to the committee on 10 March. The committee received submissions from four non-government organisations, four private individuals and Woodside. He emphasised that all these were considered by the committee, notwithstanding that they did not all appear before the committee at the hearing. He stated that this response demonstrated that the time frame did not prevent interested bodies or individuals from making their views known. Additionally, an invitation was made to the Timor Leste embassy in Canberra, advising them of the hearing and inviting them to participate.

Finally, I turn to the International Court of Justice issues. The government's position is that maritime boundaries are best settled by negotiation, not by reference to third party dispute settlement. Indeed, domestically, more and more we are seeing a trend away from litigation—quite properly—and toward trying to have negotiated outcomes and results. I would have thought that that being done on an international level would be welcomed by most Australians. Consistent with this, the government has placed a condition on its acceptance of compulsory jurisdiction under the so-called optional clause of the International Court of Justice. It has also entered a reservation in respect of the dispute resolution procedures under UNCLOS. This is consistent with international law. I thank honourable senators for their contributions to the second reading debate and I commend the bill to the Senate.

Question put:

That the amendment (**Senator Stott Despoja's**) be agreed to.

The Senate divided. [12.36 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	10
Noes.....	<u>41</u>
Majority.....	31

AYES

Allison, L.F. *	Brown, B.J.
Cherry, J.C.	Greig, B.
Harris, L.	Lees, M.H.
Murray, A.J.M.	Nettle, K.
Ridgeway, A.D.	Stott Despoja, N.

NOES

Abetz, E.	Barnett, G.
Bishop, T.M.	Boswell, R.L.D.
Brandis, G.H.	Buckland, G.
Calvert, P.H.	Campbell, G.
Chapman, H.G.P.	Colbeck, R.
Collins, J.M.A.	Conroy, S.M.
Cook, P.F.S.	Crossin, P.M.
Denman, K.J.	Eggleston, A.
Ferguson, A.B.	Forshaw, M.G.
Hill, R.M.	Hogg, J.J.
Johnston, D.	Kirk, L.
Lightfoot, P.R.	Ludwig, J.W.
Macdonald, J.A.L.	Mackay, S.M.
Mason, B.J.	McGauran, J.J.J. *
McLucas, J.E.	Murphy, S.M.
O'Brien, K.W.K.	Payne, M.A.
Ray, R.F.	Santoro, S.
Scullion, N.G.	Sherry, N.J.
Stephens, U.	Tchen, T.
Watson, J.O.W.	Webber, R.
Wong, P.	

\* denotes teller

Question negatived.

Original question put:

That the bills be now read a second time.

The Senate divided. [12.40 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	43
Noes.....	<u>11</u>
Majority.....	32

AYES

Abetz, E.	Barnett, G.
Bishop, T.M.	Boswell, R.L.D.
Brandis, G.H.	Buckland, G.
Calvert, P.H.	Campbell, G.
Chapman, H.G.P.	Colbeck, R.
Collins, J.M.A.	Conroy, S.M.
Cook, P.F.S.	Crossin, P.M.
Denman, K.J.	Eggleston, A.
Ferguson, A.B.	Forshaw, M.G.
Harradine, B.	Hill, R.M.
Hogg, J.J.	Kirk, L.
Lightfoot, P.R.	Ludwig, J.W.
Macdonald, J.A.L.	Mackay, S.M.
Mason, B.J.	McGauran, J.J.J. *
McLucas, J.E.	Murphy, S.M.
O'Brien, K.W.K.	Payne, M.A.
Ray, R.F.	Santoro, S.
Scullion, N.G.	Sherry, N.J.

Stephens, U.  
Tierney, J.W.  
Watson, J.O.W.  
Wong, P.

Tchen, T.  
Troeth, J.M.  
Webber, R.

#### NOES

Allison, L.F. *	Bartlett, A.J.J.
Brown, B.J.	Cherry, J.C.
Greig, B.	Harris, L.
Lees, M.H.	Murray, A.J.M.
Nettle, K.	Ridgeway, A.D.

Stott Despoja, N.

\* denotes teller

Question agreed to.

Bills read a second time.

#### MATTERS OF PUBLIC INTEREST

**The PRESIDENT**—Order! It being almost 12.45 p.m., I call on matters of public interest

##### Small Business: Trade Practices Act

**Senator BOSWELL** (Queensland—Leader of The Nationals in the Senate) (12.44 p.m.)—The report released last month by the Senate's Economics References Committee, entitled *The effectiveness of the Trade Practices Act 1974 in protecting small business*, followed on from the Dawson review, which had been conducted prior to the High Court's decision in the Boral case. Although the Boral decision was considered by the members of the Dawson review just prior to the release of their report, this Senate review is the first to also take into account the views of the public following the High Court's Boral and Rural Press decisions. At the core of the report is section 46, the misuse of market power provision of the Trade Practices Act. The Senate committee has unanimously recommended reform to section 46 to clarify both the Boral and the Rural Press decisions.

This senate report is also important because it confirms, in a unanimous decision, that the Dawson review recommendation on collective negotiations by the means of notification should be implemented. The review received important input from all small business sectors, which are to be congratulated on their positive approach and now on their united response to the outcome of the report. Small business are also to be congratulated for their efforts in combining under several industry groupings to promote their cause. Submissions were received from groupings representing most small business sectors: pharmacies, independent grocers, retailers, panel beaters, the motor trades, liquor retailers, newsagencies and others. I have spoken directly to the pharmacists and the grocers and they are very happy with the recommendations.

This report is of special importance because of the continued significance of small business to the Australian economy, particularly in rural and regional towns and districts, where they are often the mainstay of local communities as an employer and as a contributor to

local life. I am pleased to note that small business have come out strongly in support of the recommendations of the government senator's report. Firstly, Senator Brandis's report covers reforms to the misuse of market power provision in section 46. To quote Senator Brandis's recommendation:

.. there is a clear case for legislative reform of s.46 ... Boral, have narrowed the already limited operation of s.46, and ... restricted to an undesirable degree its capacity to deal with anticompetitive conduct, in particular ... 'predatory pricing'.

Section 46 needs reform to:

... ensure that the Act achieves its core objective of promoting competition.

The report from all senators pointed out how this section in particular had strayed from the original intention of the legislature when it was introduced in 1986. Support for this point of view and for the need for change to reflect the intentions of the original purpose of the section was agreed to by the Chairman of the ACCC, Graeme Samuel, in the submission from the ACCC. This has resulted in a unanimous agreement that section 46 must be available as a remedy for small business in a form that reflects the intentions of the 1986 test, when the test was changed from 'substantial control of a market' to 'substantial degree of power in a market'. The then Attorney-General, Lionel Bowen, said:

... an effective provision controlling misuse of market power is most important to ensure that small businesses are given a measure of protection from the predatory actions of powerful competitors. Unfortunately, section 46 as presently drafted has proved of quite limited effectiveness in achieving that result, principally because the section applies only to monopolists or those with overwhelming market dominance.

The amendments are designed to address these problems. The government members' report has suggested there be an amendment to section 46 to deal with predatory pricing to cover situations in which a corporation has a substantial degree of power in a market and has taken advantage of this power for the proscribed purpose in the act against their competition. Under this, the court may have regard to the corporation's capacity to sell below cost. The Boral decision virtually required a monopoly position. In returning to the intent of the 1986 amendment, it is hoped to get through the threshold for small business.

The second area where there has been support from all committee members and endorsement from the small business community in relation to section 46 is to reverse the High Court decision in the Rural Press case, which resulted in a narrowing of section 46. All agreed with the ACCC proposal for reform to cover the situation where a corporation with substantial power in one market takes advantage of that power to engage in proscribed conduct in another market. Another important remedy under consideration is for actions brought by small business under section 51—actions which are

prepared to accept those, then, obviously, I would, but I suspect they cannot because the words 'reasonably practicable' are included in each of those. I am not one of those who enjoys doing disallowances, unless it is something fundamental to my beliefs, like human rights or something of that nature. But this is about money and finance and other things, and I think the arguments put by the Labor Party with respect to this particular matter are accurate. It is my job to make a decision, and my decision is to continue to support the Labor Party's disallowance.

Question negatived.

Original question put:

That the motion (**Senator Conroy's**) be agreed to.

The Senate divided. [6.21 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	36
Noes.....	<u>30</u>
Majority.....	6

**AYES**

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Bolkus, N.
Brown, B.J.	Campbell, G.
Carr, K.J.	Cherry, J.C.
Collins, J.M.A.	Conroy, S.M.
Cook, P.F.S.	Crossin, P.M.
Denman, K.J.	Faulkner, J.P.
Forshaw, M.G.	Greig, B.
Harradine, B.	Harris, L.
Hogg, J.J.	Hutchins, S.P.
Kirk, L.	Lees, M.H.
Ludwig, J.W.	Mackay, S.M. *
McLucas, J.E.	Moore, C.
Murphy, S.M.	Murray, A.J.M.
Nettle, K.	Ray, R.F.
Ridgeway, A.D.	Sherry, N.J.
Stephens, U.	Stott Despoja, N.
Webber, R.	Wong, P.

**NOES**

Abetz, E.	Barnett, G.
Boswell, R.L.D.	Brandis, G.H.
Calvert, P.H.	Chapman, H.G.P.
Colbeck, R.	Eggleston, A. *
Ellison, C.M.	Ferguson, A.B.
Ferris, J.M.	Heffernan, W.
Humphries, G.	Johnston, D.
Kemp, C.R.	Knowles, S.C.
Lightfoot, P.R.	Macdonald, I.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J.	Patterson, K.C.
Payne, M.A.	Santoro, S.
Scullion, N.G.	Tchen, T.
Tierney, J.W.	Troeth, J.M.
Vanstone, A.E.	Watson, J.O.W.

**PAIRS**

Campbell, I.G.	Buckland, G.
Coonan, H.L.	Evans, C.V.
Minchin, N.H.	Lundy, K.A.

Hill, R.M. O'Brien, K.W.K.  
\*denotes teller

Question agreed to.

*Senator Marshall did not vote, to compensate for the vacancy caused by the resignation of Senator Alston.*

**BUDGET**

**Consideration by Legislation Committees Reports**

**Senator EGGLESTON** (Western Australia) (6.24 p.m.)—Pursuant to order and at the request of the chairs of the respective committees, I present reports from all legislation committees, except the Environment, Communications, Information Technology and the Arts Legislation Committee and the Foreign Affairs, Defence and Trade Legislation Committee, in respect of the 2003-04 additional estimates, together with the *Hansard* record of the committees' proceedings and documents received by certain committees.

Ordered that the reports be printed.

**GREATER SUNRISE UNITISATION AGREEMENT IMPLEMENTATION BILL 2004 CUSTOMS TARIFF AMENDMENT (GREATER SUNRISE) BILL 2004**

Consideration resumed.

**In Committee**

**GREATER SUNRISE UNITISATION AGREEMENT IMPLEMENTATION BILL 2004**

Bill—by leave—taken as a whole.

**Senator BROWN** (Tasmania) (6.25 p.m.)—I ask the government where the environmental impact assessment of this project may be found and, if it is not to be found, what the completion date will be and who will be doing it.

**Senator STOTT DESPOJA** (South Australia) (6.26 p.m.)—I am happy to defer to Senator Brown if he wants to pursue that line of questioning. I am assuming the minister would like some time to get a comprehensive response to Senator Brown's question. In the meantime, if the minister would like more questions, I am happy to oblige but perhaps we might wait for this response first. What do you think, Bob?

**Senator ABETZ** (Tasmania—Special Minister of State) (6.26 p.m.)—I would have thought it would be quite obvious that you cannot have an environmental impact statement until such time as there is an actual development proposal. When you have the exact details of the development proposal, as I understand it, that is the time an environmental impact statement will be sought. Until you know the detail, the concept of an impact statement may all be very nice but it will not, in fact, deal with the detail that one would undoubtedly expect.



**Senator BROWN** (Tasmania) (6.27 p.m.)—That may have pertained in the 1960s but this is 2004, and what you do in 2004 is make sure that the proposal comes with an environmental impact assessment.

**Senator Abetz**—But there is no proposal.

**Senator BROWN**—The poor minister says that there is no proposal but the committee, for example, was forwarded a submission from Woodside, who, with a couple of other major proponents, is putting forward a very clear proposal to develop the oil and gas fields that are in question. They have been working on assessments of infrastructure and the value of that oil field for many years, and we know there is a rival proposal from Conoco which goes back 20 years. There has been a huge amount of work done in assessing and sizing up this oil and gas field. Are we, as a committee, really to be led to believe that, in the many years of effort and the millions of dollars expended in doing that assessment, there has been no environmental assessment done? Of course we are not. Of course that is not acceptable. Of course there has to be an environmental impact assessment.

If the minister is saying there is no proposal, I think the committee can go home. What we dealing with? A piece of legislation, if there is no proposal. Of course there is. That is daft. We have a proposal and out of that proposal comes a unitisation agreement for the development of the oil and gas fields called Greater Sunrise and Troubadour. The question is: where is the environmental impact assessment? We are dealing with two countries here, Timor Leste and Australia. There is a disputed border but there is no doubt about where this development is going to take place.

There is also no doubt that it can have major impacts, as all oil and gas extraction in marine regions have, on the marine environment. One does not have to be Einstein to know that there is a very significant risk over the decades of production of these oil and gas fields of a blow-out, an escape, of oil and/or gas into the marine environment. There will of course be direct and undeniable impacts of the drilling process, the platforms involved, the consequent transport through pipelines of the gas to either East Timor or the Northern Territory and/or the processing of the products at sea for export to Australia or other countries around the world. This is a gargantuan project—\$35 billion is being talked about as the overall outcome, with billions of dollars to be spent developing it and \$10 billion in royalties, most of which is going to be taken by Australia improperly. So it is a very big proposal indeed. It has potential direct major impacts not just in the region but as far away as the shores of both nations involved. We ought to be dealing with this legislation in light of the knowledge that would come from both a social and an environmental impact assessment.

That is the other matter: the social impact. Where is the assessment of the impact of this development on both Australia, and more particularly, Timor Leste? That would have to include the difference between the \$2 billion royalties it is assessed that Timor Leste will get and the \$10 billion it would be getting if it were not being deprived in this fashion to its legal entitlement to total ownership of the oil and gas field. It is not acceptable for legislation like this, which effectively authorises the go-ahead on this project and without which we are told the project cannot proceed because it is needed for investor security. What about environmental security?

The minister opposite might shrug his shoulders and go, 'Hah' about this but it is a very, very important matter. The government's environmental track record is second to everybody's. But we can expect, and we should expect in the Senate, to be presented with an environmental and social impact assessment. I reiterate: where is it? It does not exist. When is it going to be forthcoming? Who will do it? Who has the power of vetting the result of that environmental and social impact assessment and deciding whether, in light of the environmental and social impact assessment, this project should proceed? Without the impact on the environment and society being paramount, the assessments are worthless. The project should be contingent on those assessments being amenable and acceptable to both East Timor and Australia—both the social assessment and the environmental assessment. So where are they? In light of the fact that they are not here: when are we going to see them, who will do them and at whose expense will they be done?

**Senator ABETZ** (Tasmania—Special Minister of State) (6.34 p.m.)—Senator Brown has established a reputation for simply asserting things as facts and hoping that he is never questioned about the validity of what he is asserting. Of course, that is what he is doing again this evening. He knows full well, or he should know full well, the difference between an actual proposal and a development concept. At this stage we are only at the development concept stage. This legislation is needed to enable a proposal to be forthcoming. It is when that proposal is forthcoming that the environmental legislation and the requirement for an environmental impact statement will come and that will be under legislation which, if I recall correctly, Senator Brown voted against—but that is another story. He now wants that legislation that he voted against to be used and applied to this situation at the Greater Sunrise.

I indicate to the Committee of the Whole that this government is very proud of the environmental protection legislation that it passed, which I understand the Democrats moved considerable amendments to and negotiated with the government on. At the end of the

day we think a pretty good environmental outcome was achieved. That is an indication of the practical approach to these situations rather than the dog in the manger attitude adopted by the Australian extremes. We are concerned about the environmental issues for any future project of significance. That is why we passed the legislation that we did at a previous time. That legislation will be required to be adhered to by anybody that comes up with a firm proposal. Concepts are all very nice, but what you actually need is a firm and detailed proposal. The detailed proposal has not been forthcoming as yet.

When this legislation is—hopefully—passed, proposals will come forward. When the proposals come forward, they will have to come with an environmental impact statement paid for by the proponents, as I understand it. The environmental impact statement will then be assessed by the Joint Petroleum Development Authority under the Australian law that currently applies. Our friends from East Timor will have just as much input as the Australian representatives to ensure that the environmental impact statement is appropriate and rigorous and that the environmental concerns held genuinely by all of us in this chamber are addressed. Some of us in this world do not see a project and straightaway ask, ‘How can we stop it?’ Some of us say: ‘Here is a potential project. How can we make it work whilst also protecting the environment?’ That is the big difference between Senator Brown’s approach and the government’s approach. From an environmental point of view our legislation will apply as will also, as I understand it, the requirements of annex II of the treaty—which was signed by both East Timor and Australia.

If there were a proposal, at the end of the day the social impact of the proposal and the development of that proposal would be something for the two governments to determine through their democratic purposes. Suffice to say that I think the social impact will be absolutely huge and beneficial to the people of East Timor. Make no mistake: if this legislation is not passed, we will not be moving from concept to proposal and the natural resources that are available there will be either not harnessed or delayed from being harnessed for a long time. As a result, the struggling nation of East Timor—and, when I say struggling, I mean in financial terms—will be denied considerable dollars. Senator Brown can say that we are grabbing a share that is too big. We as a government reject that categorically. We say an agreement has been signed by the two governments et cetera. Make no mistake: there will not be an argument about the share if Senator Brown has his way because the resource will remain where it is and neither East Timor nor Australia will get the benefit of this joint gas field. It will have a great and beneficial financial impact on the people of East Timor, and the funds that flow from harnessing the gas will allow

them to upgrade a lot of their services and infrastructure and to engage in considerable nation building. The social impact will be of great benefit to our friends in East Timor.

**Senator BROWN** (Tasmania) (6.41 p.m.)—The nonsense about there not being a proposal is disposed of if one just looks at Woodside’s prepared submission to the Senate inquiry. It talks about hundreds of millions of dollars having already been invested in ‘exploration, appraisal and concept development’. No proposal? What nonsense. Woodside says:

However, Sunrise—

that is, the oil and gas field—

will not progress to the next phase, take a final investment decision—

the proposal is up; the next stage is for the corporations involved to make their final investment decision—

or secure gas customers until outstanding legal and fiscal issues are resolved, the most immediate being the entry into force of the International Unitisation Agreement (IUA). Investors and customers must be convinced that there is fiscal and legal certainty for the project. A large part of that certainty is delivered by a ratified IUA.

That is effectively what we are doing here, undertaking the ratification of that agreement. By the way, according to its submission:

Woodside holds a 33.44% interest in and is Operator of the Sunrise Unit Area located in the Timor Sea. The other Sunrise participants include ConocoPhillips (30%), Shell (26.56%) and Osaka Gas (10%).

The question is: where in this submission is there any reference to environmental or social impacts? There is none. The submission says that \$200 million has been spent on concept development, which includes exploration and appraisal, but neither its environmental impact nor its social impact have been appraised. These are ordinary assessments that any developed country should insist and demand are carried out by this stage of a proposal. What we are hearing from Woodside is that the proposal will go ahead if the ‘outstanding legal and fiscal issues are resolved’. I want to know about the outstanding environmental and social issues, not to speak of the political ones. The minister, when he was assessing my submissions on this matter, said that I did not agree with the way in which this oil and gas field was shared. No. Let us get this straight: this oil and gas field is in Timorese territory. It is 100 per cent on the Timorese side of the midpoint between Australia and Timor. So there is not a question of sharing it. It is Timor Leste’s provision.

**Senator O’Brien**—Everywhere else in the world there is a 200-mile limit.

**Senator BROWN**—Senator Kerry O’Brien interjects that everywhere else it is a 200-mile limit. What he says, in effect, is that Australia recognises the 200-mile limit for itself, but forget about the East Timorese.



The 200-mile limit does not, apparently, matter to them. That is the whole thing that is wrong here. There is this view that Australia has some right to determine boundaries and to take resources which does not apply to East Timor—it is not an equal nation. That is a colonial attitude and that is just not acceptable.

I come back to the social impact, because there is a lot to be said about the political impact. Woodside says in its proposal that there will be a peak of 3,000 in the work force involved in the development of this field. That presumably involves the processing of the gas and oil to the point of sale at least, if not export to wherever it is going to go. I ask the minister: how many East Timorese are going to be in that work force? If we are into sharing, what is the expected East Timorese component of that work force? I will add a couple of questions to that, because they may be worthy of consideration. No, I will ask the minister now: can he tell me who the minister for the environment for Timor Leste is and can he tell me how many people are working in the department of the environment in Timor Leste?

**Senator ABETZ** (Tasmania—Special Minister of State) (6.46 p.m.)—Starting at the beginning of Senator Brown's comments, as he spoke he realised that he was getting on shakier and shakier ground and then quickly tried to shift the goalposts as he was talking to try to regain some credibility. The simple fact is that articles 19, 20 and 21 and annex II provide for a common legislative and administrative regime in relation to matters concerning occupational health, safety and environmental protection.

That is what the East Timorese have signed up to. Here we have a senator from the state of Tasmania suggesting—in a very colonial way, if I might suggest—that he knows better than the democratically elected government of East Timor in relation to the treaty that they signed. How patronising can you get! This is the sort of nonsense that we have to put up with from the Australian Greens day after day. Thank goodness we still have a few minutes on broadcast which allows me to expose the sort of nonsense that Senator Brown has gone on with.

We have this nonsense of asking, 'Can you name the minister for the environment for East Timor?' What a bizarre and stupid proposition and question. If you were to ask me to name the minister for the environment of the country that I was born in, Germany, I could not tell you. I do not even know who the minister for the environment is in the state of Queensland. I am sorry, I cannot tell you the state minister's name. How has that got anything to do with the quality of the concept, with the quality of the legislation that is before us and with the quality of the treaty that the democratically elected government of East Timor signed—which the Prime Minister of East Timor personally signed, as I understand it.

If Senator Brown, being elected by a few thousand Tasmanians, thinks that he knows better than the democratically elected Prime Minister of East Timor, so be it, but it is a very patronising attitude and a very colonial attitude. Of course, as honourable senator's opposite are reminding me, I am elected from the state of Tasmania as well by just a few thousand Tasmanians—I accept that, but that is why I would never have the breathtaking arrogance of asserting that, being elected out of the state of Tasmania, I somehow know better than the democratically elected Prime Minister of East Timor.

This is the sort of nonsense that we are fed day after day by the Australian Greens. We are getting sick and tired of it on this side of the chamber. I have no hesitation in indicating that this is a treaty that was signed by both countries for the benefit of both countries. We now have legislation to try to drive that forward for the benefit of the people of East Timor. If Senator Brown and the Australian Greens have their way, nothing will happen and the East Timorese and Australians will be denied the benefits.

Progress reported.

#### ADJOURNMENT

**The DEPUTY PRESIDENT**—Order! There being no consideration of government documents, I propose the question:

That the Senate do now adjourn.

#### Education: Boys

**Senator SANTORO** (Queensland) (6.51 p.m.)—Educating boys is not an easy task. It is as difficult and challenging as educating girls. Educating young people of either gender is always going to be challenging. It is a fundamental and vital task of any society to bring up its next generation of workers and leaders. In fact, if we do not find it challenging from a policy perspective and in terms of constantly rising outcomes, we are not doing it correctly. There is at present a national debate about gender balance in the teaching profession. Falling proportions of male teachers coincide with falling levels of academic attainment among boys. We need to note that they coincide; they do not necessarily correlate. But it does seem to me that boys in the classroom need male role models in that environment.

I spoke in the Senate last year on this issue. It is one of the things I set my mind to when I came into this place in 2002. It seemed to me then and it seems to me now that in this country we have a historic opportunity to put right one of the things that has been wrong with our system of education. In the *Australian* newspaper last week, the academic commentator Ross Fitzgerald suggested that Australia needed to make education a bipartisan issue. I think that is a sensible proposition. There can surely be no fundamental argument over the benefits of education. Issues of emphasis and certainly