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JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE
Foreign Affairs Subcommittee

Friday, 21 May 1999

Members: Mr Jull (*Chair*), Dr Theophanous (*Deputy Chair*), Senators Bourne, Chapman, Ferguson, Sandy Macdonald, MacGibbon, Quirke, Reynolds, Schacht and Synon and Mr Brereton, Mr Evans, Mr Hawker, Mr Hollis, Mr Lieberman, Mr Martin, Mr Nugent, Mr Price, Mr Pyne, Mr Snowdon, Dr Southcott and Mr Andrew Thomson

Senators and members in attendance: Senators Bourne and Quirke and Mr Hollis, Mr Jull, Mr Price and Mr Pyne

Terms of reference for the inquiry:

To review progress in the Bougainville peace process, from the time of the first meeting at Burnham military camp in New Zealand in July 1997, including Australia's support for that process; and to assess future prospects for the peace process, including ways in which Australia might assist further. This might include:

- (a) an assessment of the current state of negotiations amongst the parties to the Bougainville dispute and of future prospects for the peace process;
- (b) the contributions made towards the peace process by the Truce Monitoring Group/Peace Monitoring Group, including the likely duration of the peace monitoring operation; and
- (c) consideration of Australia's current reconstruction and rehabilitation program on Bougainville, including restoration of civil authority, and ways in which Australia might assist further.

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Subcommittee met at 9.06 a.m.

CHAIR—On behalf of the Foreign Affairs Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I declare open this public hearing. The committee is inquiring into Australia's contribution to the Bougainville peace process and the prospects for the future of the peace, including restoration of civil authority. The committee's review covers the whole peace process from the time of the first meeting at Burnham military camp in New Zealand in June 1997 and extends into consideration of the future reconstruction and rehabilitation programs for Bougainville.

Today's public hearing continues a program which has involved public hearings this year in Canberra, Melbourne, Sydney and Brisbane. In mid-March, several members of the subcommittee had the opportunity to visit Port Moresby and Bougainville for four days as part of this inquiry. The visit was an invaluable part of the Bougainville inquiry. We were able to meet with most of the key participants in the peace process and see for ourselves the situation in Bougainville. On 31 March 1999, the committee presented a short report to the parliament on the preliminary conclusions we reached as a result of the visit, including some suggestions for further consideration.

Today we have invited representatives of the Department of Immigration and Multicultural Affairs, the Attorney-General's Department and the Australian Federal Police, a visiting fellow from the Australian National University and a witness appearing in a private capacity to give evidence. The information gathered today will enhance the subcommittee's understanding of the peace process and will enable us to examine opportunities for Australia to contribute further to achieving a peaceful future for Bougainville.

[9.08 a.m.]

GODWIN, Ms Philippa Margaret, Acting First Assistant Secretary, Refugee and Humanitarian Division, Department of Immigration and Multicultural Affairs

LUKOMSKYJ, Dr Oleh, Director, International Section, Refugee and Humanitarian Division, Department of Immigration and Multicultural Affairs

CHAIR—Welcome. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as the proceedings of the House itself. I invite you to make a short opening statement, if you wish, before we proceed to questions.

Ms Godwin—Thank you for the opportunity to appear before the committee today. The committee will recall that DIMA had no matters to raise which fell within the terms of reference of the committee's inquiry and therefore we did not make a submission. In our letter dated 8 July 1998, we mentioned that, in regard to refugee resettlement and human rights matters, DIMA has close links with the United Nations High Commissioner for Refugees, the International Organisation for Migration and countries in the Asia-Pacific region.

Our letter also advised that in late 1997 Australia affirmed its commitment to assist in the repatriation of Bougainvilleans and encouraged the United Nations High Commissioner for Refugees to deal directly with the governments of Papua New Guinea and the Solomon Islands in formulating its program. These matters fall mainly within the responsibility of AusAID, and I understand that AusAID is addressing them in their submissions and appearances before this inquiry. Both AusAID and DIMA have frequent contacts with the Canberra office of the United Nations High Commissioner for Refugees. UNHCR has direct mandated responsibility for monitoring refugee and protection matters in Papua New Guinea, including Bougainville, and in the Solomon Islands, as well as in Australia and New Zealand. Their staff have been directly involved in the matter of repatriation of Bougainvilleans.

The Bougainville peace process is not an area in which DIMA has direct involvement. However, we do, through the contacts that I have mentioned, monitor refugee and other people movements in the region. I understand the committee is interested in what has happened to those who fled Bougainville. I can, if the committee wishes, summarise the information we have concerning Bougainvilleans who fled the province during the disturbances. Much of this information is drawn from our most recent briefings from the United Nations High Commissioner for Refugees office here in Canberra.

CHAIR—It would be very handy indeed if you could expand on that.

Ms Godwin—As we understand it, UNHCR's estimate is that, at the height of the movement to the Solomon Islands, up to 2,000 Bougainvilleans sought temporary protection

in the Solomon Islands. However, there was no effective registration process in place at the time for those people, so the total numbers remain approximate. Some sought and obtained shelter in villages with their wantok relatives—language group relatives, as I understand it—while others congregated in a small number of care centres run by the Solomon Islands Red Cross. Over time, many of these people have made their own way back over the border to Bougainville. In some cases, the Solomon Islands Red Cross has provided minor financial assistance to cover the cost of their boat transport back to Bougainville. UNHCR has advised us that all returns to Bougainville have been spontaneous—that is, without UNHCR's direct involvement, at least up to this point.

In May 1998, UNHCR Canberra's durable solutions officer visited the Solomons and interviewed most of the 200 persons who remained registered with the Solomon Islands Red Cross at that time. We understand that there are now less than 100 registered persons remaining there approximately one year later. Only a small number of the cases of people interviewed were of concern to UNHCR. The indications are that many of those who left Bougainville were seeking medical attention and other assistance rather than refugee protection as such.

UNHCR have advised us that they do have a continuing interest in the effectiveness of resettlement back in Bougainville. For example, there may be continuing needs for bolstered medical and educational services in Bougainville that can be accessed by the returnees. We understand that non-government agencies are now involved in this area. It should be noted that, from our perspective, the Solomon Islands government enabled those Bougainvilleans who sought protection in their country to remain there until the situation improved, which is a positive example of international protection in operation in the region.

CHAIR—Do you have any evidence of any refugees going to Papua New Guinea itself?

Ms Godwin—I do not have any direct evidence of that. A small number of people from Papua New Guinea have formally sought refugee protection here in Australia over about the last four years. Because we keep our statistics by nationality groupings, they are identified as people from PNG. It would only be if they self-identified in their claims as being from Bougainville that we would know if they were from Bougainville. My advice from staff in the department is that only in one case was someone identified as being from Bougainville in relation to refugee status here in Australia. But I have no information about people seeking status there in PNG.

CHAIR—Have you any evidence of anywhere else in the region where they may have gone?

Ms Godwin—No. As I said before, our information is that the vast majority of people moved into the Solomon Islands mostly because of the traditional links and the close proximity.

Senator BOURNE—I think you have probably answered my question already. I was going to ask whether we knew if any of the Bougainvilleans who came to Australia were now trying to go or were interested in going back and helping at any time. But, from what you have said, it is probably under PNG anyway in our statistics.

Ms Godwin—That is right, and the numbers are really tiny.

Senator BOURNE—Very small?

Ms Godwin—Yes. I am certainly aware that there are people who have come to Australia, under the auspices of NGOs, to discuss the Bougainville rebuilding process and so forth, but they are not necessarily people who became resident in Australia at any stage.

Senator BOURNE—If we did have any of those—and I know of one because he has given evidence—is there any way we could facilitate their being able, if they are now in Australia, to go back to Bougainville and help and then come back to Australia? Would that be easy for them to do under the current rules?

Ms Godwin—If they have permanent resident status here in Australia, yes, they can move freely in and out. But if it is a question of, for instance, financial assistance to do that, it is not something that this department would normally be responsible for. It may be something that AusAID could comment on.

Mr PYNE—Do you know how many are in the Solomon Islands? What is the population?

Ms Godwin—The total population of the Solomon Islands?

Mr PYNE—Yes.

Ms Godwin—I do not. I think it is only of the order of about 300,000 people, but that is based on a trip I did a few years ago so it is not up-to-date information.

Mr PYNE—When the refugees initially went to the Solomon Islands from Bougainville, did the government provide assistance to the Solomon Islands government to cope with those refugees?

Ms Godwin—The Australian government?

Mr PYNE—Yes.

Ms Godwin—I am not aware that it did. It is not something that is directly the responsibility of this department and AusAID may be better able to comment on that.

CHAIR—Do not get me wrong on this, but what sort of relationship do you have with DFAT in terms of any input into devising policies on areas like Bougainville? Are you consulted or is this just their little specialist area?

Ms Godwin—We would be consulted if there were a significant refugee resettlement issue emerging. UNHCR would also consult us in that sort of context. But, if the main involvement is around questions of aid and support to a foreign government, that is a matter for DFAT and AusAID. We would not necessarily be consulted on that.

CHAIR—Would you have any input, for example, into some of the rehabilitation programs?

Ms Godwin—Again, not directly although many of the settlement services that we ourselves provide here in Australia for refugees are of interest to others in the region. I am certainly aware of some occasions when people from the region have come to Australia to look at the sorts of settlement services that we provide, and we would normally facilitate that by helping people with a program of visits or similar sorts of assistance.

CHAIR—Would it be a silly question to ask how Australia is regarded in the Asia-Pacific area by people like the UNHCR? Would we be regarded as being good operators or as people who can improve? Is there any criticism of the tracks we follow?

Ms Godwin—Not that I am aware of. In fact, our relationship with UNHCR is very strong. They regard our processes here in Australia as some of the best in the world. In addition to that, we participate with UNHCR in the development of regional fora for the discussion and development of issues around people movement. Australia and UNHCR worked very closely together to establish a body called the Inter-Governmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants (APC). I think we have a good working relationship with UNHCR and probably a very positive reputation with them. You would have to ask them, of course, but that is my understanding of it.

CHAIR—Who else is involved in the area? Is everybody in there or is it perhaps just the obvious players?

Ms Godwin—I am not sure what you mean when you say ‘who else is involved’.

CHAIR—Which other countries really get involved in it?

Ms Godwin—New Zealand, in relation to the immediate area, is actively involved. But, in terms of the Asia-Pacific Consultations that we have been developing, that is a fairly broad ranging group. I do not have a list of the participants with me. We could certainly provide that to the committee if you were interested. For instance, Thailand has been a very strong supporter of that process. Indonesia attends. It ranges as broadly as India. Pakistan and Bangladesh attend the APC. It is a fairly broad ranging group. It is in its early development stages, but I think it is a very positive development of regional collaboration.

CHAIR—Do the Pacific Island states become involved as well?

Ms Godwin—PNG is a member of the APC and participates regularly. As well as that, PNG participates in a series of consultations that the UNHCR has responsibility for, which are known as the tripartite regional consultations on resettlement. Australia, New Zealand, PNG, UNHCR and NGOs all participate in that.

Senator BOURNE—Does that group come up with recommendations? If it does, are they picked up by countries in the region like Australia, or by any of the others, to standardise refugee resettlement around the area?

Ms Godwin—It does not come up with recommendations as such. It is the responsibility of every country, particularly if they are signatories to the convention, to develop their own programs and frameworks. But it is an extremely useful opportunity to share information, to develop views about issues and to learn from each other.

Mr PYNE—Do you know how many refugees went from Bougainville to New Zealand?

Ms Godwin—No. I do not; I am sorry.

Mr PYNE—Wouldn't it be an interesting comparison to see whether Bougainvilleans felt more comfortable going to New Zealand than coming to Australia?

Ms Godwin—It would be. That information might be available. If the committee wishes, I could make some inquiries about that. My information was that the vast majority of people moved across to the Solomons.

Mr PYNE—Comparatively it would be interesting to see what percentage was going to New Zealand, the Solomons and Australia—just to get a picture of the comfortableness of Bougainvilleans with Australia's position over Bougainville: whether they felt that New Zealand was more sympathetic to them or not. If you can find the information, it would probably be interesting.

Ms Godwin—We will make some inquiries, and if we find anything we can provide it to the committee.

CHAIR—We would probably think that it would be important that Vanuatu and Fiji, for example, would be involved in the peace monitoring group. Do the other small Pacific island states show any interest in this? I guess it is very difficult for them—for example, the likes of Tuvalu—to make major contributions.

Ms Godwin—Not that I am aware of. Our main contacts in the immediate region would be New Zealand and PNG.

CHAIR—Thank you very much indeed for your time this morning.

[9.24 a.m.]

O'COLLINS, Emeritus Professor Maev (Private capacity)

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Prof. O'Collins—I am a professor emeritus from the University of Papua New Guinea and a visiting fellow at the Australian National University, and I am appearing in a private capacity.

CHAIR—The subcommittee prefers that all evidence be given in public but should you at any stage wish to give any evidence in private you may ask to do so and the subcommittee will consider your request. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the House itself. Would you like to make a short opening statement before we proceed to questions?

Prof. O'Collins—Thank you. I should explain at the beginning that I have given a number of written submissions but I felt it would be more useful today to look at the report of the visit to Bougainville, pick up some of the points that I am particularly interested in, mention them and then, if the committee wishes, expand on them further.

The first overall thing is that I think the political, economic, managerial and social fragility of Papua New Guinea has a great deal of bearing on our aid workers and on the different attempts that are being made to achieve a solution in Bougainville. I was reminded very much of this when I read the report. A comment was made, for example, that police auxiliaries had been trained and then their involvement had lapsed in an official capacity because there was no money from the PNG government to pay them. This has been a problem—and not just in Bougainville—with a great number of Australian aid and other projects which are built on an assumption that there is an agreement that a certain amount of human or infrastructural or other resources will be made available from the Papua New Guinea government. When, for various reasons, that cannot occur, the aid project planning people are faced with the dilemma of whether they pick up the tab for everything or whether they just let the project go. I think we have to take that into consideration. It is mentioned in the report—implicitly, at least.

I would like to make a plug for a zero based budgeting approach to small projects that we feel are urgent and should be done. Some projects are nice to do, or might be helpful, but if you know that the Papua New Guinea government is not going to be able to put in from their side, then those projects may be put to one side. With urgent or priority projects we may have to look at the possibility of providing a lot more than conservatively and conventionally we would like to. That would be a first point which I think came out of the report.

I should mention that a lot of my recent knowledge of Bougainville and the problems there has come from Bougainvilleans who have come to other areas of Papua New Guinea. When we talk about refugees, there were a vast number of Bougainvilleans who were, for

various reasons, unable to stay at home or got involved in the conflict, and many of them fled to other parts of Papua New Guinea. Some of them are now going back on a regular basis, some have gone back permanently, and I have been getting quite a lot of information from them. So in my written submission I have mentioned that there are a whole range of people who are involved. That is perhaps a second point.

I want to mention a couple of the social areas that are of particular interest to me because I have worked on youth issues and on women's issues for most of my academic involvement in Papua New Guinea. One of the problems mentioned in the report is the approximately 2,000 widows or single women who are there. But, also, in many matrilineal communities it is the mother's brother that is the significant person, and you find some people who are not only widows in our sense but have also lost other male relatives and are taking over a role of being the leader and the decision maker in a family in a way that may not be acceptable to 15- to 25-year-old young men. So this is a bit of a problem. I feel that we have to look at ways of identifying and involving male role models who will be acceptable at a community level.

That leads me to a third point, and I will make it the final point because you may have heard many of these things before and I would like to respond to anything that you would like to ask me. It seems that with these small projects that we need to get involved in, the management side of them often becomes enormous. When AusAID is outsourcing to church and non-government organisations as a matter of policy, the best working church and non-government organisations sometimes do not have a high level of managerial and bureaucratic efficiency. In the report they mention the need for perhaps more AusAID personnel on Bougainville to facilitate things. It seems to me that what we really need is someone who can almost write their reports for them so that they fit in with the acquittals and all the supervisory and monitoring requirements that we naturally would still require because this is aid money and we would want to make sure that it was being expended properly.

These small projects might be organising some youth groups at a very local level so that they will be still part of the community. One gets very wary when one hears people talking about 'targeting' youth because it could isolate them from the community. But if we are involving these young men—they are mostly men who are in this situation of being in limbo between the old and the new—we do need some sort of professional supervision that can assist the small agencies and groups so that the bureaucratic requirements are completed satisfactorily but they are getting on with their job. This is something that really worries me because you go and see these little groups and they say, 'They want a report and I cannot write it nicely in English.' They waste a lot of time on those sorts of things when they should be working with the people in the community.

Another point relates to when people talk about communication and infrastructure. Perhaps because I belong to a previous generation I am terrified of teleconferencing and things like that. But people are expected to use this sort of communication to negotiate peacemaking. Face-to-face, on your land, in your own place is a much more satisfactory way of doing it. There is some concern that, with the political and other figures who are outside of Bougainville and who are unwilling to negotiate within Bougainville, this is becoming a very real problem. I will leave it at that. I could go on about social issues but you may have other things you would like to ask me.

CHAIR—In terms of our interim report of the visit, do you think we are basically on the right track?

Prof. O'Collins—I am being honest: I was absolutely amazed how many points I was ticking as I went along. I worked in Bougainville, did research there and taught at the university centre, and have kept closely in touch. I think you obviously had met a number of people who had been very honest and clear in what they said, because quite a number of these points that I am making I picked up from the report. There is the question of the small projects; the questions of youth and women; the need to spread the projects more into the less officially acceptable areas because, to me, there is too much emphasis on Buka—this is just a personal comment. If we are talking about the whole of Bougainville we have to really look at it right from Buin, at the whole area, and of course at the area around the mine site, the major problem area.

CHAIR—Have you managed to get a grip on the happenings of the last month, post the New Zealand conference, the elections, the threats from the BRA and all of that?

Prof. O'Collins—And the arguments with some of the politicians who are in Moresby. In pidgin they say, 'Sutim tok nabaut nabaut.' They seem to be just firing verbal arrows at each other from a long distance. Apart from some of my colleagues who are closely involved, we get the Papua New Guinea newspaper, *The National*, web site, so we get all the details but sometimes you do not get the flavour. From speaking by telephone to colleagues of mine in Papua New Guinea I do get the feeling that there is a continuing fragility—you feel that at any minute it might break open. But perhaps I am being a little bit pessimistic from what comes over the media.

CHAIR—I think we probably have the same sources as you do for a lot of our information. It is good to know that you feel the same way.

Mr HOLLIS—I particularly like your idea of what I was calling a travelling scribe, someone who could go around to the various projects. I think there is a problem, as you rightly identified, and not only in Bougainville but with many projects, in fulfilling the bureaucratic requirements. Maybe it could be someone who could just go along and write up the reports, put them to the group, and have the group endorse them and put them in.

In relation to the peace process, you said that the situation is very fragile. If, however defined, peace is there, how long do you think that reconciliation process is going to take on Bougainville?

Prof. O'Collins—I do not think it will ever end. If you go into communities in Papua New Guinea where, 50 or 100 years ago, my great great-grandfather killed your great great-grandfather, reconciliation is still needed. In Enga they have been trying to work on defusing conflict situations when they come up. They have local committees that, when some problem arises, try to immediately move into a peacemaking phase, a conflict resolution phase, before very serious hostilities break out.

I would think that in Bougainville, as an ongoing process when the first stage is over, churches and community leaders and non-government people would all need to be

continually involved in that sort of conflict resolution process. People have said they have forgiven, but they have not forgotten. I notice that you mentioned the word 'forgiven' in the report, but obviously it is going to take a very long time.

Mr HOLLIS—I think it was in Brisbane that someone said to us, 'It is not until the grieving commences that payback will start'—and that that had not started yet. That was a view that was put to us.

Prof. O'Collins—We can think of other examples: when people were not able to grieve when someone disappeared; or they heard that someone was shot or killed or dumped into the sea or whatever happened, they were not sure and then they found out, or they never found out but they always thought that was what happened; or people learnt some time later that someone was dead. These are some of the situations that the normal grieving process in many parts of Papua New Guinea has ceremonies for that take place a year, or five years, afterwards. So these are ceremonies that could ignite further problems because they would bring it up. It does not happen that someone dies and the funeral ceremonies are conducted, and then gradually the memory disappears or eases. I think that is a very real problem, that connectedness with the past, that we need to think about.

There is something which I only did a little bit on in my written submission but I feel it is increasingly important to bring it up in this sort of a forum. It is with regard to this connectedness with the past. In the report it was mentioned how the members of the committee saw for themselves the shocking destruction that had taken place—the libraries, the university centre, the archives, all these places that contained documents and sometimes cultural artefacts and so on that have been destroyed. Yet throughout Papua New Guinea, particularly at the University of Papua New Guinea and the New Guinea collection at the Papua New Guinea Archives, and in Australian museums, libraries and universities there are things that belong to Bougainville that could either be copied or could be sent back. As a project for restoring the community sense of 'who we are and where we came from', that is something which an AusAID project might not normally have been involved in, but it is something I think we should think about.

Mr HOLLIS—Cultural artefacts.

Prof. O'Collins—Yes.

Mr HOLLIS—That was interesting. I do not think the committee members actually thought so much about what was in the buildings—as you said, archives, et cetera. We travelled a lot by helicopter and what amazed us was that it seemed that every building—it was a very visual thing, if you like, that was commented on there.

The other thing that interests me, from what you have just said, is the situation of the sister's brother and how, because of the deaths that occurred, that is often a responsibility or challenge to very young males—to 15-year-olds, I think you said. How do we get round this? If it is the culture that that male plays that role in the society, is there a program? How does one deal with that?

Prof. O'Collins—I was not meaning so much that the 15-year-old was the male role model but that these 15-year-olds need male role models. Sometimes we think a little narrowly because of our own family structure and history. It would seem to me that in any aid project working with youth we should try to identify responsible Bougainvillean men who could be in there. The women are very vigorous; they are doing a fantastic job. But also sometimes the women and youth, and some of the men, who should be involved are not necessarily linked into the process.

I noticed with the Aitape disaster how some of the men suddenly found themselves with 10 or so children who belonged to other people because, suddenly, the tidal wave swept away men who were out fishing or whatever, and they had to take over this role. I would think that any way that we could support the building up again of strong family and community ties would be very important.

Senator BOURNE—Professor, who would be appropriate in that situation? What male would be appropriate? Would it be a family member or a chief? Who do you think would be an appropriate role model if, for instance, all the males over the age of 20 in that family are gone?

Prof. O'Collins—I do not think one can have a definite thing for each situation, obviously, because of the cultural differences. There are some similarities between different matrilineal societies but it is not like cutting out scones; they are not all exactly the same, there are variations. I think we would need to have working in Bougainville people who are, ideally, Bougainvilleans themselves, who understand family and cultural structure, who are able to identify beyond their own society—because one has to be careful that people do not just see it in terms of their own society—and perhaps spend time with the community. Chiefs and elders are fine for authority things, but working with young people, jollying them along to do projects and getting them involved in continuing education, particularly the more marginal people, requires someone that I would call a middleman—a person who can talk to the authorities and the chiefs but who also can manage to talk with the youth.

CHAIR—With your connections, have you identified any particular personnel who may be able to promote that concept?

Prof. O'Collins—I am out of date. I am talking from when I did a study of youth in Papua New Guinea. I went to most of the provinces and I saw aid projects that had been funded by Australia, some that were working well and some that had been called failures. When I went in and saw that the people who had been running them were now using those skills to help the youth in the community in other ways I would have evaluated them as being ongoing successes, but they were regarded as failures as far as the literal terms of reference of the project were concerned. I left Papua New Guinea permanently in 1990 and, although I worked with the Papua New Guinea police, with AusAID and with other people until about 1996, for the last two or three years I have only visited and it has been a bit academic, so I would not like to say that I could identify someone. I think we need to work with people who are actually there, on the ground, who can identify the suitable people.

Mr PYNE—Do you have a feeling from your contacts in Papua New Guinea and on Bougainville that there is a genuine commitment to peace on Bougainville by the Papua New

Guinea government, or do you get the feeling that they just do not really care what happens to Bougainville, that if it drifted out to sea they would not be in the slightest bit concerned about it?

Prof. O'Collins—I think that anyone who would predict what this present government might do at any one time—I will not ask to go in camera to say that—would be a very brave person. It seems a little chaotic at the moment. I feel that the current situation in Papua New Guinea, the stress and the tension on other fronts and the clear problems that are emerging between the people who stayed on Bougainville—on either side, whether they fought each other or whatever—and the people who are off Bougainville but wanting to be part of it has confused it somewhat; hopefully they are making peace and getting back together. I think the Papua New Guinea government does want peace, from everything that everyone has said, but perhaps it is distracted by some of these other things.

One has a worry that people on Bougainville, and I have heard this often, and it was mentioned here in the report, are concerned that Australia might become distracted, with East Timor or something, and abandon Bougainville. So there is a feeling on Bougainville, from what I can understand, that people are feeling that perhaps they will have to go it alone anyway, and there is then the problem of the self-fulfilling prophecy—you think they are going to abandon you so you get in first; that would be my worry.

Mr PYNE—That was going to be my next question—the attitude from the Bougainvilleans towards Australian support for them. Is there any suspicion about Australia's role in supporting the Papua New Guinea government over the last 10 years?

Prof. O'Collins—You hear extremely positive things all the time, perhaps because I am an Australian. But you also do hear concerns. For instance—and I do not mean all the time—the New Zealanders seem less threatening; they are a smaller country and their aid is less, but we need the Australians because they are bigger, they have more money and we could not manage with just New Zealand aid. So there is a bit of a problem that it is not all on our side, sometimes we have been a little pushy in trying to force the pace and this has worried people—that we are using our money and our authority to try to push something. But on the other hand you hear so many positive things, so I think it is a very mixed message.

Mr PYNE—Do you think that, if the Bougainvilleans felt they could manage with just New Zealand, they would be happy to do so?

Prof. O'Collins—It would be a bit simplistic to say that because I think it is sometimes feelings of frustration. When something does not go well there is a great tendency to blame whoever is currently there and available. That happens all the time. One knows as a teacher that you sometimes get the blame for the student failing, even though you do not think it was your fault. So I think this does happen in times of tension and pressure. I think we have to be careful not to become thin-skinned if we get a bit of criticism but to look at the criticism and see whether there is anything valid in it.

Mr PYNE—The BRA has recently been making noises about their unhappiness with the process and saying that they are not going to be part of this or part of that. Do you feel that

the BRA is totally committed to achieving peace on Bougainville or do you think that there is an element of, if peace comes and the reassertion of PNG authority, somehow some people will lose their position and stature?

Prof. O'Collins—I think a lot of thinking people hope and consider that there will be a greater degree of autonomy and that things can be worked through over a longer period of time. But there is a hard core of people who did not want to compromise anyway and are doing it very grudgingly. But that happens in any situation of conflict. I think we have possibly a bit more hope in Bougainville than in Northern Ireland, for instance. In any situation where there has been ongoing conflict I do not think people make peace easily or too willingly. I think it is natural that there will be that little niggling hard core that will look at opportunities to raise issues. We have to be aware of it and work with it.

CHAIR—One of the greatest difficulties I had during the visit there was trying to get a definition of what independence is. The variations on the concept of independence were just enormous.

Prof. O'Collins—I knew it best when it was the North Solomons Provincial Government. I taught at the centre and I did research with the Atolls' Resettlement Scheme. Bougainvilleans felt very independent. Their government was the best in the country—their education, their health. They were, to a very large degree, able to run a lot of their own affairs. Then there were some problems in some of the other provinces with decentralisation, and the whole move to re-centralise has made them extremely worried. If they were talking of independence, it is a sort of autonomy built on the model of that original, quite independent—even though they were not completely independent, they were much more independent—North Solomons Provincial Government that knew they were really a very fine government running very well and moving on from that. But if they had to go back to this much more centralised model, I think a lot of people would be extremely concerned. If Papua New Guinea is thinking of bringing them back to that model, I think a lot of people would be totally opposed to it.

Senator QUIRKE—I wonder if we could get some advice from you on a couple of the aid questions. One of the problems that we met up there was the comment that there was too much aid for Buka. I think a moment ago you said that we concentrated too much on Buka, as an Australian community. One of the problems that seemed to be flashed in front of us from Port Moresby right the way through was that the aid we were giving was either not enough or, in fact, was biased towards certain areas. In fact, the PNG government said that they could do better. Of course they wanted to claim credit for the aid and all the rest of it. But our aid seemed to be not creating as many problems as it solved. I was very proud of the projects that we had done up there. But certainly a number of questions were raised about it. There was a fair degree of friction over where the aid projects were and over the fact that it appeared we were favouring some groups over others and some areas over others. I just wonder if you would comment on that.

Prof. O'Collins—I mentioned the focus on Buka, but I can understand that Buka was more manageable: one could start somewhere; it was an important area. That was quite a reasonable way of looking at things. Also in those early stages you may recall that classrooms were burnt down in areas. So there is a bit of a problem when you are looking to

put money into an aid project. I have been—and this is not in Bougainville—to the chicken project that we supported through some fund, and the people had just cooked it and everything had gone! It is rather disappointing if you have been assisting women, in this case, to set up some project and then someone who is jealous because the aid has gone to that community comes and burns it down.

I think this is a difficulty in the management side. If you have to decide on some area to have a project, perhaps there should be some sense of a planned extension. This is just thinking more or less on my feet, because it is a question I had not considered before in this way. If the project is in a particular area or it is a regional development in a certain part of Bougainville one project might go in now, but people could be made aware that you cannot put in 50 at one time; that this would be a pilot project and you would hope to extend it. Once again, you do need to have people on the ground going around communicating.

I think we will always have this sniping from Port Moresby, and we will always have people who will say that more should be done. Then, of course, we perhaps cannot do it all ourselves. I think it is very important that if we are going to put something somewhere, then some other aid agencies or the United Nations should do a complementary project in that area. This may resolve some of these problems of favouritism or bias—that aid had only gone into one community because the person in that community happened to be friendly with some official. I think it is inevitable that when we start people will say, ‘Why did you put it into that community?’ They need to know that that will not be the only community with a water supply, a school or a health clinic.

Senator QUIRKE—I am glad you raised that because that is the other concern that comes out. Wherever we went on Bougainville, the line taken by the various military people and some of the civilian members of the Peace Monitoring Group was, in fact, that we are getting this place up and ready so that it is ready to fly itself. But as soon as the locals were rustled up, or came in voluntarily, and they got to the microphone or out the front, they said, ‘Thank you for coming; we are glad you are here.’ And they would put it quite plainly that they did not want us to go away. That seems to be the nub of the issue.

I think they are so concerned about East Timor because there is an ongoing role in Bougainville for AusAID and for various other Australian projects for the foreseeable future. Although we may wish to wind back the PMG, the reality is that our aid money in that area, and definitely in other parts of PNG, will have to be there for many a year to come.

Prof. O’Collins—I think if our partnership and teamwork with other aid supplying countries and other donors is to work, we need to have a more systematic program. The other thing we need to do is to make more use of the Bougainvilleans and of building on local resources. I want to go back to that failed project, because that youth organiser had gained all the skills and was now using them, helping with a community health education project. He had gained skills, he could organise things, and that was a permanent resource that was there in that community.

Perhaps we can involve more Bougainvilleans—some of the Bougainvilleans from outside the country who are willing to go back, or people in Bougainville. At the time of the conflict, with the high educational standards, we have a lot of Bougainvilleans around the

30-year-old mark who have very good education. They have high school education and some are university graduates. Maybe we need to really try to get them involved in things, because this will be permanent in both economic and human resource terms, instead of us always having to go in and provide our personnel.

CHAIR—Bougainvilleans are pretty prominent within the bureaucracy of the PNG government. How are they regarded?

Prof. O'Collins—They have always been a very strong, well-educated and vigorous group of people. Some have found it difficult during the conflict. Others have managed quite well. I think people have learnt to keep away from danger spots. There have been a few bad incidents, mostly in hotels, between someone who was in the army or in the police and a Bougainvillean. On the whole, they are working in the bureaucracy. Some have been very much involved in going back. Some people at the university have been involved in non-formal education and other programs in Bougainville. I think there are quite a few resources.

CHAIR—And they are acceptable to the Bougainvilleans on the island itself?

Prof. O'Collins—It depends, because in some cases they could never go back. People whose wives and daughters were attacked would not want to go back. It is a very mixed story, depending on each person's individual experiences. In other cases, there are non-Bougainvilleans married to Bougainvilleans who would like to return. I know one family where the father-in-law heard that the husband was in danger, so they got him into a small boat and got him away. That family would love him to come back but, obviously, only when it is safe to do so. Of course, with the murder of the previous interim Premier, there is still a lot of unfinished business, which is a problem.

Senator QUIRKE—On a different note, I notice in your submission that you talk about the role of the police. I wonder whether you could take us a little bit further through that. How do you see policing developing in Bougainville? Right now, there seems to be a situation where you have a population that has no faith whatsoever in the PNGDF. I found no-one there who was in a hurry for them to exercise any kind of role of authority. The Peace Monitoring Group is, I suppose, a group that Bougainvilleans are looking to now. Obviously, they are going to have to go past this stage. They are going to have to develop some sort of policing arrangements on the island. How do you see those developing?

Prof. O'Collins—There are some police there, of course. Back in Buka, there are policemen and policewomen, some of whom I know, that have been stationed again on Bougainville. The problem, of course, is that the auxiliary police idea seemed a very good one. If it lapses because they cannot pay them, this seems a problem. The other suggestion that was made was that some of the Bougainvillean members of the police force who were not sent to Bougainville during those various unfortunate operations might be acceptable to go back to particular areas.

The other thing I feel is that, if there is an acceptable law enforcement and maintaining of good order type of force—whether it is called auxiliary police, reserve police or whatever—any training that they have must emphasise very much this whole question of conflict resolution, of being there to mediate rather than to go in with a blunt instrument.

Unfortunately, this is pretty prevalent throughout Papua New Guinea. They would have to be a slightly different sort of police force to achieve the desired ends. A lot of communities are very concerned about the breakdown in law and order and do need some authority there to assist them.

CHAIR—Do you get any feedback on the Peace Monitoring Group, which is predominantly Australian?

Prof. O'Collins—I heard very nice things about them—I do not know whether it is because of who I am. I have heard no negative comment, but that does not mean there are not negative comments—it just means that I have not heard them. I did listen to someone—I do not know whether it was the commander or someone else—who sounded like so many Australians who go up to Papua New Guinea not knowing a great deal about it and fall in love with it. It was a very nice report he was giving. It does not mean that there would not be criticism, but my impression from everything I have heard is that they have been doing a remarkably good job. Anyone can criticise, and there can be an odd incident, but I have not heard anything that has been negative about them. I have heard that they have been doing an excellent job.

CHAIR—Perhaps this is a bit of an unfair question but, crystal balling, how long do you think they should be there or do you imagine that they may have to be there?

Prof. O'Collins—I think a great deal will depend upon whether this chaos in Port Moresby is resolved and whether there is then some sort of clear, ongoing planning that would mean that one would say that the elections on Bougainville are acceptable. A lot is going to depend upon how the political forces in Bougainville itself operate and, as was said, whether this hard core of the BRA is a dying force just making a bit of a last gasp effort or whether they will become resurgent. I think that will be the key issue, but we have this problem of it not just being Bougainville. What is happening in Port Moresby can affect it. On Bougainville at one stage everyone was so very positive. These were Bougainvilleans who had been away, gone back, found their communities and come back extremely enthusiastic, but I think some of them are a little bit concerned now that, with this semi-anarchy in Port Moresby, we are not quite sure what is going to happen.

CHAIR—Professor, thank you very much indeed for the evidence you gave us today. I thoroughly enjoyed it.

Mr HOLLIS—I was going to make a suggestion, but I do not know if it is appropriate here or whether we want to go into it in a business session. When the professor suggested archive material, I was going to suggest that we—you as the chairman, or the secretariat—write to the Australian Archives to maybe ascertain just what archival material is held here in Australia. I would suspect, especially from the colonial days, that the Australian Archives, or even the National Library, might hold something. We have got representatives on both of those bodies. I know that Mr Somlyay and John Faulkner are our representatives on the Archives board; I forget who is our representative on the National Library board.

Mr PRICE—Senator Alston.

Mr HOLLIS—Is he? I thought we had removed him. I think Andrew Theophanous, the good doctor, is. I wondered if it would be appropriate if we made contact with them to try and ascertain what material, if any, they hold. It may well be something that comes up in the report—we could make some form of suggestion along those lines.

CHAIR—Is everybody happy with that? I think it is an excellent idea.

Proceedings suspended from 10.07 a.m. to 10.17 a.m.

CAMPBELL, Mr William McFadyen, First Assistant Secretary, Office of International Law, Attorney-General's Department

MARSHALL, Mr Steven, Acting Assistant Secretary, International Branch, Attorney-General's Department

DAHLSTROM, Mr Timothy Wayne, Manager, United Nations and Other Overseas Commitments, Australian Federal Police

CHAIR—Welcome. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as the proceedings of the House itself. I invite you to make a short opening statement, if you wish, before we proceed to questions.

Mr Campbell—The Attorney-General's Department involvement in matters relating to Bougainville has been fairly limited compared with that of some other government departments. We were involved in commenting on and clearing the truce monitoring agreement and the peace monitoring protocol when they were being drafted and negotiated. Although we did not attend the negotiations ourselves, we did provide some comments on them.

We also provided a submission to this committee, dated 28 July, which raised a couple of things. The first was an issue of criminal jurisdiction over civilian members of the truce and peace monitoring groups. Within the wider Attorney-General's portfolio, we also passed on some comments in that submission from the Australian Federal Police, who did have some involvement on the ground in Bougainville. I do not have anything to add to that, other than to say that we would be happy to answer questions on the matters that have been raised in the submissions.

Mr Dahlstrom—The submission that we made in July remains the same. The Australian Federal Police do still provide two members to the Peace Monitoring Group. Our position in relation to training has not changed.

CHAIR—What has happened since July of last year in terms of those personnel? What have they been doing, and what difficulties have they come across in their operation?

Mr Dahlstrom—Our personnel have remained stationed at the two areas—that is, Buka and Arawa. In terms of changes, our member at Buka remains as a liaison member and provides advice to the local police there, and that continues. In Arawa, our member is providing more strategic law and order advice to the monitoring team.

CHAIR—Have you had any feedback on how that process has been going?

Mr Dahlstrom—It is progressing, albeit slowly, and that is in line with the whole process on Bougainville at the moment.

CHAIR—Have there been reports of objections from the locals?

Mr Dahlstrom—No. Both of our members have just recently rotated and returned earlier this week and, in fact, they received very favourable reports from the local constabulary.

CHAIR—How long are their appointments? Are they on a six-monthly basis?

Mr Dahlstrom—Twelve weeks.

Mr PYNE—How closely do you work with the Royal Papua New Guinea Constabulary in Papua New Guinea and in Bougainville?

Mr Dahlstrom—In Papua New Guinea itself we only have one liaison officer, and that is not a matter of working with the Papua New Guinean police; it is a matter of an AFP liaison officer stationed with the Australian High Commission. In Bougainville, our members work with the Peace Monitoring Group and not as detachments to the Royal Papua New Guinea Constabulary.

Mr PYNE—Do you have any comments about the Royal Papua New Guinea Constabulary and how they go about their business in Bougainville?

Mr Dahlstrom—No, I could not comment on that. The members are quite happy, although obviously there is post-conflict with the resolution stage. There are difficulties that are encountered by the constabulary.

Mr PYNE—Do you think that they are more reliable than the Papua New Guinean defence forces?

Mr Dahlstrom—I certainly could not comment on that.

Mr PYNE—That is unfortunate; I like to get into the nitty-gritty.

Mr PRICE—Could I just clear something up in my own mind. You are saying that you had two over there. Are they part of the Peace Monitoring Group?

Mr Dahlstrom—Yes, they are there as members of the Peace Monitoring Group, not as AFP police advisers.

Mr PRICE—Okay. So they have duties consistent with the rest of the Peace Monitoring Group, rather than a special police mandate over there?

Mr Dahlstrom—That is correct.

Mr PRICE—We were delighted to meet one over there.

CHAIR—Aren't they going to get involved in areas like arms disposal, though?

Mr Dahlstrom—No, that will be totally away from the Peace Monitoring Group's charter, as I understand it, and our members will not be involved in that.

Mr PYNE—Would you like to expand a bit on some of the legal issues involving the Australians who are in Bougainville?

Mr PRICE—He is dying for an answer.

Mr PYNE—I just know that the Attorney-General's Department are like sphinxes—the less information, the better.

Mr Campbell—There is one particular issue, which I think we commented on in our submission, and that is the question of criminal jurisdiction over civilian members of the Peace Monitoring Group. Perhaps my colleague Steve Marshall might address that issue. That was the major issue which we raised, because the two agreements—the agreement and the protocol—do address issues about criminal and civil jurisdiction over members of the Peace Monitoring Group and also questions like powers of arrest of the Peace Monitoring Group and over the Peace Monitoring Group. It is quite normal in an agreement which is equivalent to a status of forces agreement, where you have the forces of one country stationed in another country, to cover those sorts of issues.

Mr PRICE—Do the civilian members of the Peace Monitoring Group come under the Defence Force Discipline Act?

Mr Campbell—I think for the most part the answer to that question is no, they do not. That is where the issue of criminal jurisdiction arises because the—

Mr PRICE—Most discipline matters of a criminal nature would automatically be referred to a criminal jurisdiction in the defence force rather than being handled by itself.

Mr Campbell—That is right.

Mr PRICE—I am really surprised that there are different sets of rules for the Peace Monitoring Group.

Mr Campbell—If I can just make this point, the agreement that covers the Peace Monitoring Group with Papua New Guinea and the other members of the Peace Monitoring Group looks at the issue in terms of the whole of the Peace Monitoring Group rather than saying, 'This is what applies to civilian members and this is what applies to military members.' I think the question you are raising is why they are treated differently in Australian law or why the Australian members of the contingent are treated differently.

Mr PRICE—Yes. I am interested in the legalities of your having a commander of a group made up of a number of different elements and how that authority is established if they do not all come under the Defence Force Discipline Act. You may want to have it checked actually.

Mr Campbell—For example, say there is a potential criminal offence committed by either a civilian or military member of the Peace Monitoring Group. The agreements provide that Papua New Guinea will not have jurisdiction over that but the commander can waive that immunity from jurisdiction so that they would be subject to Papua New Guinea law. The commander in that sense looks over the whole group.

Mr PRICE—Let me give you an example. Bougainville is dry. What happens if, in a hypothetical situation, the commander discovers that there is a unit in which a member of the AFP, a member of the Department of Foreign Affairs and a soldier are imbibing. I know how he disciplines the soldier but under what authority or under what law does he discipline the other two people?

Mr Campbell—I am not sure he or she does have—if you are looking for a domestic law—a power to discipline the civilian member.

Mr Marshall—If I can just elaborate slightly on that. Our main interest is in the actual criminal jurisdiction as opposed to potentially disciplinary proceedings.

Mr PRICE—You like the juicy stuff.

Mr Marshall—Exactly. I am not in a position to comment on the internal arrangements under which the group shall be subject to the disciplinary authority of the commander, given that the group represents participants from various fields—the military and the non-military. You are correct. In terms of defence there is a special regime established for defence personnel under which they are subject to certain disciplinary provisions with respect to service offences and otherwise and, also, the legislation that makes them effectively subject to the criminal jurisdiction of Australia as applies in the Jervis Bay territory with respect to their conduct.

The gap which we identified referred to persons who might be members of the group serving in Bougainville who are not subject to that regime because of the incidence of the particular make-up of this group. When we send defence personnel overseas, it is normally as a group of defence personnel or civilian defence personnel who all fall within the Defence Force discipline regime, but the position of other persons serving overseas is not covered specifically by any Australian legislation. So the effect of that, as Mr Campbell has explained, is that we have a situation where the agreement contemplates that Australia shall have exclusive jurisdiction over the members of the state, subject to a waiver; but, under our statutory regime, we do not have a specific provision which applies our domestic criminal laws to those persons while they are serving overseas.

It is a fairly narrow gap. I would not wish to overstate it because, firstly, if there were a serious offence committed by a member of the group, Australia would have the option of seeking to arrange a waiver of jurisdiction; and, secondly, as we have discussed, the defence members of the group are currently included by virtue of the Defence Force Discipline Act.

Mr Campbell—In summary, it just means that there is an immunity from criminal jurisdiction for the members of the Peace Monitoring Group which can be waived. If it is not waived, it may well mean that, if some offence occurs like an assault by a civilian

member of the Peace Monitoring Group, potentially they would not be prosecuted under Papua New Guinea law, but there is no provision for them to be prosecuted under Australian law either.

Mr PYNE—Is that a situation that pertains to all Australians serving overseas as part of peace groups, monitoring groups, UN situations, or is this just unique to Bougainville?

Mr Marshall—As far as defence personnel are concerned, they are always going to be covered by the Defence Force Discipline Act. In some instances where we have Australians serving under the auspices of the UN agreement, that is covered by the Crimes (Overseas) Act; for example, that covers AFP officers in Cyprus. There is no general legislation, however, which is designed to deal with a situation as we have in Bougainville where you have civilians with no other link to a statutory base serving overseas. I do not wish to overstate the problem, but it is something which would be desirable, perhaps, to address by legislation.

Mr PRICE—Can I give you another hypothetical situation. Let us say we decided to send some civilians and some police to Cameria—an unknown country. Under what authority does the head of that have his orders effectively carried out? It is not necessarily a UN operation; it may be a coalition operation.

Mr Marshall—We would have to look at how the agreement and the group were set up. To be honest, I am not sure as to the exact authority by which the commander of the Peace Monitoring Group, in terms of disciplinary as opposed to criminal jurisdiction, exercises his authority.

Mr Campbell—I suppose to answer the question, if we were going to send a group overseas there would normally be some agreement with the other country under which these people would go, and which, like this agreement, sets out the things that can be done. If you are going to have some line of authority that can be enforced in law, then you would really need some statutory basis. I think a lot of these sorts of things operate on the basis that people will do the right thing and that the right people will be chosen and that it will not be necessary to have a statutory basis for exercising authority every time somebody becomes part of one of these groups.

Mr PRICE—As you have pointed out, I think, this is in a sense a very narrow and specialised area of activity. The observation I make is that we seem to be increasingly involved in it, and there is a high likelihood that we will be having a mix of people going ahead. I think it is good that it is, by the way, but perhaps we may need to just ensure that there is some basis for it. If I can just add my tuppence worth, I do not like the situation where one group is clearly covered quite tightly and another group is not. I cannot point to a case where this has arisen as a problem; I can only say it may in the future be a potential problem.

Mr Marshall—I think that is right. If I can take refuge in the hypothetical case of 'Cameria', there could be a circumstance in which the Camerian justice system has broken down, you have an Australian civilian overseas who commits a quite serious offence, but we are not satisfied that the person would be guaranteed all of the usual guarantees that would

apply in an Australian domestic criminal proceeding. That is where the issue of waiving jurisdiction becomes difficult, because a waiver of jurisdiction might have some costs in terms of the processes by which that person was prosecuted, and the alternative if there is no satisfactory Australian basis of jurisdiction is that the person walks in respect of the offence.

Mr PRICE—It would be nice to have the fall-back of Jervis Bay. Secondly, to be frank, I think the areas of my concern really are the summary areas—not major issues of criminality, but more summary jurisdiction—which is at least under the Defence Force Discipline Act handled quite adequately, I thought, and quickly. I think you would need that sort of power if you are a head of a delegation. The head of a delegation to Cameria may very well be an assistant commissioner of police, and they are used to being able to enforce discipline as well.

Mr PYNE—Could this narrow area of the law that has been identified be fixed by amendments to the Crimes (Overseas) Act 1964, or would it require new legislation?

Mr Marshall—I think it could be done by way of an amendment to the Crimes (Overseas) Act. It is not something on which there has been major consultation with other portfolios in terms of the potential extent. But that legislation does have a fairly neat regime for applying domestic law to Australians serving overseas in certain circumstances, and I imagine it would be a case of amending it to extend the circumstances—maybe a general formula or maybe a formula in which specific missions could be identified by regulation, for example. That framework seems quite adaptable for a purpose such as this one.

Mr PYNE—On another issue, since that was a bit esoteric, has the Attorney-General's Department been approached by the PNG government with respect to giving them advice about legal implications in Bougainville, new jurisdictions or changes to their legislative framework to advance new autonomy, or is that something that we have not had anything to do with?

Mr Campbell—I think I like esoteric questions, actually. The short answer I can give to that question is no, to my knowledge, we have not been approached on those particular issues.

Mr PYNE—I do not know if it is the Attorney-General's Department, but perhaps foreign affairs officers of the Attorney-General's Department have been involved with establishing new jurisdictions in places like Cambodia and Bangladesh and establishing a legislative framework when they have been invited by other governments, and I would have thought Bougainville probably would be somewhere we might be able to give some assistance to.

Mr Campbell—I am not so sure that we have been involved in the past in establishing something from the ground up in terms of a legislative framework, but we certainly provide legal assistance to other governments, particularly in the Asia-Pacific region, on certain issues. It is not so much this department but, for example, somebody through AusAID was involved in doing a draft of the then new Fiji constitution. So there is some involvement there, but we have not been approached in this particular case.

CHAIR—I just go back to the AFP. Over these last few months we have heard a lot about the AusAID funded program for police training for Bougainville. Can you give us a bit of an update of what has happened with that? Is there any indication as to whether the 30 graduates are being utilised or may be utilised, or is the thing just a total disaster?

Mr Dahlstrom—I certainly would not say it is a total disaster, although AusAID would be in the best position to give the update. My understanding is that the training has taken place and the auxiliaries are being or are going to be used in the near future.

CHAIR—They are going to be used?

Mr Dahlstrom—That is correct. My understanding is that more Bougainvillean-born RPNGC police have been trained. However, they have not been deployed to Bougainville at this stage. From an AFP point of view, AusAID has control of that training aspect. My understanding is that the AFP as an organisation will not be approached in relation to assisting any further.

Senator BOURNE—You say in your submission that AusAID has facilitated the use of private consultants to identify and provide training. Where would private consultants come from to do that sort of thing?

Mr Dahlstrom—I am not too sure where AusAID got their private consultants. However, I know that the PMG or the overall body has facilitated the use of ex-New Zealand police. AusAID might have in mind an ex-Victorian police officer who has experience in PNG and Bougainville.

Senator BOURNE—I think they have been doing that for a while, haven't they?

Mr Dahlstrom—Yes.

Senator BOURNE—So the AFP has not had anything to do with that sort of thing?

Mr Dahlstrom—No. That is correct.

CHAIR—From what you have heard, is there any great enthusiasm from within Bougainville itself for young Bougainvilleans to join the police force or the auxiliary force?

Mr Dahlstrom—I think it is a difficult situation for them attempting to become a member of the police force whilst in a small community. There are still difficulties in understanding law and order issues as opposed to security issues on the island. There is still some work to be done there and there will be more work to be done by the PMG in relation to education and training and in relation to the difference between providing security for the people on the island as opposed to law and order.

Senator BOURNE—Can I just make one possibly inappropriate suggestion? Bill will tell me if it is, as he always does. That piece of amending legislation sounds as if it could be simple and, if so, it could get through the parliament really quickly. That would be good on all sides.

CHAIR—It may not get through the Senate.

Senator BOURNE—Oh no, that is a Thursday lunchtime. There is no problem with that. Would it be appropriate for the department to be able to give the committee a suggestion of what sort of amendment would cover it? In which case, we could then suggest to the minister that he get you to have another look at it and—

Mr PRICE—Or put it in the report.

Senator BOURNE—Yes. If we could get something that goes in the report. I understand that you have to consult and all the rest of it, but it sounds to me as if that would be something that would just zip through both houses with no problem. So if it is appropriate, could you give us a bit of wording? That would be really good.

Mr Marshall—Sure. We can examine it and communicate further with the committee.

Senator BOURNE—That would be great.

Mr PRICE—I do not want to get on your wrong side, Chair, but I understand the Defence Force Discipline Act covers Defence civilians when they are posted overseas. What would be wrong with extending that in peacekeeping for anyone else who is part of that peacekeeping body? Should Defence be the principal organisation?

Mr Marshall—If one looks at, say, the Crimes (Overseas) Act it appears that, earlier on, the decision was taken that applying the entire Defence Force regime to non-Defence persons might not be the preferable way to go. The issue that the Attorney-General's Department was commenting on was with respect to criminal jurisdiction, whereas the Defence Force Discipline Act goes significantly beyond what we would regard as normal domestic criminal jurisdiction. It includes defence specific offences, for example.

It is something that we could look at. But just bearing in mind the precedents in terms of how we have legislated to deal with criminal conduct overseas by persons who are not a part of the Defence Force, it does not seem to be the path that was adopted.

Mr PRICE—Mr Chairman, I am not trying to be difficult, but I do not think we have adequately covered, other than goodwill and cooperation, how the organisation of discipline of a multimember Australian force is made up. Is that worth the department thinking about?

Mr Marshall—I am not sure whether that falls within the normal functions of our department. It definitely does not fall within the division that I am from. In terms of imposing disciplinary requirements upon groups of Australians that are being sent overseas for a given reason, I am not confident that that would be regarded as an Attorney-General's portfolio responsibility.

Mr PRICE—Whose portfolio then?

Mr Campbell—Could I make a couple of points. One is that, as Steve has said, even the Defence Force Discipline Act is not an act which is covered by our portfolio. It is the

Defence portfolio. The other thing is that, in the application of the whole of that act to civilian members of the group such as people from Foreign Affairs and others, there is a question of whether those people would want to be subjected to the whole of the regime of the Defence Force Discipline Act. I suspect that they would not, but I cannot speak for them on that.

I go back to the point that I made before. There may be differing views on this, but I still think there should be an ability to select the right people to go overseas as part of a group in the expectation that there will not be any trouble and that there is not a need for a formal statutory basis of command and discipline in that case. As I said, views might differ on that.

Mr Dahlstrom—I might add that, even though our members in Bougainville are not there in an AFP capacity but in a PMG capacity, they are still subject to the AFP act, the AFP discipline regulations and the complaints act as well. They remain obliged to those conditions, and so did the members in Cyprus, albeit covered by the Crimes (Overseas) Act.

Mr PRICE—I suppose we have an impasse. I think this is going to be more frequently an activity. I hope that it never becomes an issue but, if the shit hits the fan, some people will be running for cover, as they say.

CHAIR—Thank you for your attendance today. If there are any further matters on which we need additional information, we will get the secretary to contact you. We will send you a transcript of the evidence, to which you can make corrections of grammar or fact.

Proceedings suspended from 10.48 a.m. to 11.12 a.m.

GILLESPIE, Ms Rosemarie Lorraine, Overseas Representative, Me'ekamui Government

MEYER, Ms Barbara Lee, Secretary, Australian Capital Territory Branch, Bougainville Freedom Movement

CHAIR—Welcome. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Do you wish to make any comments on the capacity in which you appear today?

Ms Gillespie—I represent the government of Me'ekamui. Me'ekamui is an indigenous name for Bougainville.

CHAIR—Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the House itself. I invite you to make a short opening statement, if you wish, before we proceed to questions.

Ms Gillespie—To bring it up to date, much has happened in recent weeks, as you are aware. The Matakana and Okataina understanding, as it is called, has lit a fuse under the peace process. It is like a time bomb set to go off some time in the future. It seems as if the Australian and New Zealand governments have lost sight of the inherent right of the people of Bougainville—that is, Me'ekamui—to self-determination.

The principle of self-determination was embedded in the Burnham declaration of July 1997. There, Bougainvilleans from the Papua New Guinea controlled areas and those from the liberated zones met and found common ground. Article 8 of the declaration is a statement of the aspirations of the people to the full exercise of their right to self-determination. It states:

We undertake to ensure that the people of Bougainville, as a people, freely and democratically exercise the right to determine their political future.

That was less than two years ago. From March 1997, when the Sandline mercenaries were chased out of Papua New Guinea in Operation Rausim Kwik and the then Prime Minister, Sir Julius Chan, was forced to step aside as a result of popular protest by the people of PNG, peace has reigned on Bougainville. The Bougainvilleans never wanted war. It was forced on them. Papua New Guinea fired the first shots—first in 1988 with the PNG riot police, and then in 1989 when the Papua New Guinea army was given a licence to shoot to kill.

The prize that the riot police and army were ordered to kill for was the lucrative Bougainville copper mine controlled by CRA, a subsidiary of the British company Rio Tinto Zinc—RTZ. Prior to its closure, production was running at \$1 million worth of copper a day. As one executive put it, it was 'the jewel in the crown' of RTZ. Today, that crown is

tarnished. RTZ has cannibalised CRA, which came to be known in Australia as ‘conniving, ruthless arseholes’. Perhaps CRA had become an embarrassment to its mother company.

The mine, which caused massive environmental damage from the mountains to the sea, remains closed to this day. Bougainville is the first place in the world where an indigenous people closed a mine that was destroying their land and environment and kept it closed. It will not be the last. The need to protect the land and environment has become a global concern. Global warming and deforestation are changing this planet and creating climatic and political turbulence.

The right to self-determination, enshrined in the two human rights covenants to which Australia is a signatory, includes the right of the people to control their natural resources—the land, the forests, the minerals beneath the surface of the soil. It belongs to the people.

In Me’ekamui, the culture of the people is entwined with the land. The land is held sacred. That is why people were prepared to lay down their lives to protect their land. The reason why so many Bougainvilleans supported the peace process was because they sincerely believed that the independence which they yearned for could now be achieved by peaceful means, through negotiations. If the Australian and New Zealand governments are now trying to dictate the outcome in terms of putting Bougainville back under the control of Papua New Guinea, it will be a cruel trick played on the people. They have already suffered too much. The people will judge and they are in the process of making their judgment now.

The so-called Matakana and Okataina understanding was the final coup de grace which was to bed down the peace process and lock Bougainville in under the control of Papua New Guinea. With one stroke of the pen it shattered the illusion that the peace process was a path to independence without tears.

The statement by Robinson Asitau, Secretary of the BRA, sets out the BRA objections to the understanding and the way it was executed. I seek leave to submit it as a supplementary document to my submission and to submit, as a written statement, my comments and conclusions.

CHAIR—Do you have something further to add, Ms Gillespie?

Ms Gillespie—Yes. I also have a situation report from President Francis Ona, which I would like to table. This was dated 20 May 1999. It is a plea:

Listen to the people, the ordinary people, the grassroots people. Do not try to pre-empt the outcome of negotiations. It is a breach of the people’s right to freely choose their political future, including independence—if they so choose. To use a peace process as a vehicle to defeat the aspirations of a people for independence is to torpedo the peace process itself. To achieve a permanent peace on Bougainville, it is necessary to respect the human rights of the people, including their right to self-determination. I have a plan and a way to enable the just aspirations of the people to be realised without undermining the stability of Papua New Guinea. If done well, it has the potential to strengthen that country.

I also wish to submit this as a final comment and I will make copies available to every member of the committee. Thank you.

CHAIR—With reference to the statement by Francis Ona: one of the things that we have been hearing on the committee is that, in terms of the process, Francis Ona may have become a bit of a recluse. Is that fair comment, or is what you have presented now evidence that he is still very much in the game?

Ms Gillespie—What do you mean by ‘in the game’? That would probably help.

CHAIR—Very much involved with the ongoing processes.

Ms Gillespie—He is very much involved with the people of Bougainville—that is, Me’ekamui. The fact is that, for his own reasons, he suspected that there might be a trap in the peace process and so remained outside of it and took a wait and see approach. This is actually a very common approach taken by Bougainvilleans and an intelligent one, considering the history of peace processes and peace accords that have been manipulated, broken down and all kinds of other things. He has now established the nation of Me’ekamui and the Me’ekamui National Council of Chiefs and this has widespread support on the island. In April this year there was a swearing-in ceremony for the cabinet of the new government. It was attended by thousands of people and also observed by the UN representative there. Afterwards there was great feasting and dancing right through the night.

Many thousands of people support Francis Ona and this newly emergent government of Me’ekamui. More and more people are becoming disenchanted with this particular peace process and are turning to Francis Ona for leadership. The fact that on the island now Kabui and Kauona are reportedly being chased out of various villages like Dongeta village and others suggests that Joe Kabui, in particular, is most unpopular for signing that understanding. It was a rather odd kind of thing. Joe Kabui was invited for a study tour, and while he was on this study tour the Prime Minister of Papua New Guinea, Bill Skate, and Sir John Kaputin of the cabinet, presented him with a document which I understand had been prepared in Port Moresby some months before.

If an agreement is to have any meaning, the person or persons who sign that agreement need to have a mandate—a mandate from the people they represent or are attempting to represent. In this case, it was sprung upon Joe Kabui without the knowledge of the BRA, without the knowledge of most people, and he signed it without a mandate from the BRA or from other people on Bougainville—that is, Me’ekamui. If you want my frank opinion I think New Zealand, for once, thought they were just a bit too clever and blew it.

CHAIR—Once the Bougainville People’s Congress gets into place, will it have anything to offer the process?

Ms Gillespie—According to my information there is widespread scepticism. There have been an awful lot of hiccups, to put it mildly, in the attempts to get the elections—if they can be described as that—through. I think it would be better to reserve my response on that. I will give you a more detailed response later as I am able to get more information from the ground, if that would be of any help.

CHAIR—Thank you.

Senator BOURNE—Do you know whether there was any effective election within the areas which are around the Panguna mine? Do you know if there was involvement in the Bougainville People's Congress elections there?

Ms Gillespie—Can I take that question down, because I expect to be speaking to Francis Ona shortly and I could give you a better reply.

Senator BOURNE—That would be excellent.

Ms Gillespie—Could you give me that question again, please?

Senator BOURNE—I am interested in whether there was a lot of involvement within Mr Ona's area in the elections—whether people were able to vote, whether they actually wanted to vote in those elections and whether they feel they are now represented in those elections.

Ms Gillespie—I will ask for the assistance of Hansard to give me the full text of that. That will probably save time. It is a very important question, and I will get the material back to you as soon as possible.

Senator BOURNE—That will be great. Thank you.

CHAIR—Do you get any feedback on Australia's role in the present process and on the activities of the Peace Monitoring Group in particular? In terms of the BRA, how are they regarded?

Ms Gillespie—What I would like to say is that the Peace Monitoring Group, according to the information I have, does not have much to do except gather intelligence. They are a bit bored, but they are not causing any trouble.

CHAIR—By inference, are you suggesting that we may as well take them out now?

Ms Gillespie—I was not stating that.

CHAIR—No.

Ms Gillespie—I want to reserve my response on that too.

CHAIR—Sure.

Ms Gillespie—These are, again, very important questions. What I am signalling is that a stalemate position, where you have a lot of people getting bored, is not a healthy one. But, again, the question is: where do we go from here? That is why I have come before this committee to give the best information that I can and to assist however I can.

CHAIR—Let us turn to the ultimate reconstruction and rehabilitation of Bougainville. How do you coordinate that reconstruction? Have you got any particular suggestions as to what sort of body or authority or group should be established to get things rolling?

Ms Gillespie—I can just speak for what was said to me from the ground. Certainly, in the area where I was behind the blockade back in 1995 and 1996 and, as I understand it, in the area that has not accepted the Papua New Guinean or Australian presence, the people believe in self-determination and independence, not only in the political sense but in the economic and cultural sense. They believe in creating their own style of government where the locus of power is in the village where the people are, where it is directly answerable to the people, where the economy and the services are focused and located in the village—the health post, the school and all these other things.

The thing that is really creating problems and still appears to be a problem after all the years of the blockade is the issue of the people being able to trade freely the products of their very rich island. I remember for years I would look with sadness at the cocoa pods just growing stale and rotting on the trees. Bougainville was famous for its world-class cocoa. Those trees are still there. The people want independence, both political and economic. One particular request that was passed to me yesterday was for a safe economic corridor where goods such as cocoa and other produce could be traded directly with other countries rather than have to go through Papua New Guinea, which is out of the way.

As you must be so well aware, Bougainville is just a short canoe ride from the rest of the Solomon Islands and is 1,000 kilometres away from Port Moresby on the other side of the Solomon Sea. This whole anomaly of Bougainville being part of Papua New Guinea was a relic of a pact that was signed 100 years ago in London between the British and German colonial powers. What we need is to unravel this colonial mess, which seems to have made a mess in the 1990s, 1980s, 1970s, 1960s—you name it.

CHAIR—All the same, isn't there going to have to be assistance in trying to achieve and coordinate exactly what you are talking about? What sort of body can help?

Ms Gillespie—I understand that Mr Ona has approached the UN in regard to the proposed economic corridor. You are asking me what body could oversee this kind of thing. Again, let me put my mind to that issue and get back to you on that.

Mr PRICE—Where do you see the corridor running from and to?

Ms Gillespie—Again, I need further instructions. Now I am talking like a lawyer! I remember, from many times running the blockade, there was a de facto corridor from the Western Solomons to Bougainville. It was also an economic corridor because things like trochus shell and all kinds of odd things were traded through the Solomon Islands for various items which were needed on Bougainville. So that is the logical place for some kind of corridor to the Solomon Islands.

In fact, this would give a boost to the flagging Solomon Islands economy too. Also, there is a unity among Bougainvilleans and Solomon Islanders because they are all part of the same island group and identify as such, particularly the people of the Western Solomons. If you have been there, you will have seen people with T-shirts saying, 'One people', and you could have seen for yourself that they are very strong people.

Senator BOURNE—On a completely different subject, I think that, once peace breaks out fully, land tenure is going to become one of the biggest problems. How do you think that problem—and I do think it will be a problem—can be solved? Do you think that it would be possible to go back to the matrilineal ownership of land? Other people and companies from outside have bought land and believe they own it, but then you have the matrilineal system as well, where clans own land under the traditional system. Do you see a way that can possibly be resolved in the future?

Ms Gillespie—It is a very fundamental question. Where I was, the only form of land tenure that was recognised was the traditional land tenure, where the land was owned on a clan basis and passed from mother to daughter on a matrilineal system. That is in every part of Bougainville except Buin in the south-east. So I want to ask you: where is the issue of land tenure a problematical issue on the island?

Senator BOURNE—I would think where people from outside believe that they own plantations or believe that they own houses, perhaps in Arawa, which are just not part of the traditional system. Do you think the traditional system would just override all of that or do you think this is going to have to be resolved in some other way? Obviously, there are people who have been mostly off the island for a long time now, for 10 years or more.

Ms Gillespie—I know there is a certain degree of resistance, on the part of the people on the island, to absentee landlords; you just have to remember the history of Ireland.

Big plantations developed at the time of German colonisation, for example, were turned over to Australians after World War I, and all this was done without the people whose land it really was having any say in it at all.

From my discussions with people on the ground, they considered that the claim by such absentee landlords was null and void, that they had no claim, that the land rightly belonged to the clans that had held that land since time immemorial. In many places they reclaimed the land that belonged to them.

As for houses in Arawa where people have built them, that is a different story. Again I am speaking just from my own understanding, but people just want a house in which to live and to live in peace, and they want that wish to be respected. Bougainvillean people want Australians and people generally, and governments in particular, to respect their rights equally.

CHAIR—I have one final question. Have you had an opportunity to look at the interim report presented to the parliament by this committee a month or so ago? Are we on the right track?

Ms Gillespie—Yes, I have had a chance to read it, thank you. I did go through it, and I would take issue with one particular element. If you want me to do a critique of the report, I would be happy to provide you with one.

CHAIR—Thank you.

Ms Gillespie—However, what will not go down well with the people of Bougainville who have never relinquished their desire for independence is what appears on page 6, paragraph 1.27. There it says, ‘Crucial to the achievement of a lasting peace are issues relating to Bougainville’s ultimate place within Papua New Guinea.’ Many people will say that that suggests the final outcome of the issue of self-determination has already been pre-empted. I say that to pre-empt the outcome is to jeopardise the peace process.

Senator BOURNE—I would make the point that I think that was deliberately worded to try not to give that impression.

Ms Gillespie—You may have tried with the words, but you will not be able to pull the wool over the eyes of many Bougainvilleans with that one.

Senator BOURNE—I do not think anyone is trying to pull any wool over the eyes of anyone.

Mr HOLLIS—With respect, I do not think anyone was trying to pull the wool over. As you would appreciate with your many years of involvement there, this is an incredibly complex issue. You keep speaking of ‘many Bougainvilleans’, and we accept that. But many Bougainvilleans are putting another point of view also. As you would appreciate very well, it is a complex issue. I do not think anyone has all the answers to these many, many complex questions.

There is no way that we as outsiders would go there and be presumptuous enough to think that we had the solutions, especially after only four days. But I do not think anyone else has the solutions either. I do not think we have tried to pull the wool over anyone’s eyes. What we have tried to do is express our view of an incredibly complex situation. That is all we have tried to do.

Ms Meyer—Perhaps I could make a comment. I have not been in Bougainville itself but I spent three weeks in the Solomon Islands last May. One comment that was looked on with a great deal of favour and made by many people I talked to about the situation was that they see the possibility of some day forming a federation—and I believe that this has been put forward by Papua New Guinea parliamentarians as well—of Solomon Islands and Papua New Guinea, with Bougainville being an independent entity within that federation. This may well be the most positive goal for everyone.

I found that that attitude was expressed freely, and sometimes by people from Bougainville. But I do not think that it can be imposed or that any solution can be imposed by other powers—PNG, New Zealand or Australia. It would have to be something that the indigenous people of the region would choose themselves and work out the details of.

Mr HOLLIS—That may well be. In the many views that were put to us, it was interesting to note that one was of there being a real fear through some sections on Bougainville that the PNG government, after being involved in civil unrest for a number of years and with it being not an inconsiderable drain on the economy of PNG, would just walk away from Bougainville and leave it. That was put to us not as a positive but as a negative—and I accept that some people would accept that as a positive. But that was put to

us as being a real worry of some people. I just throw that in to share with you, as you already know of the complexities and difficulties of the situation. There are many competing, strongly held views.

Ms Gillespie—Exactly. That is why early in 1997, after the Sandline mercenaries had been chased out of Papua New Guinea and we were going through a period of calm, the Bougainville interim government was unanimous in wanting a properly internationally supervised referendum on the issue of independence. That is still a way to resolve that particular situation—for the people to be allowed to have a free voice in their political future. The people of East Timor also want to be able to choose, on the basis of independence or not, some autonomy. But a referendum on independence would be the judgment of the people.

Mr HOLLIS—One would hope that the fear and intimidation currently occurring in East Timor would not occur with such a result in Bougainville.

Ms Gillespie—Again, it is a question of the monitoring. I have already had some experience with monitoring elections in a place which was fraught with violence. It can be done.

CHAIR—As there are no further questions, I thank you very much indeed for your attendance today. If there are any matters on which we might need additional information, the secretary will be in contact with you. We will send you a copy of the transcript of the evidence, to which you can make corrections of grammar or fact.

Ms Gillespie—Thank you. Also I have something of which the members perhaps might like a copy, if I may just bring it around.

CHAIR—Thank you very much.

Resolved (on motion by **Senator Bourne**, seconded by **Mr Price**):

That this committee authorises publication of the evidence given before it at public hearing this day.

Subcommittee adjourned at 11.50 a.m.

