First Session, Forty-ninth Parliament, 2008-10

Parliamentary Debates

(HANSARD)

ADVANCE COPY

(subject to minor change before inclusion in Bound Volume)

Wednesday, 15 September 2010

(Week 54, Volume 666)

WELLINGTON, NEW ZEALAND
Published under the authority of the House of Representatives—2010

WEDNESDAY, 15 SEPTEMBER 2010

TABLE OF CONTENTS

WEDNESDAY, 15 SEPTEMBER 2010

Mr Speaker took the Chair at 2 p.m.
Prayers.

FINANCIAL MARKETS (REGULATORS AND KIWISAVER) BILL AUDITOR REGULATION AND EXTERNAL REPORTING BILL

Procedure

Hon CHRISTOPHER FINLAYSON (Attorney-General) on behalf of the **Leader of the House**: Following discussion in the Business Committee yesterday, I seek leave for the Financial Markets (Regulators and KiwiSaver) Bill and the Auditor Regulation and External Reporting Bill to be treated as cognate bills and for the first reading debate on each bill to be taken together and, at the conclusion of the debate, for the questions on the first readings and the referral to a select committee to be put separately.

Mr SPEAKER: Is there any objection to that course of action being followed? There is none.

PERSONAL EXPLANATIONS

Passport Fraud—Discharge without Conviction

DAVID GARRETT (ACT): I seek leave of the House to make a personal explanation regarding speculation about me in the media.

Mr SPEAKER: Leave is sought for a personal explanation. Is there any objection? There is no objection.

DAVID GARRETT: Twenty-six years ago, while living a very different life, I foolishly undertook what I naively saw as a harmless prank. It was one that was to later have repercussions, both for me personally and for others who did not deserve to be hurt by my thoughtless actions. Using a method made known by the publication of the novel *The Day of the Jackal* I obtained the birth certificate of a child born at around the time I was born, but who had died in infancy. I used this birth certificate to obtain a passport in that child's name. To this day I cannot explain the rationale behind my actions, except to say I was simply curious to see whether such a thing could be done. I never used the passport for any purpose. It duly expired, never having been used, and I later destroyed it.

Twenty-one years after I obtained the passport, and many years after it had expired, I was arrested, along with a number of others, following a police inquiry into passports that had been wrongfully obtained. This inquiry followed the obtaining by Israelis who were believed to be connected to that country's intelligence service of a number of passports, using the same method I had used. I was duly put before the court and admitted obtaining a passport by false pretences. After submissions by my lawyer, I was discharged without conviction. The court accepted that the consequences of a conviction for this offence would have consequences out of all proportion to the offending.

I was also granted permanent name suppression. My reluctance to answer media questions was due to my uncertainty regarding the extent of coverage of the suppression order. My preliminary legal advice is that for this reason, neither I nor anyone else may comment further on this matter outside the House at this time. I am now seeking advice on whether the name suppression order can be varied or waived so that I may take media questions.

I have made many mistakes in my life, none more so than this. At the time when I committed this offence, I gave no thought whatsoever to the effect it would have on others. Following my arrest, I wrote letters of apology to the child's relatives,

expressing my sincere remorse for the pain I had caused them. The regret I feel at the hurt that I unwittingly caused the family of the deceased child is something I carry with me today and will continue to carry for the rest of my life. I cannot wind back the clock, but I sincerely wish that I could. Thank you.

QUESTIONS FOR ORAL ANSWER

QUESTIONS TO MINISTERS

Earthquake, Canterbury—Reconstruction Coordination

1. Hon ANNETTE KING (Deputy Leader—Labour) to the **Minister for Canterbury Earthquake Recovery** : Does he agree with the Canterbury Employers Chamber of Commerce chief executive Peter Townsend that the reconstruction of Canterbury following the earthquake requires someone "to co-ordinate and oversee" reconstruction?

Hon BILL ENGLISH (Deputy Prime Minister) on behalf of the **Minister for Canterbury Earthquake Recovery**: Generally, yes. In order to assist a coordinated recovery effort, Mr Brownlee has been appointed the Government's Minister for Canterbury Earthquake Recovery. Last night Parliament unanimously passed the Canterbury Earthquake Response and Recovery Act, which establishes the Canterbury Earthquake Recovery Commission, consisting of the three relevant Canterbury mayors plus four other appointed experts to help oversee the recovery. The job of the commission will be to provide advice to the Government on what steps need to be taken to help the region get on with the job of reconstruction.

Hon Annette King: Was John Jackson, the construction economist who helped in Darwin following Cyclone Tracy, right when he said today that we need to learn the lessons from Darwin and New Orleans and appoint a non-political leader who is on the spot, able to allocate resources, and able to make sure there is no ripping off or price gouging; if so, will the Government appoint such a person?

Hon BILL ENGLISH: Of course the Government is open to any advice from people who have had previous experience in these matters. Given that the Act was passed just yesterday and that coordination efforts have been largely successful up until now, including efforts by the Canterbury Employers Chamber of Commerce and Mr Peter Townsend, it is the Government's view that we test the current arrangements to see whether they work; the indications are that they will.

Hon Annette King: What discussions has he had with building companies undertaking work in the rapid rebuild phase following the Canterbury earthquake, and has he set out the Government's approach to companies that ramp up prices and price gouge?

Hon BILL ENGLISH: I cannot give a detailed answer on behalf of the Minister, but I understand that he has had discussions with building companies. One proposition has been to publish a price list so that members of the public know what ought to be charged; prices could be set by the main suppliers.

Hon Annette King: Does he have any reports of a shortage of building supplies, and has he been advised of the need to ration material and prioritise need in Christchurch; if so, what action is the Government planning to ensure there is not only a rapid rebuild but also a fair rebuild?

Hon BILL ENGLISH: I think the Minister has heard such reports. The process related to the building is that at the moment the banks, the insurance companies, and the Earthquake Commission are finalising processes by which claims will be handled. I think the matter the member raises is pertinent because there is not an unlimited supply of building materials or personnel. Once the process of dealing with the claims is

settled, there could well be a discussion about how and whether priority can be allocated to some projects over others. I imagine it will not be as easy as that, simply because there are so many distressed householders. Whether they have had a water tank burst or had their house crack in half, they regard their circumstances as important and as needing to be dealt with quickly.

Hon Annette King: Is he aware of reports of price gouging and that an earthquake premium is already being applied, according to the past president of the Canterbury Registered Master Builders Association; if so, what action is the Government taking in light of the Prime Minister's saying last week that it would take a tough stance on rip-off builders?

Hon BILL ENGLISH: The Minister is in Christchurch, and if that kind of behaviour is going on, then I am sure he will hear about it. In respect of Government action, Parliament supported the passing of legislation that allows for reasonably extensive Government action. The first Orders in Council pursuant to that Government action will probably be passed tomorrow, once Opposition members have been consulted on them. At least there we have a tool that may help us deal with these issues.

Hon Annette King: Will the Government require those in the building industry who receive money from the Earthquake Commission in order to rebuild houses and businesses to sign an agreement to charge usual prices and not impose a so-called premium for earthquake work?

Hon BILL ENGLISH: That may well be a constructive suggestion. As I have mentioned before, the different parties to the claims process are finalising the process by which they will allocate the claims. I am sure that will lead on to discussions about how to ensure that there is some control of the costs. After all, both the insurers and the claimants and the wider community have an interest in ensuring that there are not extensive rip-offs.

Earthquake, Canterbury—Earthquake Commission Claims

2. COLIN KING (National—Kaikōura) to the **Minister of Finance**: What steps is the Government taking to ensure the Earthquake Commission can meet claims arising from the Canterbury earthquake?

Hon BILL ENGLISH (Minister of Finance): The Earthquake Commission is expecting up to 100,000 claims as a result of the earthquake, with the potential cost being between $1 billion and $2 billion. The cost will be met from the Earthquake Commission's natural disaster fund, which at the start of this month held $6 billion in cash, shares, and Government bonds. In addition, the Earthquake Commission has $2.5 billion of reinsurance cover. The Government has issued a new ministerial direction this week to enable the Earthquake Commission to sell down assets in sufficiently large amounts to produce the cash and to give it the ability to hold more cash than it used to, so that it can pay out claims promptly.

Colin King: How does the likely cost of the Canterbury earthquake compare with other recent natural disasters?

Hon BILL ENGLISH: That is a good question, because usually the Earthquake Commission has been allowed to hold sufficient cash to meet the costs of what has actually been quite a significant number of natural disasters over recent years. To put this into context, for instance, the Gisborne earthquake generated 6,200 claims, the Bay of Plenty earthquake generated 4,300 claims, and the Īnangahua earthquake in 1968 generated 10,500 claims. The most expensive of these was the Bay of Plenty earthquake, where the total cost to insurers, converted into today's dollars, was about $330 million. Treasury estimates that the cost to the Earthquake Commission and other

insurers will be about 10 times that amount, and that is why it is necessary that the commission is able to sell down the assets that it holds in the natural disaster fund.

Colin King: What does the new ministerial direction change?

Hon BILL ENGLISH: In a direction issued in 2001, the natural disaster fund was required to be invested in New Zealand Government securities, global equities, and New Zealand bank bills, and the Earthquake Commission was required to consult the Minister if it wanted to sell any part of the portfolio or to hold more than $250 million in New Zealand bank bills. Under the new direction, the Earthquake Commission will be able to keep a wider range of short-term cash holdings in New Zealand banks, so that it can quickly settle claims. The commission will also be able to hold up to $2 billion in cash or short-term securities, rather than the previous limit of $250 million. These provisions will remain in place for a year.

Colin King: With the new ministerial direction in place, how does the Earthquake Commission intend to meet claims?

Hon BILL ENGLISH: The Earthquake Commission must pay the first $1.5 billion of claims before its $2.5 billion reinsurance cover kicks in. The commission advises me that it intends to pay these claims firstly from cash reserves, secondly from maturing investments, and thirdly from selling down part of its portfolio. The proceeds from maturing investments and those sold will be held in short-term securities in New Zealand banks. As a result, the Earthquake Commission will not face cash-flow problems as it settles the high number of claims.

South Canterbury Finance—Treasury Advice

3. Hon DAVID CUNLIFFE (Labour—New Lynn) to the **Minister of Finance**: What was the earliest date that Treasury formed the conclusion that South Canterbury Finance could fail, and when and by whom was that first raised with him?

Hon BILL ENGLISH (Minister of Finance): We need to bear in mind that the Retail Deposit Guarantee Scheme was put in place in October 2008 for the very reason that there was a distinct possibility that some financial organisations could fail. Without the view that they could fail, the guarantee would not have been needed. That was reasonably obvious, given that 45 financial organisations had already failed before the Retail Deposit Guarantee Scheme was introduced. In respect of South Canterbury Finance, Treasury reached the view that that company was more likely than not to fail.

Hon David Cunliffe: On which date?

Hon BILL ENGLISH: On 13 August 2009. That decision was reflected in the inclusion of South Canterbury Finance in the provision of $831 million reported in the Crown accounts as at 30 June 2009 for all companies under the Retail Deposit Guarantee Scheme. I was informed by Treasury of its view in August 2009. Yesterday I incorrectly suggested that the provisioning decisions were made in March or April 2009, when in fact they were made in August.

Hon David Cunliffe: Given his answer that he knew there was a "more than even chance that South Canterbury Finance … would fail" as early as the preparation of the Crown accounts, did he discuss with the Minister of Commerce or his officials the placing of South Canterbury Finance into statutory management or receivership by, or around, June 2009; if not, why not?

Hon BILL ENGLISH: I do not recall that discussion, or any discussion of that nature. Some work was done on the general concept of the difference between the Government using statutory management or receivership, which I think was responsible work to do, given that we were guaranteeing dozens of institutions that had the potential to fail. Discussions that were focused particularly on South Canterbury Finance probably did not occur until this year.

Hon David Cunliffe: Given the Government's stated objective to minimise the cost to taxpayers of the bail-out, how did he expect to reduce the cost to taxpayers by allowing South Canterbury Finance to trade on past June 2009, when provisions in the Crown accounts prove that the Government knew the company was already in a negative equity position by that time?

Hon BILL ENGLISH: The point here is simply that both the Government and the company made every effort to avoid any costs to the taxpayer at all. If the company had been able to be recapitalised, or if it had been able to generate sufficient inflows of deposits, then it was possible, up until quite recently before the receivership, that the company would not have failed at all. That, of course, was the preferred option.

Hon David Cunliffe: In the light of that answer, would the taxpayer's liability for South Canterbury Finance have been lower if his Government had not decided on 1 April 2010 to include South Canterbury Finance in the extended Retail Deposit Guarantee Scheme, given that its chief executive, Sandy Maier, has said the company used that extension to obtain extra funding; if not, why not?

Hon BILL ENGLISH: The important thing to remember is that the guarantee was not a guarantee of the company, but for the depositors. In fact, South Canterbury Finance had been running down its deposits, so it is quite possible that we paid out less through the recent receivership than we would have paid out in April, when the book was bigger. Secondly, we need to remember that at the time it was almost certain that if the Government had not announced an extension, South Canterbury Finance would have failed there and then. Our option was to try to give the company the opportunity it asked for, which was to see whether it could succeed in rebuilding the company so that there would be no liability to the taxpayer.

Hon David Cunliffe: Approximately how much extra taxpayer liability would the Government have avoided if it had intervened in June 2009, and what was the rationale for incurring the additional taxpayer liability after that date?

Hon BILL ENGLISH: The first point I make is that even as late as early 2010 no one really had a good grip on the assets or liabilities of South Canterbury Finance. In fact it became clear, with KordaMentha's involvement, that the Government had a better idea of that than the company itself did, until Mr Maier came on the job. The kind of calculation that the member is postulating never really occurred. The Government's approach was, knowing that there was potentially a very large liability, to make sure the company had every opportunity to succeed so that there was no taxpayer liability. We made decisions along the way that did not, in our view, increase the taxpayer's liability, yet gave the company the best opportunity to succeed. In the end the company did not succeed.

Dr Russel Norman: How does the Minister explain the apparent conflict between his claim that the great majority of problem lending occurred prior to South Canterbury Finance's entry to the guarantee scheme and the comments of the company's chief executive, Sandy Maier, that South Canterbury Finance used its acceptance into the scheme to ramp up its risky lending?

Hon BILL ENGLISH: I think Mr Maier said the company used the extension of the guarantee scheme to bring in more deposits, and that was obviously part of the drive to see whether the company could carry on. In respect of the lending, we simply have to look at the figures that have been published. Those figures show that most of the problem lending occurred before South Canterbury Finance entered the scheme. In respect of the likelihood of the company failing, I point the House towards the Financial Statements of the Government of New Zealand for the 11 months ended on 31 May 2009. Even in May 2009 there was no provision for South Canterbury Finance, because

at that stage Treasury did not believe there was a more than even possibility that the company would fail, whereas by August 2009 it believed there was that possibility.

Dr Russel Norman: Given the level of what we could only describe as fundamental uncertainty concerning some of the basic facts—that is, about whether the level of risky borrowing increased after the guarantee—why will the Minister not support having some kind of select committee inquiry or public inquiry into the events surrounding South Canterbury Finance's failure, given the amount of public money involved?

Hon BILL ENGLISH: In the end that is a matter for the select committee. The Government will, when we have the time and the resource, issue all the documents related to the scheme that we can. That will give the member, along with anyone else, the opportunity to scrutinise all the relevant information and decide which further questions need to be answered.

Marine and Coastal Area (Takutai Moana) Bill—Definition of "Tikanga"

4. DAVID GARRETT (ACT) to the **Attorney-General**: Does he agree that "tikanga" as it is described—[*Interruption*]

Mr SPEAKER: I apologise to the member. The House will come back to order. That was totally unnecessary. I remind members that when a member has made a personal explanation, that is it as far as this House is concerned.

DAVID GARRETT: Thank you, Mr Speaker. Does he agree that "tikanga" as it is described in the Marine and Coastal Area (Takutai Moana) Bill will differ in meaning from iwi to iwi and hapū to hapū?

Hon CHRISTOPHER FINLAYSON (Attorney-General): I think it is probably more accurate to say it "could" differ—not always but often.

David Garrett: How does the Government define "tikanga", and where that definition differs from that used by those applying for customary title, just who will determine what "tikanga" means?

Hon CHRISTOPHER FINLAYSON: "Tikanga" is defined in clause 7 of the bill to mean "Māori customary values and practices". As to how it will be proved and tested, that will be for the judge who deals with the matter in the High Court.

David Garrett: Who will determine whether iwi have acted in accordance with tikanga since 1840, as required by the bill?

Hon CHRISTOPHER FINLAYSON: If the matter goes to court, a judge will determine that. There are some procedures set out in the bill. If there is a particular matter that the judge feels he or she needs particular assistance on, either it can be referred to the Māori Land Court for a determination, as happens now from time to time, or the assistance of a pūkenga can be engaged.

Health System—Doctors' and Nurses' Contribution to Management

5. Hon RUTH DYSON (Labour—Port Hills) to the **Minister of Health**: Are doctors and nurses having more say in how the health system is run?

Hon TONY RYALL (Minister of Health): Yes, and in part that is because under this Government there are over 1,000 extra nurses and hundreds of extra doctors.

Hon Ruth Dyson: Does he support the view of Kevin Woods, who was recently appointed Director-General of Health, that many doctors' and nurses' positions can be cut without compromising health services; if so, in which areas are those surplus doctors and nurses to be found?

Hon TONY RYALL: Mr Woods' comments no doubt reflect circumstances from his Government in Scotland. Under this Government in New Zealand, we have employed, since the election, over 1,000 extra nurses and hundreds of extra doctors.

Hon Ruth Dyson: Who are doctors and nurses more likely to have confidence in: the 29 New Zealanders who were shoulder-tapped to lead the Ministry of Health—[*Interruption*]

Mr SPEAKER: I apologise to the member. I must say I am not terribly impressed with the way the sound system is working today, because I am struggling to hear members, but the level of interjection is not helping. That just got totally out of control, and the House has been very well behaved until just the last couple of minutes. I ask the Hon Ruth Dyson please to repeat her question, and I ask members to be reasonable in their interjections.

Hon Ruth Dyson: Thank you, Mr Speaker. Who are doctors and nurses more likely to have confidence in: the 29 New Zealanders who were shoulder-tapped to lead the Ministry of Health but declined the job, or Mr Woods, who oversaw the plan to slash 4,000 front-line health jobs in Scotland?

Hon TONY RYALL: I think New Zealanders can have confidence in the decision of the State Services Commissioner to employ Dr Woods. I can confirm the reported comments of the director of the Royal College of Nursing in Scotland, who said that Mr Woods "leaves the NHS in Scotland in a better place than it was when he arrived", which is certainly not something that New Zealand doctors and nurses would say about that party opposite when it was in Government.

Dr Paul Hutchison: What improvements have been made by giving doctors and nurses more say in the public health service?

Hon TONY RYALL: A good example is the 2,500 nurses now involved in the Releasing Time To Care programme, which in some parts of the country is doubling the amount of time that nurses spend with patients. As a result, patients are getting better care, getting back to their families sooner, and fewer are being readmitted to hospital. That could not happen unless there was leadership being shown by New Zealand nurses up and down wards throughout this country.

Hon Ruth Dyson: Was there any consistency in the reason that so many people declined to take on the role of Director-General of Health during the shoulder-tapping; if so, has the Minister of State Services advised him of the reason?

Hon TONY RYALL: I can tell the member opposite that she can make up as many stories as she likes about that, but Dr Woods is coming to a job where over 1,000 extra nurses, hundreds of extra doctors, and hundreds of extra services are being provided in hospitals throughout New Zealand.

Hon Ruth Dyson: When he told nurses last year of his lean-thinking pilots, was he actually intending to warn them that they would soon be working longer and harder, and that many of their colleagues would lose their jobs?

Hon TONY RYALL: Over 1,000 extra nurses have been employed in the public health service since the election and hundreds of extra doctors are employed in the public health service. The only people I am aware of who are losing their jobs are a large number of managers throughout the bureaucracy.

Earthquake, Canterbury—Flood and Waste Management Systems

NICKY WAGNER (National): My question is to the Minister for the Environment. What reports has he received on responses to the Canterbury earthquake, particularly with respect to the region's flood and waste management systems? [*Interruption*]

Mr SPEAKER: I apologise to Nicky Wagner. The Labour front bench will cease carrying on interjections about the last question. It is discourteous to this House. I called Nicky Wagner. The last question has been dealt with; it may not have been dealt with terribly well, but I am not going to pass any judgment on either the questions or the

answers. I have now called Nicky Wagner, and the House will show her some courtesy. I ask Nicky Wagner to repeat her question.

6. NICKY WAGNER (National) to the **Minister for the Environment**: What reports has he received on responses to the Canterbury earthquake, particularly with respect to the region's flood and waste management systems?

Hon Dr NICK SMITH (Minister for the Environment): I am advised that the flood protection works in the lower Waimakariri area suffered from liquefaction involving lateral spreading to approximately 1.5 kilometres of the stopbanks, mainly on the Kaiapoi side of the river but also in the Stewarts Gully area. Environment Canterbury has been working to re-establish this protection as quickly as possible and has already restored it to a 1-in-15-year level of flood protection. Work costing nearly $3 million will be completed over the next month to secure a 1-in-50-year level of flood protection. It will take 12 months to do the full set of work, providing Christchurch and the people of Canterbury with a 1-in-200-year level of protection by this time next year.

Nicky Wagner: What steps has the Government taken to assist in the earthquake clean-up so as to minimise the cost for householders and business?

Hon Dr NICK SMITH: Canterbury transfer stations and landfills have reported an eightfold increase in volumes, with 40,000 tonnes of food alone having to be disposed of. On top of this there will be tens of thousands of tonnes of other waste. The Government has stepped in to minimise the cost by exempting this waste from the Waste Minimisation Act levy of $10 per tonne. This step will save Cantabrians several million dollars. The purpose of the waste levy is to encourage recycling and waste minimisation during the normal course of business. An earthquake of this scale is a very exceptional event, and there will be no impact on the Government's waste minimisation programme and recycling work, as the estimates do not include the sort of extra waste that comes from such a disaster.

Marine and Coastal Area (Takutai Moana) Bill—Proof of Customary Interest

7. TE URUROA FLAVELL (Māori Party—Waiariki) to the **Attorney-General**: What is the burden of proof under the Marine and Coastal Area (Takutai Moana) Bill in relation to applications for customary interests, and what type of evidence would the Crown be required to produce to prove that a customary interest had been extinguished?

Hon CHRISTOPHER FINLAYSON (Attorney-General): Under clause 105 an applicant group is required to prove it is entitled to the customary interest that is the subject of the application. It would have to show, for example, exclusive use and occupation of the area since 1840 without substantial interruption, and that the area in question was held in accordance with tikanga. If the Crown wants to assert that customary title does not exist, then it will have the burden of showing that it has been extinguished. This sharing of the burden of proof is modelled on comments of the Court of Appeal in the Ngāti Apa case.

Te Ururoa Flavell: What assistance will be available to claimant groups to submit applications for recognition of a protected customary right, a customary marine title, or both?

Hon CHRISTOPHER FINLAYSON: Under the current Foreshore and Seabed Act the previous Government provided funding for resourcing and historical research in the context of negotiations. I imagine that that kind of thing will continue.

Te Ururoa Flavell: What support is he aware of for the intention of this bill to recognise "the intrinsic, inherited rights of whānau, hapū, and iwi, derived in accordance with tikanga and based on their connection with the foreshore and seabed."?

Hon CHRISTOPHER FINLAYSON: The inherited rights of whānau, hapū, and iwi, derived in accordance with tikanga, are recognised by the status of mana tuku iho.

This is an acknowledgment that iwi and hapū have a traditional role in caring for the common marine and coastal area in their rohe. This award has some similarities with the recognition awards provided for in the Hauraki Gulf Marine Park Act.

Marine and Coastal Area (Takutai Moana) Bill—Co-leader of Māori Party's Statement

8. Hon DAVID PARKER (Labour) to the **Attorney-General**: When he answered yesterday that "hopefully" the new foreshore and seabed bill "will settle the protracted controversy around the issues of the foreshore and seabed", was he aware that the Government's confidence and supply partner the Hon Pita Sharples told TV3 that he was "not entirely happy" with the new bill?

Hon CHRISTOPHER FINLAYSON (Attorney-General): No, I was not aware of those comments, which I think were made by Dr Sharples to TV3 immediately before question time commenced. The Government sought to develop a replacement regime that balances the rights and interests of all New Zealanders. I have to say I agree with what Phil O'Reilly of Business New Zealand said earlier today: "Balancing competing needs with legislation of this kind inevitably involves trade-offs. It is to be hoped that we can all approach the debate around this Bill thoughtfully and courteously and without slogans."

Hon David Parker: When the Attorney-General said yesterday that he had seen statements from the Māori Party members "indicating their firm support for the legislation.", which of the following statements was he referring to: the statement from Pita Sharples, the one from Te Ururoa Flavell that they would "come back and have another go in the future", or those from Hone Harawira, who is not even voting for the bill?

Hon CHRISTOPHER FINLAYSON: None. I was referring to a press release that had been issued by the Māori Party indicating its support for the legislation in this House.

Hon David Parker: Will the Attorney-General accept that without a clear acknowledgment from the Māori Party that the new legislation will fully and finally settle the legal framework for foreshore and seabed issues, there is less likelihood that the protracted controversy will be durably settled?

Hon CHRISTOPHER FINLAYSON: No, I do not. The Prime Minister has made it clear that the National Government considers that it has developed a replacement regime that balances the rights and interests of all New Zealanders, and it will not be revisiting this matter. The Māori Party has indicated that it supports the legislation, so in terms of durability for the country, I suppose it is really a question of whether Labour would be willing to revisit the matter in the future.

Hon David Parker: Given his responsible acknowledgment yesterday—for which I thank him—that the Labour Party has contributed to a benign political climate by offering to compromise on foreshore and seabed issues, if an enduring settlement of these issues cannot be achieved now, when will it ever be possible?

Hon CHRISTOPHER FINLAYSON: I thank the member for his thankyou, but there is no need for it. I believe that now is the time for this House to deal with the issue—picking up the words of Phil O'Reilly—courteously and generously, listening to what the general public have to say, and ensuring that it is not rushed through the House. I think that if we can all deal with it in that way then it will be durably resolved.

Hon David Parker: Is the Minister aware that many New Zealanders believe that unless there is an acknowledgment by the Māori Party that this framework will fully and finally settle foreshore and seabed issues, the matter will not be fully and finally settled, and his Government and the Māori Party will have failed in their ambition?

Hon CHRISTOPHER FINLAYSON: No, I am aware of many people who confidently expect, as I said, that if this House works positively and maturely on the issue then the proposals that have been put forward will result in a durable resolution of a matter that has vexed this country for too long.

Earthquake, Canterbury—Assistance of Government Social Services

9. JO GOODHEW (National—Rangitata) to the **Minister for Social Development and Employment**: How have Government social services been supporting the people of Canterbury?

Hon PAULA BENNETT (Minister for Social Development and Employment): I would like to update the House on the earthquake support subsidy. We announced the subsidy last week and to date we have had a very positive response from Canterbury businesses and employees. It is remarkable how quickly Work and Income got up to speed with it, but we knew that things would need to be tidied up as we went along. We have been working on issues such as stepping up the speed of application processing in the last 24 hours, clarifying criteria to include sole traders and business owners who pay themselves a wage, and working on banking payment issues. So far, over 990 businesses have applied for the earthquake support subsidy, covering 4,765 employees. To date, 823 applications have been approved.

Jo Goodhew: How are Government social services working together on the ground?

Hon PAULA BENNETT: Yesterday I had the pleasure of sitting in on the welfare advisory group, and I want to thank it for all the work it is doing. Although the group is usually active, it has been meeting daily at 4 o'clock. The group that I saw yesterday was made up of over 30 people from central government, local government, and non-governmental organisations. As I said, the group meets daily to ensure a planned and coordinated approach to what is needed in the city. I think one of the measures of its success was Operation East, where a big group of organisations went into a street to work not just on compliance and building inspection but also on meeting the social needs of the residents in that area.

Jacinda Ardern: What assistance will Work and Income give to the 28 people evacuated from their council-owned housing with just 1 hour's notice, and with some arriving home to find all their possessions boarded up inside; and will she ensure that a generous approach is provided to those people who have to purchase everything from clothing and heaters to high chairs and toiletries?

Hon PAULA BENNETT: I must say that to date Work and Income has been taking a generous approach to anyone who comes to its door asking for assistance. As of yesterday, Work and Income had approved over 2,800 special-need payments and civil defence payments. Yes, it will be helping those people in any way it can, and it will be erring on the side of generosity.

Jo Goodhew: Can the Minister update the House on the Government helpline?

Hon PAULA BENNETT: I suppose this is where I get to say a huge thanks to Work and Income, but many New Zealanders, including many Cantabrians, have already done so. Work and Income has now contacted well over 16,000 superannuitants who live alone, and it has visited more than 600 elderly people in their homes. It started with those aged over 80 who lived alone and were getting a disability allowance. I must say that those elderly people are a resilient lot because most of them, when visited, said that the person visiting their house should go away and look after someone else who might need them, but it has been well received. I acknowledge Minister John Carter for his support as Minister for Senior Citizens in standing up for those people and initiating the phone calls in the first instance.

Auckland Transition Agency—Award of Computer System Contract

10. PHIL TWYFORD (Labour) to the **Minister of Local Government**: Why did the Auckland Transition Agency award the $53.8 million contract for the Auckland Council's Enterprise Resource Planning computer system without a competitive tender?

Hon JOHN CARTER (Acting Minister of Local Government): The member's assertion is incorrect. I understand that the Auckland Transition Agency ran a limited tender process to deliver—[*Interruption*] If the members listen to the answer, they will find out what it means. It ran a tender process to deliver an enterprise resource planning system. Nine parties were invited to respond to a tender, as part of a selection process for choosing an implementation partner for the delivery of the system.

Phil Twyford: Can the Minister confirm that the selection of a contractor for the $53 million contract for the Enterprise Resource Planning computer system was done on the basis of an internal evaluation, and that the implementation of that system, worth approximately $14 million, was put out to a limited tender to nine parties as he described in his earlier answer?

Hon JOHN CARTER: Yes I can confirm that there was a limited tender process, but I should also draw the member's attention to the fact that the project will cost about $124 million in total. This part of it is $53 million. Local government in Auckland normally spends about $90 million, so the increased cost is not significant in the context of reorganisation. I am confident that the Auckland Transition Authority will get a good end result.

Phil Twyford: Was advice sought from the Auditor-General regarding the tendering process—or non-tendering process—for the $53 million contract, given that several chief information officers of the council have expressed their concerns in writing about the lack of a tender, with one describing it as indefensible, and another urging the Government to get advice from the Auditor-General?

Hon JOHN CARTER: I cannot confirm that. That is an operational matter and I do not have that information. If the member wishes to give me a written question, I will happily find the answer.

Phil Twyford: How does the awarding of a $53 million contract without tender demonstrate the kind of clear, transparent, and accountable decision-making he has been advocating for local government?

Hon JOHN CARTER: As I have said, the member should not continue to say there was no tender process. There was a limited tender process. I also say, as I have said earlier, this is a big project. However, I have every confidence in the Auckland Transition Agency's handling of this issue. The agency is within budget, as was expected; it is doing a particularly good job and is to be commended for it.

Phil Twyford: Did he consider that the contract for a $53 million information technology system for the Auckland City was expensive and risky, in the terms of the Auditor-General's recommendation that competitive tendering should be used, especially with expensive and risky projects?

Hon JOHN CARTER: I do not accept that. The fact is that, as I have said, this is a big project. The total cost is $124 million. Normally—[*Interruption*] well, if members just listen, they will get the answer—we spend $90 million on information technology services in Auckland across Auckland councils anyway. I am satisfied that we will end up with a good product that will serve Auckland and Aucklanders extremely well.

Women's Affairs, Ministry—Suffrage Day Celebrations

11. Dr JACKIE BLUE (National) to the **Minister of Women's Affairs**: Why is the Ministry of Women's Affairs celebrating Suffrage Day?

Hon PANSY WONG (Minister of Women's Affairs): On 19 September 1893 New Zealand women won the right to vote. Suffrage Day is New Zealand's first "world first". It shows that we are a progressive and fair people. We also changed world attitudes. Suffrage Day is an event that defines us a nation, yet we do little to celebrate this significant milestone. That is something we must change. New Zealanders can and should take pride in our achievements, and this is a significant one. I am determined to bring about enduring changes that will see Suffrage Day celebrations take their rightful place and become part of our national pride.

Louise Upston: What is the Ministry of Women's Affairs doing to celebrate Suffrage Day?

Hon PANSY WONG: We will celebrate, and this year the Ministry of Women's Affairs has organised a series of activities to raise public awareness of our country's first "world first" achievement. First of all, a book on Māori women and the vote records the huge role that Māori women leaders played in the struggle for women's rights. That resource was launched at an event in Auckland on Monday and is now on the ministry's website. The original petition was signed by 32,000 people. Copies containing 23,853 signatures will be on display at the Wellington and Christchurch libraries. Wellington's Civic Square also has some innovative footpath graphics that begin to tell the suffrage story. This evening women MPs will be joining women's organisations and guests to continue our work for the well-being of women. I invite all MPs to wear the cool button I am wearing to celebrate women in our nation.

Sue Moroney: Can the Minister point out what permanent fixtures in this Chamber recognise women's suffrage?

Hon PANSY WONG: I very proudly point out the sculpture of camellias in the debating chamber. I understand that when Kate Sheppard's petition was presented to the House, John—I am trying to remember the name; [*Interruption*] it was not the Rt Hon John Key but his namesake—rolled out the petition of 28,000 names, it caused quite a stir. It must have been effective, because within a few months the all-male Parliament voted to allow women to participate in general elections, and every one of the 31 percent of my fellow MPs who—

Mr SPEAKER: Order!

Sue Moroney: Which of the following of her Government's actions does she think is most worthy of celebrating on Suffrage Day this Sunday: the closure of the pay and employment equity unit, the widening pay gap between men and women, the obliteration of adult community education, the funding cuts to early childhood education, the cuts to counselling for victims of sexual abuse, or the scrapping of pay equity reviews for low-paid women?

Hon PANSY WONG: Suffragettes like Kate Sheppard had a can-do, positive attitude. I tell you what: the National Government does the whole nation proud. The National Government had the first woman Prime Minister, the Rt Hon Jenny Shipley, and this Shanghai-born migrant Asian woman made it to be the first—

Mr SPEAKER: A point of order has been called. [*Interruption*] The House is having a bit of fun but it must obey the Standing Orders.

Sue Moroney: I raise a point of order, Mr Speaker. What the Minister has to say is very interesting, but she is failing to address the question in any form. I asked her which of her Government's actions she thought was most worthy of celebrating, and I gave her a list to choose from.

Mr SPEAKER: Members will know that when they give a list like that, Ministers may choose to give a different example of what they are celebrating, rather than pick from the member's list. The Minister may not think any of those issues is worth

celebrating, and there is no way I can stop the Minister from doing that. But I would ask the Minister to please be brief in her answer.

Hon PANSY WONG: National's vision for women is for us to have choices. That is why I choose to finish off by saying this Shanghai-born Asian migrant woman made it to be New Zealand's first Asian Cabinet Minister, thanks to the National Prime Minister, the Rt Hon John Key. We have a lot to celebrate—for migrants, for women, for everyone.

Pay and Employment Equity Unit—Report to United Nations

12. CATHERINE DELAHUNTY (Green) to the **Minister of Women's Affairs**: How will New Zealand's forthcoming report to the UN under the Convention on the Elimination of All Forms of Discrimination Against Women explain the Government's decision to axe the pay and employment equity unit?

Hon PANSY WONG (Minister of Women's Affairs): The work of the pay and employment equity unit within the Department of Labour was discontinued in 2009, following the completion of reviews in the State sector and the development of a full set of resources. The pay and employment equity tool kits continue to be made available to employers and individuals who request them on the Department of Labour's website. In 1972 it was a former National Government that passed the equal pay Act.

Catherine Delahunty: Why will the report imply there was nothing left for the pay and employment equity unit to do, when its findings on gender pay gaps across the public sector clearly show that this was not true?

Hon PANSY WONG: That is why the Ministry of Women's Affairs, which for many years has not had budget increases, received $2 million to tackle the pay gap. We are looking at new ways of tackling it, including working with industry training organisations on breaking into male-dominated sectors, and including flexible work practice. Can I share with the House the OECD report—

Mr SPEAKER: The Minister will resume her seat. It seemed to me that the Minister answered the question that was asked. She may wish to share with the House all sorts of things, but this is question time, and this is when questions are asked and answered.

Catherine Delahunty: Can the Minister confirm that when Cabinet agreed to axe the unit, it was committed to supporting the implementation of pay equity response plans in the public sector?

Hon PANSY WONG: Like I said, the resource kit is there to be used. All the chief executives have the responsibility to ensure that they are following through with all their reviews, and, of course, the ministry has $2 million to tackle the pay gap issue. According to the OECD report, which was published this year, New Zealand has the third-lowest wage gap out of—

Hon Trevor Mallard: I raise a point of order, Mr Speaker. I think the question was commendably short, brief, and to the point. It asked about the implementation of the plans that were in place before the Minister took over and responsibility was transferred to her department. Nothing that she said referred to the question.

Mr SPEAKER: Because there is a genuine public interest in this issue, and, after all, today is a celebration of suffrage, I ask Catherine Delahunty to repeat her question. I ask the House to listen to it carefully.

Catherine Delahunty: Can the Minister confirm that when Cabinet agreed to axe the unit, it was committed to supporting the implementation of pay equity response plans in the public sector?

Hon PANSY WONG: When the review was completed by the pay and employment equity unit, the results of the review and the resource kits developed at that time were

made available for all departments to implement, and all chief executives are held responsible for making sure that is being done.

Catherine Delahunty: I raise a point of order, Mr Speaker. I am still seeking an answer on the issue of the implementation of pay equity response plans.

Mr SPEAKER: Everyone listened very carefully to the question. I absolutely accept that what the member said was what she asked. It seems that the Minister has answered that her interpretation of the response plans that the member is referring to seems to relate to a tool kit of mechanisms available. If that is the Minister's interpretation of what the member is asking, then there is not a lot that I can do about that as Speaker. We have to take the Minister's advice that those plans seem to be incorporated in that tool kit of mechanisms.

Catherine Delahunty: I seek leave to table a minute of the Cabinet economic growth and infrastructure committee from August 2009, noting Cabinet's decision to support the implementation of response plans.

Mr SPEAKER: Leave is sought to table that document. Is there any objection? There is no objection.

Document, by leave, laid on the Table of the House.

Catherine Delahunty: Why is there no reference to progress on pay equity response plans in the draft report to the United Nations, when Cabinet has agreed to support them?

Hon PANSY WONG: The Convention on the Elimination of All Forms of Discrimination Against Women report consists of a broad-based report card for 4 years on what New Zealand has done to comply with that convention. That would be the best response, because with the 40-page report, there is a limit. We believe we have covered all the topics that we need to report on, but the ministry is going through consultation with women's organisations. If it is found that there are omissions, then we will be happy to look at that.

Catherine Delahunty: Is it not misleading for New Zealand's report to the United Nations to refer to the pay and employment equity unit as evidence of progress, when its recommendations have not been implemented and it has been unceremoniously axed?

Hon PANSY WONG: In the report we have a range of issues to comment on. In fact, as I quoted from the OECD report published in 2010, New Zealand has the third-lowest gender wage gap out of 26 countries. That is something we can be proud of, but the National Government will never become complacent on behalf of New Zealand women. That is why the Ministry of Women's Affairs received an additional $2 million of funding to continue to tackle the gender pay gap, which is 12 percent—5 percent lower than Australia's.

Catherine Delahunty: I raise a point of order, Mr Speaker. I asked a specific question about how the report refers to the pay and employment equity unit and its axing. I did not ask about gender pay equity in general; it was a specific question asking whether it was misleading to report on this unit to the United Nations, given that the Government has axed it.

Mr SPEAKER: That may be the member's view in asking the question, but the Minister gave a different view in answering it. If I recollect what the member said correctly, she asked why is it appropriate—or something like that—that the report does not cover this particular issue, and the Minister, in answering, said what the report did cover and argued that that was the important thing to cover. When it comes to a matter of opinion, it is a difference of opinion between the member and the Minister, and I cannot judge between those two positions.

Sue Moroney: Why does her draft report with regard to the Convention on the Elimination of All Forms of Discrimination Against Women fail to mention her Government's decision to scrap pay equity reviews for school support workers and social workers?

Hon PANSY WONG: I was just asked by one member why we mentioned the unit at all, and the other member's question covers all sorts of things. This is actually not as much my report as it is the Government's report on the last 4 years, compiled from feedback from each Government department. It is only 40 pages long. There is only so much that we can record in it.

Hon Trevor Mallard: I raise a point of order, Mr Speaker. Again, that was a very specific question about two particular reports and why they were not mentioned, and that was not addressed.

Mr SPEAKER: I hear what the member is saying, but I have to say in defence of the Minister that—far be it for me to judge the quality of the answer—I think she told the House that there was not room in the report to include that matter. Members can judge for themselves the quality of the answer and the quality of the decision, but it is not for me as Speaker to do that. I believe that is an answer to the question. The Minister was asked why, and that was what she said: there was not room in the 40-page report.

GENERAL DEBATE

Hon TONY RYALL (Minister of Health): I move, *That the House take note of miscellaneous business*.

I am sure Ministers on this side of the House and members opposite would want to join me in thanking the public services of Canterbury for the effort they have made over the last 2 weeks in support of the people of Christchurch and Canterbury. The effort has been tremendous, and I know that Ministers and members from all sides of the House have been impressed with the commitment and the dedication of so many people who, while themselves suffering damage and problems, were available to help their fellow citizens in the region over the time of the quake. Even today Ministers are in Canterbury, working with organisations in order to assist the recovery there, and, as members are aware, the House passed important urgent legislation yesterday that will enable a quicker response to the demands of the people of Christchurch and Canterbury.

Regarding public health, I can say that the hospital services in Christchurch are now up to speed and operating as usual. Elective surgery, which was stopped at the time of the earthquake, has recommenced in Christchurch today. The general practitioner surgeries and pharmacies are fully functional. The neonatal intensive care unit remains at capacity—one of the points to note from the earthquake is that a lot more babies have been born than normal at this time of year—and boil-water notices remain in Kaiapoi, Kairaki, and Pines Beach.

I have to say that when I visited Christchurch Hospital, the sense of calm and the determination of all the staff to provide services for the people of Christchurch were very impressive. The public health service has responded strongly to support the effort in Christchurch and Canterbury. About 60 or so staff have flown or otherwise travelled from other district health board areas in order to support the Canterbury District Health Board in its efforts.

We should not just look at the tremendous work that the hospital services have done, but also acknowledge the amazing effort of the general practice and pharmacy community in Christchurch. Within days just about every general practice in Christchurch was up and running, supported by all but about two or three pharmacies, which were badly damaged, and providing a good-quality service for the people of the region. I visited the Pegasus Health people in Christchurch. Within minutes of daylight

in Christchurch, people from the general practice level were lined up and ready to help, and that was repeated right across the public health services in the city.

A large number of rest home residents from a couple of homes have had to be moved to other places. I visited one of those rest homes in Avonside in Christchurch. It would be fair to say the owners of the rest home felt for the many residents who had to move. These people had spent some time in the rest home, had all their friends there, and that was where they had made their lives. Having to move was very disruptive to those older folk. But what is absolutely clear is that right across Canterbury there has been strong support from the hospitals, the general practice community, the pharmacies, and the community nursing service. People have received a really good service.

The challenge hereon in is to provide support for the people of Christchurch and Canterbury as they deal with the aftermath. A whole lot of non-governmental organisations and other health providers are out providing counselling and support, and are available for the people of Canterbury who have any problems, issues, or concerns they may want to raise. There are still a number of areas where there is pressure on the health services. Fortunately all our other facilities have reopened, including Lincoln Maternity Hospital and the Burwood Birthing Unit. The ambulance services also need significant acknowledgment for the work they have done. The presence in the welfare centres was spectacular, and it will cease at noon today when those things change. We have learnt an awful lot about how those services can be improved.

Ministers and members opposite would want us to record our congratulations and thanks to the public servants from departments across the spectrum who have worked so well following the earthquake.

KEVIN HAGUE (Green): This is Conservation Week, and it is also the International Year of Biodiversity. In this country we have been extremely fortunate to have some extraordinary biodiversity assets as a result of our extremely wide range of habitats and historic freedom from pests, resulting from geographic isolation. Our small islands represent one of the world's treasure troves for biodiversity. We have the opportunity to enjoy that, but also the responsibility to preserve it. Our history has not been great on that front. Since human habitation we have lost 85 percent of our lowland forests, 90 percent of our wetlands, 43 percent of our amphibians, 20 percent of our bats, and somewhere between 20 and 40 percent of our birds. That is from the world's great avian paradise. I find it personally impossible to visit Zealandia, just up the road in Karori, without being profoundly saddened by the catalogue of what has been lost.

But what compounds this and makes it so much worse is the extent of the biodiversity crisis that we still face. Well over 2,000 species in New Zealand are currently threatened with extinction, and most of these are in the most modified and least protected parts of the country. Amongst the species threatened with extinction we number all of our frogs and bats, 89 percent of our reptiles, 50 percent of our freshwater fish, some of our iconic marine mammals, and 57 percent of our remaining birds. Yet, of the more than 2,000 threatened species, only around 250 receive any active conservation protection from the Department of Conservation.

Pivotally, we have critical habitat being threatened by human activity or neglect. The Resource Management Act has failed to preserve and enhance endangered habitat on private land, and no onus is placed on the Minister of Conservation to develop species recovery plans.

The signs of further devastating decline are everywhere around us. The last wetlands are being drained, our last wild rivers are being dammed, the remaining lowland forest is being fragmented and poorly protected, freshwater quality shows an increasing decline, we have a pillage mentality being permitted in the fishing industry—most vividly illustrated, I guess, in the Antarctic toothfish in the Ross Sea, for goodness'

sake—and intensive pasture-based farming is now expanding into precious tussock land, such as the iconic Mackenzie Basin.

What has our Government's response been to this situation? The Government has cut the budget for the Department of Conservation, which is already strapped for cash, by a further $53 million over 3 years, thereby further weakening the department's already parlous ability to respond to the crisis. There have been budget cuts to biosecurity services, threatening our fragile ecosystems with yet more shocks from pest incursions. We had a clear indication this year, in John Key's speech to open Parliament, that this is a Government that sees the environment purely as a set of raw materials for commercial exploitation.

I will illustrate the Government's lightweight interest in conservation by reference to question time yesterday. I asked the Minister of Conservation: "How does the Minister think New Zealanders will feel to learn during Conservation Week that our own company Meridian Energy may flood 300 hectares of pristine conservation land, putting at risk more than 20 threatened species, when there is a perfectly good alternative scheme that would meet the West Coast's power needs?". Her answer was: "I think that for a rowi, one of our rarest kiwis, to have been hatched at the beginning of Conservation Week—he was unscathed by the earthquake and is now named Richter—will put a smile on the faces of many New Zealanders as to the importance of conservation in New Zealand."

Hon Ruth Dyson: What's that got to do with the dam?

KEVIN HAGUE: That is exactly the point, because her answer had nothing to do with the fundamental threats that we face. I would have thought the Government might learn a lesson from the huge public response to its mining plans. New Zealanders love those places, and we want to protect them.

Hon JOHN CARTER (Minister of Civil Defence): Eleven days ago this country, and particularly the people of Canterbury, experienced a disaster of a worldwide proportion. I take the opportunity to comment on the fact that we have come through the stage of shock and trauma that the people have suffered, and are now moving into the recovery stage. That is not to say that there are not people in the Canterbury area who are still traumatised and will continue to be so for some time, if not for some months yet to come. I must say I have not been sleeping down there in Canterbury. I have been down there quite regularly, and I feel quite tired, so I can imagine how many of the people down in Canterbury must be feeling as a consequence of sleepless nights caused by the aftershocks.

The people, their safety, and all those things, are very important. We passed the Canterbury Earthquake Response and Recovery Act through this Parliament yesterday, and I thank members of the House for their support in that regard. I know that some—and all of us, I guess—have questions about how the legislation will operate, but we certainly intend to make sure it works for the people of Canterbury without inhibiting or causing problems for the rest of New Zealand.

However, we need to acknowledge the fact that many issues still need to be addressed as we move forward. We have heard a significant number of comments about housing and buildings down in Canterbury, and those are important, but we should not overlook the fact that there are also things like the stopbanks on the Waimakariri River, which are a threat to Kaiapoi, that need to be addressed. Something strange that we do not know about yet has happened to the aquifer there, too, because whereas hitherto water had to be pumped from bores on farms, water is now flowing from them. There are all sorts of issues associated with the foundations of buildings and stability that we will have to find out about as we go forward. We have geotechnical engineers down in Canterbury doing that work now. There is still a lot to be found out, and we are

addressing the issues as rapidly as we can, but it will take some time. I know that it is difficult, but people will have to exercise patience.

I rise, basically, to pass on my thanks to all those people who have been involved in the events that occurred and the recovery. I particularly acknowledge the civil defence personnel and all the people associated with them, as well as the Fire Service, the police, the Ministry for Culture and Heritage, and the Ministry of Tourism—I could go on. A huge number of people have been involved in organisations and departments down in Canterbury, and all of them have been stoic. Many of those people have had their own personal problems at home, yet they have left those problems behind as they have gone to work to deal with other people's problems. That has been a real challenge for many of the people who have been at work. They have worked long, long hours and put in days and days, then gone home to deal with their own personal issues in their homes and families. They all need to be commended, and New Zealanders acknowledge that and say thank you for the way in which the people of Canterbury have responded. I know that the people of Canterbury would want me to thank the rest of New Zealand for the way it, in turn, has responded to their needs in terms of giving help to them.

It certainly has been an amazing exercise, one which we wish no one would ever have to go through, but we can be proud of the fact that we have a structure that has responded, proud that the people of Canterbury have responded in the way they have, and proud of the way New Zealand has responded to this event. Judging by the comments of people from around the world, we certainly are a standout in the way we have responded, to date, to the emergency that occurred, to the events that have unfolded, and to the sheer size of the event.

In concluding, I say that although it is true that we have a long way to go, this Parliament has given us the opportunity, through the new legislation, to allow the recovery to happen. We will be there alongside the people of Canterbury to give them all the assistance they need to ensure their recovery is made as rapidly as possible.

Hon LIANNE DALZIEL (Labour—Christchurch East): I offer my appreciation to the whips for allowing me to speak today, as this is the first day that I have managed to get away from Christchurch. My electorate of Christchurch East has been hit very badly by the earthquake, and it has some of the most damaged suburbs in the city. I live in Bexley, which is one of those suburbs. People have asked me over the last few days how I am, and I say to the House that I am not very good. I have listened to constituents pour out their hearts about the loss of their dream homes, and say they do not know how they will ever be able to recover from that loss. Some of those dream homes face our waterways, such as the Bexley Wetland, Horseshoe Lake Reserve, the Avon River, where Dallington is located, and the lagoon at Brooklands.

The tremendously hard thing that I have had to cope with over the last few days is listening to the tragedy that I have heard poured out. I am a bit of a sponge for that sort of thing, and I know that is my great weakness in life. But I really have been impressed by the willingness of people to help others, even though they are suffering themselves. I have never experienced anything like the earthquake. Those members who know me well know that I am terrified of earthquakes, but my terror has been located in Wellington. It was not located in Christchurch, and I have had my world turned upside down—literally.

Robbie and I set off pretty early on, as our house looked pretty good. We wanted to see how the electorate was doing. We went through Bexley, where we live, and there was lots of flooding there, which members will have seen on the television. We went on to Tumara Park, Parklands, and Brooklands. The volunteer fire brigade at Brooklands gave me my first coffee for the day. I just want to put that on the record, because it was instant coffee and I did not care about that. Those who know me really well will know it

was pretty special that I was prepared to love instant coffee at that moment. We had no water or power at home, so that was why I was hanging out for a coffee. I attended the Brooklands civil defence meeting at 9 o'clock. Although there was not much to be reported there, the meeting really emphasised for me, very early on, how important the volunteer networks are, especially in the suburbs a little bit further out from the core infrastructure that the inner-city suburbs enjoy.

I then went to Dallington and saw it had sustained serious damage. But what I saw at St Paul's School really broke my heart. I had visited the school only 3 days before, so to see the playground completely cut up, the church falling over at the back—and the parish had buried Father Miles O'Malley only the week before. I spoke to a number of people around there, and they said the damage probably would have broken his heart, so in a way it was a blessing that he was spared seeing the tragedy that has befallen that community. I came home exhausted, and I slept on the couch downstairs that night.

On the following day Brendon Burns left a message on my answering machine. He and Phil Goff were on their way out to Kaiapoi with Carmel Sepuloni. They stopped at a petrol station and encountered a very irate taxi driver who lived in my electorate, and who said nobody had been to see them. So I went to Kingsford Street, and I was shocked at what I saw. People had no power, no water, and no sewerage. There was silt everywhere. That was when I started to learn about liquefaction; I had never heard of it before. It looked like a war zone. The silt was everywhere; people were working tirelessly with shovels and wheelbarrows. I spoke to some residents on the side streets, and they really did feel quite forgotten.

I just put on the record my congratulations to Roger Sutton and his team. I used his direct line only three times in that whole period, and each time the call was followed up. I also put on the record the importance of elected representatives having a direct line. People rely on us to be able to get a message through when there is an urgent situation, and we need to have a direct line. We now have it, but it was 10 days after the earthquake before we got it.

That day was when some of my constituents let me in to take photographs of some of the damage, and I put them up on my Facebook page so that people could see them. That was done to show that these homes were not all older ones; they were 4 to 5 years old. They were dream homes that people had saved up for.

The next day Kath, one of my staff members, and I left the office to do a quick scan around Bexley and then went into South New Brighton. I then joined up with Councillor Chrissie Williams. Because I needed support and she needed support, we worked together.

I am happy to work with that community. I feel privileged and proud to represent it in Parliament, and I will help it to rebuild.

NICKY WAGNER (National): It has been a really tough time for Cantabrians. From 4 September the earthquake has changed everything. The world as we knew it has come to a shattering halt, but very soon the state of emergency will be lifted and we will begin the restoration and rebuilding phase. This earthquake was a crisis of massive proportions, but with crisis comes opportunity. Cantabrians who responded so magnificently to the crisis must dig even deeper now and seize the opportunity to rebuild our infrastructure, our communities, and our quality of life. I have lived in Christchurch all my life. I love the city, and I know that if we work together we can make it even better yet. Like a phoenix—like Napier—Christchurch too can rise from the rubble in a new, more beautiful form.

When the early settlers came to Christchurch they came with the dream of creating the perfect society. They modelled it on Victorian values and English towns, but they did a pretty good job. The layout is simple and works well, even today. Some of their

original, beautiful buildings, such as Christchurch Cathedral, the provincial chambers, and the arts centre are still here. Those places are living testimony to our appreciation of historic buildings and to the dollars spent on earthquake strengthening.

But the early settlers did not get everything right. They often used the old, existing English plans, but in the Southern Hemisphere the windows all face the wrong way. They made no attempt to build to our landscape, or to our climate, or to accommodate a different way of life. This time, when we rebuild, we can use local knowledge, and have the experience of hindsight and a vision for the future.

That day, 4 September, was an important day for Christchurch before the earthquake. It was the day that Christchurch people were invited into Te Hononga—the new Christchurch Civic Centre. The opening did not happen, but the building is still there, "shaken but not stirred". It is a great example of what the people of Christchurch can achieve in our rebuild. It is a recycled building. Architect Ian Athfield has reused the best from the past—the bulk, the size, the strength of the old Post Office centre has been reconfigured for modern use. It is a thoughtful building; it reflects its function as a place to bring people together, and its ownership structure. Te Hononga means "the joining". The building is a partnership between Ngāi Tahu and the city council, and it is an inspirational place of light, of space, and of art that reflects the people who meet and work there. It is a high-tech, well-engineered building. It contains all the latest technology to enhance the capacity of people and to improve productivity. It is a great place to work, and in great places one gets great work. It is an environmentally friendly building with a record six-star eco-rating. It captures its water, uses waste gas for heating, and is energy-efficient.

Those are the values that must underpin the new Christchurch. We must use the best from the past but reconfigure it for the future. We must utilise the latest technology to enhance productivity and strengthen our economy. We must be environmentally friendly to ensure long-term sustainability for our city. Most important, our city must provide a great quality of life for our people, especially the next generation so that they will want to make Christchurch their home. Christchurch is a beautiful city, it is a great city, and it is the responsibility of all our citizens to seize this hard-earned opportunity and work positively together to build a better and brighter future for Christchurch. Thank you.

Hon NANAIA MAHUTA (Labour—Hauraki-Waikato): Every MP would acknowledge the extensive damage caused to families and communities in Christchurch as a result of the earthquake. It is right that members opposite have talked about the huge challenge of rebuilding the city, and, more important, the lives of people who have been absolutely shaken as a result of their experience. But I want to ensure that some of the other issues affecting families are not masked by this particular debate. More important, I want to know what the Government will do about the increasing pressure on every household in New Zealand, including the ones in Christchurch, arising from the increased costs they are facing—increased costs generally, increased costs as a result of the GST hikes on 1 October, and, more important, their effect on low and middle income earners. Seventy-three percent of the Hauraki-Waikato electorate earns $40,000 and will see little or no benefit from the tax cuts delivered by National and the Māori Party. GST will hurt them at the checkout, and when purchasing every consumable item.

I suspect that vulnerable families in Christchurch are worried about rebuilding their homes, the cost in the increase of GST, and the impact that it will have on them. But, more important, they are worried about how they will cope in the immediate term with that rebuilding effort, and the pressure of costs on them. That is sad, because the real winners in National's tax package are actually high-income earners—not the low-

income earners, not the vulnerable families, and not those on fixed incomes like superannuitants. More needs to be done to hear their voice.

The Christchurch earthquake, if it does anything, should let us all know in this House that although New Zealand is a huge land mass, reverberations are felt throughout it. I think that the reverberation from increased household prices will be felt stiffly throughout every household across the country, just like an earthquake, on 1 October. I want to know where the Māori Party is on this issue, because it voted for tax cuts that deliver nothing to Māori households. The Māori Party voted for GST increases that will deliver nothing to Māori households; in fact it voted on an issue that, more important, affects families in the pocket and will have a fundamental impact on how they cope going forward.

There are a number of areas where we have seen costs increase generally since National came into Government, and the indications are that those cost increases will continue. Rents, for example, have increased by 9.5 percent. In addition, 47 percent of landlords say that they will increase rents further to offset issues around being denied property depreciation write-offs. Rates have increased by 6.4 percent, more so as a result of the Auckland super-city. Families in Auckland are really fearful of what the level of rates increase will be for them, as they try to marry up the huge costs that it will take to move towards the super-city structure. I expect that that will be the case throughout New Zealand.

General practitioner fees have increased by about 6.5 percent. More and more families are being told to seek after-hours services because they cannot see their local general practitioner, and an after-hours service can cost up to $69. I ask members to factor that cost into a Christchurch family and see how they would feel if they were told that they could not take their baby to their general practitioner and had to pay $69 to go to an after-hours service. Petrol companies have hiked up petrol prices, and energy and electricity prices have also gone up. These are the types of pressures that households are feeling; this is the reverberation.

I am all for supporting the rebuilding effort that is going into Christchurch, but it should not, and cannot, mask the real effect that families, low and middle income earners, will feel on 1 October because of the tax cuts that deliver to high-income earners and not to low-income earners, and because of the GST hikes that will affect every low-income and vulnerable family. More needs to be done on that front.

Finally, let us look at this issue. The Government needs to show what its plan for growth is. It cannot isolate its effort to Christchurch; the rebuilding effort must go nationwide. We need to see more growth, so that there is less pressure on household incomes.

PESETA SAM LOTU-IIGA (National—Maungakiekie): I take this opportunity, along with my parliamentary colleagues, to offer my condolences, sympathy, thoughts, and prayers to those who have been affected by the Canterbury earthquake. It has been debated often since the day of the earthquake, but I offer some short words on what has occurred in Canterbury. I spent some time in Canterbury during my youth. I did my professional legal studies there, and I saw firsthand during that time the resilience and the fortitude of the people of Canterbury. We see it in a number of areas when we visit the place: on the sporting field, in businesses, and in schools. I know that the people of Canterbury will be back from this natural disaster and I wish them well.

I take up some of the issues that the previous speaker, the Hon Nanaia Mahuta, touched on in terms of what this Government is doing about the economy and the plight of people across this country. I have been across my own electorate of Maungakiekie, and I have talked to business owners, residents, and superannuitants. It is tough; it is tough right across this country, from an economic perspective. But they tell me that they

are pleased with the leadership of our Prime Minister, the Rt Hon John Key; they are pleased with the leadership of National in bringing this country out of the recession; they are pleased with policies that are inclusive and are about promoting growth and opportunities in New Zealand; and they are pleased about the upcoming tax cuts on 1 October.

The previous speaker said that the tax cuts do not affect the poor. I correct that speaker by saying that 73 percent of earners will face a top tax rate of 17.5 percent. I repeat for her benefit that 73 percent of earners will face a statutory income tax rate of 17.5 percent or less. That is about distributing the benefits of tax cuts across the board.

I spoke at a small-business conference in Mount Wellington in my electorate of Maungakiekie. Small-business owners are the lifeblood, the heartbeat of this country; over 95 percent of companies in this country are small to medium sized enterprises. The small-business owners said to me and to David Clendon, the Green MP who was there with me, that they do not want more compliance, they do not want more taxes, and they do not want more regulations that hinder their ability to transact and to export goods overseas. It is critical to our future and the future of our children that we have an economy that pays for itself, and that we have an economy in which exports and the export sector are growing. Under the previous Government, for 5 consecutive years exports contracted and decreased.

Aaron Gilmore: No, no!

PESETA SAM LOTU-IIGA: That is right, I say to Mr Gilmore. That is what happened under the previous Government. I have no issue with expanding some of the social services in this country. But they must be paid for by an export sector that contributes to the growth of this country.

The previous speaker also mentioned electricity prices. As the spokesperson on energy, that member will know that under the previous Government there was a 72 percent increase in electricity prices over 9 years—72 percent. But the rate of inflation went up by only 24 percent. We are a Government that is taking action on many of today's problems.

H V ROSS ROBERTSON (Labour—Manukau East): Tēnā koe, Mr Speaker. Before addressing the issue of GST and its impact on senior citizens, let me acknowledge those people in Canterbury who are suffering the devastating effects of the terrible earthquake. Let us also acknowledge the impact that it has had on members of this House who have suffered personally in this tragedy—my own colleague on the Labour side Brendon Burns and, I understand, Amy Adams and the Hon Gerry Brownlee. Let us remember that these people have suffered personally as well.

I will address the issue of GST and its impact on seniors. I ask where the voice is for senior citizens in this Government. Hello? Hello? There is no one there. There is no one there standing up for senior citizens—no one at all. I challenge the Minister for Senior Citizens to get up off his hind legs, take a call in this House, and justify why there should be a 2.5 percent increase in the rate of GST, adding up to 15 percent, which will attack the most vulnerable in our society. I tell the Minister to stand up, take a call, and answer the challenge. What is the Minister doing about addressing the impact on the most vulnerable in our society?

Senior citizens are an important constituency who have contributed significantly to this country. They have contributed significantly to building this nation. We have to look just around the wall at the plaques—Monte Cassino, Gallipoli, Crete, just to name but a few. When the Hon Phil Goff, leader of the New Zealand Labour Party, offered me the role of spokesperson on seniors, I was absolutely delighted—absolutely delighted. It had nothing to do with the fact that I have an inherent interest—nothing to do with that—but with my desire to serve others. I wonder how much the appointment

of Dr Woods as the Director General of Health will impact on serving others and the elderly.

The attacks on seniors continue. If we go around the country and talk to Grey Power groups, one of the things we find is that they are unhappy with the advocacy for them at the highest levels of Government. They ask where the voice is, and who in Government is speaking up for seniors. The Government is ineffective. I have been told about the cuts to the accident compensation scheme, especially cuts to eligibility for hearing aids and how that impacts on seniors. That is very important. We heard today about the Retirement Commissioner, Diana Crossan, who gives a 3-yearly report to the Government. As I understand it, there is information in her report about the possibility of raising the age of eligibility for superannuation to 67. I want to know what the Minister for Senior Citizens thinks about that. What we have here—

Hon Members: That's your policy.

H V ROSS ROBERTSON: Oh, look at them, it is obviously having some impact. They are hurt. They will not speak up in this House for seniors, but, I tell members, I will. I am a strong advocate for senior citizens, and I will continue to be a strong advocate, because nearly 60 percent—nearly 60 percent—of our superannuitants have nothing more than basic superannuation on which to survive. But we are having an increase of 2.5 percent in the rate of GST. Who will be better off? Cabinet Ministers. Cabinet Ministers, those high-income earners, will be getting an extra $100 - plus a week, but will senior citizens? No way. What will happen? Increases in GST will increase the rate of inflation up to about 6 percent. The so-called increases given to seniors will not even compensate for that. In finishing, let me say this: I challenge the Minister for Senior Citizens to speak up and to advocate on behalf of seniors in this House. Tihei mauri ora! Tēnā koutou, tēnā koutou, tēnā koutou katoa.

Hon JOHN BOSCAWEN (Deputy Leader—ACT): Yesterday I rose and spoke on the Canterbury Earthquake Response and Recovery Bill. We have heard further this afternoon of the devastation and the destruction that was borne on Canterbury. The earthquake in Canterbury is probably the No. 1 natural disaster that has happened in my lifetime. There may not be another disaster during my lifetime that is as dramatic and that has such far-reaching consequences as what has happened in Canterbury.

On a similar note, later this afternoon the House will debate the first reading of the Marine and Coastal Area (Takutai Moana) Bill. I suggest that this bill is the single most important that has been debated in my short time in Parliament. I suspect it will be the most important bill that will be debated in my entire parliamentary career. This bill has major constitutional significance. It has the potential to alienate—

Hon Trevor Mallard: I raise a point of order, Mr Speaker. I note that my colleague Darren Hughes, who is much more up to date with the Standing Orders, is not here. It certainly used to be against the Standing Orders for members to anticipate a debate. I am not sure whether we have abandoned that rule now, but in the past when something has been on the Order Paper for debate, the substance of it has not been able to be debated in the general debate.

Mr SPEAKER: The member is certainly right that in the past that has been correct. I am not aware of the Standing Orders having been changed to change that. So since that bill is on the Order Paper, it may be OK to refer to it, but to focus the entire debate on it is in some ways to anticipate the bill. I do not want to be too pedantic about it, but a point of order has been raised. I alert the member that to talk about the bill in very, very general terms is probably OK.

Hon JOHN BOSCAWEN: Thank you, Mr Speaker. I will talk about the Foreshore and Seabed Act 2004, an existing Act of Parliament, and the circumstances that gave rise to the passing of that Act.

Let me address the issue of the emissions trading scheme. I campaigned vigorously against it. In its simplest expression, one can look on it as a surcharge of $500 million per annum on electricity and petrol for all New Zealanders. That will create a huge pool of money, which essentially will go to subsidised forests. The Government, with the emissions trading scheme, decided to tax New Zealanders $500 million a year and give away that money. My colleague David Garrett will speak later this afternoon on something far more important than the emissions trading scheme and something of far greater constitutional significance.

The Foreshore and Seabed Act 2004 came out of the case of the *Attorney-General v Ngāti Apa*. In essence, in that case some mussel farmers in the Marlborough Sounds sought a ruling on customary title. They sought a customary title, and the Court of Appeal ruling in 2003 overrode the decision in 1963 on the so-called Ninety Mile Beach case. What did the justices say?

Hon Trevor Mallard: I raise a point of order, Mr Speaker. Notwithstanding your ruling, Mr Speaker, after a minor diversion, the member has gone back to a speech that is now completely on the matter that is further down on the Order Paper.

Hon JOHN BOSCAWEN: Speaking to the point of order, Mr Speaker, I am talking about the Foreshore and Seabed Act 2004 and the circumstances that gave rise to its passing. I was talking about the decision made by the justices of the Court of Appeal of New Zealand in *Attorney-General v Ngāti Apa*.

Mr SPEAKER: I hear the honourable member on this issue. I must say that the Standing Order relating to the general debate is very broad. It does not preclude any topic being excluded from the general debate. Members traditionally talk about almost anything in the general debate. I do not want to start constraining too much what members can talk about. Standing Order 109 states: "(1) A member may not anticipate discussion of any general business or order of the day. (2) In determining whether a discussion is out of order, the Speaker has regard to the probability of the matter anticipated being brought before the House within a reasonable time." The foreshore and seabed bill on the Order Paper will be becoming before the House very shortly. The member will need to be a little careful. He should not refer to the detail in that bill. As long as the member does not do that, I will not constrain him too much during the general debate.

Hon JOHN BOSCAWEN: Thank you, Mr Speaker. I will not speak about the detail of that bill, but I will speak about the circumstances that gave rise to the passing of the Foreshore and Seabed Act 2004. I would like to take this opportunity to say to National that the passing of the 2004 Act was of major constitutional significance. As Tariana Turia reminded me a short time ago, the ACT Party opposed the passing of the 2004 bill. Our reason for opposing its passing was that we believed in property rights. We believed that Māori should have the right to bring a customary claim, as the judges in the Court of Appeal said in 2003. The judges said that in order to bring a case for customary rights, one had to show continuous and exclusive occupation of land from 1840. The judges said that although Māori should have that right, the number of Māori who would be able to meet that test would be small, if any.

What did the Labour Government do at the time? It went out and confiscated the rights of Māori. It passed a law that denied Māori the chance to seek customary title. I will not discuss what is proposed—I will leave that to my colleague Mr Garrett to do so in less than an hour—but we have to be very careful about the consequences of passing and unwinding that sort of legislation. I say again that what gave rise to the 2004 Act was a ruling by Court of Appeal judges that one had to show exclusive and continuous occupation of that land from 1840. The knee-jerk reaction of the Labour Government was to pass the Foreshore and Seabed Act.

LOUISE UPSTON (National—Taupō): I join my colleagues in the House in acknowledging the courage that Cantabrians have shown in this time of crisis. In a crisis like this people look for decisive action and certainty. They look for things that will give them the confidence to move forward in their rebuilding. Unfortunately, in these times they do not need scaremongering, and that is exactly what members opposite are trying to do when they talk about the tax cuts that come in on 1 October.

I want to tell the House about the comments made by some of my constituents in the Taupō electorate when they were provided with some extremely misleading information from the Opposition. The Opposition is trying to say that National's GST is 15 percent, putting all of the cost of GST on us. Let us have a little lesson in history. GST was put in at 10 percent in 1986. Who put it in? Labour did. GST went up to 12.5 percent in 1989. Who put it up? Labour did. So it is false information to say that National's GST is 15 percent. I object to the scaremongering in communities that are vulnerable right now. In particular, I think it is despicable to talk about that in Canterbury at this time. It is extremely insensitive.

Let us talk about 1 October, because it is a time that my constituents are looking forward to. They are looking forward to having more money in their pocket on 1 October. The average family will be $25 a week better off. Labour members tend to say that seniors are not doing well under National. I will correct that. They will be $140 a fortnight better off under this Government. I think that members opposite must struggle with their maths if they cannot calculate the difference between 12.5 percent and 15 percent, and if they cannot figure out that with seniors being $140 a fortnight better off, they are way better off than they were under Labour.

Let us look at some other examples. I am interested in the well-being of families in my electorate. Families tell me that they have been struggling, and they have been struggling whether they are in Tokoroa, Taupō, or Tūrangi. I know they are struggling, and that is why they are looking forward to having more money in their back pockets on 1 October. There will be $4 billion in tax cuts, and GST will bring in only $2 billion. Again, that shows us that members opposite do not know how to do the maths and figure out that New Zealanders will be better off on 1 October. New Zealand superannuation, Working for Families, and benefit payments also increase on 1 October. I tell the House what my constituents are telling me: 88 percent of them think that this Government is on the right track in what it is doing with tax changes, and that is across the electorate.

Hon Nanaia Mahuta: In Tokoroa? In Pūtāruru?

LOUISE UPSTON: Absolutely, in south Waikato, Taupō, and Cambridge. People are looking forward to 1 October because they know that this will be great for their families.

We do recognise that people are having tough times, and for the people of Canterbury the times are tougher for them right now. It is our job to ease that burden. This is a decisive Government that is doing well in a crisis and doing well to grow our economy. That is what New Zealanders want to see. Let us look at the tax changes. They are the most significant changes in 25 years.

Phil Twyford: Show us your facts.

LOUISE UPSTON: The member cannot figure it out. He is raising his hands in terms of how it works. It is about putting the incentives in the right place. If people earn more for working harder, then that is called an incentive. It is an opportunity for people to earn more and have more money in their pocket for their family. That is great news, and that is why this Government is proud that on 1 October the vast majority of New Zealanders will be better off.

Dr RAJEN PRASAD (Labour): Like my colleagues and members opposite, I also record my good wishes to the people of Canterbury, my admiration for their resilience and their ability to work so hard and come together at this time, and my admiration for the way in which all the members of Parliament from that area are pitching in together to bring assistance to the city. I have not gone to Canterbury—I do not want to be a tourist—but when the time is right, I will go and visit my community and express my good wishes to them personally. I know my colleagues there are doing an excellent job.

I want to focus on another event that is about to occur, and that is the tax switch to a GST increase that is coming up and the certainty of increasing costs, especially for the most vulnerable. The previous member who spoke, Louise Upston, believes that this was scaremongering. I would like the member to explain where the scaremongering is. Indeed, members on the other side have engaged in intellectual dishonesty, by taking a particular case and not taking account of all the effects on each particular family that will come on 1 October. This Government talks about equity and fairness, but Miss Upston might like to listen to the definitions of equity and fairness because that member's Government is taking a rather odd definition of those.

Mr Bill English talked about that in his response to the Tax Working Group report. He said that changes would have to meet the test of equity and fairness. Well, the chickens are coming home to roost, because the time is nigh when people will begin to see their pay packets. They will go to supermarkets, they will buy groceries, and they will look at their expenses going up. They will wonder about the myth that members opposite have put forward that everybody will be well off, because they will not be well off. People simply do not believe it. There is no evidence to show it. The Government members are leaving out some very, very important pieces. The equity and fairness they talk about is the certainty that 1 percent of taxpayers will receive 15 percent of the $14.3 billion tax package. I ask how members opposite define equity and fairness when that is the effect. If the facts be known, this is a tax swindle. When we look at it, we see that one-third of the $14.3 billion will go to the top 5 percent of earners. That may be equity and fairness in the minds of those members opposite; it is certainly not seen as equity and fairness on this side of the House.

What members opposite have failed to do—and one does not understand why, because they have all the tools—is satisfactorily explain why they have not modelled the total costs on an average family, which is a family on an average income or low income, a family with children and child-care, and a family with a mortgage. Those are very ordinary, everyday New Zealand families. When the members opposite begin to model those costs, they will see that those families are not well off. There is any amount of evidence. We know that this opportunity will be taken by many others to go beyond what GST will do. For example, members opposite know that rents have already increased by 5.9 percent. In addition, 47 percent of landlords say they will increase rents further as they go forward. Rates have increased by 6.4 percent. When we look at the increase of that on the average person with a home—

Aaron Gilmore: What is average?

Dr RAJEN PRASAD: The average income is $50,000; the member might have known that. General practitioner fees went up by 6.5 percent last year. Has that been factored into all of the costs that are going to happen? Most petrol companies hiked their prices by 3 percent. It is a bad deal, and it will be a bad day for the people of New Zealand. Thank you.

Hon TAU HENARE (National): Today, 15 September 2010, marks the 70th anniversary of the Battle of Britain. In that battle 127 Kiwi soldiers fought, and 20 of them lost their lives. New Zealanders made up the second-largest number of foreign aircrew involved in the Battle of Britain.

Hon Trevor Mallard: They were fliers, not soldiers.

Hon TAU HENARE: He has to be picky—he just has to be picky. Even on a solemn occasion, he cannot resist himself. He just cannot handle it.

I will talk about a real New Zealander in that battle—Air Chief Marshal Sir Keith Park. He was a Knight Commander of the Order of the British Empire and the winner of the Knight Grand Cross of the Order of the Bath, the Military Cross and Bar, the Distinguished Flying Cross, the Legion of Merit, and also—excuse my pronunciation—the Croix de Guerre, the French war cross.

He was born in Thames. He was a King's College old boy, and also an old boy of Otago Boys' High School. He was a New Zealand soldier, a British soldier, and also a member of the Royal Air Force.

One stunning thing about this man is that he was a World War I veteran as well. He was a veteran who had gone ashore at Anzac Cove, and who also had led an artillery attack on Suvla Bay at Gallipoli. He was wounded at the Somme. To me, he epitomises the courage and perseverance that is shown in times when we really need courage and perseverance. With an eye for detail, he led the defence of Britain in 1940. Many other great war heroes, including Sir Douglas Bader, Lord Tedder, and Sir Trafford Leigh-Mallory, have attested to Sir Keith Park's brilliance and eye for detail.

I raise the topic of Sir Keith Park today because thousands of kilometres away, on the other side of the world, a statue of him is being unveiled—and not before time. Many, many soldiers who defended the British Isles in those very dark times would have attested to Sir Keith Park's resilience and brilliance. It saddens me that 70 years have gone past and we have never had a memorial to—I believe—one of New Zealand's greatest war heroes. We have stories about Ngārimu, we have stories about Upham, but the story of Sir Keith Park has been somewhat lost in the space of time since that battle.

When Sir Keith Park came home in 1946 he retired, and he spent the rest of his life here before passing away in the early 1970s at the age of 82. He spent the majority of his time back in New Zealand serving his community, and he was a councillor on the Auckland City Council. So that is another serendipitous event being remembered as the Auckland super-city is happening just around the corner.

On behalf of this House and this Government, I say a big thankyou to Sir Keith Park—a big thankyou—because I believe that if Britain had fallen in those dark days we might not be who we are, and a whole lot of things might not have happened. I think we owe a debt of gratitude not only to Sir Keith Park but also to the thousands and thousands of soldiers who defended Britain in those dark days, and also to the mums and dads. I go on record to commemorate, and put into the record of the House of Representatives, his name and our gratitude to him.

The debate having concluded, the motion lapsed.

MARINE AND COASTAL AREA (TAKUTAI MOANA) BILL

First Reading

Hon TARIANA TURIA (Minister for the Community and Voluntary Sector) on behalf of the **Attorney-General**: I move, *That the Marine and Coastal Area (Takutai Moana) Bill be now read a first time.* At the appropriate time, I intend to move that the Marine and Coastal Area (Takutai Moana) Bill be referred to the Māori Affairs Committee for consideration, that the committee report to the House on or before 25 February 2011, and that the committee have the authority to meet any time while the House is sitting except during oral questions, and during any evening on a day on which

there has been a sitting of the House, and on a Friday in a week in which there has been a sitting of the House, despite Standing Orders 187 and 190(1)(b) and (c).

This bill will repeal the Foreshore and Seabed Act 2004. As I utter those words I remember the maiden speech that I delivered when I first entered Parliament on 26 February 1997. I said then: "We must exercise the legitimacy that we never gave up. There is a desperate need for us to get this relationship right. No nation divided against itself can stand." Today it is time to repair the relationship and restore the spirit of nationhood in this country.

None of us will easily forget the anguish of extinguishment epitomised by the 2004 Act. That Act purported to extinguish any existing Māori customary title to the foreshore and seabed held by Māori. In early 2004 the Waitangi Tribunal concluded that in choosing to legislate, the Crown had seriously breached the principles of the Treaty of Waitangi by failing to respect the tino rangatiratanga and the good faith obligations of partnership. It had failed to demonstrate active protection of mana w'enua in the use of their lands and waters. It expropriated Māori property, denied our people the option to pursue due process under the law, and had created grave injustice without either consent or compensation. The rest is all history—a history marred by grief, anger, and conflict. Introduction of the 2004 bill led to the largest mass collective action since the Māori land march in 1975 and culminated in a hīkoi to Parliament by an estimated 40,000 people.

The select committee established to receive the Foreshore and Seabed Bill was flooded by close to 4,000 submissions, approximately 94 percent of them in opposition. Concerns were passionately expressed that the Crown had no right to alienate the foreshore and seabed and that Parliament was out of order in denying Māori the right to pursue claims through the courts.

But there was also a willingness to begin again. Te Hunga Roia Māori o Aotearoa, the Māori Law Society, told the ministerial review panel: "A government that has the courage to enter into these discussions is likely to find that genuine and enduring solutions are available, with a little creativity, and a commitment to achieving justice."

As part of the 2008 post-election discussions the National Party and the Māori Party agreed to a review of the Foreshore and Seabed Act. The review was completed in 2009 and its findings were studied at length. A consultation document was published earlier this year and included options for further progress. In a process led by the Attorney-General, the Hon Chris Finlayson, this document was then subject to 20 consultation meetings in halls and marae throughout the country.

I acknowledge the broad vision of the Attorney-General and his consistent energy and enthusiasm for setting a wrong right. He and we also have appreciated the generosity of so many w'ānau, hapū, and iwi who have entered into the debate with characteristic passion and commitment—a commitment to the future for their mokopuna and our mokopuna, and a commitment to the future of this nation.

I particularly mention Ngāti Porou, who demonstrated such largesse in being prepared to hold up their own claim for the interests of the collective. It was an absolute manifestation of w'akaaro rangatira. When Ngāti Apa asked the Māori Land Court, and subsequently the Court of Appeal, to recognise their interests and rights in the foreshore and seabed in their rohe, they advanced a debate that had been held amongst tangata w'enua for generations. What has also been clear throughout the debate is the widespread acknowledgment by New Zealanders that tangata w'enua have extremely valid arguments for the recognition of customary interests and rights in the marine coastal area.

The Marine and Coastal Area (Takutai Moana) Bill creates a new regime that recognises and provides for the legitimate association of w'ānau, hapū, and iwi with the

common marine coastal area while ensuring that the interest and rights of all other New Zealanders in this area are also recognised and protected. The preamble acknowledges the intrinsic inherited rights of w'ānau, hapū, and iwi derived in accordance with tikanga and based on their connection with the foreshore and seabed. In doing so, it responds to the call from many who simply asked for recognition of their ancestral connection to the coastline. The mana tuku iho provision is an acknowledgement of ancestral connections. It allows w'ānau, hapū, and iwi to take part in the statutory conservation processes within the coastal marine area, including the establishment of marine reserves and conservation areas and the management of stranded whales. In most respects it will formalise existing practise.

The bill sets out a process by which customary rights that were exercised by iwi and hapū in 1840 and continue to be exercised today in accordance with tikanga Māori will be recognised and the future exercise of such rights can be protected. The bill also provides for the right to seek customary title to a specific part of the common coastal marine area if that area has been used and occupied by a group according to tikanga and to the exclusion of others without substantial interruption from 1840 to the present day.

Mr Assistant Speaker Roy, somebody is speaking to the right of me and it is distracting.

The ASSISTANT SPEAKER (Eric Roy): Please desist.

Hon TARIANA TURIA: Once granted, such titles will have a number of associated rights, including the right to permit applications under the Resource Management Act, permit conservation activity, protect wāhi tapu, or to take up the ownership of non-Crown minerals. Under the bill, customary rights and customary title can be achieved in two ways: by application to the High Court or by agreement in direct discussions with the Crown. This is the day in court sought by Ngāti Apa and other iwi.

A right of public access to the marine coastal area is also a vital part of this bill. The irony is, of course, that w'ānau, hapū, and iwi have always been willing to share with all New Zealanders. It is the essence of the indigenous heart. Denial of access was never an issue.

The Māori Party thought long and hard about this bill. As a political movement, we represent a vast range of prospectives all along the social continuum. We will argue to the wire for a way for tangata w'enua to engage with the Crown in accordance with Treaty principles of cooperation, goodwill, and the utmost good faith. In that respect, I mihi to the iwi leaders and to their advisers for their tough and rigorous engagement with the Government, and for their vision in seeing what these proposals might achieve both for iwi and for all of Aotearoa. It is their right to assert for rangatiratanga of w'ānau, hapū, and iwi. I honour them all for their dedication on behalf of all those whom they represent. E ngā w'atukura, e ngā māreikura, e ngā ūpoko o te iwi Māori, tēnā koutou.

[*To the males of noble birth, females of noble birth, and the heads of the Māori people, greetings to you collectively.*]

There will always be those who criticise us, and we accept that. The reality is that five votes out of 122 will never a majority make. But if we are to uphold our word to our people we must be able to make progress and to see it. What would be the benefit to our constituency if our energy was consumed with being oppositional rather than seeking progress, incremental as it may be?

This bill is but a small step along the way, but it is a step forward. It may be that our mokopuna conclude it has not gone far enough, and one day they may return to this House in a time when numbers will enable a different story to be told and a different outcome. But at this time I am proud with what we have done because we did what we

promised. In fact, we achieved more, namely to seek repeal and access to the courts. The Act sets out pathways for that to happen.

Ultimately it is for tangata whenua to say how their mana and tikanga will operate. Our role is to open the door and to insist that the Crown deal with tangata whenua in accordance with Treaty principles of honour, with integrity and good faith.

Finally I stand here today to pay tribute to those who have walked this journey with us. It was vital for us to keep faith with the people. We acknowledge the tears shed, the heat of the debate, and the pain of conflict and division throughout this beautiful land, which we love. Let the legacy of this last decade be a watershed moment in our history moving us onwards. Nō reira, tēnā koutou katoa, and I commend this bill to the House.

Hon DAVID PARKER (Labour): I rise on behalf of Labour to support the first reading of the replacement foreshore and seabed legislation, the Marine and Coastal Area (Takutai Moana) Bill, and I acknowledge Tariana Turia, who has just taken her seat. I want to make comments on three areas. First, I want to talk about the history of the foreshore and seabed controversy, then I want to talk about the main changes that are brought about by the bill compared with the current Foreshore and Seabed Act, and, if I have time, I want to end by talking about the need for a clear acknowledgment, which I think is necessary from the Māori Party, that it accepts it is proper that this be dealt with as a full and final settlement of the framework for determining customary interests in the foreshore and seabed so that we as a nation can move forward without rancour.

On 19 June 2003 the Court of Appeal announced its decision in the Ngāti Apa case. It found that unextinguished Māori customary interests existed in the foreshore and seabed. We should recall that the case arose from unfair treatment of Ngāti Apa in relation to aquaculture in the Marlborough Sounds area. The underlying issues in respect of that injustice have been cured in separate legislation. Aquaculture settlement legislation from the previous Labour Government conferred rights upon Māori in respect of aquaculture, which settled the underlying injustice. The Court of Appeal decision in the Ngāti Apa case did not define what the threshold test was for customary interests, nor which of the rights were unextinguished. The Court of Appeal decision was a surprise to many. It overruled a line of cases that went back to the 1877 decision in *Wi Parata v The Bishop of Wellington and the Attorney-General.* That had been affirmed by the Court of Appeal itself in 1963 in the Ninety Mile Beach case.

Controversy soon erupted after the Ngāti Apa decision, and the reaction was not all about customary rights. There were two other significant factors that in my opinion were involved. The first was a septic political environment. There was divisive exaggeration and rhetoric, some from Opposition parties at that time. It was not from the Greens; it was not from ACT, which took a property rights position; it was not from New Zealand First; it was from some National members. It is a matter of record, which we should not shrink from recalling, that Don Brash, Bill English, and Gerry Brownlee all made repeated, inaccurate, exaggerated, and divisive statements. They preyed upon the intolerance that lies so close to the surface of just about any country, they rarked up concerns in an irresponsible manner that pitted Māori against non-Māori, and made settlement of these issues very difficult. Their task was made easier by some of the exaggerated statements that were coming from the other side of the debate. In this, I do not shrink from saying that Hone Harawira was making assertions that were wrong in suggesting that the Ngāti Apa decision effectively gave ownership rights tantamount to freehold title rights to virtually the whole of the foreshore and seabed around New Zealand. That was wrong, too.

There was a second factor in play in my opinion. That was that there was a widespread reaction against the Treaty of Waitangi being used as justification for

policies that did not need a Treaty-based justification. At the time there was social policy being advanced that was good, just social policy to help people who needed a hand, and it did not need the Treaty-based justification. I know, and all of us in this House know, that the foreshore and seabed rights are not Treaty-based; they are common law - based. But that technical truth is lost on many. It was especially lost at the time of that political climate. Colin James noted at the time that what we were seeing was a high-water mark for Treaty-based political justification of policy. History shows that he was right. I ask members to remember that at the time we had somewhat silly advertisements from the Ministry of Social Development that advertised for even junior positions—receptionists and the like—to require an understanding of the principles of the Treaty of Waitangi. A lot of people in New Zealand thought that it had gone just too far. That is not to deny the fundamental constitutional importance of the Treaty of Waitangi in our country, but there was a backlash against that.

In any event, on one side we had National saying that the Foreshore and Seabed Act was too generous; on the other side we had Tariana Turia and others saying it was too restrictive. Some have asserted that the 2004 Act was rushed, but I do not accept that. The Court of Appeal decision was on 19 June 2003, and the Foreshore and Seabed Act received Royal assent on 24 November 2004, a year and a half later. There was a full select committee process, thousands of submissions, as Tariana Turia has acknowledged, public meetings, and protest marches across the country. Some say the Crown ought to have appealed to the Privy Council at the time. I accept that that is arguable. It was complicated, politically, at the time by the replacement of the Privy Council with the Supreme Court. In my opinion, appeal would have been likely to overrule the Court of Appeal in finding that the Māori Land Court, a court of statutory jurisdiction, had jurisdiction over the foreshore and seabed given that nothing in the empowering Act talks about anything other than land and, in fact, land that is dry. I personally was disappointed that the courts, which have given themselves the power to have regard to *Hansard* in areas of ambiguity or uncertainty, declined to do so in that case, because the *Hansard* debate does not show any reference. I, for one, thought that that would have been overturned. Although that may have been the case, legislation would still have been necessary to protect rights of public access because the underlying thesis of the court was right—that is, that there were properly-to-be-recognised unextinguished customary interests in the foreshore and seabed. That need for legislation to protect public rights of access and recreation was denied by the Māori Party until after the review panel concluded that it was necessary. It is now clear that legislation was always necessary. We know, therefore, that appealing the decision would not have cured things and that legislation was necessary.

The 2004 Act was passed. It is clear that criticisms from both ends of the spectrum were exaggerated, but it was not perfect. Labour engaged constructively to improve it. Changes to the name—and it is mainly a change of name from vesting the foreshore and seabed in the Crown to creating a common marine and coastal area—do not change things in substance if the bundle of rights held by different groups are the same. Essentially, that is what is happening here: the bundle of rights does not change and public access is protected. It was never about fisheries, and it still is not. Customary interests are still being recognised as they ought to be. The main difference between this legislation and the legislation that was passed under the Foreshore and Seabed Act is that Labour and other parties have agreed that it is appropriate also that the court has the power to award customary title, which under the current legislation is called a territorial customary right. We said that in our submission to the review panel.

This is an important change. I accept that. It has to be said that it is an important process change; it does not change the substance of an outcome, it is a process change.

Previously, a claim to a territorial customary right could be considered by the court. If the court found an unextinguished right remained prior to the Foreshore and Seabed Act the court could not confer that right but, rather, had to refer the matter back to the Crown for a negotiated settlement. That carried with it a risk that a future Government could frustrate fair claims, which is why we agreed that giving the power back to the court is appropriate, despite the fact that the prior regime enabled a fair outcome in respect of Ngāti Porou.

It is clear that the changes being made could have been achieved by amending the existing Act rather than repealing it, but we have said we can go along with that. Repeal is important to the Māori Party, so we will agree to that as part of our offer to get this settled.

Hon Tau Henare: Greaser.

Hon DAVID PARKER: "Greaser" was the comment we had from Tao Henare.

Hon Tau Henare: "Tao"?

Hon DAVID PARKER: Tau Henare. That is the same sort of unhelpful rhetoric that we do not need in order to settle this dispute.

Legitimate issues have been raised about whether the new legislation will settle the protracted controversy. The stated objective of the Government, which includes both National and Māori Party members, is to fairly settle the issue. It is perfectly reasonable to expect that John Key on behalf of National will obtain an acknowledgment from the Māori Party, or that the Māori Party will offer one, that the proposed legislation fairly settles the framework for foreshore and seabed claims. Failure to achieve that will represent a failure by both the Māori Party and the National Party in their duties to the country to reach a fair and enduring outcome.

Labour has given the Government a benign political environment in which to do this. We have not scaremongered, we did not run "Kiwi not iwi" billboard campaigns like National ran when the first legislation was proposed. We have been public in our criticisms of those who are running a billboard campaign against National at the moment. It is ironic, though; we see that. We have actually done the right thing in criticising that as wrong. We agree that achieving full and final settlement of the legal framework for the foreshore and seabed is important for our country. If it will not be achieved in the benign political climate that we have helped create around this, then when will it ever be created? If we as a country cannot deal with these issues and move forward in a fair and durable way, it does not say a very good thing about our country. If the acknowledgment that this new legislation settles the framework fully and finally is not forthcoming, then I believe that the Māori Party will have failed in its duty to the country and National will not have achieved its purpose. We need to move forward as a country without rancour. The time has come to settle this.

Hon CHRISTOPHER FINLAYSON (Attorney-General): I begin by thanking my opposite number, David Parker, for his careful and constructive approach to this issue over the last 18 months—I appreciate it. I do not want to dwell on the history; I want to discuss the bill that is being introduced today by the Government, and that I sincerely hope will provide that just and durable solution to a matter that, I agree with Mr Parker, has vexed the country since the passage of the Foreshore and Seabed Act 2004. The Marine and Coastal Area (Takutai Moana) Bill recognises and provides for the association of Māori with the common marine and coastal area of New Zealand and ensures that the legitimate interests of all New Zealanders are protected.

In 2008, the Government agreed with the Māori Party that it would review the Foreshore and Seabed Act 2004. I appointed a ministerial review panel, and that panel concluded that the Act was discriminatory and should be repealed. Since then, the Government has embarked on a programme of extensive consultation. I personally have

met with recreational, conservation, and business interests and with local government, iwi, and hapū. I attended many hui and public meetings around the country in places like Taipā and Akaroa. They were very useful meetings indeed. The Māori Affairs Committee will provide another forum for discussion and submissions from the public.

In drafting the replacement legislation, the Government has kept three important principles in mind: firstly, access to justice; secondly, property rights; and, thirdly, the relationship of all New Zealanders with the marine and coastal area. The bill applies to the area from the high-water mark at mean high-water spring tides extending to the outer extent of the territorial sea. It does not nominate an owner for this space; it creates a common coastal and marine area. It excludes areas already in private ownership.

The bill does not take away rights; rather, it recognises and protects the rights of all New Zealanders, including Māori, to the common marine and coastal area of this country. Recreational interests in this area, such as swimming, boating, walking, and fishing, are accepted as a birthright of all New Zealanders. That is why public access, fishing, and navigation in the common marine and coastal area are guaranteed.

We also recognise the importance of ports and essential infrastructure to our island economy. Existing interests and use rights are clearly set out and are protected in the proposed legislation.

Māori interests in the common marine and coastal area are provided for in a number of ways. First, the mana of iwi and hapū is recognised by the status of mana tuku iho. Mana tuku iho is an acknowledgment that iwi and hapū have a traditional role in caring for the common marine and coastal area in their rohe. It allows participation in statutory conservation processes, like the establishment of marine reserves and conservation areas, and in the management of stranded marine mammals.

Second, the bill sets out the means by which customary rights can be recognised and protected. The bill also provides for the right to seek customary title to specific parts of the common marine and coastal area if the area has been used and occupied by a group according to tikanga without substantial interruption from 1840 to the present day. The Court of Appeal in the Ngāti Apa decision discussed the concept of customary title. It stated that it could range from use rights, or what it called usufructuary rights, to something similar to freehold title. This bill provides for the exercise of a number of valuable ownership rights because, once granted, such titles will have the following rights in the customary title area: the right to permit or not permit applications for new resource consents, with limited exceptions defined in the bill; the right to give or withhold permission for conservation activities; the protection of wāhi tapu; the ownership of minerals other than petroleum, uranium, silver, and gold; the right to create a planning document; and the presumed ownership of taonga tūturu, which are Māori cultural or historical objects.

I will say a few words about the scheme of the bill and public access. Creating a common marine and coastal area allows the rights and interests of all New Zealanders to be recognised in the legislation. This has caused concern in some quarters that the right of public access is not a guarantee of free public access, but I can confirm that it is. The scheme of the bill is that clause 27 guarantees the right of access in the common marine and coastal area, subject to the ordinary restrictions, such as ports, naval bases, burial grounds, and measures required for public safety. Clause 60 states that customary marine title exists in particular parts of the common marine and coastal area. Clause 63 prescribes the rights that go with customary marine title. Those rights do not include charging for access. Customary title is different from fee simple title, but that does not mean it is inferior. The rights of customary marine title and the public rights of free access, fishing, and navigation can, and do, coexist. I am satisfied that this legislation

recognises those facts and that all New Zealanders can be confident that their interests in the common marine and coastal area are recognised and protected.

Customary rights and customary title can be obtained in two ways: by application to the High Court or by agreement with the Crown after negotiation. The corollary of restoring the right to go to court is to allow parties to reach agreement outside court. The tests that applicants must meet to prove customary title will be the same, whether that title is sought in the courts or through agreement with the Crown. These tests as closely as possible mirror where I think the courts in New Zealand would have brought us were it not for the 2004 legislation: to the principles in the Ngāti Apa decision and the inclusion of tikanga.

I need to point out in this speech that a provision intended to be included in the bill was accidentally left out during its final drafting. The provision should have been included under clause 61 and states that fishing and navigation by third parties does not preclude a finding that a group has had exclusive use and occupation from 1840 until the present without substantial interruption. It is an important part of the bill. Its omission was an error for which, of course, I take full responsibility, and I ask the select committee to consider including it in the version of the bill that it recommends to the House.

This legislation is the result of robust and lengthy consultation carried out in good faith. It restores access to justice. It respects property rights. It recognises the importance of the marine and coastal area to all New Zealanders. I thank all those who have engaged with the Government to date, including iwi leaders and the various commercial and recreational interests I have referred to. I particularly acknowledge the Māori Party. That party has been a strong partner in the development of the bill. I thank Mrs Turia in particular for her tireless work over the years to address the injustices of the past. She is a great New Zealander. I commend the bill to the House.

Hon PAREKURA HOROMIA (Labour—Ikaroa-Rāwhiti): The Marine and Coastal Area (Takutai Moana) Bill is the foreshore and seabed legislation, part two. I have listened to the previous three speakers and they have covered most of the relevant issues. I thank those people who were involved in the first part of this legislation, when the Foreshore and Seabed Bill came back, and who had to withstand the quite understandable tirade of our Māori people. I thank Minister Turia and John Tamihere for being part of that decision at that time. That everybody seems to want to move on is, quite rightly and respectfully, where we need to get, but some questions need to be asked. Even the Prime Minister said that most people will not notice any difference from the first effort. The Prime Minister also said that he believed this legislation was the lasting solution and would not be revisited. Certainly, there is tinkering and hankering around it, but it is not too much different from what was already there. We need to ensure that that is not imbued with too much exaggeration.

The Attorney-General, Chris Finlayson, said it was in the public interest that this bill be durable and he hoped that would be the case. He has just repeated that statement, and I respect that. But there are issues that have been brought to the fore. Te Ururoa Flavell has a different view of this legislation. He admits that this legislation will not be durable. He admits that it is not a lasting solution and that the Māori Party will revisit it as we go along. I ask the Māori Party whether they want this issue settled, or whether this relitigation of the Foreshore and Seabed Act is its only source of political oxygen. There are questions that need to be asked in relation to what is being said quite nicely here. At the end of the day, we need to ensure that compromise is about setting legislation that is relevant for Māoris now. I understand why Hone Harawira has jumped up and down, and done his parading, as he did in the Māori Affairs Committee this morning, which his mum supported. That is understandable, because it is "Māori-

awhi". At the end of the day, though, there is some tinkering and some maintenance of the issue of us being dependent on everybody else.

I will say clearly where I stood, and where my colleagues stood, in relation to the legislation on the takutai moana. Māoris need a ture for the foreshore and seabed. Māori need legislation on the takutai moana. Without any legislation there, people like Gerry, who is doing a good job in Christchurch, can go along, do what they like, and ignore the tangata whenua. That is what this is about. As a kid I went with my nanny every fortnight to get kai moana—seafood, I kindly translate for the Attorney-General—around the takutai moana. Every fortnight we would go round and collect it. If members can understand a 10-year-old or 12-year-old kid dragging a bag of kina or pāua through the water, to get it home, and then understand the glee of their whānau in accepting it—urban people did not do it too much—then they would understand the connection between Māori and the foreshore and seabed, the takutai moana. Where is it now? It has been raped, pillaged, and plundered by the damn Samoans, the Indians, the Asians, the Māori, and the Pākehā—the whole damn lot of them. They have ransacked the foreshore and seabed. There is no more seafood. It has gone.

Everybody talks about our mana protecting the right of Māori. That will not happen. I do not know who has put it into other people's heads that our mana is something that can be legislated for. Mana is integral in the whakapapa of an individual and of a collective, in the sense of those issues that give us the right to stand here as tangata whenua, as this nation's first people. This is something I hear the Māori Party go on and on about. The process of going through the court is something we have to question. This legislation may restore access to our courts, but the question is whether it restores access to justice. If not, why not? That is what was promised by the Māori Party. What is a customary title, anyway? At the end of the day, Māori mana is not something that can be purveyed. But the opportunities that are about moni, the new aquaculture industry—all of those things that Māoridom gets left out of—is something for which we need a ture.

When we leave this great bastion tonight where legislation is written, and where we banter with each other across the House, we will drive out of here on the left-hand side of the road. The other people coming this way will drive on the right-hand side of the road. Most of that land was flogged off from Māoris in this town here. But there is a ture, a legislation, that makes us understand where people's rights are. That is what the Foreshore and Seabed Act was always about. I am glad it gets debated. I am not glad that there is indifference, but I am glad that we are trying to be so nice to each other in order to achieve a better place for all New Zealanders. Let us not kid ourselves about what it will do for Māori. That is why we did it and that is why I understand the Māori Party does it, but let us be clear on this.

There are other issues. Treaty specialist Dr Paul Moon stated that the Government's marine and coastal area bill is "bound to disappoint" those who have campaigned for greater Māori rights to the foreshore and seabed, and especially what they were promised by the Māori Party. This is fine as long as we recognise it in this House and Māoris know exactly what the bill will deliver, because they are struggling to find it. Like Moana Jackson did, Dr Paul Moon also mentions the high threshold set for hapū for proving entitlements to customary title. The hurdles that hapū have to jump in order to prove their right to customary title are prohibitive. We did that in Part 2 of the Act, and we need to own that, but that we get to a better space is something we have to be a lot stronger and a lot clearer on. I am sick and tired of Māori either being put into grievance mode or, at the end of the day, staying in grievance mode or giving political oxygen to nincompoops who do not want to create a better life for their people. That is what we tried to do, I say to Georgina, and she knows it. That is what we tried to do to

make sure that that would happen. We tried to make sure there was clear legislation that Māori could use in a whole lot of other matters—not in relation to their mana, because nobody can take that away.

The action is not with the big-time hitters and their hui going on around the country. Every academic in town or at university is getting together, trying to hypothesise what is good or not good for Māori. The action is behind the windows and curtains of the houses where our people are struggling to feed their kids at the moment. Seven out of 10 Māoris in Wairoa are unemployed. People in Hastings cannot pay their power bills, and they are going without lighting and heating for their kids. That is the issue. When people sign up to a Government that allows $1.75 billion to go to those who have put their assets at risk and gambled with them, where the hang are we going? When people do not respond or cross the floor in relation to the 90-day legislation, and the bar is raised at universities so that Māori will not get into them, I really wonder and have a fear for the future of our people; I certainly do. That is the relevant point.

Hon Tau Henare: What happened to the $9 billion surplus?

Hon PAREKURA HOROMIA: Mr Henare has asked me to apologise. He does enough of that in meetings, without bringing it here. The legislation will do nothing to change that reality, and it may have exasperated Māori inequality. There is controversy around this legislation.

Hon Tau Henare: 9 years and you didn't do anything.

Hon PAREKURA HOROMIA: Mr Henare is dead right about the 9 years that Labour was in office. We sat outside there when our whānau came up the road, we looked them in the eye, and they grew sad with us. That member was Minister of Māori Affairs for a short term. He has a practice that was relevant to the foreshore and seabed legislation; he is a great waka jumper. He had the papers on his table in relation to the Ngāti Apa settlement and what was being pushed through to try to exact the position that would give freehold title. What did he do? He did nothing. At least we stepped up to the mark. If we had not put up the things that his Government says it will make better, we would not be discussing this. Those issues have drifted off.

We want to have goodwill in relation to this issue at the select committee, I say to the Attorney-General, and we certainly want to make sure this bill gets to a better place. But I think we need to clarify and differentiate between some of the huffing and puffing in relation to what Māoris want and what the rest of New Zealand wants. Māoris generally are supportive of what the rest of New Zealand wants. Here is some simple logic: most of the motor camps that are still open around the foreshore and seabed are owned by the Māoris. The rest of them generally sold them off and speculated on them. I have a worry about the rates value of the sections owned by families who have lived at Porangahau for a long, long time. That is the issue that should be debated. That is what should be encapsulated in this bill.

DAVID CLENDON (Green): Tēnā koutou katoa. The Marine and Coastal Area (Takutai Moana) Bill depends upon one key assumption, and that is that Māori rights are derived from the Crown and, by extension, from the Government of the day acting on the Crown's behalf. The provisions of this bill make sense only if one accepts that primary assumption, and as it is one that the Green Party does not, and cannot, accept, we cannot offer any support for this bill. I will speak later in the debate, and in following readings, about some practical and specific concerns about the bill, but it is necessary first to establish our core position and the reasons for it.

The starting point for legislation of this sort must be that prior to 1840 Māori exercised sovereignty—were sovereign—in Aotearoa New Zealand. The leaders of iwi and hapū exercised legitimate authority, and that was acknowledged by the Crown in the declaration of 1835, and by the acknowledgment a year earlier that the flag of the

confederation gave vessels flying that flag rights of passage and commerce in international waters.

The signing of the Treaty in 1840 saw Māori cede kāwanatanga, or governance, to the Crown, and in exchange the Crown guaranteed to Māori tino rangatiratanga, or chieftainship, which meant the right of Māori to control their lands, villages, and other treasures. The base of all negotiations must be that Māori held recognised sovereignty rights and continue to hold those rights, unless the rights associated with that sovereignty have been legislated or alienated by some legal and defensible means.

The Ngāti Apa claim made by the Marlborough hapū that led us to the Foreshore and Seabed Act was essentially that they had ongoing rights in the foreshore and seabed, and that those rights were being ignored. The iwi sought to take their claim to the court to be tested by the legal process. The courts indeed ruled that there was a case to answer, and that led to one of the few instances in the 9 years of the Clark-led Labour Government when we saw what could be described as at least a knee-jerk response, even a panic response, to that situation. The choice was made to follow a legislative course, and that choice was made to prevent a legal claim being taken to the court. A choice was made to deny Māori their day in court; a day that might prove or disprove Māori claims to continuing rights in the foreshore and seabed.

The legislation we are debating today, although it poses as a new approach, effectively does the same thing. It starts from an unproven and untested assumption that the Crown has primary rights in this area, and that any claim must be made from that basis. Any Māori claim to rights will be tested against an unreasonably high bar that is unlikely to be surmounted or to produce meaningful or positive results for Māori. An alternative base assumption is that Māori do indeed have existing, sustaining rights, and that the onus is on the Crown to disprove Māori rights in the foreshore and seabed. Such a core assumption puts a very different complexion on the debate.

It is worth recalling in passing that Ngāti Apa's pursuit of legal remedy in 2003 was an endeavour to gain access to resources to build an economic base. There is constant criticism of Māori—criticism that we are overrepresented in all the negative social statistics. Yet so often when Māori seek to establish some economic activity, and when there is a nascent expression of Māori entrepreneurship, that is condemned as an example of allowing, or requiring, special privilege rather than being seen as an expression of fulfilling the provisions of the Treaty.

The history of what in 2003-04 followed the decision by the Government of the day to circumvent proper legal process is well known, and perhaps best remembered for the massive protests by Māori and non-Māori alike, the scale of which had not been seen for decades, and which led to the establishment of the Māori Party as a force in Parliament and in the wider community.

The National Party has much to regret, and it should perhaps even feel some shame at some of its pronouncements and actions since the debate began, or began again in earnest in 2003. Some of that party's actions and statements fuelled divisiveness and fear in the community in 2004, and in the following year exploited and even encouraged anti-Māori sentiment over the foreshore debate as a election tactic through the use of the "Iwi/Kiwi" billboards.

The current Prime Minister said in the House that Māori lost nothing under Labour's legislation because they never owned it in the first place. This Government nevertheless came into power promising, among other things, to repeal the Foreshore and Seabed Act, and technically it has fulfilled that promise. However, the legislation that is on offer to replace the Foreshore and Seabed Act differs from it in name only. The legislation has a new name, but in essence it is the same as what it replaces; it just papers over the cracks. It marries together Labour's Foreshore and Seabed Act and

Labour's negotiations with Ngāti Porou into one bill with a bland name, but all the injustices continue.

The legislation remains manifestly unjust, and treats Māori and Māori customary rights as inferior and second-class. Under this bill Māori remain second-class citizens. They do not have the same access to the courts to determine their property rights as holders of private title. Their customary title is determined not by tikanga but by the Government. The Government continues to own the foreshore, or at least to assert ownership of the foreshore. The construct of common space or non-ownership deceives no one. There are two sets of Crown-derived orders, accessible either through the court or through direct negotiation. The rights within those orders are determined by the Crown, and they are less than the rights held by existing fee simple owners of the 12,500 private titles in the foreshore and seabed. Large iwi with significant resources can lay claim to the mana moana held by small iwi, thereby entrenching injustice.

The bill extinguishes customary rights by operation of law, without the consent of the customary owners, because the rights can be obtained only through legislation. This bill replaces an unjust law with an equally unjust law. It uses different language and wears different clothes, but in essence it is the same. It seeks to reduce Māori to the status of supplicants in their own country, and it allows the exercise of customary title only by grace and favour of the Crown. A very different approach is required, and we will continue to advocate for that approach, based on common law, natural justice, and honouring of the commitments made by both sides in the Treaty relationship. Kia ora koutou.

DAVID GARRETT (ACT): ACT stands opposed to the Marine and Coastal Area (Takutai Moana) Bill, just as we opposed the Foreshore and Seabed Bill in 2004. In the case of the Foreshore and Seabed Bill, which is now the existing Act, we were outraged at the decision to treat Māori as second-class citizens by denying them the chance to have their property rights tested in court. That legislation did not take the entire foreshore and seabed from Māori as some people claim, including those—or at least some of those—in the Māori Party, but it did deny Māori the right to go to court, and that was travesty enough. But we do not resolve one injustice by creating another, and this bill tries to do precisely that. National is overreacting, just as Labour did in 2004.

The solution, in our view, is deceptively simple, and it is to restore the situation that existed before the 2004 Act was passed. The decision of the Court of Appeal in the Ngāti Apa case held that iwi had the right to go to the Māori Land Court to seek freehold title of limited areas of the foreshore and seabed. It also stated—and this is important—that the chances of gaining such title were not very high. The exact quote stated: "… any customary property in the areas vested seems unlikely to survive.", and that, I believe, is where the Māori Party and certain iwi leaders have an objection to just repealing the current law without replacing it.

The odds of iwi gaining more than a few tracts of foreshore and seabed without legislative intervention would be slim. Thus the Foreshore and Seabed Act was not the largest land-grab in New Zealand history, as some have hysterically proclaimed. That, sadly, happened in the 1860s, after the so-called Māori Wars and the illegal confiscations of land that followed. The Attorney-General has said publicly that up to 10 percent, or 2,000 kilometres, of coastline could end up in iwi hands. The only reason we are likely to lose 2,000 kilometres of coastline, and the resources that go with it, to a few elite Māori is that Mr Finlayson has made that decision, in conjunction with those who stand to profit. The biggest problem with the bill is letting iwi negotiate with the Government directly, which will result in purely political outcomes and create new injustices. Why, as Mr Finlayson has said, go through the court process when the Government has already said that he will provide a better outcome?

If an iwi goes to the High Court and is awarded customary title over areas of the foreshore and seabed, ACT is completely comfortable with that decision. I will say that again. If an iwi was to go to the High Court and be awarded customary title over an area of the foreshore and seabed, we are completely comfortable with that. But if behind closed doors, over in the Beehive, the Government gives away an area of foreshore and seabed, then no one with an interest in democracy should welcome that.

As I have said before, if National can gain a political advantage from giving away large tracts of foreshore and seabed, it will do it. Its track record—indeed, this very bill—is proof that politics comes before what is right. Well, the bad news for the National Government is that this bill might buy it a few months of peace from the Māori Party, but it is in for no end of grief. I put on record that Mrs Turia, Dr Sharples, and certainly Mr Harawira responded that they agreed with those on the other side who said that this will be an endless revisiting process and not a full and final settlement or a full and final legislative resolution, at all.

Last week I asked the Attorney-General where in the legislation before this House it states that public access will be free. He helpfully pointed to clauses 27, 60, 63, and 64. Well, that worked as a fob off in the House because I did not have the legislation with me, but when I read those clauses carefully, I did not see the word "free" or the phrase "charging for public access is prohibited" in any of those clauses. Clause 27, for instance, states that any individual has the right to enter, stay on, and leave what is now called the common marine and coastal area. But I ponder why it is so hard to insert the simple words "for free" in there. I ask who, or what, is stopping Mr Finlayson from doing so.

I also asked Mr Finlayson whether it would be an offence to charge for public access. It took three points of order and the intervention of Mr Speaker before he admitted "it could be an offence. It depends on the circumstances …". So all we have to go on is the constantly changing word of the Attorney-General. Although this bill gives him great power, in its current form he cannot necessarily stop iwi from charging for access, and he should say so. It is a bit rich of Mrs Turia and others to say that that will not happen. It is happening now and Mrs Turia knows it.

At public meetings I held recently in Northland—

Hon Parekura Horomia: Give an example.

DAVID GARRETT: —I will give some—I did not have to "search high and low" for people who had been denied access, as Mrs Turia has claimed. They came to me. One man was ordered to "get down to the Pākehā end of the beach". A newly married couple were told by iwi members to pay in exchange for allowing the picturesque backdrop of a pretty bay to be used for their wedding photos. The Mayor of the Far North and his wife told me that they have been told to get off the beach, but in rather more direct language, a number of times. It is happening now on beaches that have no customary title. What makes anyone think that that will stop when this bill is passed?

There is no doubt that those same leaders who made a meal out of the supposedly meaningless phrase in the State-Owned Enterprises Amendment Act 1987 are looking at the word "tikanga" and seeing big dollar signs. That word is in this bill and its explanatory note 26 times and is defined—I use that word loosely—as "Māori customary values and practices". That extremely vague term gives iwi open licence to ignore the Resource Management Act, exclude people from customary title areas, and have the sole right to make millions, possibly billions, out of any resources on that land. If Māori profit from minerals on land that is awarded to them by the High Court, then that is no problem. I will say that again. If Māori profit from minerals, whether on land or on sea, awarded to them by the High Court, then that is no problem. But that is not what will happen. Instead, grubby deals will be done behind closed doors up in the

Beehive. This bill is deliberately poorly drafted, and loopholes failing to guarantee free access to beaches will be exploited, unless closed. Nothing is surer than that.

I urge the public to put in their submissions as soon as possible, and to ask that the phrase "charging the public for access is prohibited" is inserted in the law, just as it was, quite deliberately, in section 40—a kind of section that lawyers call a belt and braces section—of the Foreshore and Seabed Act 2004. Under the rules of statutory interpretation, a judge will eventually say that an omission of an equivalent section in this legislation is not an accident.

We should also be seeking a clear definition of "tikanga". Mr Finlayson told us today, in answer to oral questions, that the meaning may vary from iwi to iwi and hapū to hapū. Ultimately, of course, the power to award customary title should be taken away from the Government and given solely to the judiciary in the form of the High Court, where it belongs.

In repealing and replacing one injustice, we are on the verge of creating many, many more. That is why the ACT Party so strongly opposes this bill, on behalf of the many thousands of New Zealanders who share our concerns. Thank you.

Hon PETER DUNNE (Leader—United Future): I apologise to my colleague whose call I have jumped. I say, as we start out, that this is a very important day for New Zealand. It is a chance to put to rest what has been a 7-year sore in this country, right back from the time the original court rulings were made that gave rise to the Foreshore and Seabed Act and all of the associated controversy. I want to go through a little bit of the history, because it is relevant to where we have come to today.

I am delighted to see the Marine and Coastal Area (Takutai Moana) Bill before the House. I am delighted to see the provisions that effectively take us back to where we were in 2003-04 when the concept of public domain, as the way in which the foreshore and seabed would be treated, was paramount in the thinking of the previous Labour Government. I want members to remember what happened to overturn that concept. I think it was Harold Macmillan who once said that his party had run into a couple of minor difficulties along the way. The Labour Government of the time ran into a couple of minor difficulties—one of whom is sitting not too far away from me—and, as a consequence, no longer had a majority to pass that legislation. United Future and the Labour Party at that point had been working on the concept of a public domain solution. When the Government no longer had a majority for that it had to turn to a party that had showed no interest in the foreshore and seabed.

The New Zealand First Party suddenly saw a chance to come charging over the horizon on its white charger to solve the problem and to claim all the credit. Members will recall that what New Zealand First did as part of its agreement with the Labour Government of the time, which was desperate for a majority, was to say that any reference to the foreshore and seabed as public domain had to be removed. Mr Peters, who used to parade as a great constitutional historian, said that we cannot have such Americanisms in our law. In reality, of course, the notion of the public domain—the common—is an old British tradition. It is not the first time that Mr Peters' sense of history got the better of him. But the consequence of that decision—

Hon Mita Ririnui: Be careful; he'll be back!

Hon PETER DUNNE: I will give the member the charity of my silence on that point. The consequence of that decision would set in place the train of events that have led to this bill today. In light of that decision at the time, the United Future caucus had no option but to withdraw its support for the Government's bill.

I will quote to the House a couple of sections from a letter that I wrote to the Prime Minister of the time on 7 April 2004, because they are quite pertinent to today's discussion. "Our concern has always been that the concept of Crown ownership by itself

is too limiting, as it leaves open the possibility at some future point of the Crown, for whatever reason, deciding arbitrarily to dispose of ownership interest. Recognition of the concept of public domain, which you"—being the previous Prime Minister—"yourself acknowledged at one of our earlier discussions had some parallel in the old English common law notion of the common, has the important, symbolic effect of adding an additional factor to the concept of the ownership of the foreshore and seabed that no Government would be likely to tamper with." That is the principle that is effectively being given force in this bill.

I also observed at the time in my letter: "We have not been backward in arguing for and defending that position"—public domain—"in times when the far easier course of action would have been to leave it all to the Government to sort out, because we believed this was an issue that transcended normal party politics. It is why we urged you last year"—that is, late 2003—"to have discussions with the National Party to explore the possibility of a durable, multiparty solution—a course of action we still consider is worth pursuing."

I turn that round and acknowledge the support of Labour for this legislation. What is important now as we move forward—and I accept the comments that I have heard Mr Parker make, if I heard him accurately, over a period of time—is that there are some fine points of distinction between the two measures, but they are important. I think there is a basis for moving forward with a strong and durable voice from this Parliament to give effect to a solution that denies the injustice of the last 7 years brought about by political circumstances beyond the control of everyone in the House today, to be brutally honest, but that have had the effect of causing considerable affront to Māori. Effectively, on Crown ownership the legislation stated that the Crown was making decisions on behalf of all of us.

The reality is that whether we are Māori or Pākehā or whoever, we are together on these islands; it is our combined efforts that make this country what it is. The foreshore and seabed is ours—how we resolve particular aspects of it and how we take into account customary use and customary title are matters that we can resolve. But the oppression of the concept of Crown ownership has made that a much more difficult issue over the last 7 years than it needed to be.

With this bill before the House it is an opportunity for all of us to stand back a little, reflect on the events of the last few years, and take a course of action forward. I know from discussions with my colleagues to my left—figuratively speaking—and the Attorney-General that there is a genuine commitment to get this right. I get that sense from the Opposition, too. This is one of those issues that may not put a big stake in the ground in terms of our identity for the future if we get it right, but, if we get it wrong, it has the ability to start tearing us apart.

I feel very angry when I reflect on the circumstances that led us to this course. The sheer, naked, political opportunism from people whose sole motivation was not to bring the country together but to divide, to score points, and to display bitterness—

Hon David Parker: Don Brash.

Hon PETER DUNNE:—the member quotes a name, and I may not disagree with him in that context, either—has got us to this point. The reality is that if we continue with what has been extremely divisive law—[*Interruption*]—and I ask members opposite to have their discussions elsewhere—then this country will be the big loser. This bill provides an opportunity to move forward. There will be a select committee process and there will be a lot of public interest in the bill's provisions. Some of the talk I heard to my right—and that is not speaking figuratively—earlier today puts up a number of straw men that are simply not justifiable. There are people out there at the

moment who are using this as a tool, I think, to foment racial tension in this country in a way that is distinctly nasty and unhelpful.

We have the opportunity as a Parliament with this legislation to put to bed once and for all this festering sore. I acknowledge the support of the overwhelming majority of the House for the legislation, and I hope that as it goes through its various parliamentary processes that it can be either modified to accommodate some of the points that are at issue or its support can be sustained. I am absolutely convinced of this point: if we do not repeal the existing legislation, given its historical overtones, we will be creating a huge rod, a huge tension, and an ongoing understandable bitterness in this country from which we cannot recover.

Hon Dr PITA SHARPLES (Co-Leader—Māori Party): Tēnā koe e te Kaiwhakahaere o tō tātou Whare. Ehara taku mana i te mana kore noa, engari taku mana nō tuawhakarere iho, nō ōku tīpuna, mātua. Ka whai haere au i ngā tapuwae o ngā tīpuna, mātua, pēnei i ngā mema Māori kei roto i tēnei Whare i tēnei rā. Nā reira kei te tangi au ki ō tātou tini aituā, ko Uncle Darcy tērā i tukua atu ki te kōpū o te whenua i tēnei rā tonu. Nā reira koutou ngā mate haere, okioki pai mai i mātou. Kei te tautoko i ngā kōrero a Pita nei, te mema nei, mō tana kōrero rangimarie ka tau pai tātou, i tēnā kaupapa, kia haere tātou, haere tahi tātou ki mua.

Ka hoki aku kōrero, ki te wā, i haere a Ngāti Apa ki te Kōti Teitei, tētahi kōti teitei e whakaae ana taua kōti, kia āhei rātou ki te haere ki te Kōti Māori, ā, ki te pēhea ō rātou mana i runga ake o te takutai moana o rātou. I te whakaaetanga a te Kōti Teitei, ka tino tere te Kāwanatanga o taua wā, ki te whakatū i tētahi pire kia aukatingia tō rātou haere ki taua kōti. Ki a au nei, kua takahia e rātou tō rātou ake tikanga arā, due process, i tērā mahi. I tērā ahiahi tonu, o te kōti, kua puta te pukuriri kei roto i ngā Māori, ngā iwi, nā te mea kua aukatingia te huarahi ki mua, ā, kāore he kōrero ki ngā Māori e pā ana ki tēnā aukatingia, ka whakatūria e rātou tētahi pire, kāore he kōrero anō ki te iwi Māori mō taua pire, engari nā te Kāwanatanga anake i taua wā.

Kua tae tēnā rongo ki a mātou o Ngāti Kahungunu, nā reira i te hui Kirihimete o te Hakihea i te tau 2003, i whakaae mātou kia hīkoi mātou ki te Whare Pāremata, ki te whakatakoto i ā mātou kōrero, ā mātou amuamu, ā mātou māuiui, kei roto i tēnei pire ka whakatūria e te Kāwanatanga, i tērā wā. Nā mātou i karanga atu ki ētahi atu iwi kia haramai, kia haere tahi ai ngā iwi ki te Whare Pāremata. Nā tēnā, i hīkoi mai ngā iwi, ngā hapū mai i Te Tai Tokerau, tae noa atu ki te Tonga.

I hīkoi mai, i tae mai mātou ki te arawhata o te Pāremata nei, whā tekau mano o mātou i tae mai i tērā hui. I haere mai ngā pakeke, i haere mai ngā rangatahi, i haere mai ngā kōtiro, ngā tāne, i hīkoi mai ngā Hāmoa, i hīkoi mai ngā Tararā i taua kaupapa ki te tautoko i te pukuriri kei roto i ngā Māori i taua wā. Ki a mātou kua tūkino ō mātou mana, kua whakaparahakongia ō mātou tikanga Māori. Nā reira tēnei kua tae mai mātou i tērā wā ki konei. I roto i tērā hīkoi, ka kōrero mai ngā kuia, ngā koroua ki a mātou e pā ana ki ō rātou ake mamae i ngā tau kua pahure ake. Engari kei te pīrangi rātou ki te hīkoi ki te Pāremata i tēnei kaupapa, whakatakoto ai i ō rātou kōrero i mua i te aroaro o te Pirimia. Ērangi, ka tae mai mātou ki koneki, kāore te Pirimia, e tū ana ki te mihi ki a mātou. Kua puta mai te kōrero, kei te kōrero kē ia ki a Shrek i tērā wā. Ko tana kōrero kangakanga ki a mātou, ko "haters and wreckers" ērā kōrero, ka pukuriri anō mātou, ā, me ngā koroua. E tino mamae ki ngā koroua, pērā i a Tāme Te Maro, Saana Murray. Ko ēnei ō tātou tino tīpuna, ka whai mātou i ā rātou tapuwae, i ō rātou tikanga. Ana, tangi rātou i ēnā kōrero.

Nā reira tae mai mātou, anei rā ngā mema Māori ki te pōhiri atu ki a mātou, tā mātou whakaheke. I kōrero mātou i te Pāremata nei, i hoki mātou ki ō mātou kāinga. A Ngāpuhi ki Ngāpuhi, Ngāti Porou ki a Ngāti Porou. Āe ka tika tēnā kōrero.

[*Thank you, Mr Deputy Speaker. My prestige is not new; it is from ancient times, from the ancestors. I follow in the ancestors' footsteps, like other Māori members in the House today. I mourn our many dead, like Uncle Darcy, who was buried today. May they rest in peace. I endorse the comments of the Hon Peter Dunne, urging us to move forward peacefully and in a united fashion.*

I now turn my attention to the time when Ngāti Apa went to the High Court, which determined that they could go to the Māori Land Court to test their rights to the foreshore and seabed. Upon the High Court's decision, the Government of the time swiftly enacted legislation to block their access to the judiciary. In my view, it treated due process with contempt through its actions. On that afternoon at court, Māori expressed their anger that the pathway forward had been blocked. There was no consultation about the issue with Māori, and the law was enacted by the Government of the time without talking with Māori.

News had reached my iwi, Ngāti Kahungunu, so at a Christmas meeting in December 2003 we agreed to march to Parliament to present our views and complaints about the bill established by that Government. We invited other iwi to march as one to Parliament. Hence iwi and hapū from the far north to the South Island marched.

Forty thousand of us reached the steps of Parliament at that gathering. Old and young, men and women, Samoans, and Dalmatians came to support the outrage that Māori felt at that time. We believed that our prestige had been damaged and our customs had been disregarded, so we came here. During the protest march, the elders spoke of the pain they had experienced in past years. Despite that, they wished to march to Parliament for this cause, and to have their say to the Prime Minister. But when they arrived, the Prime Minister did not acknowledge us. We heard that she was speaking to Shrek instead, and denouncing us as "haters and wreckers", making us angry again. It really hurt our old people, like Tāme Te Maro and Saana Murray, our great ancestors and role models. They wept at those comments.

We came to Parliament, where the Māori members welcomed us at the end of the journey. We spoke at Parliament then returned to our homes—Ngāpuhi to their home, Ngāti Porou to their home. Yes, that is correct.]

Hon David Parker: And Tame Iti spat at the Deputy Prime Minister. Don't forget that. It was not all one-sided.

Hon Dr PITA SHARPLES: Kāore koe e mōhio ana ki taku kōrero. Āe. Nā reira, i hoki mātou ki ō mātou ake hapū, ō mātou iwi, ka hui anō mātou, me aha tātou?

Ka puta te kōrero me whakatū tētahi tōrangapū Māori, kia uru atu ki rō Pāremata, ki te muku i tēnei Ture Takutai Moana 2004. Kātahi ka kōrero mātou, ka hui mātou i tērā tū a Tāriana Tūria. Kāore e whakaae ana ki tēnā e Parekura? Engari, i hīkoi ia ki waho o te Pāremata, anā ka whakahokia ia e tōna iwi ki roto i te Pāremata kia tū motuhake ko ia anake i tōnā pāti. Nā reira waea atu au ki a ia, nā tana kaha, mēnā pīrangi ia he tautoko, anei rā ahau ki te tautoko i a ia. Kōrero māua i Tāmaki, ka whakaae ana kia whakatū tētahi Pāti Māori. Nā reira i hui mātou i ngā marae o te motu. I Waititi Marae, whakaae ana te motu whakatū Pāti Māori. Te Hatarei tēnā, ā te Rātapu, i hui anō mātou i Ngāruawāhia, a tautoko anō tērā rōpū. Nā tēnā i tū au mō te tūru o Tāmaki Makaurau.

Kāore au i pīrangi ki te haramai ki te Pāremata. Ka hia tau au i whakakorengia te uru mai ki roto i te Pāremata. Engari, nā taku mauri e noho māuiui ana, whakaae ana au kia tū au hei mema mō Tāmaki Makaurau. Kātahi ka tū te rā pōti, ka riro whā tūru ki a mātou o te Pāti Māori. Nā, ka tae mai mātou ki konei. Ka titiro mātou i ngā tūru i reira. Ka whakaaro mātou me pēwhea kia muku, kia tangohia tēnei ture? Nā te mea kei konei te Kāwanatanga Reipa i tērā wā, Nāhinara i reira. Kāore rātou i kōrero mai ki a mātou e pā ana ki tēnei ture. Ko mātou anake e noho i reira, ā, kāore mātou i mōhio me pēwhea. Engari i tēnei wā, i tēnei tau o te Pāremata, ka nuku mai te Pirimia, mehemea pīrangi

mātou ki te nuku atu rātou kia noho hei hoa i roto i tētahi Kāwanatanga. Ā, ka noho tātou me aha tātou, me aha rātou. I tērā, ka whakaae ana te Kāwanatanga kia aratakingia te Ture Takutai Moana 2004, ā whakaae ana mātou.

Mai i tērā, whakaae ana mātou kia aratakingia te ture, engari kia muku, kia tangohia tēnā ture, kia whakahokia te rangimarie ki te iwi Māori, ā, te utu o te rangimarie nā te mamae kei roto i a mātou. Engari kī mai te Kāwanatanga mehemea ka tangohia te ture, ka whakatūria tētahi atu ture. Nā reira i mahitahi mātou, i raro i te maru o te Minita Finlayson me ērā atu. Kātahi ka puta mai tēnei pire. Ehara māku te kōrero e pā ana ki ngā rerekētanga o taua pire i tēnei pire. Engari ki ahau ko te mea nui, kia mukua tēnā ture, i patua te mauri o te iwi Māori, me te mana o taua hapū, o taua hapū, o taua hapū. Nā, kua tutuki tēnā wawata kei roto i tēnei pire.

Nā reira tēnei mātou e mihi atu ki a tātou katoa e kōrero rangimarie ana e pā ana ki tō tātou noho i tēnei wā kei roto i te Whare Pāremata. Kei te tautoko mātou kia haere ki mua tātou. Ahakoa te tautohetohe ka pai tēnā, engari i roto i te rangimarie. Kaua tētahi e tūkino i tētahi atu, tētahi atu whānau, tētahi atu iwi, hapū rānei i roto i te Whare nei. Nā reira koinā tāku i tēnei wā. Kōrero au mō te mamae, nā, kia oti pai i tēnei ture. Nā reira, ko taku tūmanako, taku hiahia mō tātou katoa i tēnei Whare, me tautokongia tātou katoa, koutou o ACT. Kia tautokongia tātou katoa i tēnei ture kia whakaoti ai tēnei mamae kei roto i ētahi o ngā iwi o Aotearoa nei. Nā reira kua mutu taku kōrero mō tēnei wā, kia ora.

[*He does not understand what I am talking about. Yes. So we went back to our hapū, our iwi, to plot a way forward.*

It was suggested that we create a Māori political party, to go into Parliament and repeal the Foreshore and Seabed Act 2004. We held a meeting pertaining to Tariana Turia's stance. Does Parekura not agree with that? She walked out of Parliament and was brought back by her people to stand independent from Labour. I rang her and offered my support. We spoke in Auckland and agreed to create a Māori party. We held meetings on marae across the country. At Hoani Waititi Marae the people decided to establish the Māori Party. That was on Saturday. On Sunday we had another meeting, in Ngāruawāhia, where it was also endorsed. That is why I stood for the Tāmaki Makaurau seat.

I did not want to enter Parliament. For several years I rejected advances to enter Parliament. But because my life force had been weakened, I agreed to stand as the member for Tāmaki Makaurau. On election day we secured four seats. We came here and looked at our seats over there, and wondered how we could repeal this Act. Labour was in Government and National did not talk with us about the Act. We were alone, and we were not sure what to do. But then the Prime Minister invited us to be a coalition partner in Government. So we mulled over our options. Once the Government agreed to repeal the Foreshore and Seabed Act 2004, we agreed.

Since that time we have endorsed the advancement of this bill to diminish that Act, restore peace to Māori, and address the hurt and pain we experienced. However, the Government told us that if the Act is repealed another one will be enacted. So we worked together under the direction of Minister Finlayson and others, leading to the emergence of this bill. It is not for me to speak about the differences between the two pieces of legislation. In my opinion the most important thing is that that Act, which discriminated against Māori, is repealed. That desire has been realised with this bill.

We commend everyone for the sentiments expressed relating to our behaviour in the House at this time. Let us move forward together. We may argue, but let us not abuse one another in this House. That is all I have to say right now. I spoke of the pain to be dealt with in this bill. I hope and wish that we will all support this bill—the ACT

members as well. Let us all endorse this legislation so that we may move on from the hurt lying within some of New Zealand's tribes. I conclude here. Thank you.]

Hon SHANE JONES (Labour): Ā, kia ora anō tātou. I te tuatahi ki te reo Māori. Tēnā tātou e noho nei i roto i tēnei Whare. Te mātotoru o tātou e āmene ana kia pāhingia ai tēnei ture takutai moana, te Marine and Coastal Area (Takutai Moana) Bill.

Kei tōku rohe he temepara nō te Hāhi Rātana. Tana ingoa ko Te Takutai Moana, kei roto Āhipara. Take i huangia ai tā te mea, koia tēnā te huarahi i hīkoi ai te poropiti, te māngai o ngā mōrehu, a Wīremu Tahupōtiki Rātana i tana haerenga ki Te Rerenga Wairua, ki te whakatau i tana kaupapa ki tetahi wāhanga o Te Rerenga Wairua e kōrerotia ake nei ko Ngā Atua Peruperu. Nōna e hīkoi ana, kātahi ka tatū i a ia, me hua e ahau he temepara hei whakamahara i tōku iwi Māori, ko te takutai moana he taonga mai i te wāhi ngaro. Nā reira, he tautoko i te wairua o ō tātou kōrero i tēnei rā, kia kauwa rawa tātou e waiho i tēnei kaupapa, hei kaupapa wehewehe waenga tonu i a tātou tetahi iwi, ki tetahi iwi, Pākehā ki te Māori.

Tua atu i tērā, e tika ana kia whāki mātou o roto i te Rōpū Reipa, arā atu anō wetahi mahi kīhae i oti tika i a mātou i te wā e Kāwana tonu ana mātou. Take tēnā i whakapuaki ai a Dr Cullen i ōna whakaaro. Arā noa atu ngā wahanga i tino hapa ai te Rōpū Reipa i te hanganga o tēnei ture.

Tetahi atu take hei mahara mā tātou, ko te wā i ara mai ai te hīkoi, te hia rānei mano tāngata i pau i a rātou te nuku roa o te motu te hīkoi, ehara i te mea mō tēnei pire anake te iwi Māori i hīkoi ai, kāhore. He hiahia anō rātou ki te whakataetae atu ki te wairua poke i ara mai i a Don Brash me āna kōrero hanihani ki te iwi Māori. Otirā, i te korenga o mātou ngā kaitōrangapū i tērā wā i mōhio me pēhea tēnei take, kaupapa rainei e whakataungia ai kia kauwa tetahi wairua wehewehe e tomotomo mai ki waenga tonu i te marea, horekau i oti tika i a mātou.

Nā reira, tēnā tātou katoa.

[*Greetings again to us, but first some comments in Māori. Greetings to us seated about in this House. There are a lot of us wanting to pass the Marine and Coastal Area (Takutai Moana) Bill.*

In my region of Āhipara is a Rātana Church temple. Its name is Te Takutai Moana. The reason this temple is mentioned is that that was the path taken by the prophet and mouthpiece of the survivors, Wīremu Tahupōtiki Rātana, on his journey to Te Rerenga Wairua to deliver his message to a part of Te Rerenga Wairua referred to as Ngā Atua Peruperu. As he was walking, he concluded that he should construct a temple as a reminder to my Māori people that the foreshore was a treasured piece gifted from the unseen place. So to endorse the spirituality of our speeches, we must never allow this matter to be a divisive instrument amongst us between people, Pākehā and Māori.

Further to that, it is right that we within the Labour Party reveal that there is other related business, as well, that we were not able to complete while in Government. That is a reason that Dr Cullen referred to when he expressed his views. There were other provisions where Labour erred when this legislation was passed.

Something else for us to bear in mind relates to the time when the march came to be, and the thousands upon thousands marched the length and breadth of the country. It was not for this bill alone that the Māori people marched. No. They also wanted to take Don Brash on in their large numbers in regards to his disparaging remarks about the Māori people. But because we politicians did not know at that time how to settle this issue or matter to ensure that a spirit of divisiveness did not pervade through the public, it was not completed properly.

So, greetings to us all.]

We support the Marine and Coastal Area (Takutai Moana) Bill going to the Māori Affairs Committee. I have said in Māori that a great deal flowed from this hair-raising

episode called the takutai moana. I recall the day the then Māori Fisheries Commission began to fund the litigation that led to a decision by the Court of Appeal that took most of us, me included, by utter surprise. It would be correct to say the Māori Fisheries Commission thought we were securing an economic advantage for Māori in the marine-farming industry. Once commissioner John Mitchell brought the issue to the attention of the commission, which was then chaired by Sir Tīpene O'Regan, significant amounts of money flowed; Joe Williams, before he became a jurist, was the litigator, and it wended its way through the various highways and byways of the legal system.

In many respects it should have gone to the Privy Council. It could not go to the Privy Council, I suppose—not that I was a member of Parliament at the time—because the agenda at that point in our recent constitutional history was to get rid of the Privy Council, and I was a significant supporter.

David Garrett: Bad move.

Hon SHANE JONES: Mr Garrett ought not to say that; he may one day need the services of such a court of great distinction.

Let me come back to what we thought we were doing. The Court of Appeal decision created a Māori political movement built upon the rhetoric and the aspirations of our matuas, reflected, indeed, in Matiu Rata and others. As a consequence of our party making a call in the face of considerable adversity, the Māori Party sprang into existence, and it now holds a great deal of power and influence. No one in that Cabinet or on that fisheries commission ever thought that, as a consequence of funding litigation to get Māoris into aquaculture, they would end up in the Court of Appeal and we would have a notionally independent Māori political party steering the affairs of this House. That was the furthest thing from our minds.

It needs to be said that we need to move on from this issue. I can thoroughly understand the concerns of my whanaunga Hone Harawira on this issue; after all, it was our matuas in the late 1950s who took the Ninety Mile Beach litigation. They took it to the point where they had exhausted what meagre resources they could amass, but it floundered at the high levels of the judicial system at the time. So it has always been a live issue for those particular iwi. I think of those matuas of ours, the Rev Mutu Kapa, Waata Tepānia, and Joe Conrad, people whom I saw in my youth who had a very, very profound view that the territory right out to the horizon ought to fall under the rangatiratanga of the tangata whenua of that area. So I can understand why it is difficult for him to agree to this bill, because it does not seriously change much at all in terms of what Dr Cullen ended up with, save for one constitutional imperative: it restores the right of Māori citizens, whether through hapū, whānau, or iwi, to go and have their day in court.

I hope that those who do have a sustainable claim take the route of negotiation, because the days of the ability to secure a significant concession from the court system on this issue have come and gone. As for the radicalism, in my view, reflected initially by Lord Cooke and followed on slightly by Sian Elias, we do not have a court system like that any longer, which is part of the reason why I always supported the dissolution of our connection with the Privy Council—but that is another matter. So I support the route of negotiation. I say that because at the end of the day it reflects what people are prepared to live with. If we push the envelope too far it will not be sustainable. If it is too weak, Māori will continue to feel aggrieved. If it is outrageous, it will feed the rhetoric from the ACT Party. This measure does create the opportunity for a negotiated outcome, but let no Māori group exaggerate or be sucked in by its lawyers to thinking this is an El Dorado.

The legal tests and the threshold in this legislation mean there will be precious few, if any, full customary title awards made. This bill does not take account of the hapū and

iwi who lost their land contiguous to seabed and foreshore. It does not take account of the fact that colonialism means they no longer are able to fulfil the test of contiguity. Only through the medium of politics and clever negotiations can that come to pass.

Labour members support this bill, but it has been a hair-raising experience, and in many senses it is a cheerless end to an inordinately exciting and saddening episode. It brings into law that which largely was always there. The saving grace is that the negotiations process may provide an opportunity for the Māori claimants to secure what they are after. But do not for a moment think that by restoring access to the court, we have simplified or lowered the threshold—the test—that enables Māori political rhetoric to be fulfilled, because the legal test will be arid, dry, and extremely difficult to overcome. But that is the bill that lies before us today. It is not inordinately different from what Sian Elias said, and I only hope that the organisations that represent tangata whenua on this issue do not entertain ridiculous ideas as to whether there is an El Dorado here. A negotiations process is available but the legal process will be very expensive, and, at the end of the day, the result will be inversely related to the expectation. Kia ora tātou katoa.

SIMON BRIDGES (National—Tauranga): It is good to follow the Hon Shane Jones. I agree with much that he said and, indeed, with much of what the Hon David Parker said in what, I think, was an excellent speech. I do not want to sound a sour note after hearing their good speeches, but I cannot let the Labour Party's revisionism in this area pass, that somehow this was all Don Brash's fault, or it was somehow all Winston Peters' fault. It is a matter of historical record: the New Zealand Press Association, the day after the Court of Appeal's Ngāti Apa decision, recorded Helen Clark as saying that the Government would legislate to preserve, if necessary, the status quo in this area, and that it was a matter of policy for the Government, not a matter for the courts. So to say that this issue arose somehow because Labour had no choice and that it was the "Iwi/Kiwi" billboards that brought this about is simply not the case. Labour should take its share of blame and its share of the history on this issue, just as I accept that the National Party should, as well.

But I do not want to look backwards. I think this is a very positive day for this country. I come back to the members of the ministerial review panel, Hana O'Regan, Richard Boast, and Sir Eddie Durie, who said that—and I think this is something that Shane Jones picked up on—there have been some polar opposite views in this area between some Māori who saw the 2004 Act—perhaps rightly so—as highly discriminatory, and some Pākehā, whom perhaps David Garrett speaks for. There are many Pākehā—and I do not call them racist, because I do not think they are—who see the repeal of the 2004 legislation as racially divisive.

The review panel also said that we in this country have a duty to achieve a balance between those competing interests—a compromise, if one likes. I think we do that in this bill through two key concepts. The first is access to justice, which is a core interest for Māori and iwi in this country—the ability to go to the courts and have their claims heard. The second is public access and the uninhibited right of all New Zealanders, Māori and non-Māori, to enjoy the beaches, and so on. The review panel talked about that as a bedrock right of New Zealanders.

So it is a compromise, but I believe that it is a principled compromise. Some might say that that is an oxymoron—that we cannot have a principled compromise. David Clendon from the Greens would have us believe that we cannot have that. But I say we can, and that what we are doing in this bill is entirely in accordance with the law and with the Court of Appeal's Ngāti Apa decision. In that decision the Court of Appeal rightly overturned—and I hear the arguments that maybe it should have gone to the Privy Council—the Ninety Mile Beach decision. Here we are getting back to the tests

set in that decision. We are, in a principled way, reaching a compromise that, in some ways, the Court of Appeal did. The bar will be set high in the law we set out, just as it was in the Court of Appeal's decision for iwi. That is as it should be. We are getting back to that Court of Appeal decision; it is not more and it is not necessarily less. I think that in this legislation we have a balanced law. It is a law of compromise but it is principled compromise. I agree with a lot that David Parker said. Let us hope that it is a compromise that is enduring and is once and for all.

Hon MITA RIRINUI (Labour): Ā, kāti ake kia ora tātou i roto i te Whare nei. Hoi anō rā, wāhi tuatahi māku tēnei nā ki te tautoko i ngā whakaaro ki wā tātou mate huhua. Tēnā o wā tātou rangatira i hinga ai i roto rā i Te Tai Rāwhiti, te pāpā o tēnei o tātou a Parekura, o te rua tekau mā waru. He tangata toa i roto i te Pakanga Tuarua. Nāna i hoki mai ki tana whānau, ki tana rohe, ki tana marae, ki tōna hapū, ki tōna iwi kia mahi i ngā mahi e pā ana ki ngā rangatira o tērā wāhi. Pērā anō i ngā mate kua hinga atu i te motu. Kīhai tēnei i te wareware i a rātou me ō rātou mahi rangatira i waenganui i a tātou. Otirā, waiho rātou kia moe.

Tū noa iho tēnei ki te whai wāhi i te kōrero a te Minita Māori e pā ana ki te pire, kua karangahia nei ko Te Takutai Moana. Otirā, ki te Kaihautū, tū ana taku whanaunga mai i Te Tai Tokerau, a Shane Jones, ka tāhaetia wētahi o wāku kōrero e pā ana ki tēnā Whare wairua, kai te tū mai rā ki te Pā o Rātana me Te Rere o Kapuni, e kīa nei ko Te Rere, me ngā wairua heke iho nei mai te Maunga o Taranaki. Ka hui ai ngā poropiti katoa i reira, hai aha? Hai whakaarohia i ngā tū āhuatanga e whakamamaehia i a tātou te iwi Māori, mai i te taenga mai o te toimahatanga, te kapua pōuri, mai i tāwāhi ki a tātou katoa. Hoi anō rā, tēnei te mihi ake ki a ia, otirā, ki a tātou.

Ā, nā te Minita Māori i whakarangatira ai tō tātou reo i roto i te Whare e pā ana ki te pire. E tika ana māku e whai wāhi i a āna kōrero, kia tū tonu mai rā te mana o tēnei taha o te Whare. Hoi anō rā, ahakoa i tūtū mai rā i ngā mema o roto i te Whare ki te kōrero ō rātou kōrero e pā ana ki te pire, kai waenganui i a tātou me te hītōria o te pire kōrerohia. Te āhua nei kua ngaro te riri ki waenganui i a tātou. Tae mai hoki tātou ki roto i te Whare, ā, ka riri katoa mātou i te āhuatanga o ngā mahi o ngā tangata o roto i te Whare i ngā tau kua taha ake nei. Ka tū mai wētahi o tātou, anā, ka tau iho nei tēnei mea te humāria ki runga i a tātou, ka ngaro. Hoi anō rā, kai te kimi, kai te whai wāhi au i tētahi kōrero māku i te mea, ko au tētahi i hara mai rā i runga i te pukuriri. Hoi anō rā me kī rā, kua āhua pai kia tau te rangimāria ki a tātou.

Hoi ano rā, e tika ana me kōrerohia tātou i te hītōria o tēnei take e pā nei ki te takutai moana. Ahakoa rā, mihi ake ana au ki te Minita, nāna i haria mai te pire ki roto i te Whare. Te tohu nei nā, kai te tautoko ia i te pire o tērā kāwanatanga o te tau rua mano me te whā. Tāku titiro, kārekau he rerekētanga kai roto i te pire i haria mai ki roto i te Whare. Kai te āhua ōrite tonu i taua pire. He aha te tohu ki a tātou? Kua tika rā te mahi o tērā kāwanatanga? Te mahi o tēnei kāwanatanga, āhua tīnihia pea engari, ka tautokohia. I tēnei wā, māku ki a koe kai te Minita Māori, waiho rā te mamae o te ao tawhito kia moe. I āhei tonu tātou, tātou katoa, kia haere whakamua. Hoi anō rā, kai te mihi ake rā, me tēnā o wā tātou tuāhine, a Tāriana. Kua kōrerohia ngā kōrero e pā ana ki tana weheanga i te Rōpū Reipa, kei te pai. Koinā ngā mahi o ngā tau kua taha ake nei, waiho ki reira.

Me te mihi anō ki te katoa. Kua horahia mai rā o rātou whakaaro, ahakoa wētahi kāre au i te whakaaea, ko te nuinga o ngā kōrero e tika ana, e pono ana. Hoi anō rā nā runga i tēnā, mihi ake ki a tātou katoa.

[*Greetings to us in this House. First of all I must endorse the thoughts in respect of our many deaths, in particular one of our leaders who has passed away in the East Coast, an uncle of one our political colleagues, Parekura, and a member of the 28th Battalion. He was a warrior in the Second World War and returned to his family,*

region, courtyard, subtribe, and tribe to carry out the work concerning the leaders of that place. Similarly, I acknowledge the passing of others of the country. I will not forget them and their chiefly work amongst us. Indeed, allow them to rest there.

I have stood up merely to take part in the address by the Minister of Māori Affairs about the bill called Te Takutai Moana. On the other hand, Mr Deputy Speaker, when my relative from Northland, Mr Jones, stood up, he stole some of what I wanted to say about that spiritual house standing at Rātana Pā and about Te Rere a Kapuni, a waterfall referred to as Te Rere. As well, I wanted to talk about the spirits that came down from Mount Taranaki. All the prophets assembled there, and for what purpose? To deliberate over the different kinds of situations that have hurt us, the Māori people, when the weight and extreme grief of it all descended upon us from overseas. But I acknowledge him and, indeed, all of us.

In respect of this bill the Minister of Māori Affairs has done our language proud. It is apt that I make a contribution to follow up his address and to keep this side of the House to the fore. Even though various members of the House have stood up and expressed their views about the bill, among us is the history of the bill to be talked about. It appears that the anger among us has disappeared. I was angry as well when I came into the House; we were all angry about what people in the House did in the past. But when some of us stood up, this thing called goodwill prevailed over us and the anger disappeared. However, I am still participating and looking for something to talk about because I was one who came here in anger. But let us say that I am feeling somewhat better, and allow goodwill to prevail over us.

It is right that we debate the history of the foreshore. But regardless of that, I acknowledge the Minister who brought this bill into the House. This signifies that she supports the 2004 Act of that other Government. To me it still looks a bit like that other Act. What does that signal to us—that what the other Government did was right? Although this Government has made some changes, it will be supported. At this point, I say to the Minister of Māori Affairs to let the pain of the past rest in the past. We agreed, all of us, to move forward. But I acknowledge him and this sister of ours, Tariana. Her departure from the Labour Party has been talked about; that is fine. What has happened in the past should be left in the past.

I acknowledge everyone. They have placed their views before us. Some I do not agree with, but the majority are correct and true. Because of that I commend us all.]

It would be very hard to take a call in the first reading of the Takutai Moana bill, as I call it, without making some reference to a little bit of history. Firstly, though, I say that we on this side of the House support the bill. We will support it to go to select committee. I am excited that the Attorney-General has decided that this bill will go to the Māori Affairs Committee. The Māori Affairs Committee will hear submissions from all around the country, hopefully; we will put in place a process to ensure that happens. I think 2011 is a bit too far away for it to come back to the House; in my view, there is no reason that it could not be done in a shorter time frame. Nevertheless, it is another opportunity to revisit some of the issues. It is a rare opportunity, and I consider myself fortunate to still be in the House today to discuss the Marine and Coastal Area (Takutai Moana) Bill for a second time, because some of the issues that were raised during 2003 and 2004—because of the political pressures of the time, which were highlighted by the Hon Peter Dunne—were not able to be addressed at that time. This is a good opportunity for us to revisit those issues.

I congratulate the Minister. His support for the bill tells me that the previous Labour Government got it right; there is no doubt about that. The previous Labour Government got it right. Regardless of all the hype and emotion about the trips up and down the country by some—many of them in this House—at the end of the day there are very few

changes in this particular bill, apart from, perhaps, the title of the bill and a few process issues.

Other changes were recommended by the Hon Dr Michael Cullen during the submissions process. We are very glad and excited that the Government conceded that Dr Cullen was considered to be an authority—if not the only authority—on these matters, and that the Government has decided that those recommendations, forwarded by the Hon Dr Michael Cullen on behalf of the Labour Opposition, were taken into account.

Simon Bridges: He's not God.

Hon MITA RIRINUI: I thought I heard the member for Tauranga say that that is not right. He has only been here for 5 minutes. You never know; he will learn something over time. He will learn a bit more over time.

It was a very difficult time. As Shane Jones described, it was a hair-raising experience. It was for many of us who were sitting out on the forecourt of Parliament, listening to the haka and the chants that, we were told, were coming from as far away as the airport. There were not 50,000 people; there were 20,000, according to the official police count. Notwithstanding that point, it was, as Shane said, a very, very hair-raising experience—in my case, a very unforgettable experience. I say that because regardless of who they were—Shane Jones referred to ngā momo tangata katoa o te ao; I believe the Minister referred to them as well—and regardless of their ethnicity, religious persuasion, and all those things that make us different from each other, that great mass of people came all the way to Wellington, to Parliament, in order to express a point of view about a very, very important piece of legislation. I am not saying they all understood what it was about, but I will say that today we see good legislation. But it falls well short of what those people were promised at that time.

Putting that aside—and I thank the Hon Peter Dunne for his comments—I say that this is an opportunity for every political party in this House to come together to resolve this longstanding pain in the proverbial. That is what it is—a pain in the proverbial. I believe that we can resolve it as responsible people in this House. I do not agree with the ACT member David Garrett. I appreciate that he has a strong point of view, but I just do not agree with him. You see, sometimes the best way to resolve these issues is in the back rooms of Parliament. When he speaks of grubby deals in the back rooms of Parliament, it shows me how much respect he has for Cabinet, because that is where these deals are done. They are done by a proper process that is controlled strictly by the *Cabinet Manual*, and we consider the people who represent us in Cabinet to be honourable people, regardless of our personal views of them. If the member is saying that we should not settle foreshore and seabed customary interests for Māori in back rooms or in Cabinet, is he suggesting that we take all this stuff, including Treaty settlements and negotiations, away from Cabinet and Parliament into the courts? I can tell him now that there will be no settlements—there will be no settlements. They are not grubby deals; the people who have come to represent the interests of their particular groups are honourable people.

This is also an opportunity for me to acknowledge Parekura Horomia and Nanaia Mahuta, some colleagues who stood with me shoulder to shoulder out there on the forecourt of Parliament. I mention the Hon Dover Samuels.

Hon Parekura Horomia: JT.

Hon MITA RIRINUI: I acknowledge the Hon John Tamihere, and I acknowledge the Hon Parekura Horomia.

Hon TAU HENARE (National): Well, well, well, well—I have been waiting for this moment for a long, long time. I suppose—

Grant Robertson: Lower the tone, Tau.

Hon TAU HENARE: Oh, lower the tone! Do members know what people hate? It is the fact that 6 or 7 years after Labour did a deal, after the dirty deed was done, those same members have turned up and said "Oh, we didn't mean it. Oh, it's OK. Oh, it's all right". But one of the things those people never said was "sorry", and, like the famous Elton John song, "Sorry Seems To Be the Hardest Word". You know, every member of the Labour caucus who has spoken this afternoon has missed this one opportunity, the only opportunity that they will ever have to say sorry.

Hon Mita Ririnui: What for?

Hon TAU HENARE: Oh, what for! The Hon Shane Jones hit it on the head, save for a little difference. Do members know the difference between the Marine and Coastal Area (Takutai Moana) Bill and the 2004 Foreshore and Seabed Act? It is access to the judiciary. Everybody has a right—it does not matter whether they are black, white, red, or green; it does not matter—everybody has an absolute right to go to court to find out whether they are right or whether they are wrong.

What happened in 2004? I will tell the House what happened. The Prime Minister and Dr Cullen, Clark and Cullen, got the willies 24 hours after the Court of Appeal made its decision in 2003. In 2003 they got more than the willies. They extinguished a people's right to have access to the judiciary. In this bill's explanatory note it is stated that it will repeal the 2004 Act, and that is music to the ears of the thousands of us who marched across the Auckland Harbour Bridge—

Hon Shane Jones: You were at McDonald's!

Hon TAU HENARE: Oh, no. I was not at McDonald's; I was not watching any porn videos. Oh, no; that was not me.

This is about access to the judiciary. This is about human rights, and that is what that whole debacle was about. Fifty thousand people were outside the front door of this place. Today we saw a couple of teachers having a little protest; well, in those days 50,000 people were outside the front door. Labour members took the opportunity today to talk about the fact that it was Don Brash's fault, or that it was this man's and that man's fault. I cannot believe the gall of those members across the way. They were the Government at the time. They made the rules; they made the law. But they stopped people from going to court to find out, which is the most significant part of this legislation. It restores a people's right.

Those members should just say sorry; they missed the boat. They had the opportunity to say sorry, but they could not bring themselves to say it. The Labour Party has said sorry to all sorts of people—gay people, Samoan people, Chinese people, Korean people, and who else? But they have not said it to Māori. Those members have not got up off their hind legs tonight to say sorry for the hurt and the pain that was brought upon Māori by their own people. Mita Ririnui, Parekura Horomia, and Nanaia Mahuta were the instigators. They should hang their heads in shame. They had an opportunity to say sorry, but they never did. Shame on the Labour Party!

I will tell the House another thing: in 2004 when Labour passed the Act, it was the instigator of the Māori Party. I say congratulations to the Māori Party, because five people are here who have stayed the course and did what they were elected for. They were elected to repeal the Act, and it is being and will be repealed. So my hat is not off to those people across the way; I doff my cap to the people in front of me. It is off to those five members of the Māori Party, who have worked tirelessly with the Hon Chris Finlayson for the repeal of this bill. So let us take a vote, and let us send the bill to the Māori Affairs Committee where we can see who was responsible for this garbage from across the way.

A party vote was called for on the question, *That the Marine and Coastal Area (Takutai Moana) Bill be now read a first time.*

Ayes 106

New Zealand National 58; New Zealand Labour 42; Māori Party 4 (*Flavell, Katene, Sharples, Turia*); Progressive 1; United Future 1.

Noes 15

Green Party 9; ACT New Zealand 5; Māori Party 1 (*Harawira*).

Bill read a first time.

Hon CHRISTOPHER FINLAYSON (Attorney-General): I move, *That the Māori Affairs Committee consider the Marine and Coastal Area (Takutai Moana) Bill, that the committee report finally to the House on or before 25 February 2011, and that the committee have authority to meet at any time while the House is sitting (except during oral questions), and during any evening on a day on which there has been a sitting of the House, and on a Friday in a week in which there has been a sitting of the House, despite Standing Orders 187 and 190(1)(b) and (c).*

Motion agreed to.

PRIVATE SECURITY PERSONNEL AND PRIVATE INVESTIGATORS BILL

Third Reading

Hon NATHAN GUY (Associate Minister of Justice): I move, *That the Private Security Personnel and Private Investigators Bill be now read a third time*. This bill will significantly improve the regulation of the private security industry. The private security industry is a very diverse and very important industry, which protects New Zealanders and their property around the clock. However, it is currently regulated by an Act that is widely acknowledged by members of the industry to be in need of updating. A lot has changed since the 1974 Act and the bill addresses those changes.

The overriding purpose of the bill is to prevent harm by ensuring that security businesses and personnel are suitable and do not behave in ways that are contrary to the public interest. Security personnel play an important role in protecting our safety and property, and members of the public need to be assured that the people in whom they place their trust—

Mr DEPUTY SPEAKER: I am sorry to interrupt the honourable member but the time has come for me to leave the Chair.

Sitting suspended from 6 p.m. to 7.30 p.m.

Hon NATHAN GUY: Just before the dinner break, I was letting the House know that we are in the third reading of the Private Security Personnel and Private Investigators Bill. I was talking about the importance of passing this bill, because it has been in the proposal area for 7 years. It is great that this Government has been able to progress it. I understand that it has widespread support from across the House.

The public needs to be assured that security personnel have the skills and knowledge to do the job safely and competently. One of the key changes introduced in this bill makes it possible to impose training requirements. As I mentioned in the second reading, this Government intends to make regulations requiring crowd controllers, property guards, and personal guards to be trained. Another key change in the bill extends the licensing regime to include security personnel who are responsible for protecting people or, in a general sense, keeping order. This addresses a significant gap in the current regime and will be important for the safety and success of major events such as the Rugby World Cup, which is a little under 12 months away.

The bill establishes two new bodies, the Private Security Personnel Licensing Authority and a dedicated enforcement body called the complaints, investigation, and prosecution unit. The two bodies will work together to improve overall compliance. The authority will be responsible for licensing and discipline, and the unit will investigate and prosecute offences against the Act.

The bill also aims to improve compliance and deter unlicensed operators by updating offences and increasing penalties.

Another significant change introduced by the bill is the change to the licensing regime from an annual process to a 5-yearly cycle. This will apply to both licences and certificates of approval. Instead of having to make a full application each year to renew a licence or certificate, there will be a much simpler process. Licence holders will have to provide annual returns to the licencing authority and advise the authority of any changes, for example, if they have been convicted of a relevant offence in that time or if their business address has changed. Certificate holders will also have to advise the authority of certain changes as they occur.

The Justice and Electoral Committee, led by Chester Borrows, who does a fantastic job with that committee, recommended several changes to ensure the bill meets its objectives. Most of the changes are technical in nature to clarify aspects of the bill and to make it operate as intended. All of those changes are now reflected in the bill.

I want to comment about the most significant change in the bill since it was introduced and how that relates to the regulation of private investigators. Private investigators, as members know, perform a valuable role investigating fraud and other criminal offending, but the current prohibition on taking or using photographs or audio recordings without the subject's written consent can make it difficult for private investigators to do their work. That restriction was in clause 66 of the bill introduced to the House. The select committee recommended replacing clause 66 with a requirement to make regulations prescribing a code of conduct for private investigators. The bill requires the code of conduct to cover the surveillance of individuals by private investigators.

In conclusion, I am pleased that the bill has reached its third reading this evening. It achieves reform that is proportionate to the risks, and, overall, it is cost-effective. It will benefit the many members of the private security industry who already meet the high standards we expect and in whom the public trusts every day.

The bill was very well received by the Security Association conference, which I addressed today, and it is pleased that the legislation has finally been modernised. I commend this bill to the House.

CHRIS HIPKINS (Labour—Rimutaka): It is always a pleasure to follow the Minister of Internal Affairs, the Hon Nathan Guy, in this House. That is something I tend to be doing quite a lot lately. I understand that the Minister dreams about making speeches in Parliament; in fact, he has been known to wake up and find that he actually is, because he sets the House alight when he comes down here and speaks to us!

I am very happy to take this call on the Private Security Personnel and Private Investigators Bill. Just to—

Chris Tremain: That was cutting!

CHRIS HIPKINS: Was it? Oh, it was meant in good humour.

There are three main changes to the current Private Investigators and Security Guards Act contained in this bill. It is a good bill, which was introduced by my colleague the Hon Clayton Cosgrove during the tenure of the previous Labour Government. It is another of the many things we did to give the new Government an easy ride when it first came in. It had all this legislation that the previous Labour

Government had introduced for it to pass and to make it look good, but all the hard work was done before National took office.

Hon Nathan Guy: It took 7 years, Chris.

CHRIS HIPKINS: Well, these things are ongoing. We were a very busy and productive Labour Government.

Hon Nathan Guy: How old were you 7 years ago?

CHRIS HIPKINS: I have to do the maths; I would have been 25.

The bill does three main things. It introduces licensing requirements, including police checks for criminal convictions, to an extended range of people carrying out security-related activities, including crowd controllers, bouncers, bodyguards, private security staff, and those guarding people in legal custody. I will talk a little bit more about some of those in a minute.

Private security staff will be required for the first time in New Zealand to undertake training if their job is guarding property, guarding persons, or keeping order amongst groups of people. Essentially, training will be required if the nature of the work is such that there is a significant risk of physical violence occurring. The details of the training will be made explicit via an Order in Council. As the Minister just pointed out, a dedicated enforcement body, the complaints, investigation, and prosecution unit, will be created to ensure compliance with the new legislation, and there will be heavier penalties for offending.

I would like to run through briefly who will be covered by this legislation. Security consultants will be covered by it. That means anybody who sells or attempts to sell a device of any kind such as security cameras, burglar alarms, and so forth. Anybody who wishes to advise the owner or occupier of a premise on the desirability of having any such equipment installed on their premise will be covered.

The bill covers those working in secure document destruction. We had an interesting debate on that in the Committee stage. My friend Simon Bridges pointed out that secure document destruction could prevent material getting into the hands of Nicky Hager if it were done by appropriately licenced and trained people, except, as I pointed out in the Committee stage, if Mr English were not covered by this legislation, which he is not, then there are no guarantees that those documents would not still have found their way into Mr Hager's hands somehow. I understand that the police are still continuing to try to find out what happened there. Obviously, Mr English is very, very good at covering his tracks.

The bill covers property guards, who look after not only commercial premises but also private premises and so forth. I raised a question about the people who monitor security cameras. I asked particularly about whether the bill would cover the likes of community patrols, which assist the police in monitoring security cameras. I did not get an answer during the Committee stage of the debate, unfortunately.

The bill also covers crowd controllers. I thought the definition of a crowd controller was quite interesting. It includes anybody who is in the business of screening entry into a place, keeping order in a place, or removing a person from a place. I wondered whether Mr Brownlee might be covered by the legislation, because I understand that is the role he performs at National Party conferences. He screens entry into the conferences, keeps order in the conferences, and he removes people from the conferences. When people cause a disturbance he throws them down the stairs. I wondered whether this definition would cover the likes of Mr Brownlee, given his history as a crowd controller at National Party conferences.

The bill covers personal security guards, who are people involved in the guarding of a specific person or persons.

Hon Ruth Dyson: Well, that's still what he was doing.

CHRIS HIPKINS: That could well be Mr Brownlee, as well, although I do not know exactly who he was guarding.

Those people are all covered by this legislation, which introduces a licensing regime and a training regime for them. I think that we would all agree in this House—and I suspect that we will all agree and all vote in favour of this very good legislation, which was introduced by the previous Labour Government—that ensuring that the people who work in those types of jobs are appropriately trained, qualified, and registered is a very worthwhile thing to do. That would have been one of the motivations behind the previous Labour Government introducing this legislation.

I will recap a little bit about why it is important that we revisit this legislation. The current Private Investigators and Security Guards Act 1974 is outdated. It does not reflect the changing role and expectations of the security industry in New Zealand today. Technology has changed hugely in that period of time. It is longer than I have been around for, I am afraid to say—

Shane Ardern: Most of your front bench was here in Parliament then.

CHRIS HIPKINS: There were a few; there were one or two. Things have changed dramatically since then. The advent of modern technology, particularly digital technology, has changed the role of many of those things. I imagine that private security cameras monitored remotely would not have been very common in 1974, but in these days, they are quite common.

Chester Borrows: It was all black and white in them days.

CHRIS HIPKINS: It was all black and white in those days—well, that is right. In fact, it was in the 1980s that I got my first black and white television. We used to watch *The Dukes of Hazzard* back on the old black and white TV.

Things have moved on since 1974. It is time that the law is updated. Private security personnel perform a very valuable and responsible role in the community, but risks are associated with the type of work that they do. In particular, where somebody is put in a situation where they could become violent, we want to make sure that private security personnel are appropriately trained for that situation. Standards of practice and conduct vary widely at the moment amongst private security businesses and their staff. This poses risks to their clients, the public, and, of course, to the security personnel themselves. Those risks include risk to physical safety and the security of property. In the case of private investigators, there are big risks to privacy. Clearly this bill addresses that matter, and that is a good thing. Improvements are needed to ensure that security staff who are not currently required to be licensed are covered.

With regard to bouncers, I mentioned before the example of Mr Brownlee. He would not be covered by the existing law, and I am not sure whether he will be covered by this law, either. But perhaps he should be, given the very valuable role he performs as a front-line bouncer at National Party conferences. The current Act does not require the mandatory training of security staff, and I think that Mr Brownlee could probably use training in a number of other areas as well as in his role as the National Party's bouncer.

Hon Ruth Dyson: Like Leader of the House.

CHRIS HIPKINS: He could possibly use it in his role as Leader of the House, and then he would not have to extend the deadline for pieces of legislation to be enacted. But that is an issue for next week; I am sure that we will come back to that again next week.

To come back to the issue at hand, I say that without proper training, staff could be exposed to potentially violent situations. That is something they need to be aware of. It is almost unavoidable for those working in the security industry, particularly for those working as bouncers in the hospitality industry. I think is very important to make sure they are trained and know how to deal with that appropriately. Better enforcement and

heavier penalties are needed to deter offending, including the problem of businesses and staff operating in the industry without being licensed when they should be. This bill introduces new penalties, new fines, and so forth. I think that is a very valuable thing.

Overall, I think this is a good bill. As I said, it was introduced by the previous Labour Government. It was one of the many pieces of legislation that was introduced by the previous Labour Government to make this Government look good. I commend the Justice and Electoral Committee, which was involved in hearing the submissions on the legislation. I particularly compliment the chair of the select committee, Mr Chester Borrows. It is always a pleasure when I have the opportunity to serve on that select committee. Overall, this is a good bill, and I commend it to the House.

CHESTER BORROWS (National—Whanganui): I rise to speak to yet another sterling piece of legislation, the Private Security Personnel and Private Investigators Bill. It had its germ, as we have just heard, within the National Party and it was polished by a National Government at the top of its game. It was filtered through the Justice and Electoral Committee and has gathered wide support from across the House. This legislation needs to deal with changes made in technology since the parent legislation was introduced, and it takes account of the wide range of purposes that private security personnel and private investigators work on today. It is also interesting to note that, for the first time, security guards will be required to undergo training, and they will not just undergo training but also be required to display competency. The reason for that is that people can undergo training by way of mantra, they can tick boxes, and it could be said that they know stuff, but we need to know that they can display the competencies. A lot of the people involved in the security industry come from similar backgrounds within other agencies—for instance, within the armed forces, the police, and customs. Those people will have the technical difference of being able to say that they display a competency, rather than having to undergo training. It means that they will not need to go through and do the tick box thing. They can display the competency and will not have to waste time doing the training.

Why that is important is that more and more, right across our society, we are expecting people not from Government agencies to perform tasks that have traditionally been done by Government agencies. For instance, there is not a single piece of core police work these days that is not done at some place in our country by a private security company. As has been previously mentioned, there was quite a bit of debate about the ability of private security guards and private investigators to take photographs and take video and audio recordings, because previously they had not been able to do that. If they were confined merely to watching people—gathering evidence for journalists and mudslingers—then maybe it could have been OK to leave the law where it was, because members in this House, for instance, have been the subject of that sort of abuse.

However, I know that a number of private investigators are used in the investigation of crime. Some of it is serious crime. Some of it is crime that the police do not have the resources to be able to investigate in terms of time and personnel, depending on where in the country the crime needs to be investigated, or on what the current crime trends are at that time. We see a large number of fraud investigations being carried out by private investigators, and private investigators going ahead and investigating a number of missing person - type offences and incidents. We have the ridiculous situation under the current legislation where parents could give a photograph to a private investigator to go and look for their missing child, who was maybe a young teenager and had run away from home, yet the private investigator could not show that photograph to anybody else to ask whether that person had seen the child. If the private investigator thought that he or she had seen the child, the private investigator could not take a photograph of the

child in a street situation or without the child's consent, in order to go back to the parents to confirm identification.

The changes to the powers of private security personnel and private investigators is timely, especially in view of the Rugby World Cup coming up next year, as we have heard from the Associate Minister of Justice. The bill enjoys wide support from across the House, and I commend it to the House.

Hon DAVID PARKER (Labour): I endorse the comments from the chair of the Justice and Electoral Committee, Chester Borrows, and I am happy to say again that I respect the way in which he chairs that committee. It has a lot of work, and he does that task very effectively. I think there was a slip of the tongue when he said that the genesis of this bill, the Private Security Personnel and Private Investigators Bill, was with National. Actually, that was not correct. The bill was introduced by the Hon Clayton Cosgrove during the term of the previous Labour Government; he was the Minister in charge of the bill.

I am happy to record, as did the previous Labour speaker, that Labour will be supporting this bill. The bill updates the legislation covering private security personnel and private investigators. That is important. There have been changes since the original private security legislation of the 1970s. A lot more quasi-police functions are now conducted by private security agents. In the 1970s the people who provided security at public sporting events, for example, were the police. These days the police generally are not the main providers of security services at big public functions, be they sporting matches or cultural events. It is generally contracted out to private security people, and there is a need for legislation to catch up with that reality.

The only area where I disagree with the Government in respect of this bill is the granting of the right for security personnel to take photographs and to conduct other surveillance operations. Everyone on both sides of the House agrees that it is somewhat nonsensical at the moment that a private person can take a photograph in circumstances that under the status quo of the existing legislation a private security person cannot. That seems a nonsense, and it should be fixed. But the more fundamental problem we have is that there is a bit of a gap in the New Zealand law at the moment.

We have controls on how State agencies conduct surveillance operations, including taking photographs of people, yet we do not have constraints on non-State agencies. We have powers in favour of the police being able to go about the things they need to do when investigating crimes. But there are constraints on the police. In certain situations they have to get warrants before they can conduct search and surveillance operations. We have no such constraints in respect of non-State agency search and surveillance. The Law Commission has identified this as a gap in the New Zealand law.

When the Law Commission was involved in the submissions process or in the development—I am not sure which—of the Private Security Personnel and Private Investigators Bill it stated that we ought not to confer on private investigators the right to take photographs until we have tidied up the underlying law relating to photographs, surveillance, and searches by non-State agencies. It is a nonsense that the State agencies that we confer these special powers on face some controls at law that are not applied to non-State agencies.

In an earlier debate I gave the example of the Minister of Finance, the Hon Bill English, suffering the intrusion of people on the street taking photographs of the inside of his children's bedrooms. There were problems in the underlying dispute that I do not think Bill English was free from fault in, but, in my view, Bill English and his family ought not to have suffered the intrusion of people on the street taking photographs of the inside of the children's bedrooms. That is an infringement of his civil liberties that is not justified.

In my time as a Minister I suffered a similar action. In my case it was carried out by private investigators who were stupid enough to out themselves on TV. There is no doubt that those private investigators were being paid by the Exclusive Brethren. They were following and investigating me, Michael Cullen, and David Benson-Pope, as well as, probably, Peter Davis and the Prime Minister. This was admitted by a private investigator who forgot the word "private" and did a public interview, which was a silly acknowledgment. However, it did show there are intrusions into the civil liberties of me, every other member of Parliament, and every member of the public in New Zealand and that they are not properly controlled by our current laws.

Private investigators, as a general rule, should have no greater power than any other private individual. They should have the same powers as private individuals, and I agree it is a nonsense that they cannot take photos, but they should not have any more powers than private individuals have. I agreed with the logic that was used by the Law Commission when it recommended that we stick with the status quo in respect of private investigators not being able to take photographs and do other surveillance work until we properly control search and surveillance by non-State agencies.

The problem that we risk creating with this legislation is that when the Law Commission comes up with its final recommendations as to the appropriate controls on search and surveillance by non-governmental agencies—that is, by private people and by private investigators—private investigators will stick up their hands and say: "We're special. We need more rights than the general public.", or they will come along and say: "The general public needs these rights too." I disagree with that.

I do not think it was right that anyone, a private investigator or someone out on the street, can use a camera to take photos from a distance. These are new issues that come to us as a consequence of new technologies. Those new technologies include not just cameras that are powerful from a distance but directional microphones, tracking devices that can be put on cars, and heat detection equipment that shows where people are. New technologies allow significant intrusions into the private lives of people, and they ought not to be freely able to be used by busybodies.

I think it is an absolute outrage that the privacy of Bill English and his children was infringed by the taking of photographs, from the public street, through his children's bedroom windows. That is something that is properly controlled to protect the civil liberties of all of us so we can live private lives and not have them intruded upon unduly. Legislation will eventually come to this House, at the recommendation of the Minister of Justice and the Law Commission, to put some controls against inappropriate intrusions into our private lives. But private investigators, because we are giving them these powers, in the meantime, in this legislation, will come along and say: "We're special. Don't include us." That is the point of principle that I think is wrong in this version of the bill.

The original bill, which was referred to the Justice and Electoral Committee, was a bill that stuck with the status quo and put up with the nonsensical part of the law that says private investigators cannot take photographs and do surveillance without the consent of the occupant of the property. We all agree that that is imperfect legislation, but it is imperfect legislation that we have had for 36 years. Another couple of years of that imperfection would not have done much harm, but it would have sent the signal that we do not think private investigators should have any more powers than private people, because they are effectively just agents of private people.

If we think about what private investigators do, we realise that they stand in the shoes of the people who employ them. They are doing things on behalf of private people, and they should not have any more powers than private people have if they do those things themselves. If we need any more powers than that to investigate a crime, it

should be done through the police. Then there are the constraints around getting a warrant, convincing a judge that it is the appropriate thing to do, the evidential requirements that are enforced by the courts as to the appropriate use of police powers, and, indeed, the political accountability of the Minister of Police if the police overstep the mark.

None of those constraints is in play in respect of private investigators. That is why private investigators ought not to have more powers than ordinary people, and that is why, in my opinion, we are creating a rod for our own backs in respect of that provision. Having said that, it is good legislation overall. I hope that in this debate we have appropriately highlighted the risk we create in respect of the non-governmental search and surveillance powers, and that in the future we tidy that up for everyone, including private investigators. Thank you.

KEITH LOCKE (Green): The Green Party will support the Private Security Personnel and Private Investigators Bill, but we are concerned about the expansion in the number of people who are private investigators or security people. I think a figure was thrown around in one of the earlier debates of about 18,000 people working in this area. It has been a growth area in New Zealand society over recent years, and in general it produces nothing in terms of the productive economy of our country. More and more of our resources are being diverted into the area.

The question I start with is why in this modern society we need so many private eyes, security guards, property guards, personal guards, crowd-control people, security consultants, people who secure areas and check security cameras, and people who destroy documents. The list goes on and on. I remember when I was growing up a few years ago that just about the only security people I came across were a couple of people, who did not have uniforms on, at the doors of the dances I went to. In that time there were one or two other people, who were private investigators, whom we did not see and whose main job was to spy on people to see who was committing adultery so that one of the partners in a marriage could use the information in a divorce suit.

I remember that I used to go down regularly to Lancaster Park to watch the rugby games, and I cannot remember seeing any security guards in uniforms there, although there might have been a couple of police around just to tell people which direction to go in. It was a different society altogether, and now we are thinking about the Rugby World Cup next year, for which there will be a whole array of people with uniforms on to protect the Rugby World Cup and all the people going into the games. It seems totally out of proportion. When Sir Roger Douglas started in Parliament here a few years ago—and that was a few years ago, was it not—I do not think there were any security guards in Parliament to speak of. Apparently there were a couple of people stationed at the doors to welcome people coming in. They did not see people as any threat; they said "Come on, come in." There was no security around the building to speak of.

There are two concepts that we seem to have lost sight of in all this, and one of those is trust. In those past days, people basically trusted each other and they did not think we needed a whole lot of people running around in uniforms to protect some people against other people. The second concept we seem to have lost sight of is of risk. We are much less likely to take risks and to risk something going wrong. In the past, when there were not any security guards in crowds, at rugby games, or wherever, there was occasionally a bit of mayhem, and there might not have been people on hand to stop it immediately, but it was a much better society because we took that risk. We were not scared that if something went wrong or someone got hurt that it would be in the papers the next day, and that someone would have to be responsible and someone would have to be blamed.

We had more of a concept of risk and an understanding that in society we have to take some risks.

Our national hero, Sir Edmund Hillary, is a person whose life was built on risk, yet we seem to have forgotten about it as an important factor in society. In those days, as was pointed out by a previous speaker, most of the control was done by a few people in police uniforms. Now we have a lot more people who are not in police uniforms. Is that a move to greater efficiency? I think it was much more efficient when we had a few people who were fully trained and respected because they had police powers.

I will go into the issue of clause 66, which has been omitted from the bill. The Greens and Labour, as members know, have opposed the elimination of clause 66. We want to continue the prohibition on private investigators taking photos, videos, and audio recordings of people—all of which clause 66 prohibited. There is even more reason to do that now, because of the march forward of technology. We are not in the same situation as we were in the days of the earlier legislation, when only still photographs were used. Now videos are used, and more and more the videos are electronic videos, rather than the old videotapes. Those devices are much cheaper and much more intrusive. They are often much smaller, and they can be very covert, as we saw in the recent case over the last week surrounding Stephen Wilce.

As a result of a *60 Minutes* documentary, Stephen Wilce, who was the head of the Defence Technology Agency, appears to have not been entirely truthful about his background. That issue started off when TV3 interviewed him with a covert camera, which he did not know was present. The thing about those cameras is that they are fairly easy to run continuously. If they are put in an office, house, or wherever it might be, then they keep going and going, and they can be accessed remotely. The person running the show does not need to be in the vicinity, just as our traffic cameras, which of course perform a good purpose, are accessed remotely in a control room some distance from the particular intersections at which the cameras are directed. It is also easier because of the electronic time scanning in videotapes today to focus back and forth on whatever we want very quickly. A particularly interesting and worrying development is the spread of facial recognition systems, through which we can apply facial characteristics to a whole set of videotapes to find a particular person in a very quick space of time. That means it is much easier for private eyes to track people around a city, if they have cameras in place.

With audio interceptions, the technology has marched on as well. All the things I mentioned for video technology apply to audio interceptions as well. Audio interception devices are small. They can be covert and unknown to the person who is under surveillance. They can be permanently in place, accessed remotely, and can have directional microphones attached, which means they can be quite a bit further away from their target. Voice recognition systems are available, and automatic transcription systems can also be used for transcribing the voice intercepts, and I think the Hansard Office of this Parliament uses that technology as well.

In terms of what private investigators are trying to do, that reliance on technology has a big downside. Those investigators who have been contracted by outsourcing Government departments, such as Momentum Consulting Group in the Stephen Wilce case, might have been relying too much on technology. It might have googled the name "Stephen Wilce" to see whether he came up on Google rather than talking to the people he had worked with over the years, by which I mean the seven different employers whom those recruiters do not seem to have had a chat to.

One of the problems with any electronic interception system, be it audio or video, is that if someone gets round behind the system and changes something, everyone accepts that the person is OK, because the background part of the system has been falsified.

There are also problems with private investigators being outsourced by State agencies such as Solid Energy, which outsourced private investigation through Thompson and Clark Investigations, and infiltrated the Save Happy Valley Coalition, an environmental group that was trying to protect a pristine area on the West Coast. That was very destructive to that organisation and very unethical. That is the problem when we allow private agencies to go beyond the legal and moral constraints that operate for the State agencies that report to the Government and this Parliament, and which we can keep an eye on.

I think it is good that this bill exercises, in general, a lot of control over the field of private investigators and security people, but we have to be wary about going too far down the track of more security people. Thank you.

TE URUROA FLAVELL (Māori Party—Waiariki): Kia ora, Mr Assistant Speaker. Tēna tātou katoa, i tēnei pō. Thanks for the opportunity to take just a short call, really, from the Māori Party perspective. As other speakers have said, the Privacy Security Personnel and Private Investigators Bill is important, and it amends outdated legislation from 1974. From our perspective it is more than just getting up to date; the key to the bill is to ensure that security workers are trustworthy, which was a point made by my colleague Mr Locke. They must also have the skills and training to do their jobs well. Both of those are important things. This bill has immediate relevance to security guards, bouncers, doormen, and security technicians, who will now have to hold licences and certificates of approval, with the threat of being penalised by fines of up to $60,000 for breaches.

When I got wind of this bill I was approached by a person who leads a large security firm in Rotorua. He had, basically, two concerns. Firstly, he did not mind the whole notion about some sort of accreditation, but he mentioned—I say for the purposes of the Minister—that the turnover of the applications was a little bit slow. That was a problem for him, because when he called on all members of his huge security firm, and had to pull in all of his workers from Taupō, Tokoroa, and around Rotorua—they were needed around Christmas time, when all the big festivals were on, the rock festivals, the Ragamuffin festival, big rugby games, and so on and so forth—the turn-round, he said, was a little bit slow. I just mention that in passing.

Secondly, if he had to take on staff for a short period of time—maybe for a one-off job—those people still had to pay a fee and to go through the process of getting accreditation when they might have been going to work only once, or possibly twice, over a period of a year. Therefore, it was almost a waste of time. In fact, I think he mentioned that his company had to pay the fees, or that he was willing to take up the costs, to assist his workers' come-on, or else it was a waste of time for them even to join; the pay they would get would basically go out the door from having to pay the fees to get accredited. I just leave those issues for the Minister, who hopefully is listening, to consider.

A key issue within the bill appears to have created the most interest, and that is the question of clause 66—whether to delete it. That clause restricts private investigators or their employees from taking photographs or making recordings without the subject's written consent. The Māori Party was certainly sensitive to the potential risk of abuse and unfair conduct by private investigators if the restrictions were removed, but we noted also the advice of the Law Commission that section 52 of the Private Investigators and Security Guards Act currently provides protection for individuals from unauthorised surveillance, so in a sense that Act deals with that issue.

We are also interested in the predominant theme of the majority of submissions, which called for a private investigator to have a code of conduct, and for a code of ethics to be established, as well. We want to ensure that appropriate standards of

conduct are set and maintained, and that the power of security staff is appropriately balanced to ensure the rights and safety of the public.

To know exactly what it means on the ground, I have heard some feedback from security doormen at the famous—or infamous—Grumpy Mole Saloon in Rotorua, who have to deal with both the best and the worst of people in the Waiariki electorate. These doormen say they already undergo training and are registered by getting New Zealand Qualifications Authority qualifications. As part of the checking process, referees will be asked to describe what sorts of persons these people are, and the last thing we want is security personnel who want to give as good as they get when dealing with disorderly and drunk people. That probably would not be the best situation. They also have a process of mentoring, inasmuch as new employees are teamed up with more experienced doormen before they gain qualifications. That is important. Dealing with drunks is difficult at the best of times, but security guys end up, as we know, often being the subject of spitting, kicks, and objects being thrown at them, and enduring all that supposedly in the line of duty. As a result of this bill, workers will have to provide to the authority annual returns of relevant information, such as a recent conviction, and they will have to wear an authorised badge at all times while working, which at least shows their accreditation in a physical sense.

We are most interested to see there is also a code of conduct in place to ensure that appropriate attitudes, such as cultural competency—the ability to work across cultures—are maintained throughout every aspect of the industry's work. We are obviously supporting this bill's third reading, and we appreciate the work that has been done by the Minister.

SIMON BRIDGES (National—Tauranga): A lot has changed in the world since 1974. The world has become a more complex place. Jacinda Ardern, Chris Hipkins, Aaron Gilmore, Nikki Kaye, and Simon Bridges entered the world, and that is not the start of it. But in addition to all of that sort of light and wholesome goodness, the world has become more complex. I want to talk briefly about, I suppose, the way things have changed and what the Private Security Personnel and Private Investigators Bill reflects in that respect. We see in the purpose clause, or the reasons for this bill, some of the changes in our values and the way we think about things. The new bill prevents unsuitable people from working in private security. It ensures that security personnel and private investigators can be required to undertake training. It prescribes codes of conduct. It beefs up or ensures there are appropriate penalties for breaches. So we have seen some changes here and a view that bouncers, security personnel of all shapes and sizes, are not performing just a private role, as we probably thought they were in the early 1970s, but that there is a public interest in, or a public aspect to, what they are doing. So they need to be regulated and trained, and we need codes of conduct. I suggest there has been a real change in the way we view rights, personal autonomy, and the privacy of individuals.

I have Chester Borrows sitting near me and I do not want to cast aspersions on his age, but for argument's sake let me ask how long the member was a police officer. [*Interruption*] When he was first a police officer—and I have heard this from, shall we say, more senior officers—the way that a breach of the peace or something was sorted out was with a good hard thump. That is the truth of the matter. They would implement a bit of rough justice and the lad, or whoever it was, who had done the bad thing would be on his way. We certainly do not condone that sort of behaviour now, because, as I say, rights of individuals have increased. I happen to think that is a good thing by and large, and personal autonomy and our sense of our privacy have been greatly enhanced.

Again, we see that not just with police officers but with bouncers. Interestingly, I think it was *Breakfast* television—which Jacinda Ardern and I will be glad to appear on tomorrow morning—that had the head of the New Zealand Security Association—

Hon Maurice Williamson: What channel?

SIMON BRIDGES: Television One, 7.20. It is the highlight of the week for Jacinda Ardern's grandmother, but that is another story; and of my mother, by the way. I am getting off track. The point of the story is that on television this morning they had the head of the Security Association. He made the point that I suppose I am making in a roundabout sort of way. If we look back to 1973-74, there was zero regulation—

Hon Member: On passports?

SIMON BRIDGES: I am not going to talk about that. There were no rules, and under this legislation there were effectively no rules for bouncers. But it is a very different world today, where I think we legitimately expect our bouncers, our security personnel, to be beholden to some higher standards because they are performing some kind of public role and we want them to be seen as such. So our tolerance levels have gone down. We do not accept heavy-handed bouncers, security surveillance, and all of those things. I am very happy to support this bill, and we might just talk a little more about it on Television One's *Breakfast* at 7.20 tomorrow morning.

JACINDA ARDERN (Labour): I think those comments made by Simon Bridges might be the first time that I have heard a politician name-drop himself in this Chamber. I almost feel obliged to defend my poor old dear—

Hon Member: Paul Henry.

JACINDA ARDERN: —no, grandmother, but I am afraid I cannot. It is true that my grandmother watches *Breakfast* so that she can see "lovely" Simon every Thursday, but she is a wonderful, wonderful human being none the less.

First, I acknowledge the comments made by Keith Locke. [*Interruption*] I will not be baited into talking about Simon Bridges any further. It was a really interesting discussion on risk, which is something in which I have a bit of a personal interest. I am interested in the consequences that occur when we as a society do not tolerate certain levels of risk, and when we do not have adequate levels of accountability. That gives rise to an increase in bureaucracy and an increasingly litigious society. So I think that the role of risk, our tolerance for it, and the really important role of accountability are the real issues, because when they are lacking, they give rise to bureaucracy. But that is a whole different issue.

Today we are discussing the Private Security Personnel and Private Investigators Bill. There are just two things I will mention before I go into a little more detail. The Associate Minister of Justice, the Hon Nathan Guy, pointed out that this bill has been a while in the making. I acknowledge the work that the Hon Clayton Cosgrove originally did on this bill. It required a bit of work, and that is probably proven by the fact that it sat with the Justice and Electoral Committee for a full 11 months. If the National Government wishes to criticise the length of time it has taken, that criticism should fall evenly on both sides of the House. It is not something that I would like to see rushed; it is an area that we will not be revisiting for quite some time. In fact, I would almost extend that to the point that although we have pressing events coming up like the Rugby World Cup, I am loath to see us make significant changes that undermine some of the important things that we are obliged to balance, such as issues of privacy. In rushing through this bill, we have compromised that issue of privacy through our approach to clause 66, which David Parker has already spoken about, and I will spend a little more time on that.

I noted that the Minister said that members of the industry greeted this legislation warmly at one of their conferences today. I can understand that, because originally, as it

was introduced, it was much more prohibitive than the current bill before us now. So I have absolutely no doubt why they welcomed the bill, but I worry that we are still leaving a bit too much open in the final drafting of the code of conduct.

There are three areas that I want to touch on quickly: licensing, training, and the issue of clause 66, which I would like to talk about in just a little more detail. Labour stated from the outset that we understood that clause 66 restricted the ability of private investigators to take photographs or make recordings of subjects without those individuals' permission. We accepted that perhaps that was going a bit too far and was probably prohibiting those investigators in the job they were doing. But we did not accept that it was adequate simply to delete that provision altogether. Our preference was to err on the side of caution, particularly given that, as we have stated time and time again, the Law Commission is looking at a piece of work that touches on that area. I would have thought that the National Government would be interested in at least two things: first, providing consistency in the way we address privacy issues in this House, and, second, what happens if we remove clause 66, put in a code of conduct as the Government has proposed and then find that the Law Commission comes back and proposes something completely different. That inconsistency—having to rejig again if we find ourselves wanting to implement changes recommended by the Law Commission—will impose a cost on the industry and will have an impact on those working in the area. I would have thought that we would pay a little more attention to that level of instability within the industry. So there were greater things at play and I think a little more patience with this issue would have been helpful. Keeping clause 66 in place for the time being and perhaps having an omnibus bill that dealt with privacy issues later down the track would have been a better way to deal with this situation.

I want to speak on the issue of training. The greater training of those working in this area is something we wholeheartedly endorse, because private investigators and security guards are picking up work that may not have been contracted out to the private sector as much as it is now. Some private companies are already investing in their people to make sure that they are up to scratch and well trained, but some are not, which relates to the purpose of having this set out in legislation and having a licensing regime in the first place.

We are particularly supportive of clause 56C because it gives a level of discretion to the licensing authority to give someone a licence even if he or she should be technically disqualified. The reason that is particularly important is that some people may have operated in this area for a significant number of years, may have proved themselves to be worthy members of the industry, may have done the job well, but may very well have something in their past that precludes them from entering into this industry were they to do it today.

Hon Maurice Williamson: Such as?

JACINDA ARDERN: I will not go into individual examples in this particular case, but I believe in the principle of a clean slate, which is something that some other members of this House have been slightly inconsistent on. So I think that clause 56C is important and I hope that discretion is used wisely.

I want to touch quickly on the licensing issue. We are probably talking about a doubling of the number of people who will need to come under this licensing regime, because the Act will extend the number of classifications that will be required to be licensed. But there is a balance in that, as well. As a former member of the Regulations Review Committee, I see from time to time the costs imposed on those who are working in licensed industries through relicensing and the frequency of relicensing. The efforts to keep costs down for those working in this sector, by requiring relicensing only every 5 years rather than every year, is a good thing.

We know that the Rugby World Cup is the reason why the Minister put through his Supplementary Order Paper moving the commencement date of this legislation from 1 December 2010 to 1 April 2011. But I am interested in the fact that the Minister has also given himself some extra discretionary powers to recommend an exemption to certification if the Minister is satisfied that the benefit to be gained by requiring people to hold certificates is outweighed by the public interest in ensuring that there are sufficient private security personnel working at a major event. It is quite obvious why that provision is there, but I would have liked to see that provision with a sunset clause attached to it, or for it to be time-limited, because I do not think it is something that we want to use too often. I think that, by and large, those who are technically covered within the criteria of needing to be licensed should be licensed, because they are then captured by a number of other provisions around training and around penalties for not fulfilling the requirements of the legislation. So I would have liked to see a time limit on that.

Clause 113C provides for a transition period for people who are in business, and I think it is right that we have a transition period. Instead of the date being set for 1 June 2010, it will now be appointed by Order in Council. I think that where possible it is good practice of this House to avoid those things being open-ended and to take a leadership role and set down those dates. That is also something I would have liked to see.

All in all, it is good legislation bar our ongoing dispute over clause 66. I look forward, ultimately, to seeing the recommendations of the Law Commission on privacy issues.

KANWALJIT SINGH BAKSHI (National): It is my privilege to speak in the third reading debate of the Private Security Personnel and Private Investigators Bill. This bill highlights the concern demonstrated by the review of the Private Investigators and Security Guards Act 1974. This bill repeals and replaces the 1974 Act. There have been major developments since the Act was enacted 1974. Times have changed and a lot of modern gadgets are now available.

This legislation ensures that in future there will be better screening and monitoring of all personnel entering this industry. To this end, there is a requirement to wear an identification badge that has been issued by the authority. A licensing authority will be established to replace the existing Registrar of Private Investigators and Security Guards. This authority will manage the licensing process and enforce the licensing requirements. This bill controls all people involved in this industry and ensures that personnel undertake at least a minimum level of training to handle any situation they may encounter. The licensing authority will also have discretion to cancel a licence if the licensee is guilty of misconduct or gross negligence in the course of his or her business. In this light, penalties for offences have been increased. The maximum penalty incurred for operating a business without a licence currently is $2,000. That will go up to $40,000 for an individual and to $60,000 for a company.

The reform of the security industry is very timely, as we will be hosting the Rugby World Cup next year. Under this bill, crowd controllers such as bouncers who perform an important role at busy bars and pubs will be regulated for the first time. They will be expected to deal with any crowd control situation that may arise. The most important policy change relates to the now removed clause 66, which, like section 52 of the 1974 Act, prohibited private investigators from taking or using photographs or recordings without obtaining a person’s written consent. This provision has been viewed very controversially for some time. This ban has made it extremely difficult for private investigators to do their work—work that is legitimate and often important, such as exposing frauds or locating missing persons. The majority of the select committee

recommended removing clause 66 and replacing it with the requirement to make a regulation that imposes a code of conduct on private investigators. This code of conduct has a wide scope such as disqualification of a person from holding a licence if they have a conviction for certain offences, for example, violence or dishonesty. The select committee also extended the list of relevant offences as grounds for disqualification to include offences under the Arms Act, criminal harassment, contravening a restraining order, and intimate covert filming offences. Any of these offences would reflect on a person's suitability to do security work.

Last, I acknowledge Chester Borrows, the chairperson of the Justice and Electoral Committee, and other members who have worked hard to finalise this bill. I also acknowledge the Hon David Parker, whose knowledgable input has also benefited this bill. I commend this bill to the House.

IAIN LEES-GALLOWAY (Labour—Palmerston North): As has been stated a number of times in the debate on the Private Security Personnel and Private Investigators Bill this evening, the world is a different place than it was in 1974. It is different in terms of society, in the ways that Keith Locke described, and it is different in terms of the technological advances. Some of them are quite significant.

Hon Steve Chadwick: What were you doing in 1974?

IAIN LEES-GALLOWAY: I was barely even a glint in the back of the thoughts of my daddy's eye, or whatever we say—1974 was well before my time. The grey hair might be somewhat misleading.

Simon Bridges: How old are you?

IAIN LEES-GALLOWAY: It is my 32nd birthday this Saturday. I ask whether Mr Bridges wants to come.

I will come back to the bill. The law needed updating. Not only did we see that from the review of the Private Investigators and Security Guards Act 1974, but also it was somewhat precipitated by a specific event: the death in 2005 of Blenheim man Cedric Joyce after he was restrained by a bouncer. Clearly there was a need to address issues that the legislation as it stood was not sufficient to tackle.

Essentially we have legislation that endorses the work of the vast majority of people working who will operate under this legislation. It really is there only to ensure that the people who are operating at the margins are brought—

Simon Bridges: Did you borrow that tie from Ross Robertson?

IAIN LEES-GALLOWAY: It is a family heirloom. The bill was brought in to tidy up the people who are operating at the margins of the law. As so often is the case with legislation, the vast majority of people will probably not notice any difference. They are already doing the training as they should be. They are already ensuring that staff have the competency levels that are required in this legislation. This legislation brings us in line with the UK and Australia, so it is best practice around the world and very solid legislation.

A number of people have addressed clause 66. I do not think anybody could articulate the issues that the Opposition has with clause 66 any better than David Parker. I suspect that we will address this matter again when the Law Commission presents its thoughts in this area. It is perhaps disappointing that the Government has not heeded calls from the Opposition to retain the status quo until the Law Commission reports back, but we will have another opportunity to address that matter in the future.

The other thing that a lot of people have mentioned this evening is that the Rugby World Cup is coming up soon and it is important to have this legislation in place before then. It is important to New Zealand's reputation that bouncers, crowd controllers, and people who are working at those events are well trained, and know how to deal with difficult situations. It is important not just for events but also for people who are just

going out on a Friday or a Saturday night to know that the people who are there to look after them are well trained, competent, and capable of defusing some of the tense and potentially violent situations that sometimes arise when alcohol is thrown into the mix.

I am sure that most members of the House will have witnessed some of the old-school tactics that bouncers used. I have witnessed situations where they seemed to be deliberately inflaming the situation so that the police would get involved. That was the way they would deal with someone who was being difficult. I think that under this legislation we will see everybody coming into line and using more sensible, more up-to-date methods of trying to maintain good order both at events and in social situations in central business districts, where people just want to have a good time but sometimes a little too much alcohol tips things over and brings the balance on to the wrong side.

Having said that this legislation simply endorses the good practices out there, it is surprising that clause 66 is being changed in the way that it is. It is absolutely about people who will push the boundaries and who will seek to operate on the margins, shall we say, in areas that most of us would consider to be fairly unethical. So there is a bit of an inconsistency. Essentially this bill is trying to tidy up some fringe issues, but it is opening up a whole new area that could be potentially exploited by people who are not of great ethical or moral standing. Having said that, I support what all of our colleagues around the House have said tonight. Generally speaking, this is good legislation. The problems with it will probably be addressed in other circumstances in the future. The Opposition is very happy to support the third reading of this bill.

Bill read a third time.

CUSTOMS AND EXCISE (JOINT BORDER MANAGEMENT INFORMATION SHARING AND OTHER MATTERS) AMENDMENT BILL

First Reading

Hon MAURICE WILLIAMSON (Minister of Customs): I move, *That the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill be now read a first time.* At the appropriate time I intend to move that the bill be considered by the very good Justice and Electoral Committee, that the committee report finally to the House on or before 9 December 2010, and that the committee have the authority to meet at any time when the House is sitting except during oral questions, during an evening on a day in which there has been a sitting of the House, and on a Friday in a week in which there has been a sitting of the House, despite Standing Orders 187 and 191(b) and (c).

The bill is an omnibus bill that amends both the Customs and Excise Act 1996 and the Biosecurity Act 1993. The bill makes important improvements that are required to support the sharing of information across border sector agencies. These amendments will ensure that the Customs Service and the Ministry of Agriculture and Forestry meet the Government's priorities in relation to the delivery of the joint border management system and support effective collaboration at the border. The bill also provides for improvements in the effectiveness of customs law enforcement. These amendments will restore the level of effectiveness to the administrative penalty and the petty offence schemes that was intended when the Customs and Excise Bill was passed way back in 1996. Finally, the bill addresses emerging customs and border management issues, and provides clarity to existing legislative provisions to improve administration of the Customs and Excise Act.

Let me take members through the purpose of the bill. The bill contains three categories of amendments: first, amendments to provide for planned information-sharing by the Customs Service with the Ministry of Agriculture and Forestry and

across a range of other border agencies; second, amendments to enhance the effectiveness of customs law enforcement mechanisms; and, thirdly, nine smaller amendments to clarify provisions within the Customs and Excise Act. I will take the House through those three provisions. The identification and management of border risks requires information to be accessed and shared by border agencies. The Government has recently agreed to $70 million funding for a joint border management system that will provide the Customs Service and the Ministry of Agriculture and Forestry access to collaborated information needed to identify risks at our border. The joint border management system is due to be tendered, and system development will begin in early 2011.

The current statutory provisions for information sharing allows for information to be shared, but only on a case by case basis. This is not sufficient any more to cover the quantity of information and the process for information sharing between the Customs Service and the Ministry of Agriculture and Forestry. This bill contains amendments to the Customs and Excise Act and the Biosecurity Act that are necessary to support shared access to information by the Customs Service and the Ministry of Agriculture and Forestry under the new joint border management system. The amendments also provide a legal framework to support the interim information-sharing projects between the Customs Service and the Ministry of Agriculture and Forestry until the joint border management system is fully established. Further, customs involves a number of centres that operate jointly with staff from different agencies across the whole gamut, from the Customs Service, the Ministry of Agriculture and Forestry, immigration, police, defence, and other agencies. These centres provide a mechanism for sharing staff and intelligence to ensure that risks are identified and effectively managed.

The existing statutory provisions relating to such information sharing are, of course, unnecessarily complex. Given the Customs Service's range of agency interrelationships and connections, amendments in the bill establish an information-sharing framework that will enable the service to manage access to, and sharing of, border information by relevant agencies. The service's assessment of risk relies heavily on the quality and accuracy of the information provided by importers. The administrative penalty scheme that operates under the Customs and Excise Act is no longer providing a sufficient incentive for compliance by the importing community. The existing provisions relating to the petty offences regime are very limited in their scope and reflect the circumstances that applied when that Act was originally passed back in 1996. The Customs Service has identified amendments to restore the level of effectiveness intended when these schemes commence.

The second set of amendments will strengthen the administration penalty regime, which will increase the minimum penalties to be applied as administrative penalties. The bill will also increase the maximum penalties that can be dealt with as administrative penalties, adapting the penalty regime to reflect the degree of culpability—because that is an important aspect to this—and to include in the estimation of revenue avoided the GST otherwise payable. Amendments will also extend the range of provisions that can be dealt with as minor offences under the petty offences regime. The bill also includes nine amendments that are required either to clarify existing provisions or address new situations that have emerged since the Act was passed in 1996. The amendments clarify licensing and excise liability requirements for biofuels and biofuel blends, and reduce compliance costs for low-volume producers.

The bill allows the use of reasonable force within certain customs-controlled areas to detain people or compel unauthorised persons to leave. It enables the Customs Service to prevent goods from entering New Zealand that have been designed, manufactured, or adapted to facilitate a crime of dishonesty—for example, eftpos card skimming

machines that clearly were being brought in for a crime of dishonesty. The Customs Service was unable to stop that from happening. It creates—and this is my personal favourite—a specific offence for injuring or killing a customs dog, and brings it into line with police dog treatment. It enables goods that must be imported in multiple shipments to be managed as if they were a single shipment. It allows for the making of regulations to define the point at which an export entry is deemed to be made. It defines when a postal article has been produced or delivered to a customs officer. It provides a specific method for calculating the value of temporarily imported goods at the time of exportation.

The bill enhances customs law enforcement, which is essential to ensure that the Government can prevent the importing of drugs and precursors and other illegal activity at the border, and it contributes to the prosperity of our entire country. I commend the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill to the House.

SU'A WILLIAM SIO (Labour—Māngere): The Customs Service is New Zealand's front line to the world and it plays a significant role in facilitating international trade and tourism. Labour acknowledges that our border management environment involves a number of agencies that facilitate and control the flow of people and goods across our borders. We recognise that the Customs Service makes a significant contribution to border management and assists other agencies in meeting a range of objectives at the border. We agree that the challenge for the service is to maintain security of the border from risks and threats without compromising trade and travel facilitation standards. Labour notes that enhanced information technology and the joint border management information system may assist the service to process the transactions from increasing volumes of trade and travel. Labour believes that in order to effectively respond to increasing demands, Customs Service interventions need to be focused on people, goods, or crafts that are likely to present risks to New Zealand's interests. We believe that those risks need to be identified as early as possible in the process. Labour supports the work of the Customs Service and its officers on the New Zealand border and will therefore support the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill's referral to a select committee.

However, although Labour supports this bill's referral to a select committee we do have concerns about privacy issues and issues of human rights and freedoms, which I will pose by way of asking the following questions. In regard to the joint border management information sharing, we ask what the guiding principles are of this system of information sharing. What specific information is collected, used, disseminated, or maintained in the system? What are the specific sources of information in the system? Will the public and stakeholders accept why the information is being collected, used, disseminated, or maintained? How will information be checked for accuracy? Who will check it for accuracy? How will the public have inaccurate or erroneous information corrected?

I give an example of a gentleman who lives in my electorate whose mother died not too long ago. He dropped everything, bought an airline ticket—one way with cash—and rushed to be with his family in Pakistan. After the funeral rights were all done, he bought a ticket—again with cash—and returned to Māngere. Upon his arrival he was detained at the airport and questioned for several hours. That was not the first time that it had happened to this gentleman, and he is not the only person to whom it has happened.

So there are questions about the validity of information that is collected, and about how an individual corrects erroneous and inaccurate information. What are the specific

legal authorities, arrangements, and/or agreements that would define the collection of information between the border agencies involved? Given the amount and type of data collected, what will be the privacy risks, and how will these risks be mitigated? What types of tools will be used to analyse data, and what type of data may be produced? Will the system collect commercially-sensitive data; if so, how will commercially-sensitive data be used? What information is retained in the system, and for how long? What are the risks associated with the length of time that data is retained for, and how will those risks be mitigated?

Which border agencies is the information shared with, other than the Ministry of Agriculture and Forestry? What information is shared, and for what purpose? How will the information be transmitted or disclosed, and what are the privacy risks associated with each transmission or disclosure method? With which external organisations—and I say external to New Zealand border control agencies—is the information shared? What information is shared, and for what purpose? What security measures will safeguard the transmission of information?

Do individual persons have the opportunity or right to decline to provide information? Are the individuals from whom data is collected given notice before the collection of information? Do individuals have the right to consent to particular uses of the information; if so, how does the individual exercise that right?

What procedures will allow individuals to gain access to their information? What procedures will allow individuals to correct inaccurate or erroneous information? How will individuals be notified of the procedures for correcting their information? If no form of address is provided, what alternatives are available to individuals?

What procedures will be in place to determine which users may access the system, and where will those procedures be documented? Will contractors have access to the system? How will we ensure that contractors use the system lawfully and legally?

What privacy training will be provided to users, either generally or specifically, relevant to the system, and how often? What auditing measures and technical safeguards will be in place to prevent the misuse of data?

What technology is being used for this system? Will the technology used in the joint border management system be future-proofed for new technological developments and future developments? Is it the Government's intention to extend the joint border management information sharing from internal New Zealand border agencies to other nations within our surrounding region?

Labour believes that we need to ensure both that the Customs Service is able to take advantage of relevant technological developments to ensure the efficiency and effectiveness of customs' operations, and to have the appropriate technology and intelligence capability to monitor them. It is Labour's view that there are enough significant privacy considerations to warrant the Privacy Commissioner to participate in a statutory review of the provisions of the bill in 5 years' time. We agree with those provisions, but we ask whether 5 years is too long.

I also say that sophisticated data-sharing software is a powerful tool, and it does not come cheap. We understand that the $75.9 million allocated in the 2010-11 Budget will pay for only the first part of a two-stage project. Industry sources estimate that the total cost could top $200 million. The Minister has conceded that the Government expects to cover at least some of the development cost, which has commenced with an expanded import transaction fee. From 1 July this year the Customs Service began applying an import transaction fee of $24.75—which is GST inclusive—to a range of personal imports that attract GST and import duty. Generally, the import transaction fee will apply to goods valued over $400, but at times packages valued at less than $400 will attract the fee. The fee will apply to all import items, such as jewellery, clothing, and

electrical appliances. The Customs Service says that import transaction fees are applied to cover the time and costs associated with processing imports, and are used to fund border risk-management activities. Consumers who purchase goods from overseas over the Internet will be more likely to be caught by the fee.

Then there is the powerful data-matching tool itself, which is designed to hone in on suspicious passengers and freight at ports and airports. The system will be able to check for relationships between people who have previously been too obscure to have concerns raised about them. It will track all import and export transactions—personal movements across the border, criminal records, and family and romantic relationships. This is the reason why we have raised the fact that significant privacy considerations ought to be considered. I would be keen to hear from the Privacy Commissioner about the risk associated with that system, and about the way we mitigate any and all risks identified.

I would also be keen to hear from the general public, who have had good and bad experiences at our borders, about any concerns they may have. In addition, I think it will be important to hear from the agencies that may be directly affected by this bill, including those organisations whose interests may be affected by this legislation.

Although Labour supports this bill to go to its select committee consideration, and although some amendments are so-called minor amendments, we ask those questions because the real concerns my colleagues and I share are the issues about privacy. Those issues are the reason I have posed those questions. They are significant questions that, hopefully, the select committee process will be able to tease out and receive evidence upon from the general public out there. Thank you very much.

CHESTER BORROWS (National—Whanganui): I rise to speak in support of the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill—which is handy, because it is the one we are debating at the moment. I look forward to this bill coming before the erudite and efficient Justice and Electoral Committee. I think it will be the 20th piece of legislation we will have had before our committee in this term, and we are only too pleased to help out the Minister of Customs in respect of this legislation.

The bill gathers together a number of relatively small amendments to allow for changes and trends in importation, and for other issues that have arisen in relatively recent times but that are not catered for within the current legislation. The amendments will clarify licensing and excise liability requirements for biofuels and biofuel blends. They will allow the use of reasonable force within certain Customs Service - controlled areas, in order to compel unauthorised persons to leave. They will enable the Customs Service to prevent goods from entering New Zealand that have been designed, manufactured, or adapted to facilitate a crime of dishonesty—for example, card skimmers. The amendments will create an offence of injuring or killing a Customs Service dog. They will enable goods that must be imported in multiple shipments to be managed as if they were a single shipment. The amendments will allow for the making of regulations to define the point at which an export entry is deemed to have been made, and will define when a postal article has been produced or delivered to a customs officer. They will also provide the specific method for calculating the value of temporarily imported goods at the time of exportation.

The bill paves the way for the future of border management in New Zealand, and it will ensure that the Government's $70 million investment in new systems will deliver a real change for border management. The new joint border management system will bring Customs Service and MAF Biosecurity New Zealand processes together under the same system, to provide improved security and productivity at New Zealand borders.

Budget 2010 also provides $5.9 million to the Customs Service over the next 2 years to fight the illicit drugs trade through enhanced tracking and surveillance. Tools of this kind are vital in order to clamp down on criminal gangs and the methamphetamine trade. The Customs Service is already doing well, as the House knows, but this legislation will continue to help to give the service the conditions it needs to keep busting drug importers. The year 2008 was already a record year for intercepting the precursors to P, and 2009 surpassed 2008 by over 66 percent. The amount of precursors the Customs Service intercepted last year was enough to manufacture at least 246 kilograms of methamphetamine, thus saving an estimated $138.6 million of potential harm to our community.

I am pleased that this bill will receive support from across the House. I commend the bill to the House.

STUART NASH (Labour): I rise in support of the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill at its first reading. I support this bill because the measures outlined are designed to protect our borders against threats and risks without compromising trade and travel standards. I would like to talk specifically about two separate areas in more detail. Firstly, I will talk about why this bill is important. Secondly, I will outline a couple of measures proposed in the bill.

We are a country surrounded by a large natural moat called the Pacific Ocean—15,000 kilometres of it, in fact. So everything that comes into New Zealand does so by sea or air. However, the challenges this brings are substantial—from both humans and pests, and sometimes human pests. The crooks are getting smarter, and rewards for illegal activity are getting larger and more and more tempting to certain undesirable sectors of the travelling populace. We need to keep up and fight against the scourge head-on with all the resources we can muster. We also need to act smarter.

This bill is important in this day and age as it recognises that there is a need for more effective and enhanced collaboration between agencies at the border, as well as a need for greater value for money by eliminating duplicated services. What I mean by this is that the Ministry of Agriculture and Forestry, the police, the Inland Revenue Department, and the Customs Service, etc., need to be linked in a way that avoids duplication whilst promoting efficiency and cooperation. It is nonsense that Government agencies cannot connect electronically in any way that provides a higher level of security and minimises the risk to the wonderful people of New Zealand at this point in time. So funding has been made available for the first stage of the joint border management system, which at this stage will be an integrated computerised system to provide border management services for the Customs Service and the Ministry of Agriculture and Forestry.

The reason why we are debating this bill is that legislation is required to implement the proposals that will, firstly, develop a legislative framework to oversee the future sharing of information between border activities and agencies. And let us face facts—there are some privacy concerns over this bill. When Government agencies have the ability to share information relating to all New Zealanders, we need to eliminate the perception that this is Big Brother in action. My colleague William Sio spoke at length on this about 10 minutes ago. The legislation will, secondly, enable the Customs Service to have overall stewardship and management of the integrated border management system, and hence mandate the operation of this system. Thirdly, it provides an interim legislative framework to support the immediate sharing of information for two short-term projects.

The amendments proposed in the bill have a range of objectives, and these include enhancing coordination between the Customs Service and other Government

departments in reducing duplication of processes and enhancing risk management. I would like to outline the current situation and the basic, but not the only, problem this bill seeks to address. Information sharing between border agencies is currently governed by a complex web of law. The sharing of information is permitted by specific laws. These laws typically apply only to a narrow range of information or a narrow range of situations. Other exchanges are permitted on a case by case basis within a framework created by the interface between the Official Information Act and the Privacy Act. This is a complex and onerous process.

The efforts of the Customs Service in recent years to focus on greater collaboration with other agencies at the border have relied on these sets of laws and protocols. The existing provisions have allowed the Customs Service to develop good partnerships—great partnerships, in fact—with other agencies, but they have also highlighted the need for a simpler, clearer, and more transparent regime of more general application. I doubt that anyone would disagree with that.

What we are proposing here is to amend the Customs and Excise Act to provide for the making of regulations in future to specify agencies that can access information held by the Customs Service, including specific conditions on the use of the information by accessing agencies. For example, no one will be able to access information to check on a prospective neighbour or a daughter's boyfriend. I make light of this, but privacy is a very important issue, and I will be very interested to read the submissions on this aspect of the bill if the House refers it to the Justice and Electoral Committee.

The reality is that the option of requiring law changes to be made to each specific information-sharing need identified is simply too onerous. This is due to the expected substantial delays caused by the lengthy legislative process and resource demand. This framework is the preferred option. It will have sufficient flexibility to deliver additional processes effectively in the future. It properly considers privacy interests that arise through requiring regulatory changes to be discussed with the Privacy Commissioner. It ensures ongoing parliamentary oversight through the Regulations Review Committee. This is an enabling provision that will have no initial impact on business. However, when regulations are made under this provision the impact on business will be considered as part of the regulatory change process.

I would like to briefly elaborate on the joint border management system. This management system is designed to achieve substantial benefits from automating information storage and sharing across the border sector. As mentioned, the current law for information sharing on a case by case basis is not sufficient in the 21st century to cover the quantity of information sharing between the Customs Service and the Ministry of Agriculture and Forestry.

The preferred option to address this issue is to amend the Act in order to, firstly, give the Customs Service overall stewardship and operation of the system; secondly, to mandate the accessing by the Customs Service of the information stored in the management system that will be allowed under the Act; and, thirdly, to mandate the accessing and use by the Ministry of Agriculture and Forestry of the information stored in the joint border management system that is allowed under the Biosecurity Act. This amendment is required to allow access to the common set of data required by the Customs Service and the Ministry of Agriculture and Forestry.

The proposed approach is a logical option to enable the Customs Service and the Ministry of Agriculture and Forestry to share this information without duplicating the collection process. This proposal is to enable the Ministry of Agriculture and Forestry to access potentially broader classes of information held by the Customs Service that the Ministry of Agriculture and Forestry requires to undertake its border management role as it transitions from 100 percent screening to risk management. The proposed

management system and trade single window will allow traders and other commercial entities to enter information once, and that information will then be accessible by both the Ministry of Agriculture and Forestry and the Customs Service. This is common sense in this day and age. It is absolutely necessary if we are to protect our borders going forward. It will also reduce compliance costs to industry. It enhances the effectiveness of border agencies by reducing the costs of capturing and assessing information.

I have talked about why this bill is important. We need to work together, to work smarter, and to use the technology that exists to create a border protection system that will provide us with a very powerful tool in the battle to keep New Zealand and New Zealanders safe. I also spoke about the development of the joint border management system, which requires legislation for its implementation. We are supporting this because we believe that it is vital in the development of information sharing and for efficiency between the various Government agencies. It is only between the Ministry of Agriculture and Forestry and the Customs Service to start with. However, this is, hopefully, just the beginning of the networking of the system of government needed to protect our borders. Labour commends this bill to the House. Thank you.

TE URUROA FLAVELL (Māori Party—Waiariki): Tēnā koe, Mr Assistant Speaker. Kia ora tātou katoa. I follow with a brief call from the Māori Party about our perspective on the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill at its first reading. As others have said, it aims to reduce administration costs and also to provide for planned information-sharing between the Customs Service and the Ministry of Agriculture and Forestry. Although a key focus of the proposed legislation is to establish a foundation for the joint border management system, our interest as the Māori Party is around the amendments to the Biosecurity Act 1993 to provide for such information-sharing.

The focus of biosecurity in the bill is one that the Māori Party has a particular interest in. We are aware that Māori participation in agriculture, forestry, and biosecurity has been identified as a Government priority. The Ministry of Agriculture and Forestry's statement of intent for 2009-2012 identifies two immediate outcomes that reflect this priority. It says that enhanced prosperity for Māori engaged in agriculture, food, and forestry is important, and that prevention and reduction of harm to resources of economic and cultural value to Māori from pests and diseases are also crucial. We want to ensure that due thought has gone into the protection of Māori, biologically-based, economic resources from pests and diseases and that they are given due consideration. Māori are kaitiaki and owners of land and resources; therefore, we have a vested interest in protecting our taonga from imported pests and diseases for future generations.

We note that just over a month ago MAF Biosecurity New Zealand joined forces with local iwi to clear all of the visible sea squirt *Pyura* from the Bluff at Ninety Mile Beach and Whareana Bay. This development was a very positive project that demonstrated the opportunity for iwi to lead the long-term management of pest incursions, while at the same time raising local awareness of the biosecurity issues and preparing communities ahead of any future marine biosecurity events. In this context, we would appreciate learning how in this bill iwi can expect to be involved in the potential information-sharing undertaken between the Customs Service and the Ministry of Agriculture and Forestry, and to contribute and participate at the local level.

We note, further, that another intention of the bill is to provide "a power to define, through regulations, border information that may be shared between agencies at the border, and any conditions that might reasonably be imposed on such sharing." Again, we would be interested in understanding how Māori might be involved in decision

making about the criteria and protocols for information sharing between specified border agencies.

Finally, we look forward to hearing thoughts of the Minister of Customs about legislating for Māori involvement so that this is not a discretionary consideration for the ministry, but ensures that due consideration is given to all these critical issues at stake. We will be supporting this bill at its first reading.

SIMON BRIDGES (National—Tauranga): I look forward to the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill coming to the Justice and Electoral Committee so that we can really dig into the detail of it. I can tell from my brief perusal of it that it is a practical bill and one that will make a difference in this area. Obviously, Minister Williamson has done a lot of work on it to date. In my brief perusal of the bill I can see that it makes clear that we can have the best systems in the world, but if one State agency is not talking to the other one, so that one hand does not know what the other hand is up to, it is a complete waste of time. This bill does something about that.

This Government has invested $70 million in new systems and in border management. That is a lot of money and it is money well spent, I might add. This is a very, very important area in crime fighting—in all manner of crimes. We are talking about the importation of potentially very dangerous biosecurity risks and of drugs, and the like. We know that in the past our borders have been a weak link. There was $70 million well spent, but my point is that even with all that money being spent on the best systems in the world, it is pointless if the agencies are not working together. This bill fine-tunes and puts in place the processes and the right results so that the Ministry of Agriculture and Forestry and the Customs Service are working together, are on the same page, and are using the systems appropriately, in a collaborative manner.

As I said, I look forward to this bill coming to the Justice and Electoral Committee, and I look forward to getting into the detail. We will all work together on what I am sure is a non-contentious bill, and on making the customs area work better for all New Zealanders.

Hon DAMIEN O'CONNOR (Labour): When I was reading through the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill—unlike the previous speaker, Simon Bridges, who clearly has not—and looking at the notes, I thought that anyone who wanted to refer to the detail would probably be as excited as someone sitting down and watching paint dry. For the most part, the changes brought in by this bill are quite technical. Most people would see them as logical and sensible. Indeed, that is why the Labour Opposition will be supporting the bill.

But the bill does do a couple of other little things. Well, maybe the Government thinks they are little things, but they are actually quite significant. It brings in a new tax. This is from the party that said it would cut taxes. From 1 July the New Zealand Customs Service began applying an import transaction fee of $24.75 to a range of personal imports. I can remember when I came back from Australia at the end of the 1970s, or it might have been at the start of the 1980s, and I brought a few presents for my family. I remember being absolutely terrified because I did not know the exact value of them and I did not know whether I would have to pay a fee at customs when I came into the country. I think this bill might reintroduce such a tax. If people sit down and read through this bill, they will see that generally the import transaction fee will apply to goods valued at over $400 but at times packages valued at less than $400 will attract a fee. Has the Government been up front about this? No, it has not. This is a new tax. People who go to Australia for a holiday and buy something worth around $400 might end up paying an import transaction fee when they come back into the country. I

thought we had finished with all of that bureaucracy, but, no, the National Government seems intent on reintroducing it. I trust the Justice and Electoral Committee to address that. I ask Mr Bridges whether he picked up on that fact.

Simon Bridges: Oh yeah.

Hon DAMIEN O'CONNOR: I ask Mr Bridges whether he has told the good people of Tauranga that when all of the blue-rinse brigade up there take their little trips to Australia in winter, they will be paying this fee when they come back. We will leave that for the select committee.

As my learned colleagues have said, the Customs Service has a very, very important role in New Zealand. We are an island nation; everyone who comes here comes here by sea or plane. Very few come by any other means; there are no submarines, there is no swimming—

Chris Hipkins: Some row.

Hon DAMIEN O'CONNOR: The odd person, yes, and we have to acknowledge the odd person who kayaks. We acknowledge that huge task.

The first Kiwi people meet when they arrive in New Zealand is often a customs person. They could have come on Air New Zealand, in which case their contact with New Zealand would have started when they hopped on the plane—not after going through customs in Los Angeles, we hope. Their experience should be a positive one when they hop on an Air New Zealand plane or arrive at one of our airports. It is really important that our customs staff are well resourced, competent, and friendly, because they are the face of this country. They are the first point of contact. For the most part they do an exceptional job. So the alignment of information between agencies is sensible. In fact, most people would ask why we have not been doing it before now. The complex web of legislation we have has been hindered by privacy provisions and all the rest of it. This bill addresses those issues, and that is great. So Labour will support it.

But a number of issues will have to be addressed, such as the import transaction fee, which is clearly laid out in the bill. National members have refused to acknowledge it, but—

Paul Quinn: What clause?

Hon DAMIEN O'CONNOR: Oh, Mr Quinn has not read the bill, either. Perhaps Mr Quinn should pick up the bill, go through it, and read it. I ask whether he will be on the select committee. No, but Mr Bridges will be.

I tell the House that the most significant part of this bill is a little reference to the removal of customs and excise on people who generate and produce their own biofuel. The Government may laugh at that. It has overlooked it. It made brief mention of it; the Minister of Customs did mention it once. It is the only visionary part of this whole piece of legislation. Labour supports it, because anything that incentivises people to make more efficient use of energy, or to generate their own biofuels, is very smart, not just for them and for New Zealand but for the whole planet. I commend the Government for picking up the idea—no doubt it was laid down by the previous Labour Government—that we should remove the customs and excise on that. With emerging technologies there are a number of opportunities in this area for particularly farmers and people in rural areas to produce biofuels.

Take, for example, the complex and difficult issue of housing dairy cows. In Europe many cows and other animals are housed right through the winter; they have long, cold winters. In New Zealand, this practice is emerging, and I believe that over time those farmers will capture much of the methane and effluent produced and will start producing their own biofuel. If they had to pay excise on that, which is the current situation, then that would clearly be a disincentive. This bill addresses that issue, and

that is great. I commend the Government for one little bit of vision. Mr Quinn has his eyes open just enough to see that opportunity.

I must raise another issue here. The previous speaker acknowledged the $74 million committed to the joint border management system, and that seems great. I would just warn the Government that there has been a record through INCIS, through Land*online*, and, no doubt, through this new process of excessive but necessary expenditure on complex technology projects. There are indications that this total project will cost $200 million. The question I have of a Government that says it has no money for anything—other than tax cuts, of course, for its wealthy mates, and a bit of money to splash around here and there—is whether it will commit the necessary funding to follow through on and complete this project, because if the $74 million is spent and the project ends up being half-pregnant, then we will end up with some merging and sharing of information but not the completion of a project that would lead to efficiency at the border. It is logical that Biosecurity New Zealand, the Ministry of Agriculture and Forestry, and the Customs Service share information about people or goods coming in and out of the country, because we need the highest level of scrutiny and border control. This country is dependent upon biological systems. We need to make sure that the people and goods coming in and out do not bring threats by way of biological agents or unwanted pests and organisms.

The Government cut 54 front-line staff from Biosecurity New Zealand 2 years ago—54—and pretends that it has maintained a high level of biosecurity at our border. Well, the Minister knows that is not true. We will find out—because I will ask the Minister—how many incursions have occurred this year with regard to biosecurity. People will be amazed. Those incursions occur on a regular basis because we do not spend enough on biosecurity to guarantee border protection. If through this bill we have better alignment of the information shared between agencies, then that is great. But if we do not have a commitment from the Government to front-line services—the National Government cut $2 million and 54 jobs from Biosecurity New Zealand—and if it is to continue with its laissez-faire approach towards biosecurity, then we will have a major incursion.

This bill commits to better information-sharing, but it is dependent upon expenditure by the Government of $200 million. If the Government is cutting back in other areas I am not convinced that it will have the good sense to commit the rest of the money to that project to make this work. This is generally good legislation, but it has some issues to do with the potential for small-minded charges at the border—hassling people. It has issues to do with whether the Government will commit the funding to follow through with this project. Can we can trust the National Government in any way to show true commitment to protecting our country from biosecurity risks?

PAUL QUINN (National): I do not intend to take a long call on the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill, because most of it has now been covered. In a bill that is 30 pages long, where half of the pages cover definitions, there is really not much more to canvass. This is particularly so given that our friends on the Labour Opposition benches are supporting the bill. I have not been here for the whole of the debate but from the tenor of what I have picked up, everyone is in unanimity in respect of supporting this bill, which is good because we have had a couple of good days in terms of everyone holding hands.

I guess that my friend Mr O'Connor, who has just resumed his seat, could not quite bring himself to share the full love, so he had to find something wrong with the bill. He talked about a tax. Just to demonstrate that I have read the bill, I tell members that he is referring to new section 128A, "Imposition of penalty", which is to be inserted in the Customs and Excise Act by clause 13. I ask whether that is correct. Mr O'Connor said that he used to tremble in his boots when he was a young lad, an adolescent returning

from the occasional trip to Australia—he was probably bringing in cigarettes—at the thought of what the Customs Service might charge him for not having disclosed correctly the purchase price of the product that he was bringing in. Well, all I can say is: more fool him. This system relies on honesty. I never had that fear. I never had that fear on the very few occasions when I could afford to travel to Australia. I never had that problem because I could not afford to bring back too much, anyway. I did not smoke and I was not the right age for alcohol, so there was the odd baseball cap and that was about it. I never had to concern myself with the imposition of a penalty.

This relates to the fact that if we are going to buy things overseas, then, yes, there is a limit. After all, we want our domestic retailers to be able to survive. We should be buying in New Zealand. I think that Labour Opposition members supported that. Once upon a time Labour supported the Buy New Zealand Made campaign. Members on this side of the House do not think it is unreasonable to say, yes, people can bring in a certain level of goods, but after that we think that they should pay an excise penalty, particularly when they have been not quite up front with the prices. I just thought I would respond to that aspect of Mr O'Connor's contribution to the debate. I think he would have to finally admit to himself that it is an excellent bill.

The bill should have been introduced years ago, but it has taken until this Government has come into power to understand the use of efficiencies. In fact, the sharing of information is exactly the sort of thing that can achieve efficiencies and improve front-line servicing for our visitors. That is what this bill is about. With those few words—as I promised I would take just a short call—I commend the bill to the House.

CHRIS HIPKINS (Labour—Rimutaka): I move that all of the words after "Committee" be deleted.

The House has recently seen something from the Government on a regular basis: when it refers a very non-controversial, very non-urgent bill to a select committee, it gives the select committee the power to meet at any hour of the day or night, whenever Parliament is sitting, and thereby actually short-circuits the democratic process and prevents all members of this House from fully participating in it. That is absolutely outrageous, and it has to stop. Where there is a legitimate reason for a bill to be considered in a hurry, it is absolutely legitimate to say that, yes, a select committee should have the power to meet during a time when the House is sitting. When a bill is not urgent—and there is nothing at all urgent about the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill—there is no justification for moving such a referral motion. That is the reason why Labour will be putting forward amendments to remove the additional parts of such referral motions—because they are an outrageous abuse of the democratic process.

I turn to the bill. First of all, I think the New Zealand Customs Service does an absolutely fantastic front-line job. We can be very proud of our Customs Service. It does great work. As my colleague Damien O'Connor has just pointed out, Biosecurity New Zealand lost 54 front-line staff in the first year of this National Government, despite Mr Ryall and his colleagues promising to focus resources on the front line. We do not actually get much more front line than the people at our borders, working for the Customs Service. New Zealand has 15,000 kilometres of coastline. The Customs Service does a big job for us. It is vital work, and it is incredibly important work. New Zealand relies on its clean, green image, and the work that the Customs Service and Biosecurity New Zealand do to keep that clean, green image and to stop things getting into the country that we do not want here is vital—it is very important. It is something we should fully support.

This bill makes a number of amendments that are relatively non-controversial, and some on which there will be substantial debate. I want to talk about a few of them. The first one that I want to pick up is the exemption from duty for those who produce biofuels domestically—householders who produce their own biofuels. I think there is a wider issue around the production of small-scale biofuels in New Zealand, and that is that it might not be just at the household level; it might be at the small-business level as well. Small businesses potentially are going to be converting waste products into biofuels. It is possible to turn used cooking oil, for example, into biofuels. There is potential for some of the by-products from the forestry industry to be turned into biofuels. So we need to rethink quite carefully how we handle duties on biofuels. I hope the Justice and Electoral Committee will take some wider consideration of that issue, and highlight and flag issues that are not covered in this bill but may well need to be covered.

About 2 weeks ago I visited a biofuels producer in Pukekohe, which I think is in the Minister of Custom's own electorate. This small biofuels company is producing about 5,000 litres of bio-diesel every day from used cooking oil. It is a fantastic enterprise. The company will encounter issues around paying duty. So it is something we need to look at much more carefully.

Overall, as I said, it is important that we have a lot of confidence in our Customs Service staff and other people who work at the borders.

I pick up the comments made by Paul Quinn and also Damien O'Connor about the duty that should be payable on goods coming into the country. About 2 weeks ago I canvassed businesses in the main street of Upper Hutt, and several retailers raised with me the issue of people importing their own stuff over the Internet, and the impact that was having on their retail businesses. One shop in particular deals in model crafts, which can be reasonably high-end, high-value stuff. We are talking about model helicopters, for example, that people put together. People import bit by bit the relevant parts they need in a series of small packages, thereby getting round paying the tax that a retailer importing those products for sale would have to pay. People can get them from overseas via the Internet for a significantly cheaper price, but a lot of the reason why they are significantly cheaper is the fact that they bypass all of the taxes, duties, and so on. I think that is quite an important issue to consider, if we want to have a good, vibrant, small-business retail community in New Zealand. It is particularly important in niche areas like model crafts and hobbies.

Hon Maurice Williamson: Damien doesn't think we should charge it, and you think we should.

CHRIS HIPKINS: I know that we may not necessarily agree on this. To some, that is very novel, but Labour is a party of robust debate. The Labour Party is a very broad church. Maurice Williamson does not need to be reminded of what a broad-church political party looks like. He is still in the National Party, I think. He is even a Minister in the National Government. Maurice Williamson gave me a very, very good piece of advice when I first arrived in Parliament. He said: "If you wish to advance in this place, never ever say what you actually think." Apparently, that does not get National members very far. Those members end up being Ministers outside Cabinet.

I think our small-business community deserves the protection of a good, rigorous duty enforcement regime, so that people cannot import a whole lot of products over the Internet, sell them to their friends, and not be caught by the relevant duties and taxes that they would otherwise have to pay. The bill potentially strengthens the hand of those retailers, and that is a very good thing.

One of the other things the Customs Service does, of course—the elephant in the room that nobody has wanted to mention—is check passports at the border.

[*Interruption*] Yes, it does do. So if some crazy sicko has stolen a dead child's identity and applied for a passport, the Customs Service is the type of agency that would pick that up. It would pick it up, I hope. That type of behaviour is absolutely despicable. There is no excuse for it, and I think it is good that we have a Customs Service that would pick up that kind of behaviour by anybody at any time.

I will run through some of the other amending provisions of the bill. It is, by and large, a good bill, and Labour will support it. The bill amends the two principal Acts, the Customs and Excise Act and the Biosecurity Act. It has quite wide-ranging provisions in three main areas of reform, and there are some other, rather non-controversial, minor amendments. So wide-ranging yet non-controversial seems to be the order of the day. The bill facilitates enhanced information-sharing between border agencies, and that is, clearly, something we support. We look forward to the select committee having an opportunity to examine the relevant provisions and hear from submitters about the privacy and information-management issues that will inevitably flow from multi-agency cooperation. Just as an observation, I point out that in the short period of time I have been in this House we have seen privacy considerations concerning the sharing of information between agencies come up more and more. As the Government collects more information, and as technology allows for the easier transmission and storage of information, the issue of the sharing of information between agencies is something the House will end up debating a lot more often. The bill addresses that.

Other issues are addressed. The bill will allow customs officers to use reasonable force to remove an unauthorised person from customs areas. I cannot see how anybody could have any concern about that. Obviously, one hopes the officers will be appropriately trained. Immediately before this debate we were talking about private security personnel, and were saying that they need to be appropriately trained to deal with potentially violent situations. I hope that customs people who potentially might remove people from customs areas would receive appropriate training.

Under the bill, the Customs Service will have direct access to a customs agent's records. Goods designed to facilitate a crime of dishonesty, such as card skimmers, will be banned from entering New Zealand, and that is a good thing. It will be an offence to harm a Customs Service dog, and I do not think anybody could possibly disagree with that provision. Everybody has seen those lovely little dogs wandering around the airport, and I think it would be absolutely tragic if people were allowed to harm them.

Hon Maurice Williamson: Trained by the Labour Party.

CHRIS HIPKINS: Goods in multiple shipments can be classified as if they are a single shipment, and that provision is relatively non-controversial and simple. What was that?

Hon Maurice Williamson: No, it's all right.

CHRIS HIPKINS: Oh, it is all right—OK.

Regulation-making powers to determine when an export entry has been made are contained in the bill. They will define when an item of post has been delivered to a customs officer, and so on. The bill makes changes to a range of fines that on the surface look fairly sensible to me. The department will no longer allow an infringer to say why he or she should be exempt from paying any penalty, and that, too, seems a relatively non-controversial provision.

Overall, there is much in this bill we look forward to hearing more about.

KANWALJIT SINGH BAKSHI (National): It is my privilege to participate in the first reading debate on the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill. This omnibus bill expands the range of requirements to maintain the sharing of information across border sector agencies. To

that end, the Government is investing $70 million in new systems to administer border management.

There are enormous risks to New Zealand associated with harmful pests and diseases. To counter this we need a system that is responsive to change, that is cost-effective for users, and that involves everybody doing their bit to manage the risk. Our aim is to get the balance right between managing biosecurity risks and minimising unnecessary effects on trade and travel. We need to protect our borders. We need to develop and use profiles that use a variety of information sources, including compliance history. Those profiles will be used to target our resources at the goods pathway and supplies, and importers that present the highest risk. For example, we propose to focus on parties with poor compliance history and to increase intervention. That could mean increased inspection, mandatory treatment, or additional offshore requirements. The proposed joint border management system within the Customs Service will play a vital role in that process by providing the computer power needed to gather, store, and access the information required to operate the profile-based approach.

The first set of amendments enables the New Zealand Customs Service to manage and access the sharing of that information. These amendments will develop a statutory information-sharing framework to enable the Customs Service to manage the access and sharing of its information across a range of agencies, support shared access to that information by the Customs Service and the Ministry of Agriculture and Forestry under the joint border management system, and provide a legal framework to support an internal information-sharing project between the Customs Service and the Ministry of Agriculture and Forestry.

Another major problem affecting our country is the illegal importation of prohibited drugs, especially the trade of methamphetamine. The tracking of illegal drugs through the new joint border management system is essential to prevent those drugs making their way on to our streets, thereby giving criminal gangs the ability to distribute drugs into the neighbourhoods of our country. The Government is providing $5.9 million to the Customs Service over the next 2 years to fight the illicit drugs trade by intercepting those drugs before they reach our borders.

The Hon Damien O'Connor just mentioned that a new fee is being implemented by the Customs Service. That is not true. Even if people exceed the limit of $700, they will not have to pay any fees when they arrive in this country.

The Customs Service has been carrying out an excellent job so far, with 2008 being a record year for intercepting the precursor to P, and 2009 exceeding the 2008 figure by 66 percent. That has saved an estimated $138 million of potential harm to our community. The National Government intends to do all in its power to stop the illegal trade of drugs in New Zealand. I commend the bill to the House.

Bill read a first time.

Hon MAURICE WILLIAMSON (Minister of Customs): I move, *That the Customs and Excise (Joint Border Management Information Sharing and Other Matters) Amendment Bill be considered by the Justice and Electoral Committee, that the committee report finally to the House on or before 9 December 2010, and that the committee have authority to meet at any time while the House is sitting (except during oral questions), and during any evening on a day on which there has been a sitting of the House, and on a Friday in a week in which there has been a sitting of the House, despite Standing Orders 187 and 190(1)(b) and (c).*

The ASSISTANT SPEAKER (Hon Rick Barker): Before I put the Minister's motion, there is an amendment in the name of Chris Hipkins to omit all the words after "Committee".

A party vote was called for on the question, *That all the words after "Justice and Electoral Committee" be omitted.*

Ayes 52

New Zealand Labour 42; Green Party 9; Progressive 1.

Noes 69

New Zealand National 58; ACT New Zealand 5; Māori Party 5; United Future 1.

Amendment not agreed to.

Motion agreed to.

AIRPORTS (COST RECOVERY FOR PROCESSING OF INTERNATIONAL TRAVELLERS) BILL

First Reading

Hon DAVID CARTER (Minister for Biosecurity): I move, *That the Airports (Cost Recovery for Processing of International Travellers) Bill be now read a first time.* At the appropriate time I intend to move that the Airports (Cost Recovery for Processing of International Travellers) Bill be considered by the Primary Production Committee, that the committee present its final report on or before 15 November 2010, and that the committee have authority to meet at any time while the House is sitting except during oral questions, and during any evening on a day on which there has been a sitting of the House, and on a Friday in a week in which there has been a sitting of the House, despite Standing Orders 187 and 190(1)(b) and (c).

I am pleased to bring this bill to the House for its first reading. The bill will enable the Ministry of Agriculture and Forestry, the Aviation Security Service, and the New Zealand Customs Service to recover the costs associated with providing passenger processing services at new and restarting international airports. The purpose of the bill is to address a problem that arises when airport companies enter, or exit and then re-enter, the market for scheduled international passenger flights to and from New Zealand. New and restarting international airports have no incentive to factor into their business decisions the Government's cost of providing international passenger processing services. This means that the Government is exposed to an unpredictable and uncertain cost for providing aviation security, biosecurity, and customs passenger processing services. Under the current funding model, the commencement of a new international airport creates a funding shortfall for the Government's border agencies. This places pressure on the delivery of existing services until appropriations can be adjusted. The object of this bill is therefore to reduce the Government's exposure to an unpredictable fiscal liability. The cost recovery introduced by the bill will ensure that international airports or requesters of non-routine services factor the border agencies' costs into their business decisions.

Before I discuss the key provisions of this bill, I would like to briefly explain the background to it. The bill completes the funding arrangements agreed to with the aviation industry back in 2004. In 2004 a ministerial committee examined the funding of passenger clearance services in New Zealand and developed a set of proposals on how passenger processing services at international airports could be funded and implemented. The proposals formed the basis of a consultation document published in May 2004, which looked at the overall financial costs and benefits of passenger processing services, and at how these should be shared between the Crown and the industry. As a result of the extensive industry consultation that occurred at that time, the previous Government agreed that the costs of aviation security services would be met by the airline industry, and the costs of biosecurity and customs passenger clearance

processing services would be met by the Crown at established international airports. This funding approach has been in place since 2004.

But, significantly, it was also agreed in 2004 that aviation security, biosecurity, and customs services at new international airports and low-volume international airports should be funded by cost recovery, and that any variation to the standard passenger processing service should be funded by the person who requested the non-routine service. Now, in 2010, the Government is introducing the primary legislation required to enable these cost recovery components to be implemented. This bill covers passenger processing services provided by the Ministry of Agriculture and Forestry, the New Zealand Customs Service, and the Aviation Security Service. For cost recovery at new and restarting international airports, the bill provides that regulations need to be made before charging can begin. Regulations will not be made without the agencies consulting with the directly affected parties. The costs that may be recovered are costs associated with establishing and operating passenger processing services. These costs will be recovered from the airport operator.

The idea from 2004 of the cost recovery that applies to international airports being based on passenger volumes, although sound in economic theory, was not a pragmatic funding approach. A simple fixed-time period for cost recovery is a more practical approach. The bill sets a maximum cost recovery period of 3 years and allows a shorter period to be prescribed in regulations. The Government favours setting the cost recovery period at 2 years, so as to provide enough time for a new or restarting airport to demonstrate that it has a viable business model before it becomes eligible for Crown funding. The Government is keen to hear the industry's views on the proposal that the cost recovery period be set at 2 years, and I trust that the select committee will invite the industry to make submissions on this issue during the select committee process.

The original 2004 policy did not address the situation that arises when an international airport stops having regular scheduled international flights for a period of time, but then restarts scheduled international flights. In 2008, following consultation with the industry, the previous Government agreed that a restarting international airport should be funded in the same manner as a new international airport. However, the industry asked for there to be a reasonable grace period when scheduled flights cease, so that an established airport company can find a replacement airline without triggering cost recovery. The idea of a grace period has a strong ring of pragmatism and fairness about it. A grace period is a desirable position for all concerned parties. It is simple and transparent. It encourages the Government to hold passenger processing services in place and rewards airport companies for establishing viable long-term operations. This Government has agreed to a maximum grace period of 6 months, and that is written into the bill.

The bill also provides the ability for agencies to cost recover for non-routine passenger clearance services provided at any airport. Costs will be invoiced on an actual and reasonable basis. An example of a non-routine service would be when a VIP clearance service is requested for an international celebrity traveller.

In conclusion, this bill completes the funding arrangements agreed to with the aviation industry back in 2004. It builds on the original policy to provide a simple, clear, and efficient cost recovery system. The cost recovery introduced by this legislation will ensure that international airports or requesters of non-routine services factor the border agencies' costs into their business decisions. That in turn will ensure that the Government is not exposed to an unpredictable and unlimited fiscal liability for providing passenger processing services. I commend this bill to the House.

Hon DAMIEN O'CONNOR (Labour): My, my, my—even National can learn. The Minister for Biosecurity, David Carter, said he would be very keen to hear industry

views. Do members know when the Airports (Cost Recovery for Processing of International Travellers) Bill started? It was not back in 2004. It was back in 1997-98, if I recall matters correctly, that the then National Government in its wisdom thought it should impose border cost recovery on the tourism industry, so that everyone would pay when they came into this country. Mr Carter remembers that, and so does Mr Williamson. Do members know what happened? In its usual arrogant way that Government introduced a bill, like the current Government is doing now, and thought it could ram it through. Do members know what happened? The industry took out an injunction. It took out an injunction and it won. The tourism industry beat the National Government then, because its proposals to introduce border cost recovery were unconstitutional. There had been no consultation. That Government was simply going to—as National does so often—impose a tax on tourists who were coming into this country.

Well, time moved on. We said to the tourism industry prior to the 1999 election that that was a stupid move by the National Government, and indeed it was. We accepted that there should be cost sharing. We then committed to go through a proper process of consultation—[*Interruption*]—Mr Williamson knows this is true—and we did. We arrived at a deal whereby the Crown would cover the costs of biosecurity and customs, and the industry would cover other costs of customer clearance, which was a fair deal. There was an issue about how that should be applied to new airports. Since that time Rotorua Regional Airport and Invercargill Airport have been opened up to international flights, and they will not be covered by this bill, as Mr Williamson says. I guess the question is how many airports this legislation may apply to. I think most sensible people would say—and I have been an advocate for a long time of the tourism industry—we probably do not need to have any more international airports, because we are starting to spread out a bit. Even at Rotorua—my good colleague Steve Chadwick and I have advocated for Rotorua because it is a key tourism destination—there are issues about the level of biosecurity protection and a whole lot of other things. We do not need to have a proliferation of international airports.

National finally figured out that it has to talk to the industry if it is to impose a tax on the industry; otherwise it will be taken to the cleaners, taken to the court, and the tax will be thrown out. The question I have is, why is the National Government, having learnt that lesson, demanding that this bill be rammed through the select committee? The previous National Government did not learn the lesson about ramming a bill through Parliament and getting stopped. This Government now wants to ram this bill through a select committee. It has taken 10 years to get the bill here.

Debate interrupted.

The House adjourned at 10 p.m.