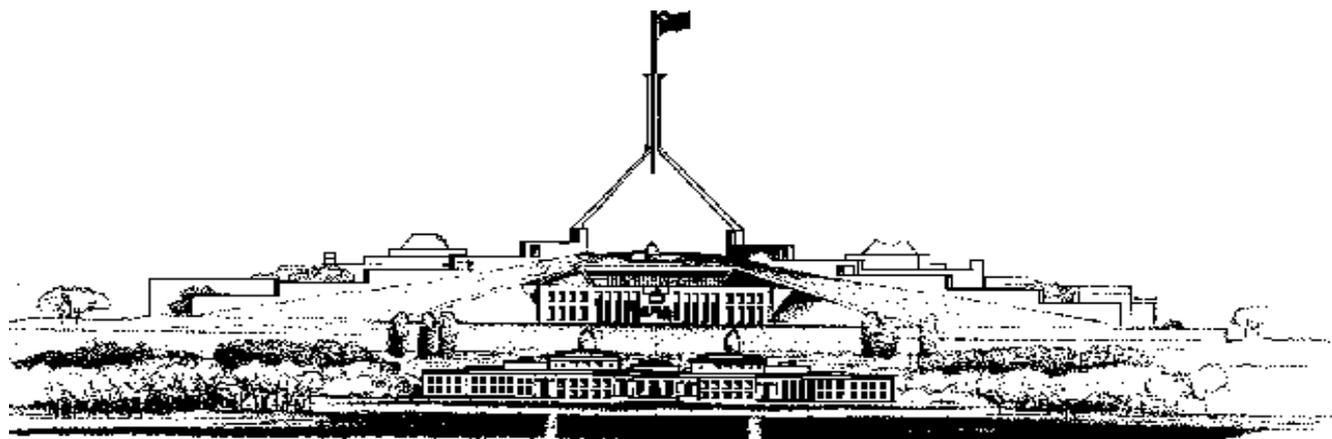




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF  
REPRESENTATIVES**

**Official Hansard**

No. 3, 2003

WEDNESDAY, 5 MARCH 2003

FORTIETH PARLIAMENT  
FIRST SESSION—FOURTH PERIOD

Timor Sea Treaty excerpts only

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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**PETROLEUM (TIMOR SEA TREATY)  
BILL 2003**

**First Reading**

Bill presented by **Mr Ian Macfarlane**,  
and read a first time.

**Second Reading**

**Mr IAN MACFARLANE** (Groom—  
Minister for Industry, Tourism and  
Resources) (6.40 p.m.)—I move:

That this bill be now read a second time.

The purpose of the **Petroleum (Timor Sea Treaty) Bill 2003** is to give effect to the Timor Sea Treaty signed by Australia and East Timor on 20 May 2002.

The **Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003** and the **Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003**, which I will also introduce to parliament, provide for amendments that will be required to related acts to reflect the new legislation and repeal the Petroleum (Australia-Indonesia Zone of Cooperation) Act 1990.

The treaty provides a framework for the exploration, development and exploitation of the petroleum resources in the Joint Petroleum Development Area, JPDA, created by the treaty.

Ratification of the treaty will enable industry to rapidly proceed with development of Timor Sea natural gas.

East Timor separated from Indonesia on 26 October 1999 Australian time. Since then, Indonesia has had no jurisdiction over East Timor nor the maritime zones generated by East Timorese territory, nor over petroleum operations in the former Zone of Cooperation, now known as the JPDA.

Subsequently, Australia entered into an agreement with the United Nations Transitional Administration in East Timor, UNTAET, that allowed Australia and East Timor to benefit from the continuation of exploration and production activities in an area of overlapping territorial claims in the Timor Sea.

This agreement continued the arrangements that had been in place with Indonesia but with UNTAET as the new treaty partner.

On 20 May 2002 East Timor became independent and UNTAET's administration ceased.

On that date, East Timor and Australia signed a new treaty to govern operations in the former Timor Gap and an exchange of notes to govern the period until the new treaty came into force.

The exchange of notes effectively continues previous arrangements until the new treaty comes into force. However, it is intended that when the treaty does enter into force its provisions will be applied retrospectively to 20 May 2002.

Aspects of the treaty include:

- the former Zone of Cooperation Area A now becomes the Joint Petroleum Development Area, JPDA
- sharing by Australia and East Timor of upstream petroleum revenue split 90-10 in East Timor's favour, where previous arrangements between Australia and Indonesia saw a 50-50 revenue split;
- a joint three-tiered administrative structure involving both Australia and East Timor to govern the day-to-day running and broader policy issues in the JPDA;
- a tax code for the imposition of taxes on income derived from the JPDA, and;

- continuation of current terms and conditions for the existing Elang-Kakatua project as well as Bayu-Undan and Sunrise.

The previous arrangements with Indonesia have demonstrated that the joint development concept is an effective means to allow petroleum exploration and development to take place in an area of overlapping claims.

Those arrangements worked effectively from 1991 to 1999 and facilitated the expenditure of over \$US700 million on petroleum exploration and development in the former Zone of Cooperation.

The first commercial production of petroleum in the former Zone of Cooperation commenced in July 1998 with the development of the Elang-Kakatua oilfield. The field is now nearing the end of its commercial life, producing at a rate of about 6,000 barrels of oil per day. Total revenue to Australia from this source is expected to be about \$A0.5 million in 2002-03, and has been in excess of \$A40 million to date, in addition to company tax receipts.

Two other discoveries in the JPDA are moving towards first production over the next few years. Firstly, joint-venture partners in the Bayu-Undan field have been working towards developing its liquids phase. Production of the field's estimated 400 million barrels of condensate and liquefied petroleum gas, LPG, is expected to commence in mid 2004. Total investment in the liquids phase of the project is estimated to be around \$A3.5 billion.

The partners also plan to establish a liquefied natural gas, LNG, processing facility near Darwin to process the field's 3.4 trillion cubic feet of gas for export. The planned gas phase for Bayu-Undan involves an additional investment of around \$A800m for a pipeline, and it is estimated that the investment in an LNG plant near Darwin will approach \$A2 billion. Production is scheduled to commence in 2006, and the yearly value of LNG exports from this facility is expected to approach \$A1 billion per year at full production. Over the life of the project total revenue to Australia from the liquids and gas phases, and including revenue from the pipeline and

LNG plant, are expected to exceed \$A1.5 billion. East Timor revenues are expected to be around \$A6 billion.

Secondly, industry is considering development options for the Greater Sunrise field, which contains an estimated 8.3 trillion cubic feet of natural gas and 295 million barrels of condensate. As the field straddles the border of the JPDA and Australian jurisdiction, an International Unitisation Agreement will be required between Australia and East Timor to allow the development to proceed. This is close to finalisation. Development of the Greater Sunrise field could provide revenue to Australia of around \$A8.5 billion.

As can be seen from the examples I have given today, industry is prepared to invest huge amounts in the JPDA, with resulting substantial revenue to both Australia and East Timor. The enactment of these bills will provide the legislative framework under which these projects can be realised and contribute significantly to investor certainty in the area. It is clearly in the national interest that this bill be approved as soon as possible. I commend the bill to the House. I present the explanatory memorandum to this bill.

Debate (on motion by **Mr Fitzgibbon**) adjourned.

**PETROLEUM (TIMOR SEA TREATY)  
(CONSEQUENTIAL AMENDMENTS)  
BILL 2003**

**First Reading**

Bill presented by **Mr Ian Macfarlane**, and read a first time.

**Second Reading**

**Mr IAN MACFARLANE** (Groom—Minister for Industry, Tourism and Resources) (6.48 p.m.)—I move:

That this bill be now read a second time.

I recently introduced to parliament the Petroleum (Timor Sea Treaty) Bill 2003.

The Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003 gives effect to provisions contained in certain articles of the treaty relating to criminal juris-

diction, customs, employment regulation, migration, quarantine, income tax and fringe benefits tax. The bill also repeals the Petroleum (Australia-Indonesia Zone of Cooperation) Act 1990.

The related acts which will be amended as a result of the principal act are the:

Crimes at Sea Act 2000

Customs Act 1901

Fringe Benefits Tax Assessment Act 1986

Income Tax Assessment Act 1936

International Organisations (Privileges and Immunities) Act 1963

Migration Act 1958

Passenger Movement Charge Collection Act 1978

Petroleum (Submerged Lands) Act 1967

Quarantine Act 1908

Superannuation Guarantee (Administration) Act 1992

Taxation Administration Act 1953

Workplace Relations Act 1996

A further act, the Passenger Movement Charge Act 1978, is amended by a separate bill, the Passenger Movement Charge (Timor Sea Treaty) Bill 2003. This act requires a separate amendment bill as the act itself imposes a tax.

In most cases, the consequential amendments to the various acts are relatively minor—in many instances they merely amend the relevant act by using expressions such as ‘Joint Petroleum Development Area’ where ‘Area A of the Zone of Cooperation’ or simply ‘Area A’ previously appeared, as is the case in the Migration Act 1958 or Petroleum (Submerged Lands) Act 1967 amongst others.

In the case of amendments to tax-related acts, the changes are in some cases more detailed, for instance applying the transfer pricing provisions to transactions between Australia and areas such as the JPDA where Australia has a shared allocation of taxing

rights with another country, and providing foreign tax credits for foreign tax paid to the other country—for example, East Timor—by Australian residents on income from such an area. These changes are explained in detail in the notes on clauses section of the explanatory memorandum.

The Timor Sea Treaty is to be taken to have effect on 20 May 2002. In order for this to take place certain parts of the bill retrospectively amend relevant legislation as of 20 May 2002.

However, to prevent any retrospective criminal liability arising under the amendments, offence provisions in the Petroleum (Timor Gap Zone of Cooperation) Act 1990 have been preserved from repeal for the period between 20 May 2002 and the date at which this Act receives Royal Assent.

It is clearly in the national interest that these legislative amendments be approved as soon as possible. I commend the bill to the House and present the explanatory memorandum to this bill.

Debate (on motion by **Mr Fitzgibbon**) adjourned.

**PASSENGER MOVEMENT CHARGE  
(TIMOR SEA TREATY) AMENDMENT  
BILL 2003**

**First Reading**

Bill presented by **Mr Ian Macfarlane**, and read a first time.

**Second Reading**

**Mr IAN MACFARLANE** (*Groom—Minister for Industry, Tourism and Resources*) (6.53 p.m.)—I move:

That this bill be now read a second time.

The final bill to give effect to the Petroleum (Timor Sea Treaty) Act 2003 is the Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003.

The changes to the Passenger Movement Charge Act 1978 effected by the bill are of a purely technical nature and will not alter existing arrangements.

Most simply reflect the change of name of the area formerly referred to in the Passenger Movement Charge Act 1978 as ‘Area A’, which is a reference to the former Zone of

Cooperation Area A, situated in the waters between Australia and East Timor, to the 'Joint Petroleum Development Area'.

This change of name is required as a result of the ratification by Australia and East Timor of the Timor Sea Treaty which was signed by the Prime Minister on behalf of Australia on 20 May 2002 and which replaces the former Timor Gap Treaty.

The treaty arrangements we have entered into with East Timor do not change the rights and responsibilities of companies and persons working in the Timor Gap.

Instead, it provides for a continuation of those arrangements with effect from 20 May 2002. It is therefore appropriate for this bill to retrospectively amend the relevant legislation from that date.

I commend the bill to the House and present the explanatory memorandum to the House.

Debate (on motion by **Mr Fitzgibbon**) adjourned.

**PETROLEUM (TIMOR SEA TREATY)  
BILL 2003**

Cognate bills:

**PETROLEUM (TIMOR SEA TREATY)  
(CONSEQUENTIAL AMENDMENTS)  
BILL 2003**

**PASSENGER MOVEMENT CHARGE  
(TIMOR SEA TREATY) AMENDMENT  
BILL 2003**

**Second Reading**

Debate resumed.

**Mr FITZGIBBON (Hunter)** (6.56 p.m.)—While I am very unhappy about it, I intend to restrict my contribution to this debate to a 10-minute time frame, to ensure that all my colleagues, including the member for Lingiari, are given an opportunity to speak on this very important issue. As the Minister for Industry, Tourism and Resources has already comprehensively outlined the intentions of the **Petroleum (Timor Sea Treaty) Bill 2003**, the **Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003** and the **Passenger Movement Charge**

**(Timor Sea Treaty) Amendment Bill 2003**, I will not use any of my limited time to go over the details of those bills. While they implement a critically important treaty for both Australia and East Timor, the bills before the parliament are in themselves not extraordinary. But their passage here and the manner in which they have been introduced are most extraordinary.

The opposition was advised of the government's intention to introduce the bills only last night but, by 2 p.m. today, we were advised that the bills would be pulled. During question time, we witnessed numerous huddles between the Prime Minister, the Minister for Foreign Affairs and the Minister for Industry, Tourism and Resources. In their hands were documents relating to the Timor Sea Treaty. As I understand it, the bill was on and off up to three times during question time today. The question has to be asked: what was going on?

The opposition had given an ironclad commitment to do everything necessary to secure the passage of the bills through both this House and the Senate by close of business tomorrow, so why was it that just prior to and during question time there was speculation that the bills would be pulled? The ratification of the Timor Sea Treaty is critical to the economic wellbeing of both Australia and East Timor. The unnecessary delays in the ratification process have put at risk a multibillion dollar gas project, a multibillion dollar trade deal, thousands of potential Northern Territory jobs and up to \$2 billion in government revenue.

It has taken the government more than 10 months to do what should have been achieved in just three. The key delay, of course, has been agreement on the unitisation agreement relating to the Greater Sunrise field which straddles the joint petroleum development area. The Sunrise partners claim that it is critical to their interests and to the nation's interests that the treaty not be ratified prior to the final signing off of the unitisation agreement. Why is that so? Because, while ever the Timor Sea Treaty remains unratified, the Australian government, acting partly as an agent for the Sunrise partners,

enjoys greater negotiation strength. Poor old East Timor, on the other hand, while ever it remains cash starved, is in a much weaker position.

That is why today, on the eve of the 11 March deadline for the Bayu-Undan contract, the government has rushed these bills into the House. But this raises a very important new question. Given that for the past 10 months the government has stuck to the view that the ratification and the IUA must be taken together, why is it now introducing these bills and planning to drive them through both the House and the Senate tomorrow, despite the fact that the international unitisation agreement remains unsigned?

The answer to that question can possibly be found in a statement released by the East Timorese Prime Minister just today. Mari Alkatiri has indicated his preparedness to sign the IUA this Friday. The statement read:

... Prime Minister Mari Alkatiri announced that negotiations between Timor-Leste and Australia in relation to the Greater Sunrise Unitisation Agreement had concluded.

Given that the Prime Minister and his two ministers were passing the media statement between them during question time, one cannot help but wonder whether it was the statement that caused the government not to withdraw the bill. I am not in any sense bringing into question Mari Alkatiri's credibility, honesty or reliability. However, you have to be justifiably concerned when it appears a government which has placed so much importance on the nexus between the treaty and the international unitisation agreement is now making decisions about Australia's economic future—and, indeed, the economic future of the East Timorese—based on media statements of the leader of another nation state. What sort of diplomacy is this?

It is difficult for the opposition to reach a definitive answer on whether it is absolutely necessary to deal with the ratification of the treaty and the unitisation agreement at the same time. Certainly, there is no legal impediment to dealing with them separately, but the Joint Standing Committee on Treaties itself was unable to reach any definitive conclusions on that issue. A competent govern-

ment would have ensured that both the treaty and the unitisation agreements were bedded down by the 31 December 2002 deadline that the government had committed to. However, it seems that it was not able to do that and it remains the case that it still has not done so. The most amazing aspect of the government's incompetent handling of the issue has been its preparedness to put the Bayu-Undan project at risk in favour of securing all it wanted—again, using East Timor's weak bargaining position—and all of what the Sunrise venture partners wanted, with respect to the IUA. It put Bayu at risk to ensure it maximises the benefit out of Sunrise.

I remind the House again of what DFAT senior officer Dr Geoff Raby told JSCOT on 14 October last year. He said:

We note what Phillips say—

they are referring, of course, to the 11 March deadline—

and we accept what they say on face value.

So the government is accepting the contention on the part of Phillips that there is a deadline and to fall short of that deadline puts the project at risk. But he says:

We are saying that there is a balance of interests here. The conclusion is that national interests are served most by ensuring that our disproportionately bigger interest in Greater Sunrise is protected.

So, on behalf of the government, Dr Raby is saying that in the interests of maximising the national interests—I am happy to concede that—and no doubt the commercial interests of the venture partners in Sunrise, they are prepared to forgo the 11 March deadline and, therefore, allow the Bayu-Undan contract to collapse.

Let us have a think about the ramifications of that. As I said earlier, we have a project, in the form of Bayu, which will produce an enormous number of jobs, and is a huge infrastructure investment and one of the country's biggest trade contracts. We already have a road being built into the LNG facility at Wickham Point in Darwin. We have a bird in hand. There is a general expectation—and I am sure the member for Solomon shares that in Darwin, and in the Northern Territory generally—that the Bayu-Undan project will

proceed. Yet, through Dr Raby, the government are saying that they are prepared to forgo all of that to maximise the commercial interests of the venture partners in the Sunrise field. This field, in the opinion of Woodside itself, is not yet commercially viable and is a field which, possibly, may never be developed. That is what Dr Raby was telling JSCOT and that is the message he was carrying on behalf of the government. The government's job is to ensure that the nation maximises the benefit from both fields, and ensures that both Bayu and Greater Sunrise come onshore into Darwin to maximise those benefits to all Australians. But, alas, they have failed on both counts: no initiatives to encourage the Sunrise venture partners onshore; no strategy; no national energy policy; no clue at all about maximising the return of that resource to all Australians.

I repeat again: the opposition stand ready to do all they can to pull the government out of the hole in which it has dug itself. But we are not happy. We are not happy about the amount of time we were given to consider this legislation. We are not happy about our contributions to the debate being restricted. We are not happy that we will be forced to forgo opposition time in the Senate tomorrow to facilitate the passage of this bill in that place. And we are not happy that we are expected to support, in both places, legislation without being provided any information about the terms of the international unitisation agreement.

Finally, I will quickly say that the further delay in this bill today—from 4.30, or thereabouts, to seven o'clock tonight—has potentially put at greater risk the already hazardous path this bill will be taking through the Senate tomorrow. The government will have the opposition support, but the minor parties may have different views and I understand that it is within their capability to frustrate the passage of this bill through the Senate tomorrow, particularly given we are debating this much later tonight than was the intention. The opposition is enthusiastic about getting these bills through the parliament at last, albeit almost too late. We are grateful that Bayu-Undan now looks like being a near miss rather than a fatal

prang. However, if something goes wrong in the Senate, despite all the opposition's best efforts and best intentions, it will be on the government's head.

**Mr RUDD (Griffith)** (7.08 p.m.)—The debate on the [Petroleum \(Timor Sea Treaty\) Bill 2003](#), the [Petroleum \(Timor Sea Treaty\) \(Consequential Amendments\) Bill 2003](#), the [Passenger Movement Charge \(Timor Sea Treaty\) Amendment Bill 2003](#) and the treaty that the bills seek to ratify has been going on across this country for nearly two years. It is a debate which, until now, I have not participated in. I have not participated in it for some deliberate reasons. I have not participated in it or provided substantive commentary on it because of the significant and substantial diplomatic and commercial considerations alive within it. As these bills are now introduced into the parliament seeking to ratify the treaty, that time has passed, and I have an obligation and a responsibility to make some considered remarks.

The management of this entire matter over a long period of time now is, I think, regrettable. It is, in itself, a reflection of the foreign policy mismanagement by this government of so many aspects of its dealings with our regional partners—most recently, the government of East Timor. When we go down to the essence of it, the parliament has been handed a bill the very day that it is to pass through all stages—although it now seems that it will not pass through all stages—with no opportunity for effective scrutiny, a bill that fundamentally affects our bilateral relationship with our newest neighbour in the region and a bill that affects the future of two of the largest resource projects in this country's recent history. Furthermore, the parliament has been handed a treaty ratification bill two days before the expiration of a long-stated commercial deadline for the Bayu-Undan project and fully nine months since the signing of the Timor treaty in Dili last May.

There is a reason for these delays. Part of the reason relates to the personal diplomatic management of this entire negotiating process by the foreign minister, Mr Downer, including, I regret to report, his appalling performance in his meeting with the Prime

Minister of East Timor, Dr Alkatiri, in Dili on 27 November—a meeting which has been the subject of some extensive reportage and a range of subsequent foreign ministerial tantrums, both public and private, since then. The opposition fully concedes that these negotiations with East Timor have been complex, difficult and tough. East Timor, legitimately, has sought to maximise its interests in these negotiations. But for the foreign minister in his handling of these negotiations to have placed at such fundamental risk the entire fabric of our bilateral relationship with East Timor is a step too far. For us to have got to a stage where the foreign minister of the Commonwealth of Australia is now barely on speaking terms with the Prime Minister of our nearest neighbour in the region is a regrettable state of affairs, and it is one which does this country's national interest no good at all.

Australia's long-term strategic policy objective in East Timor must be to help it become a viable state free from foreign interference, free from internal unrest and free to pursue its own path in the world. A strong and independent East Timor is in our national interest as a good neighbour; and it is in our national interest to have good relations with East Timor. It comes back to the fundamental axiom of Labor's approach to foreign policy in the region: if you have got good relations with your neighbours it is good for your security and if you have got bad relations with your neighbours it is bad for your security. It is a fundamental axiom which, it seems, from time to time escapes the attention of Minister Downer and the Howard government.

The most effective way for Australia to ensure that East Timor is a strong and independent neighbour is to encourage economic growth. Encouraging economic growth, including fair and equitable access to the resources of the Timor Sea, is the most effective way of giving our youngest neighbour the capacity to stand free in the world. This does not shy away from the pressing internal security, law and order and other problems which East Timor faces. The riots that occurred in Dili on 9 December have been attributed to the dire economic situation within

the country. If we fail in our duty to assist East Timor to overcome these problems, Australia's security interests in a stable East Timor and a peaceful region will also be at risk.

East Timor is one of the poorest states in the world, with GNP per capita of less than \$US340. With an annual budget of around \$US77 million, foreign aid constitutes at present more than 40 per cent of East Timor's GDP, which finished up around 2004-05. Its literacy rate of 40 per cent, its life expectancy of a paltry 48 years and a mortality rate said to be twice that of other countries in South-East Asia and the West Pacific are all appalling and sobering statistics. Together with an extremely high unemployment rate and increasing civil disturbance, East Timor's situation is, in fact, dire. So let us not pretend about this: East Timor's financial situation is equally dire. It desperately needs financial capital. Until this treaty is ratified, it cannot receive any finance from the Bayu-Undan field that has been set aside in trust awaiting ratification of this treaty. Current estimates are that the East Timorese government will receive up to \$8 billion over 20 years, though I have not seen a final or full confirmation of those figures.

The bill implements the ratification of the Timor Sea Treaty. When UNTAET became the administering power in East Timor, it took over Indonesia's rights and obligations under the old Timor Gap Treaty. In July 2001, Australia and UNTAET concluded an MOU that put in place a new Timor Sea arrangement. That arrangement provides that, of the petroleum produced in the JPDA, 90 per cent shall belong to East Timor and 10 per cent to Australia. On 20 May 2002, Australia and the independent East Timor signed the Timor Sea Treaty, which I was privileged to attend, which allows for the continued exploration and exploitation of the resources of the JPDA in the terms set out in the July 2001 agreement.

The Joint Standing Committee on Treaties, JSCOT, under the excellent deputy chairmanship of the member for Swan, held an inquiry into the Timor Sea Treaty throughout the course of 2002 and recommended its ratification. The key sticking

point was the desire of some in the energy sector—Greater Sunrise field partners, in particular—to secure an international unitisation agreement prior to ratification. The objective of the IUA was to define the resource and revenue-sharing arrangements for those fields which straddle the JPDA.

Australia, like East Timor, has a lot riding on the Timor Sea Treaty's ratification: billions of dollars of investment, thousands of jobs and major infrastructure projects. The Bayu-Undan project alone is critical to the Northern Territory's economic future. The Northern Territory government has played a central brokering role in the conduct of the negotiations between the government of East Timor and the government of Australia. The Northern Territory government under Chief Minister Claire Martin has been a model for how to manage a cooperative relationship with East Timor, which is in stark contrast to the foreign ministerial management style—and some would say magisterial style—of Mr Downer. I think it is time Mr Downer went back to foreign diplomatic training school and took a leaf out of Claire Martin's book; our relationship with East Timor would be a lot better as a consequence. This is a critical project for the Northern Territory and will deliver long-term economic benefits to the Territory once the project has been concluded.

Therefore, interest in the successful prosecution of this project and the Greater Sunrise project lies substantially with the governments of both East Timor and Australia and with the corporate participants in them. For these reasons, the Labor Party has stated as a formal policy position for some time its support for the passage of this legislation. Labor laments fundamentally the foreign minister's handling of these negotiations. Labor laments fundamentally the foreign minister's handling of this legislation as well. Labor laments fundamentally the impact the conduct of these negotiations and, I have to say, the preparation of this legislation have had on our emerging diplomatic relationship with East Timor—our nearest neighbour and a neighbour with whom we have significant, enduring security interests. Despite Labor's fundamental concerns about the manner in

which these things have been conducted by the government and in particular by the foreign minister, Labor has signalled and signals again to the House today that it will support the early passage of this legislation through the House.

**Mr SNOWDON (Lingiari)** (7.18 p.m.)—It gives me great pleasure to be able to speak in this debate on the [Petroleum \(Timor Sea Treaty\) Bill 2003](#), the [Petroleum \(Timor Sea Treaty\) \(Consequential Amendments\) Bill 2003](#) and the [Passenger Movement Charge \(Timor Sea Treaty\) Amendment Bill 2003](#). I commend the member for Hunter and the member for Griffith for their remarks and voice my support for them. I do not intend to traverse in any great detail the ground that they have covered. I will, however, come to the issue of the foreign minister at some later point.

This is a very important day, and I think we need to understand its historical importance. The passage of this legislation through both houses of this parliament and its signing off by the Executive Council will mean that this treaty will be ratified. Remember that the East Timorese government, for their purposes, ratified the treaty in December last year. They were most keen for the Australian government to reach its own deadline of December last year, which it did not do. We are at the eleventh hour, because, as others have said, on 11 March contractual obligations for the Bayu-Undan project of ConnocoPhillips might have required them to renegotiate contracts with their Japanese clients, and that may have proved a difficult task. So what we have is a process by which we are able to ratify the treaty, ensure that Bayu-Undan can proceed under the arrangements originally agreed to by ConnocoPhillips and almost at the same time see the sign-off of the unitisation agreement which has been so contentious for the Australian government.

It is worth pointing out that, in the context of this very important treaty, there are great benefits for both the East Timorese community—and that is most important—and Australia's national interest, particularly for Northern Australia and my own home of the Northern Territory. It is important that we understand the value of these resources. The

Bayu-Undan reserves are of critical importance to the very future of East Timor, and that has been made clear time and time again by others. They contain reserves of around \$15 billion in gross value. It is estimated that East Timor can expect to receive up to \$6 billion over the 20-year life of the project. It is difficult to overstate the importance of this revenue to the newest nation in the world and our poorest neighbour. I have been a regular visitor to East Timor since 1999, having made eight or nine visits. I met Mari Alkatiri both prior to the return of people after the awful events of August 1999 and since, and I can say that he is a most impressive person. I commend him for his role in negotiating this agreement with the Commonwealth, which was very difficult.

For the Northern Territory in particular, the economic benefits from this treaty and the development of Bayu-Undan are important. Gas will be the catalyst for massive change in the Northern Territory economy, and that is agreed by all and sundry. The gas deposits in the Timor Sea are almost three times as large as those that were in the North West Shelf and are conservatively estimated to be worth at least \$100 billion. Bringing gas onshore will broaden the base of the Northern Territory economy dramatically and, most importantly, will generate jobs for Territorians. The construction of the planned Wickham Point liquefied natural gas plant, which this process of ratification has been delaying, is a \$1.6 billion project. It will provide more than 1,200 construction jobs, more than 500 jobs indirectly and a further 100 jobs during the operational phase. When finished, the plant will cement the position of Darwin and Australia in the world energy market—and I note the comments by the member for Hunter about the failure of the government to have a national energy policy. It will also make feasible the proposed 500-kilometre Bayu-Undan pipeline to connect the field to this project. In total, we are talking about \$2 billion for the pipeline from Bayu-Undan to Darwin and \$1.5 billion for investments in Darwin alone. In addition, the bringing of gas onshore will allow for a multimillion dollar development at McArthur River and a multimillion dollar development by Alcan at Nhulunbuy.

It is very important we understand that agreement with this treaty is of great significance to us and to East Timor—just as the unitisation agreement is. What is also important to understand is the way this matter was negotiated and the very poor role that was played by our foreign minister. We know that at a meeting in Dili on 27 November last year Mr Downer was strongly critical of Dr Alkatiri and his officials. A report in the *Australian* of 13 December last year said:

Highly placed East Timorese sources said last night that at the meeting, called to discuss the so-called international unitisation agreement on the Sunrise gas reservoirs, Mr Downer was “belligerent and aggressive”.

He is reported to have banged the table as he criticised advice Dr Alkatiri was receiving from UN officials.

After the meeting, the Australian Government reneged on an understanding with East Timor that it would ratify the Timor Sea Treaty by the end of the year.

This is no way for the Australian foreign minister to deal with the Prime Minister of another nation. It is about time that the foreign minister learnt that first and foremost he ought to be able to trust the East Timorese. If there is one message to give to the Australian government, it is that it should take people such as the Prime Minister of East Timor on trust. I know that, should they do that, a very close and cordial relationship between the government of Australia and the government of East Timor would develop.

But I have to say that there is not a great deal of respect for the Australian government, at least for the foreign minister. There is not a great deal of respect at all. What we also need to understand is that we may be the great patron of this nation. They may be dependent upon us but they have the right to independence; they have the right to make their own decisions; they have the right to elect their own leaders; and they have the right to form their own negotiating teams—and negotiate they have. We need to accept that they, like us, will negotiate in good faith and we need to deal with them appropriately.

Finally, I also want to comment on the role of the Northern Territory government. There is absolutely no doubt of the very im-

portant role that the Northern Territory Chief Minister has played in developing close and cordial relations with the government of East Timor. There have been a number of ministerial visits between the Northern Territory and East Timor, most recently by the minister for resources—the correct title of the portfolio escapes me.

**Mr Ian Macfarlane**—The Minister for Industry, Tourism and Resources.

**Mr SNOWDON**—No, not you—a comrade. As much as I like you, it was not you. It was Northern Territory Minister Paul Henderson, who visited East Timor quite recently to talk about these sorts of issues and how we might work together with the East Timorese in developing their economy and ours in Northern Australia. I note that the member for Solomon will be speaking shortly. I commend to him the work that has been done on these negotiations, ultimately to come to fruition. I know that he, like me, will say to the minor parties in the Senate that they should not use their position to frustrate the progress of this legislation. Despite what you and I may think of any outcome, the fact is that the East Timorese government has reached agreement with the Australian government—on both the treaty and the unitisation agreement—and that is what is important. We do not need to frustrate this process any further but rather to expedite the legislation through both this House and the Senate. I hope that is done tomorrow afternoon so that we can get this treaty ratified through EXCO and see the unitisation agreement signed on Friday.

**Mr WILKIE (Swan)** (7.28 p.m.)—I rise to also support the [Petroleum \(Timor Sea Treaty\) Bill 2003](#). In my opinion, this legislation should have been introduced last December. It is due to the incompetence of the foreign minister that we are now finally getting to this legislation in March—almost at a point where it is too late for the Northern Territory to gain from its development. I support this legislation for a number of reasons. I would like to quote from the evidence that Alan Matheson gave to the Joint Standing Committee on Treaties in relation to this matter. Alan Matheson was representing Sharan Burrow, from the ACTU. It was good to

see the union movement taking an active interest in this very important treaty. Mr Matheson said:

I believe that, if we do not get this treaty process right, in five years we will have another joint Australia-New Zealand government mission into Timor to try to sort things out, as we have done in Bougainville and the Solomons.

He went on to say:

... if we do not get the treaty process right with Timor, it seems to me that we will have the Australian government in five years up there trying to work out governance. It is the capacity building and governance which will provide the background and the backbone to an effective treaty ratification process in terms of what it will deliver in Dili.

Basically he was saying that it is in Australia's national interest to have a neighbour with a strong and stable financial base and that to have otherwise could cause long-term difficulties for both Timor L'Este and Australia. I use the term 'Timor L'Este, because that is in fact what the country we call East Timor would like to be referred to. It is very important that we get the terminology right in dealing with our nearest neighbour and that we refer to it properly as Timor L'Este.

As I said, it is about time that this legislation came through. The government have messed around a lot with this particular topic because they want to link the international unitisation agreement, which was actually agreed to at nine o'clock on Sunday night, with the treaty.

Debate interrupted; adjournment proposed and negated.

**Mr WILKIE**—I believe that, while the direct linkage between the unitisation agreement and the treaty was not necessarily part of the memorandum of understanding, it was obviously what the government wanted in dealing with Timor L'Este in order to put more pressure on the country to determine a position. Part of the memorandum of understanding actually provided for negotiations in good faith in coming up with the IUA before the end of December 2002. Unfortunately, the Australian government did not act in good faith in the whole way that they dealt with this particular negotiation.

For a start, in March 2002 they withdrew from the International Court of Justice and said the court no longer had an ability to determine maritime disputes in relation to boundary issues with other countries. Also, despite the fact that the memorandum of understanding actually provided for maritime boundaries to continue to be discussed so that something could be determined in the future, the foreign minister made a statement that he had no intention of allowing for any change to the maritime boundaries in the future. That put a lot of pressure on Timor L'Este. Is it any wonder that it did not trust Australia in the negotiations? If I were in Timor L'Este's shoes, I would be ensuring that I was playing hardball with the government too, because unfortunately you just cannot trust them. In the case of Timor L'Este, its whole economic survival and future relies on making sure that it gets a good deal out of this.

In terms of the unitisation agreement, I have said that, while it was not directly linked to the treaty, it was linked in practice. This demonstrates incompetence on behalf of the government, because if they wanted to have the unitisation agreement and the treaty linked they should have stated that at the outset. They should have clearly said on 20 May, when the memorandum of understanding was signed, that the annexure in the treaty to provide for an international unitisation agreement would not be finalised or the treaty would not be ratified until such time as that particular agreement had been agreed to. Unfortunately, that was not the case. It was a clear case of absolute incompetence on behalf of the government.

The other problem we have is that, because the unitisation is an annexure of the treaty itself, it should have been referred to the Joint Standing Committee on Treaties for comment. The cabinet could have taken the comment on board and made any appropriate changes before they actually agreed to sign off on it. Clearly this is not going to happen. Despite the Minister for Industry, Tourism and Resources saying that it looks like it is close to being finalised, my understanding is that it was agreed to at nine o'clock on Sunday night. In case the minister was not

aware, my view is that agreement has already been reached. The only problem we have is that we need to fly our foreign minister up to Timor L'Este to sign the agreement with their Prime Minister, or possibly our Prime Minister needs to sign it. I understand that what will happen now is that the agreement is going to be finalised. It will be signed, sealed and delivered. It will be referred to the Joint Standing Committee on Treaties but the reality is that it is a fait accompli—it has already been decided.

I am pleased for the Northern Territory and I hope the member for Solomon will acknowledge the work of the member for Lingiari in his pursuit of this particular course of action through the parliament. He has been very active in ensuring that the Northern Territory's interests have been looked after. I congratulate him for all his efforts. He has put a lot of effort into ensuring that this happened. There are something like 1,200 jobs in the construction phase and 400 on an ongoing basis, \$6 billion in infrastructure investment and some \$1½ billion in tax revenue for the country and I congratulate the member for Lingiari on his tremendous efforts in ensuring that this has come through.

I hold the foreign minister entirely responsible for the delay. We should not be sitting here in March; this should have been finalised in December. I was thinking recently that here we are looking at drug reform. I liken the foreign minister to marijuana: they are both slow acting dopes and we should eradicate both of them.

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—I do not think the member for Swan's description was very parliamentary.

**Mr TOLLNER (Solomon)** (7.35 p.m.)—It is very pleasing to be here today to see the *Petroleum (Timor Sea Treaty) Bill 2003*, the *Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003* and the *Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003* before the House. Territorians have waited for more than a decade since the prospect of bringing gas onshore from the Timor Sea was first mooted. Timor Sea gas is probably the No. 1 issue in the Territory and the No. 1 development that

seems to be able to provide the stimulus for growth and jobs in the Territory. The Territory has, of course, enjoyed a period of unequalled growth in the past two decades, from the time of self-government to the turn of the century. However, in the past two years business has slowed, confidence has gone through the floor and many businesses are closing. There are a number of factors that have contributed to that—world economics, airline and tourism declines, and Jabiluka and other new mines not getting under way—but the most significant factor, I regret to say, has been the election of a Labor government in the Territory.

Of course, it is not what they have done; it is what they have not done. The Territory has experienced downturns in the past—particularly in the 1980s and early 1990s and again in the late 1990s. But there was a Country Liberal party in government then. Through capital works spending, through trade initiatives, through interstate investment promotion, through aggressive tourism marketing, through direct investments in the housing market and through kicking down the doors of corporate boardrooms, it stepped in to fill the gaps in a regional economy that had not yet reached that critical mass when growth can be relied upon to be self-sustaining through the presence of people and investment to make it happen.

To the Territory's misfortune, Labor has pursued a social agenda at the expense of economic planning. It has failed to step in when the need is there. It became apparent last year that the Territory government may be able to exert a direct influence on the likelihood of the early development of the Greater Sunrise field and to secure for the Territory and all Australia onshore benefits from that field. It could have done so in the same way that Charles Court in Western Australia did when he entered into 'take or pay' arrangements for the North West Shelf. It could have been the vital factor in persuading the joint developers to look much harder at the Domgas option of bringing gas onshore to supply the energy needs of the Australian industry for many years into the future. But those in Labor sat on their hands. They would not commit to the future of the

Territory and indeed the future of national energy resources. As a Territory man and a devoted onshore gas man, I say that it now seems most likely that the least desirable development of Greater Sunrise will take place—a floating LNG platform that will see the resource exploited with minimal impact on jobs and wealth creation for the Territory and Australia. All I can say is that, if this is the consolation prize, I trust the consortium will not dillydally.

In the lead-up to this legislation, members on the other side—in particular, the member for Lingiari and the member for Hunter, the shadow minister for resources—have played a spoiling role. The member for Lingiari has concerned himself mostly with what would be good for East Timor, suggesting, as crucial negotiations continued, that Australia should roll over and accede to positions put by a new nation. He has been quoted as suggesting that Australia has been mean-minded at the negotiating table and that our first duty should be to ensure the financial future of our near neighbour. He has joined with many of his colleagues in a scare campaign, claiming that we are all about to be ruined by the tardiness of the responsible ministers in seeing the treaty ratified. In concert, they have issued last chance media releases, which I can report have misled local Territory media into editorialising on the inadvisability of linking the Bayu-Undan and Greater Sunrise projects at the negotiating table and have caused increasing anxiety to the business community in the Northern Territory.

Now I see they are going around slapping each other on the back and trying to take credit for urging the government along. It has not been a very credible performance. They have seemed to follow the course of these negotiations from the East Timor point of view and willingly used their influence—such as it is—to support their point of view and criticise Australia and our negotiating team. I have followed the course of these negotiations as closely as possible from the Australian side, and I have a great deal of admiration for Minister Downer, Minister Macfarlane and our negotiating team, and

considerable sympathy for the problems that they have encountered.

These problems seem to me to have arisen from a mix of the meddling of the former colonial power—which deserted East Timor in its hour of need in the 1970s—and unreal expectations that past and present impoverishment and disadvantage in East Timor is justification for unbridled international generosity on the part of Australia. Such thinking seems to have now infected the Labor Party, the Democrats—who brought down a dissenting report in the Joint Standing Committee on Treaties on the basis that the treaty does not provide sufficient financial reward for the East Timorese—and probably the Greens. I just wonder who these people think they represent.

I still hope that there may be even more direct benefits to the Territory from Greater Sunrise and that the consortium will again take a long, hard look at the Domgas option, the onshore LNG plant and other such options. I feel, however, that the unwillingness of the Territory Labor government to take proactive measures will see the preferred outcome for the Territory and Australia slip through our fingers. I commend this bill to the House.

**Mr ANDREN (Calare)** (7.42 p.m.)—I rise to speak on the [Petroleum \(Timor Sea Treaty\) Bill 2003](#), the [Petroleum \(Timor Sea Treaty\) \(Consequential Amendments\) Bill 2003](#) and the [Passenger Movement Charge \(Timor Sea Treaty\) Amendment Bill 2003](#). The Timor Sea Treaty is about establishing a legal and fiscal framework for the sharing or allocation of revenue from petroleum production in the Joint Petroleum Development Area in the Timor Sea. I ask this House: why has this and other legislation in recent years been rushed through in such haste? I have had the [Petroleum \(Timor Sea Treaty\) Bill 2003](#) and explanatory memorandum since 6.30 this evening, and these comments are based on that very cursory view.

Prima facie, this treaty, signed by East Timor, looks great. East Timor gets 90 per cent of the revenue from the area while Australia receives 10 per cent. Further, the treaty does not prejudice any future legal claims to the seabed in the Timor Sea should either

country wish to pursue delineation of the current boundaries. That is mighty generous of Australia, one might claim, but consider this: East Timor urgently needs her share of the income from the Bayu-Undan field within the Joint Petroleum Development Area, given that the only other source of revenue is diminishing foreign aid. This income is currently being held in trust, pending the ratification of the Timor Sea Treaty.

So East Timor simply cannot afford for the treaty not to be ratified, and any attempt to stall ratification could draw accusations of denying East Timor that income. Any attempt to challenge the seabed boundaries would stall access to those funds, and East Timor could lose the principal foundation of its economic viability, with all the political and social consequences that may bring. They are over a barrel, so to speak. So what is the problem? There is a huge oil and gas field, the Greater Sunrise field, 20 per cent of which, under the current boundary of the JPDA in this treaty, falls inside the shared zone. This means that East Timor will receive 90 per cent of that 20 per cent. That is 18 per cent of the revenue from a field containing some \$30 billion in export revenues and about \$8 billion in taxes. Australia will receive the remaining 82 per cent—and that is the rub.

International independent experts in maritime law have advised that the Greater Sunrise field, to the east of the JPDA, and the Laminaria-Corallina field, just outside the western JPDA boundary, should fall within East Timor's boundaries. These fields rightly belong to East Timor—where \$US30 million in foreign aid makes up just short of 40 per cent of the annual \$US77 million budget, where the GNP per capita is less than \$US340, where life expectancy is 48 years, where the infant mortality rate is 135 per 1,000 and so on.

In March 2002 the Attorney-General and the Minister for Foreign Affairs said that Australia would henceforth withdraw acceptance of the International Court of Justice's jurisdiction on maritime boundary issues and the United Nations Convention on the Law of the Sea. This was done without notifying East Timor, seemingly cutting off any re-

course to that court by East Timor. It is worth noting that this announcement came directly after a seminar in Dili heard expert legal advice about its rights to the disputed area. It certainly does not look as though Australia has acted in good faith, despite the Joint Standing Committee on Treaties report last year. And East Timor certainly would not, and could not, risk alienating its nearest neighbour and large donor of foreign aid.

As pointed out before, East Timor desperately needs access to its only source of revenue—aside from aid—from the Bayu-Undan field currently held in that trust account. Further, it would seem that the developers of that field need a treaty of some sort ratified so that they can go ahead with certainty. There is definitely certainty here for the Northern Territory and Australia's economic future, but should it be at a cost to East Timor? We are told we cannot stall the treaty for those reasons, so why not, as I suggest and others have suggested, excise the Lamianaria-Corallina and Greater Sunrise fields from this particular treaty so that it might be ratified as soon as possible, thus giving some relief to East Timor? Why not negotiate separate treaties for these disputed areas which, on the face of it, may actually rightly belong to East Timor?

These bills should be referred to the International Court and there should be a generous royalty split on Sunrise. We need to secure these long-term rights for East Timor, and if it takes a little longer then that surely is necessary. Surely we can crank up and sustain the aid necessary for the time needed to properly investigate this. I cannot approve these Timor Sea Treaty bills until such questions are answered. I record my opposition here and will not seek a division.

**Mr ORGAN (Cunningham)** (7.47 p.m.)—I wish my opposition to the Timor Sea Treaty bills to be recorded, due in part to the haste with which they have been presented to this House and also to the various environmental and other issues which remain outstanding.

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—The member for Cunningham can request that after the vote.

**Mr IAN MACFARLANE (Groom—Minister for Industry, Tourism and Resources)** (7.48 p.m.)—in reply—In summing up, I thank those members who have spoken in the debate on the **Petroleum (Timor Sea Treaty) Bill 2003**, the **Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003** and the **Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003**. There have been many contributions to the passage of these bills. I particularly acknowledge the tireless work of the member for Solomon, who obviously took a very close interest in this for the benefit of Northern Territorians. The Minister for Foreign Affairs has worked tirelessly to ensure that this legislation, the treaties associated with the legislation and the MUA have been concluded in a fashion which will be to the mutual benefit of both East Timor and Australia.

There have been a number of assertions made by those who sit opposite, virtually all of them incorrect. I say to the member for Calare that the East Timorese people are currently accessing half the royalties out of the Bayu-Undan field, out of the area that is covered by the treaty. The ratification of the treaty will increase that share to 90 per cent. The generosity of the Australian people in allowing that to happen should also be acknowledged—that is, that Australia and the Australian government, supported by the opposition, have increased the share to East Timor of royalties drawn from this field from 50 per cent to 90 per cent.

As for accusations et cetera, I will not even give them credibility by commenting on them. The government have at all times acted in good faith and in the best interests of the East Timorese people, as we have in a number of areas, and our involvement of Australian troops in liberating East Timor has obviously played a major part in their current circumstances. These bills are part of what the member for Lingiari referred to as the growing trust and partnership between the two countries. As I said at the outset, these bills will bring mutual benefit to both countries.

Question agreed to.

Bill read a second time.

**Third Reading**

**Mr IAN MACFARLANE** (Groom—Minister for Industry, Tourism and Resources) (7.50 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**PETROLEUM (TIMOR SEA TREATY)  
(CONSEQUENTIAL AMENDMENTS)  
BILL 2003**

**Second Reading**

Debate resumed, on motion by **Mr Ian Macfarlane**:

That the bill be now read a second time.

Question agreed to.

Bill read a second time.

**Third Reading**

**Mr IAN MACFARLANE** (Groom—Minister for Industry, Tourism and Resources) (7.51 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**PASSENGER MOVEMENT CHARGE  
(TIMOR SEA TREATY) AMENDMENT  
BILL 2003**

**Second Reading**

Debate resumed, on motion by **Mr Ian Macfarlane**:

That the bill be now read a second time.

Question agreed to.

Bill read a second time.

**Third Reading**

**Mr IAN MACFARLANE** (Groom—Minister for Industry, Tourism and Resources) (7.52 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**ADJOURNMENT**

**Mr IAN MACFARLANE** (Groom—Minister for Industry, Tourism and Resources) (7.52 p.m.)—I move:

That the House do now adjourn.

**Timor Sea Treaty: Member for Solomon  
Zimbabwe**

**Mr WILKIE** (Swan) (7.52 p.m.)—Mr Deputy Speaker Causley, I acknowledge your presence in the chair and not that of the Speaker, who would normally be here at this time. I want to congratulate the Speaker on achieving 20 years in the parliament. It is a significant achievement, and he is well deserving of a bit of a celebration to acknowledge those 20 years.

I want to make a few comments about the contribution of the member for Solomon to the debate earlier on the **Petroleum (Timor Sea Treaty) Bill 2003**. It was very unfortunate that, while I was the Deputy Chair of the Joint Standing Committee on Treaties, the member for Solomon had very little input into the process. I think he did attend a meeting in Darwin, but he had no other input whatsoever that I could see. When you consider the importance of the Timor Sea Treaty to the Northern Territory, you will realise that it was very disappointing to hear his comments in the previous debate, given his lack of input. I also believe that he showed a lack of grace in not acknowledging the input into the process of the members for Hunter and Lingiari and of the Northern Territory government. If it had not been for their support and their pushing of the issue through the proper processes, I do not believe that we would be at the point where we are now, getting this through.

To give you an example of where the member for Solomon is coming from, I believe that on ABC Radio in Darwin he made the comment that, if Phillips do not get the gas from Bayu-Undan, they will get it from somewhere else. However, the only place it would have gone to the Northern Territory from was Bayu-Undan. So here we have a representative from the Northern Territory saying, 'It's okay. If Phillips cannot get Bayu-Undan going and if the treaty does not go ahead, it is okay because they can go and get it from somewhere else'—somewhere obviously further away from the Northern Territory. ... (on other topics)