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**TUESDAY, 6 NOVEMBER 2007**

**Madam Speaker** took the Chair at 2 p.m.

**Prayers.**

**PERSONAL EXPLANATIONS****Lobbies—Incident**

**Hon TREVOR MALLARD (Minister for the Environment):** On Wednesday, 24 October, I was involved in a physical fight in the lobby. My involvement was inappropriate, especially for a member of Parliament. I apologise to you, Madam Speaker, and to the House.

**POINTS OF ORDER****Sub Judice Rule—Comments Made Outside House**

**KEITH LOCKE (Green):** I raise a point of order, Madam Speaker. I wonder whether you could clarify some of the protocols around members of Parliament commenting on legal cases, because there has been some concern in the community about the Prime Minister's comments last week that those arrested in the recent raids had "at the very least, ... illicitly used firearms, constructed Molotov cocktails, and trained themselves in how to use napalm ...". Those comments were made in relation to charges that have not been spelt out in any detail yet, and the evidence for which has not been heard in a public court. I wonder whether there are any protocols.

**Madam SPEAKER:** I thank the member. I refer the member to a ruling I gave on 16 October of this year clarifying the sub judice rule in this House, where the Speaker's jurisdiction is appropriate—not outside the House.

**QUESTIONS FOR ORAL ANSWER****QUESTIONS TO MINISTERS****Sea Freight—Draft Domestic Strategy**

1. **Hon MARK GOSCHE (Labour—Maungakiekie)** to the **Minister of Transport:** What reaction has she received to the launch of Sea Change, the draft domestic sea freight strategy?

**Hon ANNETTE KING (Minister of Transport):** The reaction to the draft strategy has been extremely positive. The New Zealand Shipping Federation president, Rod Grout, has congratulated the Government on its initiative. He said it was the biggest boost to the New Zealand coastal shipping industry he could ever recall. My colleague Peter Brown from New Zealand First, an ardent campaigner for coastal shipping, has welcomed the proposal, saying it was time that a Government breathed life into the industry, which had been neglected. The Maritime Union of New Zealand has welcomed the strategy, as has the Green Party.

**Hon Mark Gosche:** What action does the Government intend to take to help transform coastal shipping in New Zealand?

**Hon ANNETTE KING:** There are four specific and immediate steps the Government intends to take. Firstly, we are establishing the maritime liaison unit within the Ministry of Transport to create a focal point for the coastal shipping sector, similar to that which exists in the UK or the United States. Secondly, we are addressing the barriers to coastal shipping interests in accessing Government funds. Thirdly, we are gathering information to provide a clear picture of services—their performance, and the required performance. Fourthly, we are ensuring that Government agencies and sectors work together to increase the supply of skilled workers.

**Hon Mark Gosche:** What impact does this initiative have on other transport modes?

**Hon ANNETTE KING:** This draft strategy does not mean that the Government will unfairly be supporting coastal shipping as a competitor to the road or rail freight industries. It does mean that in the rapidly expanding freight market, the Government will be supporting efforts to give freight users a choice of transport modes and encouraging them to choose the mode, or combination of modes, that is not only in their own best commercial interests but also in the best interests of New Zealand as a sustainable nation.

**Peter Brown:** Will the Minister confirm that the Government funding she has just referred to, which is also mentioned under the action plan in the report, is new Government money, not money extracted from the National Land Transport Fund?

**Hon ANNETTE KING:** Funding for the strategy will be decided in Budget 2008, and I say to the member to watch this spot.

**Rt Hon Winston Peters:** Why has the Minister not taken a far more proactive approach to New Zealand shipping interests—small though they are—given that it is our long-term purpose to minimise our carbon footprint, and given that although billions of dollars have gone into the infrastructure for road and rail, that has not been the case in respect of New Zealand shipping, which has been treated in a very prejudicial way in the last three decades; and why should we not take up this better option for the movement of our goods?

**Hon ANNETTE KING:** Well, of course, I agree with the member; shipping was neglected. In fact, it was withering and had almost died. But under this Government, and with the support of New Zealand First, we have put in place a strategic direction for coastal shipping, and one would not have that sort of comment from the Shipping Federation unless it believed it was a good move. As I have already said, the Shipping Federation's president has said that the draft strategy was the biggest boost to the New Zealand coastal shipping industry he could ever recall—and it has happened on this Government's watch. It certainly did not happen under the National Government, which sought to destroy the shipping industry.

**Rt Hon Winston Peters:** Could I thank—

**Gerry Brownlee:** Why didn't this Minister move up in the reshuffle?

**Rt Hon Winston Peters:** Because you are there, and I am happy where I am over here, and that is the way it is going to be for a long, long time, by the looks of it. Could I just say to the Minister, in thanking her for her insightful answer and encouraging her to go further in this respect, does she recall who passed the legislation that was so destructive to New Zealand maritime interests—that is, the Maritime Transport Act? Which party and which Minister did that?

**Hon ANNETTE KING:** The destruction of the maritime industry in New Zealand occurred under the National Government in the 1990s. My colleagues may be able to help me as to who was the Minister. He was less than memorable, can I say. I suspect it was Maurice Williamson, but then he was less than memorable in transport right through the time he was the Minister and is even less memorable in Opposition as a spokesperson on transport.

### **Tax Cuts—Treasury Advice**

**2. JOHN KEY (Leader of the Opposition) to the Prime Minister:** Does she stand by her statement, in regard to a personal tax cut: "I'd have liked to have done it earlier and I think all our Cabinet and caucus would have, but we've never had advice which made that possible."; if so, why?

**Rt Hon HELEN CLARK (Prime Minister):** Yes—and I am sure those members are going to like the answer—because our Government has not been prepared to

sacrifice investment in areas like health and education to fund tax cuts. That is National Party policy.

**John Key:** Has Treasury ever advised the Minister of Finance or any other Ministers that personal tax cuts were possible; if so, when was the earliest this advice was given?

**Rt Hon HELEN CLARK:** Probably to earlier generations; but most specifically I can refer to the 2005 briefing papers to incoming Ministers, which advised that there was scope to redirect some of the money set aside for new spending into tax cuts. That would have meant that our Labour-led Government could not have implemented policies like interest-free loans for students, 20 hours' free early childhood education, completing the roll-out of cheaper doctors' fees, giving rates rebates to older citizens, and supporting our families. We put those areas ahead of National Party - style tax cuts.

**Tim Barnett:** What progress has been made so far on reducing taxes? [*Interruption*]

**Madam SPEAKER:** We will be having the answer in silence.

**Rt Hon HELEN CLARK:** I know this is an answer the National Party will not like, because the Labour-led Government has reduced taxes on families, it has reduced taxes on business, and it has reduced taxes on savers. Those reductions will amount, by 1 April next year, to \$4 billion per annum. The National Party voted against every single cent of every cut.

**John Key:** Is it the case, therefore, that the Prime Minister should have sought advice from her own Minister of Finance, because in May 2003 Treasury advised the Minister of Finance that the surplus was so big the Government could cut taxes without sacrificing the rest of its fiscal objectives, and it went on to say: "This healthy fiscal financial position presents the Government with scope to cut taxes, increase expenditure, and build up financial assets."?

**Rt Hon HELEN CLARK:** The member will recall that in the 2004 Budget this Labour-led Government delivered substantial tax cuts to families, which the member voted against.

**Tim Barnett:** What feedback has the Prime Minister received about the tax cuts already available through Working for Families?

**Rt Hon HELEN CLARK:** I have received overwhelmingly positive feedback from families about those Working for Families tax cuts, but I have seen reports that suggest the National Party now cannot work out whether it supports them. I have seen a report that Mr Key said at the time of Budget '05 that middle-income New Zealanders eligible for Working for Families would probably get less under National. By *Morning Report* yesterday he had changed his tune, but then we do find he has difficulty singing in the same key for long.

**John Key:** When did the Prime Minister's Government first become aware that increases in tax revenue, and therefore the Government's surpluses, were structural in nature rather than cyclical?

**Rt Hon HELEN CLARK:** At the weekend I referred to the Government— [*Interruption*] Madam Speaker, it is—

**Madam SPEAKER:** It is impossible to hear the answer.

**Rt Hon HELEN CLARK:** Even the National Party must have worked out that tax revenue has consistently come in well over forecast because Treasury's model has got it wrong. The 2005 Budget forecast for the June 2007 year forecast a deficit of \$1.6 billion. Even in the 2006 Budget the forecast for the June 2007 year was a deficit of \$1.5 billion. Earlier in October that deficit came out not as a deficit but as a surplus of \$2.6 billion. Treasury has now advised Dr Cullen that it is forecasting an increase in revenue over the forecast period, and the National Party will just have to wait for the updates in the fiscal situation to see the full picture.

**John Key:** I raise a point of order, Madam Speaker. I wonder whether you could ask the Prime Minister to answer my question. I asked a very specific question: when did Treasury advise the Government? That has been the premise on which the Government has said there was advice from Treasury that surpluses went from being cyclical to structural. I asked the Prime Minister a very direct question about when she received that advice.

**Madam SPEAKER:** I listened very carefully to the answer—that which I could hear over the barracking—and it seemed to me the Prime Minister addressed the question.

**John Key:** On what date did the Prime Minister receive the advice from Treasury that surpluses had now moved from being cyclical to structural, which would allow the funding of personal tax cuts under a Labour Government?

**Rt Hon HELEN CLARK:** I have received advice from the Minister of Finance, whom I trust—unlike John Key not being able to trust Bill English, I trust the Minister of Finance—

**John Key:** I raise a point of order, Madam Speaker. We have had two goes at this now. I asked the Prime Minister for the specific date on which she received that advice. I wonder whether you could ask her to answer the question.

**Madam SPEAKER:** If the member would enable the Prime Minister to complete her answer, I am sure she will.

**Rt Hon HELEN CLARK:** In recent weeks Dr Cullen has advised me that Treasury's advice to him is that it is forecasting an increase in revenue across the forecast period, which is a structural movement in revenue not a cyclical one.

**John Key:** Is the Prime Minister aware that in 2003 the Minister of Finance in fact said that Treasury had given him advice that there had been “a structural increase in tax revenue which made more money available than was flagged in Budget 2003 while still delivering on their fiscal objectives”; and is it not a fact that Michael Cullen had, years earlier, received advice from Treasury that the surpluses were structural, and the reason tax cuts did not happen is that Michael Cullen and Helen Clark did not want to deliver them?

**Rt Hon HELEN CLARK:** I have already pointed out today that the National Party has voted against the whole package of tax cuts delivered by the Labour Government. Because the Labour Government has run a strong economy and surpluses, it has been able to cut taxes for families, taxes for business, and taxes for savers. It has cut taxes on the racing industry, as well. The National Party has consistently voted against tax cuts.

**Hon Member:** Oh, they're in trouble!

**Hon Dr Michael Cullen:** The Prime Minister is never in trouble when answering Mr Key—that much is clear. I am interested in the answer to the next question: has the Prime Minister received any reports that Mr Key continues to oppose Working for Families as too generous to people, and can she confirm that Working for Families delivered \$100 a week to the average Kiwi family, which could not have been delivered by changes to tax rates?

**Rt Hon HELEN CLARK:** It is absolutely true that when the Labour Government made its choices about where to cut taxes it decided to cut them first for families rather than spreading the amount of money available thinly across every other taxpayer. That was our judgment and we stand by it because families carry out arguably the most important job in our society. My understanding is that the National Party's position—articulated, it is true by Mr English, not Mr Key—is that our Government invests too much in Working for Families and, indeed, too much in superannuation and savings.

**John Key:** Does the Prime Minister agree with the Minister of Finance's opinion on future tax cuts that under Labour “individual amounts are not likely to be large”; if so, why?

**Rt Hon HELEN CLARK:** I am sure that under a Labour-led Government we would not be proposing to throw New Zealand's Government books into the red to the tune of \$6 billion per annum, which is what National would have had New Zealand's cash deficit at by this year.

**John Key:** If the Government's decision to now look at personal tax cuts is as a result of large surpluses, does she still agree with the Minister of Finance, whose analysis of last year's fiscal position went something like this: "Eight and a half billion ... and still no tax cuts? So? What's the connection between the two? None, right.?"

**Rt Hon HELEN CLARK:** It really is quite disturbing when a leader of the National Party does not know—*[Interruption]*

**Madam SPEAKER:** Please be seated. It is impossible to hear the answer. This is the last warning. Those with the loudest voices will be leaving the Chamber next.

**Rt Hon HELEN CLARK:** It really is disturbing to hear a Leader of the Opposition so financially illiterate that he does not know the difference between a cash surplus and the operating balance.

**Hon Dr Michael Cullen:** Can the Prime Minister confirm that the briefing to the incoming Minister in 2005 said that the Budget allowance was \$1.9 billion a year and that any tax cuts should be paid out of that; and that National was promising \$2.5 billion a year in its first year?

**Rt Hon HELEN CLARK:** I certainly can, and I can say, on the basis of the financial forecasts that were put out at the time of the 2005 Budget, that National was prepared to run, by this year, cash deficits of around \$6 billion a year. It has always been prepared to borrow for tax cuts and to cut basic services for families and older citizens.

**Rt Hon Winston Peters:** Does the Prime Minister not think it is a better idea, rather than to have a so-called tax cut regime of the type National is promising—which will end up in the hands of foreign banks, because as people downsize their mortgage that is where the money will go—*[Interruption]* Well, I know why Maurice is laughing; it is because he is in their pockets—

**Madam SPEAKER:** That last comment is out of order, and the member knows it. Would he please withdraw.

**Rt Hon Winston Peters:** I withdraw and apologise.

**Hon Maurice Williamson:** I raise a point of order, Madam Speaker. I take high offence at that. I did not even slightly snigger at Mr Peters' comments. I made no comment whatsoever. For him to bring me into the debate and then to accuse me of being in anybody's pockets is outrageous, and the member has been here long enough to know that he should have to go.

**Madam SPEAKER:** I know, and I intervened on your behalf. The member has withdrawn and apologised. Would the member please ask his question.

**Gerry Brownlee:** Paying off a foreign mortgage is not good for the country? How does that work?

**Rt Hon Winston Peters:** No, no, what I am saying is that if we are going to spend all our money by handing it over to foreign bankers, how will that advance the domestic economy? It is only a right-wing moron who would think that. It is only a right-wing loony-tune who would see any sense in that. I am saying—*[Interruption]*

**Madam SPEAKER:** Order!

**Rt Hon Winston Peters:** Madam Speaker, I know they are all getting very excited, but I want to ask the Prime Minister why would it not be a smarter idea, in the interests of the growth of New Zealand's economy, and higher wages and higher incomes and therefore, in the end, a greater tax take, to target tax cuts towards New Zealand's exporters, who are the people on whose backs we live or die?

**Rt Hon HELEN CLARK:** As the member will recall, the Government this year did offer very substantial tax cuts for business, and the whole package included incentives for research and development and also substantial export grants for up-and-coming exporters. I believe that is a far better decision to have made this year, on the advice we had available to us about revenue, than simply just cutting personal taxes.

**John Key:** In preparing her conference speech this year, which praised tax cuts, did the Prime Minister get any advice from the Labour Party leader, who announced at Labour's 2000 conference that "Tax cuts are a path to inequality. They are the promises of a visionless and intellectually bankrupt people."?

**Rt Hon HELEN CLARK:** That would be true of every tax cut the National Party has ever offered.

**John Key:** Which announcement surprised the Prime Minister more: the one from Treasury that surpluses had moved from being cyclical to structural, or the one from Charles Chauvel's office telling us that he had been promoted?

**Rt Hon HELEN CLARK:** I would not be surprised about the penny dropping at Treasury, after all these years, that the revenue was running well ahead of forecast. I can say that I am extremely fortunate to have ambitious people on this side of the House who can be Ministers—unlike the tired old retreads of the 1990s sitting over there.

### **Police Procedures—Roadblocks**

**3. TE URUROA FLAVELL (Māori Party—Waiariki) to the Minister of Police:** What police procedures are followed to detain people without charge, and to search and photograph others, while stopped at roadblocks?

**Hon ANNETTE KING (Minister of Police):** Procedures for detaining, searching, and photographing people at roadblocks follow the relevant standard operating procedures in legislation. The nature of the operation and the potential or actual risk to the community and the police dictate which procedures in legislation are used.

**Te Ururoa Flavell:** What compensation is available to families for damage to property in normal circumstances when subject to police actions?

**Hon ANNETTE KING:** My understanding is that the police compensate families for damage that has occurred during a raid, should the people be found not guilty of any charge.

**Keith Locke:** Is the Minister concerned at the over-the-top way these raids were conducted, and at the fear they have created among not only Tūhoe people but politically active people throughout the country; and what will the Minister, together with the police, be doing to overcome that very real problem in our community?

**Hon ANNETTE KING:** First of all, I will be awaiting the outcome of the inquiries and not rushing to judgment. I think that if we looked at the most recent UMR Insight poll on this issue, we would see that most New Zealanders agree as well that we ought not to rush to judgment on police action. I say to that member that he should wait and see. If inappropriate action has been taken, then there is a proper course of action to be followed.

**Dr Pita Sharples:** Tēnā koe, Madam Speaker. Tēnā tātou katoa. Is the Minister satisfied that the police were following appropriate procedures when grieving families from Hamilton, who were travelling to Waiōhau for a tangihanga, were pulled over twice by the police for no apparent reason other than that their vehicle had stickers on the back saying "Tūhoe Legends"?

**Hon ANNETTE KING:** I could not possibly comment on that particular incident. I am happy to ask the police for a report on it, should the member give me the particulars of that case. I have no knowledge of it.

**Te Ururoa Flavell:** What trauma counselling does the Government provide to communities as a result of police actions such as those that were reported as having occurred on what some refer to as “Black Monday”?

**Hon ANNETTE KING:** Counselling and assistance are available through Victim Support. I gather that counselling is also available through the education system, should people wish to access it. I do not know whether people have made approaches for such assistance, but I am sure that if they did, people would look sympathetically at such approaches. However, I say to members that people experience many violent and vicious things in our society, often in what they see on television, and that not everybody requires counselling. For genuine cases I believe that counselling is available, and people should take up the opportunities that are there.

#### **Electoral Finance Bill—Review of Parliamentary Expenditure**

**4. Hon BILL ENGLISH (Deputy Leader—National) to the Minister of Finance:** Does he agree with the previous Minister of Justice that “The Electoral Finance Bill needs to align with the review of parliamentary expenditure.”; if so, why?

**Hon Dr MICHAEL CULLEN (Minister of Finance):** My understanding is that that comment was made at a time when it was hoped that cross-party agreement could be reached on permanent rules with regard to parliamentary expenditure, and that has not been possible. National has been happy to take the money and spend it, but does not want to take any responsibility for the rules that enable it to do so.

**Hon Bill English:** How can the Government’s attempts to reform parliamentary spending be credible, when the bill introduced yesterday allows parliamentary parties to spend taxpayers’ money on things that would be election advertising if they were done by any other person or organisation, having the effect of creating a virtually uncapped taxpayer slush fund for Labour Party advertising?

**Hon Dr MICHAEL CULLEN:** As the member well knows, the spending is not uncapped. Indeed, assuming an election after 1 July next year, that spending will be very heavily capped.

**Gerry Brownlee:** The Government can spend all it wants on its own programme.

**Hon Dr MICHAEL CULLEN:** It is capped expenditure that the member receives and his leader receives. Secondly, the National Party receives the largest portion of that expenditure. Thirdly, the rules in the bill are exactly the same as the current rules. Finally, it was the National Party that this year put out these documents, which I am holding up, that are on exactly that vote and going out to New Zealanders explaining National Party policy. Which word starting with “h” does that not describe?

**R Doug Woolerton:** Does the Minister agree that the purpose of the Electoral Finance Bill is to create an even playing field for all participants in the 2008 election; we are no longer a two-party Parliament: as well as an expanded number of political parties, we have to formally accommodate other participants, now known as third parties?

**Hon Dr MICHAEL CULLEN:** I raise a point of order, Madam Speaker. The reason I am taking this question is the reference to the parliamentary expenditure rules. I am, of course, not the Minister responsible for the Electoral Finance Bill.

**Madam SPEAKER:** That is true. Even though the Electoral Finance Bill is mentioned in the question, the Minister is not responsible. A point of order?

**Hon Peter Dunne:** A supplementary question.

**Madam SPEAKER:** If members do not please be quiet, it will be impossible to be able to get through.

**Rt Hon Winston Peters:** I raise a point of order, Madam Speaker. I asked my colleague whether I could take this point of order before his question. As Mr Woolerton

put it that way, being misled by the reference to the Electoral Finance Bill in the original question, can he rephrase his question along the same lines, but with regard to the appropriation bill soon to be considered by Parliament? In all other respects I think it is inside the Standing Orders.

**Madam SPEAKER:** Yes, I think that is perfectly acceptable. I have, however, in the meantime called the Hon Peter Dunne. [*Interruption*] Has the member got his question?

**R Doug Woolerton:** Yes, I have got my question.

**Madam SPEAKER:** I call Doug Woolerton.

**R Doug Woolerton:** It is a little bit dog-eared, Madam Speaker, but I still have the question. Does the Minister agree that the purpose of the other bill is to create an even playing field for all participants in the 2008 election; we are no longer a two-party Parliament: as well as an expanded number of political parties, we have to formally accommodate other participants, now known as third parties?

**Hon Dr MICHAEL CULLEN:** That is absolutely correct. The allocation of money in that budget, which is a capped parliamentary vote, is based on fair principles. The party that gets the largest amount is the National Party.

**Hon Peter Dunne:** Has the Minister received any reports or advice that on grounds of principle some of those who stand to benefit from the provisions of this legislation will be declining to take up the funding provided to them by it, if it is passed by this House?

**Hon Dr MICHAEL CULLEN:** Sadly, no. The party that gets the most is happy to take the money and use the money, even if that is opposed to fair and transparent rules. Of course, if it does not spend it on communications, it will do what it did last time; it will spend it on staff who were engaged in election activity in 2005, and never investigated by the Auditor-General, who in fact declined to look into those items of spending.

**Hon Bill English:** Can the Minister confirm that it is National's position that all parliamentary spending should be subject to the rules of the Electoral Act, as it was in the past, where in the 3 months before the election all spending can count as electoral spending if it solicits votes, but his Government will try to pass a bill to exempt all parliamentary spending from the electoral spending rules?

**Hon Dr MICHAEL CULLEN:** The bill does not exempt Parliament in that respect. It makes it clear—as in the current Act, and it merely repeats that—that electioneering is strictly defined. If the member cares to think why that is so, members of Parliament are continuously engaged in promoting their party's policies—even Mr Key tries to, on occasions, promote his party's policies. It cannot be separated from the role of a member of Parliament.

**Hon Bill English:** Why has the Labour Government changed the rules whereby in the past money spent by MPs in the 3 months before the election period, such as the pledge card, could be caught as an election expense and therefore subject to quite tight rules, whereas under the Government's proposals, MPs will be able to spend in a much broader way than any other member of the public in the period before the election?

**Hon Dr MICHAEL CULLEN:** The current Act of Parliament merely repeats what was the understanding of everybody in this House before the last election, and privately National Party members supported the bill we introduced but made it clear for political reasons they would have to oppose it in public. That is what took place in the private discussions they were part of.

**Hon Bill English:** I seek leave to table an email from Wayne Eagleson on 27 September to Heather Simpson making it quite clear that National will not be supporting the proposed extension of the existing legislation.

**Madam SPEAKER:** Leave is sought to table that document. Is there any objection? Yes, there is objection.

**Hon Bill English:** If a publication of a similar nature to the 2005 pledge card produced by the Labour leader's office were to be released in the final 6 weeks of the election campaign next year by the parliamentary Labour leader's office, provided it did not state "vote for me" would it be legal under the bill tabled by him yesterday?

**Hon Dr MICHAEL CULLEN:** I think it would be treated in almost exactly the same way as this public advertisement put out by Mr English in 2002 on parliamentary spending, which he subsequently tells us was completely inappropriate and immoral. I might further note that Mr Eagleson was the person who told us that what National sought was to extend the current bill.

**Gerry Brownlee:** I have in my possession a document that sets out the fact that National was happy for a rollover, provided it would lead to a much shorter election period. I seek leave to table that document, along with the document of Mr Eagleson.

**Madam SPEAKER:** Leave is sought to table those documents. Is there any objection?

Documents not tabled.

**Hon Bill English:** Can the Minister confirm that the effect of the Labour Party's policy on electoral reform, for the first time ever done on a purely partisan basis, is that private citizens and organisations will be heavily and tightly restricted on what they can spend rebutting Labour's propaganda but the Labour Government will have at its disposal millions for Government advertising, and that all MPs' expenditure has been exempted from tight electoral spending rules, meaning that taxpayers' dollars will be sprayed around everywhere in Labour's cause and privately raised money will have to be very carefully restricted?

**Hon Dr MICHAEL CULLEN:** What I can confirm, thanks to the very helpful intervention by Mr Gerry Brownlee, is that Labour's position is exactly the same as National's on the parliamentary spending bill, except that National members want a shorter period of time for electoral spending because they have so much money in their pockets they cannot spend it if the limitations in that regard start on 1 January. They have been caught out by their own front bench on this question. *[Interruption]*

**Madam SPEAKER:** If there are any further interruptions, members will leave the Chamber.

**Hon Bill English:** Is there any measure in either the Appropriation Bill or the Electoral Finance Bill that will make the pledge card illegal?

**Hon Dr MICHAEL CULLEN:** I think the Prime Minister would indicate that we will be most unlikely to use such a pledge card. It would be nice to get a pledge from National that it will not use any of its parliamentary funding for next year for anything that looks like the promoting of the National Party. I bet we will not get that pledge from National.

### **Education System—Government Direction**

**5. Hon MARIAN HOBBS (Labour—Wellington Central) to the Minister of Education:** What is the Government doing to set the direction for teaching, learning, and assessment for our 21<sup>st</sup> century education system?

**Hon CHRIS CARTER (Minister of Education):** Today the Prime Minister and I launched the new New Zealand curriculum for New Zealand schools, accompanied by the member and Steve Maharey, who, as former Ministers of Education, have shepherded its development since 2002. The new curriculum is designed to support students to develop the values, competencies, and knowledge to achieve their full

potential in the 21<sup>st</sup> century. I thank the 15,000 New Zealanders who have been involved in the development of the new curriculum, which will be mandatory for all State schools and State integrated schools from 2010.

**Hon Marian Hobbs:** Has the Minister seen any reports on alternative approaches to supporting our 21<sup>st</sup> century education system?

**Hon CHRIS CARTER:** Indeed I have. I have seen two reports in the last week advocating conflicting approaches to education policy. One report pledges a solid commitment to the reintroduction of bulk funding of teachers' salaries, and the other states that bulk funding is "not currently in our thinking". Amazingly, both these statements were made by National's education spokespeople, Allan Peachey and Katherine Rich, last week. Someone should give Mr Peachey another copy of *The Hollow Men*, because he appears to have missed the caucus strategy on how to hide the party's true agenda of privatisation, cuts, and old, failed policies like bulk funding.

**Allan Peachey:** I raise a point of order, Madam Speaker. I was the principal of a bulk-funded school for a long period of time, and I take personal exception to the comments the Minister just made about the policy. I ask that he apologise and withdraw.

**Madam SPEAKER:** That is not a point of order.

**Hon Brian Donnelly:** What support is the Government providing to teachers, schools, school communities, and the broader system, to ensure that the new curriculum is successfully implemented?

**Hon CHRIS CARTER:** Schools will be supported to implement the new New Zealand curriculum over the 3-year period to 2010. This support includes workshops, resource packs, learning communities, school-based professional learning, and a national programme of research. National Certificate of Educational Achievement standards will be reviewed and aligned with the new curriculum by 2010. This morning I also announced that all schools can have a teachers-only day within the next year to enable teachers to discuss the implementation of the new curriculum, and that is welcome news, I am sure, to teachers and pupils.

**Katherine Rich:** What specifically tagged funding will the Minister offer schools to implement the new curriculum, because launching it today was easy but implementing it across schools is the challenge, and all that he has offered today are a bunch of workshops, a website, and a teachers-only day?

**Hon CHRIS CARTER:** I can assure the member that, given the track record of this Government, which has increased education spending from \$5.7 billion in 1999 to \$9.6 billion today, schools will be adequately resourced. I am delighted that we have had confirmation in the House today that the National Party is considering bringing back bulk funding.

**Jeanette Fitzsimons:** Can the Minister confirm that negotiation with the Green Party under our cooperation agreement and numerous well-argued submissions from environmental education leaders and members of the community have led to increased emphasis on sustainability and the Treaty of Waitangi in the new curriculum, to be funded by the \$13 million for environmental education that was secured by the Greens in the 2006 Budget?

**Rt Hon Winston Peters:** I raise a point of order, Madam Speaker. That surely cannot be the preliminary to a question—a diatribe about what the party has not done or would like to do, before we even get to the question. Most of us are pulled up within the first seven or eight words of a sentence and asked to concentrate on the question; we are not allowed to read out the supposed track record—doubtful as it is. Surely you should have called the member to order.

**Madam SPEAKER:** I thank the member. It is a useful reminder to members that it is question time, not statement time. But the party of the member who raised the point of order indulges in that practice quite regularly. A certain tolerance has been given.

**Rt Hon Winston Peters:** I raise a point of order, Madam Speaker. With respect—and I have been here a bit longer than you have—if that was the case, you were bound to say so. Better still, somebody else in this Parliament should have said so, but members did not.

**Madam SPEAKER:** I thank the member. If all the rules were applied rigidly, we would not be able to do anything in this Chamber, because nobody seems to apply them. A little bit of tolerance and flexibility has to be given from time to time. It has been exercised in this way.

**Jeanette Fitzsimons:** I raise a point of order, Madam Speaker. I point out that my question began with a question word: “Can the Minister confirm ...”. Should I read the question again, Madam Speaker?

**Madam SPEAKER:** Please.

**Jeanette Fitzsimons:** Can the Minister confirm that negotiation with the Green Party under our cooperation agreement and numerous well-argued submissions from environmental education leaders and members of the community have led to increased emphasis on sustainability and the Treaty of Waitangi in the new curriculum, to be funded by the \$13 million that was secured by the Greens in the 2006 Budget?

**Hon CHRIS CARTER:** Yes. I am aware that Metiria Turei from the Green Party worked closely with my predecessor Steve Maharey on improving the draft curriculum. I thank her and the Green Party for the contribution. It has resulted in a better curriculum, which can only benefit students.

I seek leave from the House to table a copy of *The New Zealand Curriculum*.

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

**Hon CHRIS CARTER:** I seek leave from the House to table an article from the *Christchurch Press* outlining the support Mr Allan Peachey—

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

### **Corrections, Department—Confidence**

**6. GERRY BROWNLEE (National—Ilam) on behalf of SIMON POWER (National—Rangitikei) to the Minister of Corrections:** Does he have confidence in his department; if so, why?

**Hon ANNETTE KING (Acting Minister of Corrections):** In general, yes.

**Gerry Brownlee:** Why was convicted axe murderer John Ericson considered a minimum security prisoner able to work unsupervised in an unsecured plant nursery, and was this an acceptable risk to public safety when he was able to simply walk away from the work, leading to a 26-hour manhunt, police cordons around Wellington suburbs, and raids by the armed offenders squad?

**Hon ANNETTE KING:** John Ericson was considered a minimum risk, having gone through the classification process that exists in the corrections system whereby a person goes in with a classification. In this case, he went in with a classification of high-medium in 2000. By May 2005 his classification had been reduced to minimum. Under a minimum classification he was able to work outside the prison. This time he was working in the prison nursery, about 30 metres from the prison, when he escaped.

**Gerry Brownlee:** Is the Minister satisfied that the Department of Corrections has got its assessment procedures right, given that this man John Ericson hacked his wife to death by beating her 22 times with an axe, that he has been described by the police as

dangerous, and that there has been a further police assessment of him stating: “No crime is more violent than murder. The very nature of his crime makes him a risk.”; and how then does the Minister reconcile the department’s assessment of Mr Ericson with the police’s understanding of Mr Ericson?

**Hon ANNETTE KING:** The classification system may well need to be looked at. All I can say is that it was put in place in 1991 as a pilot and was then put in permanently in 1992. This classification system has been used for, I would say, hundreds of prisoners who have been reclassified during their time in prison, including murderers, under a National Government, and it has been seen to work for those prisoners. It has worked for many years under this Government. Errors will at times be made. I can say that when Mr Ericson is able to go before the Parole Board in 2009, he now faces a very different future from the one he might have faced.

**Gerry Brownlee:** Does the Minister agree with two of her department’s spokespeople, who stated: “John Ericson let us down. He breached the trust we placed in him.”; and what would she be saying now if John Ericson had not been apprehended by the police’s cordoning off a Wellington suburb, bringing out the armed offenders squad, and eventually apprehending him, but had taken an axe to another New Zealander?

**Hon ANNETTE KING:** The Department of Corrections would be saying that research shows that people released from a high-security environment are more likely to reoffend and are less likely to be reintegrated back into society. The reason why there is a classification process is to take people down and give them the opportunity to be able to get back into society, because one day they will do that. One day they will go back into society, under a system based on good research—a system that was supported for 9 years by the previous National Government and has since continued to be supported by this Government. That system has worked for many, many prisoners.

**Gerry Brownlee:** Can the Minister confirm that as recently as June of this year a convicted kidnapper and armed robber, Reon Kiwi, also walked away from gardening duty outside Wellington Prison, forcing the lockdown of a local primary school; and as this escape was also the subject of an internal review, why did that internal review not pick up the faults in the assessment system?

**Hon ANNETTE KING:** I cannot comment on the review, but I can tell this House—and I know that members will be very interested in this—that the rate of all escapes, including break-outs, non-return from temporary release, and other escapes, has significantly declined in the last 10 years. In fact, there has been an 84 percent reduction in the number of escapes in the last 10 years, with most of that reduction being under a Labour Government. I am pleased to see that only a few people do escape, but obviously there are some people who let the system down.

**Gerry Brownlee:** Why did the Minister’s department tell yesterday’s court hearing that John Ericson was not armed “in any way”, yet he was found with an improvised knife made from a Stanley blade and admitted possessing other offensive weapons when he was in court; and why is a convicted axe murderer able to access that sort of weaponry in our prisons?

**Hon ANNETTE KING:** I do not have that information at hand. I am unable to answer the question.

### **Inland Revenue Department Tax Policy— United Future Confidence and Supply Agreement**

**7. JUDY TURNER (Deputy Leader—United Future) to the Minister of Revenue:** Which items on the Inland Revenue Department tax policy work programme over the last 2 years are direct results from United Future’s confidence and supply agreement?

**Hon PETER DUNNE (Minister of Revenue):** A major provision of that confidence and supply agreement was to have a comprehensive business tax review to ensure the system gives New Zealand businesses better incentives for productivity gains and improved competitiveness. As a result of that review the company tax rate has been cut from 33 percent to 30 percent, the tax rate on widely held savings vehicles has been cut to 30 percent, a tax credit for research and development is being introduced, and a tax exemption for the active income of overseas companies controlled by New Zealanders is being introduced. A new tax regime for charities is also being introduced, which will remove the current donation threshold, meaning that all donations to charity will be tax deductible up to the level of a person's taxable income. A discussion paper setting out how an income-splitting system for couples with dependent children might work will be released in April next year.

**Judy Turner:** Has the Inland Revenue Department's work programme on these matters finished?

**Hon PETER DUNNE:** No; in fact, as a result of the *Business Tax Review* document, which foreshadowed any consequential adjustments to personal taxes, work is commencing on looking at how personal taxes might be adjusted in the light of that and other developments. A discussion paper on payroll-giving to charities is due to be released later this month. Work is also under way on making it possible to claim tax relief on non-monetary donations to charities.

**Judy Turner:** With regard to income splitting, what would the benefits be to a single-income household earning \$60,000 a year?

**Hon PETER DUNNE:** I just happen to have that figure with me. In fact, a single-income household earning \$60,000 a year would benefit to the tune of approximately \$123 a fortnight, were income splitting to be introduced.

**Charles Chauvel:** Has the Minister received any reports from the charitable sector about the likely impact of the removal of the donation threshold?

**Hon PETER DUNNE:** Yes, I have. In fact, those reports are extremely positive. A number of charities are reporting that they have been advised, by significant donors, of major donations to be made after 1 April next year. These are donations that would not otherwise have been made but are being made principally as a result of the tax concession that is being introduced. That is good news all round, and a very positive outcome from this policy.

### **Health, Minister—Key Objectives**

**8. Hon TONY RYALL (National—Bay of Plenty) to the Minister of Health:** What are his key objectives as Minister of Health over the next 12 months?

**Hon DAVID CUNLIFFE (Minister of Health):** To listen carefully, and to work with the whole sector to continue the improvements in health and disability support services for all New Zealanders. I will work for accessible, affordable, high-quality, and secure health-care for all Kiwis.

**Hon Tony Ryall:** What areas of weakness in the health system will he concentrate on fixing?

**Hon DAVID CUNLIFFE:** I will, among other things, do my best to ensure that the National Party's promise to lift controls on general practitioners' fees will never come to pass.

**Barbara Stewart:** Is he aware of the Cancer Society's view that the Cancer Control Council does a very good job of monitoring the progress that has occurred, but that "we don't have the people, equipment and medicines to treat it"; if so, what are his objectives in that important area?

**Hon DAVID CUNLIFFE:** As the member will be aware, I am still getting to know the various aspects of the sector, but what I am convinced of is that a good disease-management practice, such as cancer control, will continue to form an important part of our health strategy.

**Hon Tony Ryall:** What changes does he expect to make to the priorities set out to district health boards around the country?

**Hon DAVID CUNLIFFE:** The Minister's priorities for 2007 were released relatively recently, and the district health board sector can have confidence that they remain in place. My priorities are to listen, to read widely, and to meet as many as possible of the stakeholders that matter in the sector. I will be refining my views as time progresses.

**Hon Tony Ryall:** How long will the thousands of New Zealanders who are on hospital waiting lists or languishing in hospital emergency departments have to wait until this new Minister actually decides he will do something for those patients?

**Hon DAVID CUNLIFFE:** A lot less time than they would do if that member's raggle-taggle bunch were in Government, because it would "rely upon competitive pressures to solve all the problems of the health system".

**Hon Tony Ryall:** In telling the House that he does not intend to change the priorities the Government has set and that the Government is doing a great job, in his words, is the Minister saying he is not going to bring any new ideas or fresh directions to health, which would make him nothing short of a caretaker Minister for the next 12 months?

**Hon DAVID CUNLIFFE:** I am committed to listening to the sector, and I suggest the member listen to the answers given to earlier supplementary questions.

### **Real Estate Industry—Reform**

**9. DAVE HEREORA (Labour) to the Associate Minister of Justice:** What reports has he received on measures to reform the real estate industry?

**Hon CLAYTON COSGROVE (Associate Minister of Justice):** I have received a number of reports seeking reform of the real estate industry. That is why today I have announced decisions to totally overhaul the industry, with new consumer protection measures and an independent complaints body. I note Sue Chetwin, chief executive officer of the Consumers Institute of New Zealand, said today on radio in response to the announcement: "An independent body looking at complaints about real estate agents is long overdue. We think the compensation for consumers is fantastic, and we've never really had that before. The public access to decisions in the disciplining and censuring of real estate agents is really good news for consumers as well."

**Dave Hereora:** What are the main changes the Minister announced today?

**Hon CLAYTON COSGROVE:** The reforms announced today will deliver on the Government's promise to bring accountability and transparency to the real estate sector by removing regulatory functions from the Real Estate Institute of New Zealand, creating an independent real estate agents authority and a disciplinary tribunal to oversee licensing complaints and disciplinary and enforcement processes, and provide information for consumers. These bodies will have wide-ranging investigative powers and will be able to order a wide range of penalties and remedies, including the suspension and cancellation of licenses, and the ability to render heavy fines and award compensation. In essence, these reforms will restore the confidence of consumers and support good, honest real estate professionals.

### **Schools—Decile Funding Cuts**

**10. KATHERINE RICH (National) to the Minister of Education:** Will he be providing transitional funding to help all schools hit by a sudden cut in decile funding?

**Hon CHRIS CARTER (Minister of Education):** I am aware that as a result of demographic changes recorded in the 2006 census, a third of schools will see their decile funding increase, while a further third will have no change, and a third will experience some decline. All schools will, of course, have a 4 percent increase in their operational grant next year. Approximately 80 of the 2,500 schools are significantly affected by the changes to decile funding, which makes up just 11 percent of their school operational funding. The changes mostly involve declines of between \$7,500 and \$14,000. I have asked officials to report to me on how we can provide support on a case by case basis.

**Katherine Rich:** Does the Minister not understand that although some schools won extra funding as a result of decile changes, this is of no consolation to a school that faces decile cuts with only 3 months to prepare, and how does cutting funding to a cluster of South Auckland schools by some \$500,000 help those schools deal with lifting students' achievements, funding, teacher shortages, and other problems?

**Hon CHRIS CARTER:** The member did not listen to my first answer to her question. Approximately 80 schools are affected. There are, of course, many that have increased their funding. As I said in my primary answer, we will look at it on a case by case basis, and if there is a case for transitional funding or, actually, even extra funding, we will look at that.

**Dianne Yates:** What reports has the Minister seen on school funding?

**Hon CHRIS CARTER:** I have seen a report containing the following comment: "I loved being a principal of a bulk-funded school. It worked superbly well ... I am personally very solidly committed to it." Indeed, those comments were repeated in this House today by National's junior education spokesperson, Allan Peachey, totally contradicting his leader and the education spokesperson, Katherine Rich, both of whom say they oppose bulk funding. What is National's policy on bulk funding? Teachers and parents around New Zealand must now be wondering about that question.

**Katherine Rich:** Does the Minister think that cutting \$500,000 from the budgets of a group of South Auckland schools makes it easier or harder to cater for the needs of those South Auckland students, when a critical shortage of teachers is hitting South Auckland, and some South Auckland primary schools report having a different relieving teacher in front of students every day?

**Hon CHRIS CARTER:** I remind the member again that we will look at the small number of schools in the total number of New Zealand schools that are affected by this, on a case by case basis. Of course, the National Party has very little credibility on school funding; not only does it seem to want to bring back bulk funding, but also the deputy leader, Mr English, said that decile 1 and 2 schools were awash with cash.

**Katherine Rich:** Let us try this one again. How will cutting \$500,000 from the budgets of a cluster of South Auckland primary schools, without time to prepare for the transition, help those schools in dealing with teacher shortages, lifting student achievements, and the other problems those schools face?

**Hon CHRIS CARTER:** What I can tell those schools is that bringing back bulk funding will not solve that problem, but I will look at their situations on a case by case basis.

### **Water Quality—Dairying**

**11. NANDOR TANCZOS (Green) to the Minister for the Environment:** Does he agree with Environment Waikato's Dr Peter Singleton that the issues of dairying and water quality are "urgent and critical" and the only hope of change is "through regulation, ... that they take on board the environmental cost of their business"?

**Hon TREVOR MALLARD (Minister for the Environment):** Yes, certainly in respect of the first quote. This issue is one that is deep and complex; it goes to the heart of the economy and also our identity as New Zealanders. I look forward to working with members on it.

**Nandor Tanczos:** Does the Minister believe that there are any limits to the extent to which dairy farming can continue to expand; if so, how will the Government ensure that dairy-farming expansion keeps within those limits?

**Hon TREVOR MALLARD:** Clearly, there are some limits to the expansion. I think the tools to make sure those limits are enforced and effective are something to be worked on across the House.

**Nandor Tanczos:** Is the Minister concerned that “think big” irrigation projects such as Central Plains Water and the Waitaki River Hunter Downs project will push dairy-farming expansion beyond sustainable limits, especially as current levels of expansion and intensification mean that even with best-practice farming methods, our waterways will continue to deteriorate?

**Hon TREVOR MALLARD:** I do not yet know the details of those particular expansions. Clearly, there is a lot of responsibility on the consenting agencies for them, and having in place a proper plan of action will be important to give guidance, especially going forward.

**Nandor Tanczos:** Does the Minister agree that it is time that farmers began to pay the environmental cost of their businesses, and is it not simply subsidising unsustainable expansion of dairy farming to exempt those farmers from paying for their greenhouse gas emissions, for the huge quantities of water that they use for irrigation, and for their contamination of our common waterways by effluent and other runoff?

**Hon TREVOR MALLARD:** The method of regulation is, I think, what the discussion is to be about, going forward. Clearly, there is acceptance by the industries involved that individuals should pay more of the cost of their activities. I think that is something that is not limited to farmers.

### **Building and Housing, Department—Quality Regulation Review**

**12. Hon Dr NICK SMITH (National—Nelson) to the Minister for Building and Construction:** How has the Department of Building and Housing lived up to the statement by the Minister of Commerce that the Government’s Quality Regulation Review was “the most effective review of red tape that this country has ever seen.”?

**Hon SHANE JONES (Minister for Building and Construction):** The Quality Regulation Review was completed in August and set out a range of projects to address issues raised by business. Those projects are under way and going well.

**Hon Dr Nick Smith:** How can the Minister say the review of red tape is going well, when Wellington City Council has noted “A typical house plan four years ago was three A3 size plans and 30 supporting pages. Developers are now required to file 12 A3 pages and up to 300 pages of ... documentation.”; if that is a review going well, can he tell me what it would look like if it were going badly?

**Hon SHANE JONES:** This may come as a surprise to the member, but I have a report—by the World Bank, no less—showing that New Zealand is second-best in the world in terms of dealing with building permits for projects on the scale of a warehouse. In cases where regional or local government is seeking some assistance, my department has up to 11 projects under way, and they are going swimmingly well.

**Hon Dr Nick Smith:** How can—

**Hon Member:** How’s the case going?

**Madam SPEAKER:** Would the member please ask his question.

**Hon Dr Nick Smith:** If the Government members would shut their gobs.

**Madam SPEAKER:** Please be seated. That is what causes disorder. Considerable comment has also been made when other members have asked questions, but it was not at such a level that the members could not be heard.

**Hon Dr Nick Smith:** Who does the Minister think would be more credible on the issue of compliance costs in the building sector: the World Bank on the other side of the world, or master builders, who have said of the Government's new Building Act that "About \$30,000 of the cost of the average new home is unnecessary regulatory red tape"?

**Hon SHANE JONES:** The World Bank report covered a whole host of OECD and other jurisdictions. I am happy to provide that report to the member. In relation to the amounts of money he refers to, I say a lot of those so-called costs relate to energy efficiency and other very sensible things where there is a short period of time before the householder gets a handsome return.

**Hon Dr Nick Smith:** Has the Minister read the study on housing costs before the Commerce Committee that noted that the single-biggest difference in housing costs between New Zealand and Australia is the cost of consent fees and levies, which have increased by 900 percent under this Government, and, given those figures, is it any wonder that a record 40,000 New Zealanders are leaving for Australia, where housing is so much more affordable?

**Hon SHANE JONES:** I would like see those references to affordable housing in Australia at some dim point in the future. In respect of costs, etc., I repeat that there are 11 projects flowing from work carried out by my colleague. There are up to 11 projects, and they cover the points that the member has referred to.

**Hon Dr Michael Cullen:** Has the Minister received any reports that the member who asked the question complaining about excessive regulation of the building industry is the same person who complained about a lack of regulation of tanalising timber agents and who, as a consequence of that, is being sued for \$15 million?

**Hon SHANE JONES:** The member's questions and answers are, in their various ways, a matter of great amusement to the House.

**Hon Dr Nick Smith:** Does the Minister think it is amusing to the House and to the people of New Zealand that \$93 million has been spent on leaky homes and, after 5 years, only one in seven claims has been resolved, and that the cost of bureaucracy to the taxpayer for each home is \$126,000 when the average settlement is only \$84,000; and does he think that that is value for money?

**Hon SHANE JONES:** There is a jumble of questions in there. In relation to his initial question—

**Gerry Brownlee:** I raise a point of order, Madam Speaker. If the Minister is having trouble understanding a pretty straightforward question, perhaps you could invite the member who asked the question to ask it again.

**Madam SPEAKER:** As the member who raised the point of order knows, Ministers need address only one of the questions contained in supplementary questions.

**Hon SHANE JONES:** The establishment of the weathertight remedy represents our desire to see all of the homeowners who were afflicted by poor regulation save what investment they can out of a shoddy experience—one that is attributable to those members who are now on the other side of the House.

**Hon Dr Nick Smith:** I raise a point of order, Madam Speaker. My question asked the Minister whether New Zealand taxpayers had got value for money for the \$94 million spent. I do not think that the Minister's answer addressed that question.

**Hon Dr Michael Cullen:** The Minister, in responding, pointed out that in fact this expensive process is a result of very poor regulation by the previous Government, and the questions have been about the expense of regulation in the building industry.

**Hon Dr Nick Smith:** I seek leave of the House to table the *Hansard* from 1991 that shows that Dr Cullen supported the—

**Madam SPEAKER:** Leave is sought to table that document. Is there any objection? There is objection.

#### QUESTIONS TO MEMBERS

##### Electoral Finance Bill—Select Committee Timetable

**1. HEATHER ROY (Deputy Leader—ACT) to the Chairperson of the Justice and Electoral Committee:** What is the committee's timetable in relation to the Electoral Finance Bill?

**LYNNE PILLAY (Chairperson of the Justice and Electoral Committee):** The House has referred the bill to the committee for report back by 25 January 2008. Further detail of the possible progress is committee proceedings, and is confidential until the committee reports back to the House.

**Heather Roy:** Does she believe that the Crown Law Office was correct in telling the High Court yesterday that this bill would not be reported back to the House until 25 January 2008, well after the bill is due to become law, and, in effect, by 1 January?

**Madam SPEAKER:** No, the member has no responsibility.

**Rt Hon Winston Peters:** Can I ask the member, who chairs the committee, whether or not she understands the constitutional propriety of a claimant down town using a political party in this House to tell a parliamentary select committee what its timetable should be?

**Madam SPEAKER:** That is not appropriate, either.

**Rt Hon Winston Peters:** I raise a point of order, Madam Speaker. That is entirely what is going on here. It is appropriate when this House is being called into question or is being challenged from outside that we should know the grounds on which it is being challenged. We know why this case is being brought. We know who is behind the complainant and who the plaintiff is, and we know what the plaintiff wants to know. But to use a member of Parliament to challenge a select committee to set its timetable is entirely constitutionally wrong.

**Gerry Brownlee:** The issue here is that there is an action currently before the courts. There is a matter that the court will have to hear and, presumably, rule on. Where the difficulty arises is that the courts have gone to Parliament's programme—to the book that is published quite frequently—and have looked at the report-back date for this particular bill, and it says 15 January. So the courts have said that if this matter is to be heard on 25 November, then there is plenty of time for whatever judgment may arise from that to be considered before the matter is reported back to the House. The problem arises from the fact that the time in which a select committee reports back is pretty much in the hands of the committee and, in fact, in the hands of the chair of that committee. So the simple question is whether the select committee will be reporting this bill back to the House before the court can hear the submission by those who are putting the issue before the court, or whether the select committee will respect the process that the court has to go through. I do not think it is unreasonable that the chair of the select committee should be able to outline exactly what her thinking is on the role that the select committee has when there is this sort of action before a court.

**Hon Dr Michael Cullen:** I do not remember the exact wording in the question, but it seems to me that the question asked for the select committee chairperson to comment on what Crown Law told the court. She bears no responsibility for that, at all.

**Madam SPEAKER:** The difficulty we have here, I think, is that this is a matter for the committee and not for the chair alone. It was on that ground that I felt it was inappropriate.

**Hon Bill English:** I raise a point of order, Madam Speaker. I think there is just a bit more to it than the issues you have considered. I mean, it is legitimate enough, but we often do have contention about process between Parliament and the courts. Sometimes it is Parliament's correct role to ignore what the courts are doing, but this seems to me to be a time when Parliament could cooperate with the legal system. This is simply because the judge has made a decision on the basis of wrong information published by Parliament. Parliament has published a date for the report back. The court and the parties to those proceedings have relied on that information. The judge has published a decision. It seems to me to be somewhat churlish if Parliament says: "Well, it's nothing to do with us. We have published information that's misleading, and the court has made decisions on the hearings based on it, but it is nothing to do with us." It is a simple matter for the select committee chairperson to state correctly when she, or the Government, intends that report back to happen, and then the legal process in New Zealand can follow through in the way that the judge and, I am sure, all the participants in the case intend. It seems odd that because Parliament will decide, on the basis of a very narrow technical definition, what a select committee chairperson is responsible for, we are going to frustrate the proceedings of the High Court, when Parliament was responsible for misleading it in the first place.

**Hon Dr Michael Cullen:** First of all, let me come back to the simple point: a question was asked of a select committee chairperson for which she is not responsible. She is not responsible for what the High Court was told by Crown Law. If anybody is responsible, it is me, as Attorney-General. Secondly, of course, the only report-back date that can be in the public arena is that date by which the committee has to report. The committee at this point cannot say that it is reporting back on such-and-such a date. The committee may or may not do that; that is within its own competence at the present time. I also say that one of the issues in this case is whether the High Court can consider a matter that is a proceeding before Parliament, and I would hope that colleagues might support Parliament over party politics in that sort of matter.

**Madam SPEAKER:** I thank the members, but the matter is not as simple as it has been put. This is a matter for the select committee. It is not a matter for the chair of the select committee—or of any select committee—to prejudge what a select committee will do. That ruling is according to the Standing Orders.

## **TERRORISM SUPPRESSION AMENDMENT BILL**

### **In Committee**

#### **Part 1 Amendments to principal Act**

**Dr WAYNE MAPP (National—North Shore):** The Terrorism Suppression Amendment Bill is an important bill, and I want to put a little bit of context around it. There has been a great deal of misinformation in the public sector, I must admit, aided and abetted by the Green Party, and its member present, who does know the truth of this, based on what occurred in the Foreign Affairs, Defence and Trade Committee. I want to make the point crystal clear that this legislation did not come to this Parliament as a result of any recent events. I notice that members from the Māori Party are noting that. I want to make clear to them that at no stage was that ever conceived, considered, or thought an issue.

There is a particular reason why we have to deal with this bill now, which is that the UN designations of al-Qaeda and the like—and they are referred to in the Supplementary Order Papers—are all about to expire. These designations have to be renewed. New Zealand, surely, can hardly be in a situation of being a defaulter nation and of not enforcing United Nations Security Council resolutions against al-Qaeda and

its ilk. That is what has motivated the legislation at this particular time. There has to be a mechanism to renew what are literally hundreds of designations of al-Qaeda and its numerous offshoots, and those persons associated with them, all of which designations have gone through an exhaustive process in the United Nations Security Council. New Zealand has deep and profound obligations to implement those resolutions. I think that after a bit of reflection, most parties—in fact, I would like to think all parties—will recognise the importance of doing that. What is the alternative? Is the alternative that New Zealand will essentially opt out of the United Nations system—that we will somehow become a nation that is careless and that disregards our fundamental obligations to all other nations to deal with the most extreme forms of international terrorism?

So, faced with that situation, Parliament has had to address it. The issue was how best to address the renewal of those designations. If we did nothing, each and every one of them would have to go to a High Court for consideration. The problem with that process is that that is an adjudicative process, and people make submissions, and so forth. That is entirely inappropriate for UN-designated organisations. The international community, including New Zealand, has already made a decision about those groups and, frankly, there is no contest about them. So New Zealand has an obligation to continue those designations as, in a sense, an operation of Government.

The issue that motivated the select committee, in detail, was the issue of how best to continue those designations. The legislation proposed that this should be done by the Prime Minister. I have to say—and members on the select committee know this—that that exercised us to a great degree. We were concerned about vesting all that power into a single individual, and I, amongst others, said that we have to be able to find some method of ensuring there is, at minimum, a reporting to Parliament of that. The method that has been chosen is the use of Parliament's Intelligence and Security Committee. That committee has the most senior members of this Parliament on it, drawn from across the House. I say that that committee probably should be reviewed. Its membership could be reviewed to make it, perhaps, a little more reflective, but that is an issue for another time. The select committee suggested to the Government that there needed to be a change to provide a better level of accountability than the vesting of that decision-making power entirely into the person of the Prime Minister. The committee, by consensus, agreed that the Intelligence and Security Committee was the right way to do that at this stage, and in the future maybe that could be strengthened further.

But I want to come back to the very clear point that the legislation has nothing to do with the events that have occurred in recent weeks. The public of New Zealand needs to have that assurance. This legislation is entirely related to New Zealand's obligations under the United Nations charter. I would like to think that every political party understands those obligations. Yes, they may have quibbles about details, and issues of that kind. But surely no members of a political party are going to stand up in this Chamber today and say: "We should ignore the United Nations designations." I would like to know that about any political party, and in particular the Green Party and the Māori Party, because I know they are interested in this legislation. Surely those members will not get up and say: "We are completely uninterested in what the United Nations does. We are completely uninterested in New Zealand's responsibilities to the international community." Frankly, that would be extraordinary. If that is the proposition these members put forward to the public of New Zealand, we would have to ask ourselves the basic question of whether they have earned the right, in that situation, to participate in future Governments of New Zealand.

Surely it is a fundamental responsibility as a good international citizen—and New Zealand does take pride in being that—and surely it is one of our fundamental obligations

that we uphold United Nations Security Council resolutions. These resolutions have literally the force of law. They are not advisory and they are not just suggestions; they are obligations on members of the United Nations. They are not discretionary. So when the United Nations Security Council, under chapter 7, makes a resolution that states: "These entities are international terrorists and States must deal with those entities."—and in this instance it was actually about the use of finance and things of that nature by those organisations—New Zealand has a legal responsibility under international law to act.

I want to say this directly to the two parties whose members have spoken most on this bill. The obligation that we implement United Nations Security Council resolutions that have mandatory force impinges on all parliamentarians. The alternative is international anarchy. I cannot believe that those parties would want that.

The select committee took its responsibilities on this bill very, very carefully. We had a wide-ranging discussion, which included all members of the committee, and we took on board suggestions from all members of the committee, including those from the Green member Mr Keith Locke. His comments and views were not just ignored. Some of the points that he raised were taken on board, including the need to have some level of accountability of the Prime Minister. At the present moment we have said that that accountability will come from the Intelligence and Security Committee. Mostly due to the force of time, that was done. We do think that is an issue that needs to be looked at more deeply, and we have made reference to that in the commentary on the bill.

This legislation is serious stuff. It is amongst the most important things that this Parliament does. It is not a time, and should not be a time, to wrap some cheap opportunistic approach around this issue. I know that those parties have issues, and I do understand those issues. Perhaps we will end up at least touching on them later in the debate. But let us not try to wrap this bill and our responsibilities under the United Nations Security Council in issues that have occurred this week.

I want to make it very clear that National does support this legislation. We believe in a world where law prevails and where people have an assurance in their international travels, and so forth, that terrorists are being dealt with in a proper and lawful way. We support this bill because we think it upholds New Zealand's responsibilities as an international citizen.

**KEITH LOCKE (Green):** The last speaker, Wayne Mapp, said that the events of the past couple of weeks have nothing to do with this bill, or vice versa. In one sense that is true, in that this bill proceeded through Parliament by its own timetable and rationale. But it has a lot to do with the events of the past couple of weeks, in the sense that when the original Terrorism Suppression Act was put through in 2002 there were a huge number of submissions critical of it. Many of them were from non-governmental organisations that were fearful that they and their members could be caught under that Act. Those same organisations are fearful today that maybe the Act will be applied in the current situation. The very questions of the right to dissent and not to be given a penalty for one's political views were very much in the original debate back in 2002, and they are very much part of the public debate today.

Wayne Mapp said that the time is coming up for the renewal, under the original Act, of the UN designations of terrorist organisations. But it is quite clear—and there have always been submitters on this, both in the original Act discussion and on this bill—that the High Court is perfectly capable of renewing all those definitions if they are still valid. They do not need to go into a lot of high detail. In fact, the original Act says that evidence from the United Nations is to be deemed as sufficient unless there is evidence to the contrary. So unless there is evidence to the contrary on any of those UN designations of al-Qaeda and the Taliban that are currently on our list and up for

renewal, the High Court does not really have to spend much time on it at all, in a practical sense. What is so wrong—and the Green Party has this in our minority report—is to cut the court out of it altogether so that the Prime Minister, representing the executive branch of Government, does not only the original designating but also the review of those designations 3 years later and a renewal of them if appropriate. So that is the real situation. The problem with the so-called war on terror as a whole is that it has moved things out of the hands of the judiciary and into the hands of the executive in an excessive way.

Wayne Mapp says that there is no real problem in our accepting the UN designations automatically into our law. Well, there is a problem because it has been shown that the counter-terrorism committee hanging off the UN Security Council has made a lot of mistakes. It is a governmental system of Governments putting the terrorist groups on this list, and they do make mistakes. If the United States, for example, wrongly put Wayne Mapp on the list and the counter-terrorism committee said: “Yep, Wayne Mapp is a terrorist and he has to go on the list.”, then that list comes through to New Zealand. Even though we know Wayne Mapp is not a terrorist, under the proposal in the Terrorism Suppression Amendment Bill Wayne Mapp would have to be put on our list and all of his assets seized immediately. If he were an employer employing 5,000 people, that whole business might go down the tubes because of a lack of rationality and a lack of application of international human rights law giving justice and due process to someone like Wayne Mapp, if he were deemed to be a terrorist.

Wayne Mapp says that we have to obey the UN. There are two things we have to obey in this situation. One is the UN Security Council decisions under chapter 7, which are obligatory on Governments, but parallel with that is international human rights law, which gives due process and justice to anyone. Those are parallel processes. In my Supplementary Order Paper I specifically mention the International Covenant on Civil and Political Rights, which might protect Wayne Mapp in the situation of the UN wrongly designating him to be a terrorist. Supplementary Order Paper 158 in my name would protect him and allow a situation of due process to apply.

I will go through some of the other provisions set out on the Supplementary Order Paper. As I said before, I am returning to the original Act and allowing evidence to the contrary to be brought into consideration of UN-originated designations. I also have an amendment omitting clause 6, which sets out a new offence called a terrorist act. The Law Society—that very reputable body—was quite clear on the problems that that new offence would cause for the judiciary, running a whole parallel set of crimes. In any crime deemed to be a “terrorist” one, there is an underlying Crimes Act offence as well. The Law Society said that the new offence of a terrorist act would appear to have the potential effect of greatly increasing the penalty imposed on persons who are convicted of committing a terrorist act where the underlying crime is relatively minor. So I am attempting, through this Supplementary Order Paper, to remove the term “terrorist act” from the bill because it is unnecessary; there are other underlying crimes—murder, kidnapping, or whatever one likes.

One of the problems with the definition of “terrorist act” in the original bill that was brought up in the hearings before the Foreign Affairs, Defence and Trade Committee was that it was very broad. I have also introduced an amendment proposed by Greenpeace during the select committee process to amend the provision where someone could be deemed to have committed a terrorist act if he or she caused serious disruption of an infrastructure facility in a way likely to endanger human life—that is, if he or she did not have any intention whatsoever of endangering human life; it could have been just some non-violent act of disruptive civil disobedience. The Greenpeace suggestion, which I have incorporated in my Supplementary Order Paper, is that there has to be an

intention to endanger human life. So I am trying to tighten up the definition of a “terrorist act” to meet the real situation that most people would accept—anything that is really terrorist has to intentionally endanger human life. I hope members will support that part of my Supplementary Order Paper.

Another part of Supplementary Order Paper 158 is to omit clause 7, because it repeals section 8(2) of the original Act. Section 8(2) provides that if funds that end up somewhere in relation to a terrorist group or its offshoots were intended for the purpose of advocating democratic government or the protection of human rights, then that is a defence. That should remain a defence, particularly as New Zealanders have a long history of supporting anti-apartheid groups overseas. Nelson Mandela was clearly a leader of a terrorist organisation, as defined in this Act; there were terrorist elements in the African National Congress, but New Zealanders gave money to it. Under this bill they would automatically, by giving money to Hamas, or whatever, be deemed to be financing terrorism. Even if the money was meant for Hamas’ social programmes in Gaza, they would be in a situation similar to those—*[Interruption]* If New Zealanders were giving money to a Hamas group that was trying to establish an independent Palestinian State politically—that is, they did not have any intent of funding violence—they could be caught under the provision in this bill, which is why I think we have to go back to section 8(2) of the original Act, under which there was a defence if people gave the money for the purpose of advocating democratic government or the protection of human rights.

I also have a provision on Supplementary Order Paper 158 that clause 12 be omitted. Under clause 12, participation in a terrorist group offence, which carries a heavy penalty of up to 14 years, means that a person can be deemed to be part of that group even if he or she did not really have knowledge that that group was a terrorist one. The bill introduces a provision of recklessness, which I think loosens it very much. It could lead to many people who are on the fringes of a particular group that might engage in some criminal activity being caught.

The Green Party has several amendments, and the other amendment on Supplementary Order Paper 158 is to allow for a further review of the original Terrorism Suppression Act.

**TE URUROA FLAVELL (Māori Party—Waiariki):** Tēnā koe, Madam Chair. Kia ora tātou i tēnei ahiahi. I would just clarify, in case it is up for question, the Māori Party’s perspective in respect of the notion of terrorism as a name in this bill, the Terrorism Suppression Amendment Bill. First, the Māori Party is clear that we have to take terrorism as a notion seriously. Second, we believe in the rule of law, and in the desire on the part of the forces of this country to protect us from the notion of terrorism should it arrive in Aotearoa. Should those people rightly charged under that particular label follow a path in law, so be it—just as we would expect that those who carry firearms without a licence, for example, are liable for the consequences that might come from the law moving appropriately to deal with them.

I think one issue that has not been addressed in respect of the discussion around this word “terrorism” as part of this bill is the possible impacts or downstream effects on communities, and, indeed, the whole country in terms of this title “terrorism”. I will put it in this context. Not too long ago the country was awoken by way of reports and so on across our newspapers, televisions, news media, and radio that the terrorism threat was alive and well in Aotearoa, and that, in fact, one community in Aotearoa was the subject of actions to deal with the notion of terrorism in Aotearoa. What the Māori Party has attempted to do in the recent past by way of questions that we have asked is to make the House, and, indeed, Aotearoa, aware of the major impact of any move whatsoever under the banner of anti-terrorism, although still taking it seriously. I can tell the Committee

that in my constituency, as I go around the communities that have seen some of the actions taken under the banner of anti-terrorism recently, one iwi in particular feels that it has been labelled not just in the last week or in the last 2 or 3 weeks but, in fact, forever as a tribal nation that has engendered and promoted the notion of terror. I think that we have to be very careful in any actions that we want to take in respect of this particular bill and the primary Act because the consequences down the line may well be very dire, not just for those tribal nations, if it happens to be one, or for the nation but for the next generation in Aotearoa.

When I opened the discussion during the second reading I tried to tell the House that in a sense there are three ways of looking at this bill. One was the political context, and at the time we were discussing the repeal of sedition. The second context was with regard to one tribal nation awaiting the Waitangi Tribunal report—in that case it was the Tūhoe nation. In terms of the social context, I talked about some of the stories that have come to me about the actions taken by the authorities charged with protecting the nation under the banner of anti-terrorism. I gave a number of examples.

The first point that I want to make in terms of the discussion is that we need to be careful in respect of the label of terrorism—in particular, I noted the notion of the Tūhoe nation being possibly branded with the title “Tūhoe: terrorist iwi.”

Second, I want to make a point around the discussion of the word “suppression”, which is in the title of the bill. I did a bit of research, in preparing for my kōrero today, about the notion of suppression. One definition is “to forcibly put an end to or to prevent from being expressed or published.” We have a major concern that there will be suppression of not merely terrorism but much legitimate debate on, and challenge to, decisions and actions of the Government. There has always been a concern from the Māori community that some of its members could be targeted under the labels of “Māori activist” and “radical”. That is some of the feedback we have had.

The 2002 bill initially had provisions prohibiting crowds from gathering for protest purposes. So the question we ask is this. Who else has had their views suppressed? It is useful for us to look at the campaign Operation 8 as an example of the scattergun approach that will be used to suppress terrorism. Some of the people who have come to my office and to our offices in the Māori Party have talked about the organic farmer in Taupō whose son-in-law hails from Rūātoki, or perhaps the pensioner in Tauranga whose house was raided on 16 October.

**The CHAIRPERSON (Ann Hartley):** I am sorry to interrupt the member. The member cannot talk about individual cases associated with this case.

**TE URUROA FLAVELL:** I raise a point of order, Madam Chairperson. I just wanted to make it clear that these are examples of things that have come to my office. These issues are not before any court at this point in time.

**The CHAIRPERSON (Ann Hartley):** The member just needs to come back to the bill. If he is talking about the issue within the bill, he is OK.

**TE URUROA FLAVELL:** Speaking to that point, I say that I started by talking about the whole notion of terrorism, and then I went on to the notion of suppression. What I am trying to talk about—which is what I started off talking about—is the term “suppression” and how the impacts of that might flow through in terms of this bill. I have used some concrete examples to do that, I hope.

**The CHAIRPERSON (Ann Hartley):** I assure the member that that is OK, but I do not want the member to in any way touch on current issues before a court.

**Keith Locke:** I raise a point of order, Madam Chairperson. I think it is important to get clarity here. Clearly, we do not want to talk about cases that are before the court. But if what is being talked about relates to police actions that did not result in any court

cases—and in that Tauranga case, for instance, no charges ensued—it is not, I think, out of bounds in the context of this debate.

**The CHAIRPERSON (Ann Hartley):** The member is right. It is all right as long as it is in the context of this bill.

**TE URUROA FLAVELL:** Again, I just refer back to the notion of our interpretation of suppression. I was talking about the idea that a number of constituents have come through my office recently in respect of the wider context of what has happened in Aotearoa recently. I am using these examples to clearly illustrate that a lot of it does very much come down to the notion of definition, particularly with regard to this bill. In fact, Supplementary Order Paper 158 in Mr Keith Locke's name, which we will talk about further on in this discussion, will give us some direction around that.

As I said, there are a number of examples, and I talked about them earlier. Dr Pita Sharples this afternoon referred to a whānau returning to Waiōhau on 17 October to tangihanga. I have seen some points that have come through my office in terms of a minister in Wellington, who, unfortunately, as a teacher, was hauled out from his class, from his school, and detained because of suspicion of terrorism. Those are some of the examples that we have to be careful of. I just wanted to make the point that the title of this bill, the Terrorism Suppression Amendment Bill, has created fear amongst the general community that their democratic rights to express their views are jeopardised, that their right to freedom of speech will be threatened, and that their independent opinions will be prevented from being expressed or published.

Dr Wayne Mapp talked earlier about the United Nations, and he suggested that the Māori Party and indeed the Green Party were, in some way or another, speaking against the United Nations' recommendations. I would like to make it clear that it is one thing to speak against the United Nations, and it is another thing to turn round and, all of sudden, under the banner of supporting the United Nations come up with some extensions to a bill that is already in place. We have talked in our speeches previously about the United Nations Declaration on the Rights of Indigenous Peoples, and this Government not supporting that particular claim, whereas under this bill the idea, it seems, is to support the United Nations. So it is almost a contradiction in that sense.

I want to move on a bit and say that the concerns amongst the community about the extent of this notion of suppression have resulted in widespread action in some communities in opposition to this focus in the Terrorism Suppression Amendment Bill. It is unfortunate that things have come around at the same time. There have been the actions that have taken place in various places throughout the motu—in Rotorua and Whakatāne—recently, the second reading of the bill, and, of course, the focus on the United Nations and on the Declaration on the Rights of Indigenous Peoples. So there has been a particular focus on this bill, and all manner of New Zealanders have been speaking out about it. The Human Rights Commission has been receiving official complaints from Māori and Pākehā about some action taken by police recently, and at Tapu Te Ranga Marae in Island Bay, last weekend gone, there was a nationwide hui to discuss human rights. Again, all of this was in the context of the bill we are considering at the moment—the Terrorism Suppression Amendment Bill.

I just want to make sure that the Committee is aware that this bill has serious connotations down the line. Yes, it is important that we consider the notion of terrorism throughout Aotearoa, but we want to make sure that people have the right to go about their lawful business and to express themselves in a way that is appropriate for them.

**DIANNE YATES (Labour):** I wish to speak in the Committee stage of this bill. I wish to thank the previous speaker, Te Ururoa Flavell, for his comments, but point out that those comments are not necessarily based on what is in the bill but on some of the fears that people may have about the bill, which were expressed when people made their

submissions. The select committee considered those very carefully, and as the member who has just resumed his seat finally pointed out in his conclusion, we looked very carefully at the balance between protecting the rights of New Zealanders and protecting New Zealanders' safety and freedoms. It is often a very, very fine line.

There has been discussion about the United Nations, and New Zealand's adopting of United Nations principles and lists. We remind people once again that New Zealand was very much involved in the formation of the United Nations Universal Declaration of Human Rights.

I point out also that comments were made by Mr Keith Locke about New Zealanders being involved in giving money to organisations like the African National Congress. That was discussed at the select committee, and the member was part of that discussion. We were assured by officials as well that the bill would not hinder that type of donation. So I think that as we listen to people's fears we have to be careful about what the bill actually contains.

I would make another point in terms of Dr Mapp's comment about the extension of national designations. The commentary on the bill, on which the select committee voted and agreed, states: "While recommending that those clauses of the bill regarding the extension of designations for non-United Nations-list terrorist entities should be enacted largely as proposed, we recognise the concern raised in a number of submissions about the concentration of responsibility in a single individual". But the committee also said it realised that: "initial decisions to designate, involve judgements about national security that are more properly made by the Executive than the High Court." Then the committee said unanimously: "However, to ensure transparency we recommend that clause 21 should include in section 35 of the Act a requirement that, after making an order of a new designation under subsections (2) or (3), the Prime Minister must report to the Intelligence and Security Committee on the proposed renewal." The select committee as a whole agreed that the executive should properly make that decision. I just want to point out, as we go through the Committee stage of this bill, that it was a unanimous decision of the select committee.

**JOHN HAYES (National—Wairarapa):** I rise in support of the Terrorism Suppression Amendment Bill, but make it very clear that there is no possible way we will be agreeing with any part of Keith Locke's Supplementary Order Paper and its proposals. He is overlooking the fundamental importance of measuring the balance of rights for the individual against the balance of rights for our community. I think that is a very, very important element that Mr Locke—and our colleague in the Māori Party, also—is overlooking. It is really important that this amendment bill is passed and progressed, because the legislation has been out of sorts with our obligations to the United Nations and to our neighbours for the last 4 years.

Although the National Party supports the bill, we also have strong doubts as to whether the legislation's enactment will result in a more vigilant stance against the risk of terrorism by the New Zealand authorities. I say that because since the 2005 review of key clauses of this bill, National members have constantly expressed deep concern that although we have upheld New Zealand's obligations under the United Nations Security Council's Resolution 1267 to designate as terrorist entities in New Zealand those entities that have previously been identified as al-Qaeda or Taliban - related entities by the United Nations Security Council, the Prime Minister has still yet to designate a single terrorist entity under United Nations Resolution 1373—that is, a non-al-Qaeda or Taliban - related terrorist group designated at the initiative of United Nations member nations. Through this period, our Australian colleagues across the Tasman have designated 88 terrorist entities. On the other side of the Pacific, in Canada, the Canadians have designated a further 50 terrorist entities under similar legislation.

The Terrorism Suppression Act 2002 provides a very useful set of tools for the authorities here in New Zealand to protect our community against the threat of terrorism. That is what we are talking about. We are talking about a threat to our community, and we have to balance that in opposition to the rights of the individual. Inevitably, that judgment will be a subjective one. I think there is the possibility of a threat to civil liberties for a designated person to be overridden by the greater concern of the whole community. That is a constant balance, and that is why most of us are in this Parliament: to help make judgments on that issue.

A number of submitters who came to the Foreign Affairs, Defence and Trade Committee to discuss this issue with us—Rosslyn Noonan and others—were concerned that the information that might be held about people should be made fully available to them. We in the National Party are very happy that the Prime Minister—who would normally be the Minister in charge of the NZ Security Intelligence Service, and who I know is regularly briefed by the officials engaged in that work—makes this decision, provided she—

**Eric Roy:** He or she.

**JOHN HAYES:** —provided he or she accounts to this Parliament as to what he or she is doing. The fact that no terrorist designations at all have occurred under Resolution 1373 I think is a matter of profound concern for the people in my electorate and for the National Party, which I represent. Eighty-eight countries have been designated by Australia in the last 5 years; we have done nothing.

**Hon Judith Tizard:** 88 countries!

**JOHN HAYES:** Eighty-eight individuals.

**Hon Judith Tizard:** You said “countries”.

**JOHN HAYES:** Yes, I was checking to make sure the Minister was awake. In the case of Canada, at least 50 individual entities have been identified. There has been no credible explanation given to the select committee as to the reason for this total failure on the part of the Government.

I would like to refer to the Terrorism Suppression Act 2002, and particularly to section 5, which is where a terrorist act is defined. This is what Keith Locke and his Green colleagues need to understand. They should go back and read that part of the Act very, very carefully. The Act makes it very clear in subsection (2): “An act falls within this subsection if it is intended to cause, in any 1 or more countries, 1 or more of the outcomes specified in subsection (3), and is carried out for the purpose of advancing an ideological, political, or religious cause, and with the following intention: (a) to induce terror in a civilian population;” and, secondly, “to unduly compel or to force a government or an international organisation to do or abstain from doing any act.”

**Keith Locke:** It’s “or”, not “and”.

**JOHN HAYES:** I said “or”. It is all very well for those of us living here in New Zealand to think that that seems a bit over the top. But I well remember walking the streets of Istanbul, doing my job as a New Zealand representative in that country, and witnessing a bomb going off within 100 metres of me. People were killed.

**Hone Harawira:** This is not Istanbul.

**JOHN HAYES:** This may not be Istanbul but it is New Zealand, and we are part of a global community. The risks are very much here, as they are in Istanbul or anywhere else. The Act particularly states the point of taking issue with people in this legislation is if they intend to cause “the death of, or other serious bodily injury to, 1 or more persons (other than a person carrying out the act);” or if the intention of the person is the “destruction of, or serious damage to, property of great value or importance,”. Imagine a bomb being placed, for example, in an aircraft in our sky or on a ferry in the middle of

Cook Strait. Untold damage could be done to our community by such an action, and it would not be especially difficult to do it.

Section 5 of the Act talks about “serious interference with, or serious disruption to, an infrastructure facility, if likely to endanger human life:” or—and this could happen in New Zealand—the “introduction or release of a disease-bearing organism.”. Imagine if somebody came into this country and released the organism for foot-and-mouth disease—

**Keith Locke:** Calicivirus.

**JOHN HAYES:** Or calicivirus. Yes, that has been done. But let us think about foot-and-mouth disease, because that would destroy our economy overnight. It is all very well for the Green Party members to sit back there and irresponsibly laugh and joke and think that this bill is just an infringement on human rights, but the community has rights in this country. I believe in upholding the greater good of the community, because that is what the people in the Wairarapa expect me to do. Those people are New Zealanders, and they do not want a wishy-washy arrangement in this country whereby we have legislation, we have signed up to arrangements at the United Nations, and we have done nothing about them.

The point of this bill and of the work of our select committee over the last 9 months has been to encourage the Government into action to define very clearly who is a terrorist and to meet our international obligations. Belonging to the United Nations means we must meet our international obligations, and we must in this country sign up to the rules and decisions of the United Nations Security Council. That is simply what this legislation is doing. Madam Chair, thank you for the opportunity to speak in support of this bill.

**RON MARK (NZ First):** I actually was not going to take a call because, quite frankly, for New Zealand First this is a pretty simple bill; we just need to pass it and get on with business. But some of the comments that have been made deserve a response. To those members who would say that this is not Istanbul, and that the types of acts that Mr Hayes so clearly speaks of will not happen, and will never happen, in New Zealand and, therefore, we do not need such legislation as this Terrorism Suppression Amendment Bill, I would say that there was a time when people would have laughed out loud and ridiculed anyone who suggested that it was possible that one day agents from a friendly country—France, which is a country in whose soil thousands of our Defence Force personnel lie buried, having given their lives defending the freedom of that nation; Māori and Pākehā, side by side—would come to New Zealand in a clandestine, covert operation supported and backed up 100 percent by the Government, the defence force, and the intelligence agencies of France and would blow up a ship moored in our harbour. People would have laughed at that suggestion.

**Hone Harawira:** And then released by the New Zealand Government.

**RON MARK:** Now the member Hone Harawira is admitting that he knows such an act happened, yet the very same member is sitting here saying that these things do not happen. I would tell Mr Harawira that he should make up his mind.

**Hone Harawira:** Point of order. At no time did I say that these things do not happen in this country—

**The CHAIRPERSON (Ann Hartley):** Please be seated. I would just remind members that when they stand and call for a point of order, I call their name then.

**Hone Harawira:** I raise a point of order, Madam Chairperson. My point of order was that at no time did I say that those activities had never happened here. I simply pointed out that this was not Istanbul.

**The CHAIRPERSON (Ann Hartley):** It is not a point of order to correct something that a member has said; it is a debating point. We would go on forever with points of order if we did that.

**RON MARK:** There is the point. The guy has been here long enough. He draws \$110,000 a year to know the rules of this House, and he cannot even raise a point of order because he is embarrassed by the imputation of the comment that he made, and he seeks to divert members from it. I would simply say to that member that his imputation was—

**Te Ururoa Flavell:** I raise a point of order, Madam Chairperson—

**The CHAIRPERSON (Ann Hartley):** I will ask the member to come back to the bill.

**RON MARK:** The bill seeks to deal with those acts, and anyone in this Chamber who says that those acts are not possible is ignoring history. That is why we move on such legislation as this bill. Let me clarify something that really happened in New Zealand. This is a quote. This was said in New Zealand by a New Zealander: “When I first saw the planes fly into the towers, I jumped for joy. I was so happy that at long last capitalism was under attack.” That might sound like fantasy, or like the rantings of a lunatic who got some sort of perverse pleasure out of seeing thousands of people killed in the terrorist attacks on the twin towers, but it was from a speech given by Annette Sykes to the Green Party at an anti-war meeting held in Rotorua on 9 November 2001.

**Keith Locke:** I raise a point of order, Madam Chairperson. That is a point of misrepresentation. I was at that particular meeting. It was not a Green Party meeting, and I think the member has his quote wrong, as well.

**The CHAIRPERSON (Ann Hartley):** The member will please be seated. Misrepresentation is to the person, and it was not to do with the person.

**RON MARK:** I raise a point of order, Madam Chairperson. You have had three points of order that are not points of order, Madam Chairperson, and they have been raised deliberately to break up my speech. I ask for the protection of the Chair from spurious points of order from people who do not know the Standing Orders.

**The CHAIRPERSON (Ann Hartley):** The member is quite correct and I would just remind members that this is a Committee debate, which is really about the bill. If members stick to the bill and to the clauses in the bill, then there will be no problem.

**RON MARK:** It is in speaking to the bill that members have made comments in the debate, and it gives people the opportunity to comment on those points that have been allowed to be made in the debate. It probably would be helpful if people followed the Chair’s guidance, but that was a statement. How are we in New Zealand First meant to view this bill? I will seek leave to table this document, but should we in New Zealand First view it in the light of the fact that people make statements such as that one? New Zealand First looks at this bill with possibly a different view from that of some other members who have spoken in this Chamber and who believe that some things are not possible. We believe that they are. We could take, for example, another statement made by a member of Parliament, who said: “If they tried that sort of [expletive] over here, the boys would be in the streets with guns and I would be with them.” That was said by a member of Parliament—a member of this House.

**Dr Wayne Mapp:** Which one?

**RON MARK:** That was actually said by Hone Harawira, in respect of the activities of the Howard Government in the Aboriginal territories. Statements like that convince New Zealand First that—

**Hone Harawira:** I raise a point of order, Madam Chairperson. I simply did not make those statements, at all.

**The CHAIRPERSON (Ann Hartley):** I am sorry, but it is a debating point. I would remind the member of what I said on the previous point of order. I would ask the member to be careful on points of order.

**RON MARK:** Thank you, Madam Chairperson—

**Hone Harawira:** I raise a point of order, Madam Chairperson. At what juncture do I raise an issue when I think that somebody here has quoted something that they have said I have said when, in fact, I have not said it? Is it a point of misrepresentation, perhaps, Madam Chairperson?

**The CHAIRPERSON (Ann Hartley):** The point is that most of these are debating points. The member will have a chance to speak, and he can speak to those points in his subsequent speech.

**RON MARK:** New Zealand First is one party that has seriously stood for freedom of speech and has tried its best to uphold those principles of civil liberty that this House and all parties, I am convinced, are committed to. Therefore, it takes seriously its role in deciding whether it will support this legislation. We have decided to support this legislation because we are absolutely convinced of the seriousness of the threat that pervades us.

I will finish by saying this. Possibly the greatest threat to civil liberties, to civilisation, and to the democratic societies that we know is the absolute, blind belief that there is no threat. We have witnessed in earlier times people like Mr Chamberlain, a certain Prime Minister of Great Britain, talking about “peace in our time”, and within months he was locked in one of the bloodiest wars the world had ever known and the tyrant Adolf Hitler was able to rampage across the globe, across the planet, inflicting casualties upon all humanity. Those casualties have never since been repeated, because there exist in our civil communities, within free, democratic countries, those people who are brave enough to stand up and put stakes in the sand when they believe that such actions are absolutely necessary.

I would also note how ironic it is that the party in this House that purports to represent all of Māori—which it does not; it represents a certain clique of Māoridom—should choose to denigrate and overlook the massive sacrifice made by Māori men and women in the First World War, in the Second World War, in Malaya, in Viet Nam, in Indonesia, in the second Malaya war, and to this day around the world in peacekeeping operations. Why do Māori men and women do that? They do that because they want to be assured that their grandchildren, their mokopuna, will grow up in a free country, in a democratic country, where people have the liberty to stand up and say whatever they want to say, no matter how stupid it may be, without advocating violence and without supporting terrorism.

It has also become a hallmark of the House that those politicians who typically stand and so much espouse freedom fighters are the last to step forward to fight for freedom. They are the last to do that, but they act big and great when talking into a megaphone or microphone, or taking advantage of the 10-second or 20-second sound bites on the hustings, when championing their political cause. Maybe those people should stand up in the Chamber and explain what they mean by “sovereignty”, “independence”, or “tino rangatiratanga”, and explain how much liberty and freedom other New Zealanders will have to give up so that others can exercise the political power they seek for their own personal gain.

Terrorism knows no bounds. Terrorism is a threat to everybody’s safety—to all communities. It is a threat to the foundation of democracy, which we live by and which we have the joy and pleasure of being able to experience and exercise. Sometimes that calls for legislation that might be described as Draconian, but everybody has a right to criticise, critique, and seek to amend it. Sometimes it calls for legislation that might be

seen to be authoritarian. But the wonderful thing about this country of ours is that we are a free nation, we are a democratic nation, and we give freedom of speech to people who do not agree with us. Right now, they are in a minority, and thank God for that.

**HONE HARAWIRA (Māori Party—Te Tai Tokerau):** I just want to clarify something that was raised by the previous speaker, Ron Mark. The Māori Party has never ever said that it represents all Māori. In fact, we represent only intelligent Māori. That is the first thing I want to clear up, and that is not a matter of debate.

At another level, when people start talking about the historical nature of terrorism and ask whether the Māori Party actually understands the historical nature of terrorism, I say that absolutely we do. John Hayes talked about introduced diseases. I think of influenza, which was introduced by the whalers and sailors, the wheelers and dealers, and the thieves—who came from England. That disease wiped out thousands of Māori people. When I hear members talk about the murder of innocent citizens, I think of the so-called New Zealand colonial forces who murdered thousands of innocent Māori. When I think of the terror of the overtaking of a people's land, I think of the land theft that has gone on since the time the New Zealand Government was first established in this country, and that continues to this very day. Do I understand the historical nature of terrorism? Absolutely, I do. I understand it more so than, I assume, many other members of the House.

But do I understand terrorism in the way that other members have expressed it, in terms of this bill? The answer is no. I do not mind saying that I do not understand terrorism as it is understood by those fuelled by the jingoistic, acid-drenched, hate-filled, anti-Islamic, “death to anyone from the Middle East”, vitriolic, poisonous claptrap that the United States is trying to foist upon the rest of the world.

**Dr Wayne Mapp:** al-Qaeda.

**HONE HARAWIRA:** The member says “al-Qaeda”. I have heard the mention of al-Qaeda in this discussion on terrorism. Is that the same al-Qaeda, and Taliban, that were funded by the United States to get the Russians out of Afghanistan?

**The CHAIRPERSON (Ann Hartley):** The member needs to come back to the bill.

**HONE HARAWIRA:** I am speaking to the bill in terms of organisations that are listed as terrorist organisations. One of them is al-Qaeda and another is the Taliban. I ask the question of those who would sanction that practice, and would challenge me on it, whether we are talking about the same Taliban that was funded by the United States to throw the Russians out of Afghanistan. When they are talking about al-Qaeda, and the forces in Iraq that are currently opposing the Americans—Saddam Hussein's people—are they the same forces that the Americans funded to fight against the Ayatollah Khomeini and Iran back in those days? Exactly where does this terrorism come from? It seems to me that terrorism, in terms of this bill, is terrorism as it applies to the American definition, not as it applies to the terrorism that is being meted out against people who oppose that kind of American imperialism.

I come back to the meaning of terrorism in this country. My understanding of terrorism comes from a source that is far different from the American expression of “terrorism”. My source relies on historical fact, rather than hysterical drama, for its position. My source connects me to my indigenous brothers and sisters all over the world. When I think about terrorism in this country, I again think about the terror of the State. What about the terror imposed on those communities in my whanaunga's electorate? What about the terror imposed on those communities throughout Rūātōki? What about the terror imposed on activists right throughout the country—Pākehā, Māori, and all sorts of people, like Jimmy O'Dea, a 72-year-old staunch activist? His house was broken into by these—

**The CHAIRPERSON (Ann Hartley):** The member will come back to the bill, thank you.

**HONE HARAWIRA:** Madam Chairperson, that is not—

**The CHAIRPERSON (Ann Hartley):** The member must not refer to specific cases.

**HONE HARAWIRA:** That case is not before the court.

**The CHAIRPERSON (Ann Hartley):** All right, thank you. The member assures me it is not.

**HONE HARAWIRA:** I think about terrorism in this country and whether I will sit quietly by, as suggested by Wayne Mapp, Mr John Hayes, and others, and wait for the police to come up with a decision. No, I will not sit quietly by while State forces terrorise my people. If this requires of me that I speak out against the rule of law that would impose terror on Māori communities in this country, then I will speak out. I will speak out against it in this Chamber, on television, in newspapers, and anywhere else I possibly can. I will challenge the rule of law and I will oppose the rule of law, if terrorism is a vehicle being used by the State forces of this country to terrorise Māori communities. I will support those whānau, hapū, iwi, and individuals—Pākehā, Māori, it does not matter—who have been threatened—

**John Hayes:** I raise a point of order, Madam Chairperson. This matter has absolutely no bearing on the bill under discussion. If there are concerns about the matter, then process should be followed, which takes place outside this Chamber.

**The CHAIRPERSON (Ann Hartley):** The member is right to a certain extent, and I am trying to keep members to speaking to the bill. However, there has been a lot of discussion about the concepts in the bill, and that discussion includes probably every speaker so far. I ask the member to come back to Part 1 and relate his comments to that part. Again, I remind all members that the Committee stage is really about the nuts and bolts of the bill. That is why we are back on Part 1.

**HONE HARAWIRA:** Thank you, Madam Chair. I would like to point out, following on from speakers who have spoken about the calicivirus and Adolf Hitler, that what I have said about terrorism in this country was probably a lot closer to this bill than what other speakers have said.

My support for whānau, hapū, iwi, and individuals—be they Māori, Pākehā, or whatever—who are threatened by the imposition of terror by State forces is absolute. I will not stand by quietly and wait for the New Zealand Police to come up with its idea about what is right and what is wrong. I note that American experts on terror, who have been flown over to this country to give their view, say that our police are probably breaking the law if they hold people without bail. I am not speaking on any particular case here; it is a generic expression in respect of a range of charges rather than any one in particular. If that is the measure of our sitting quietly and accepting the rule of law, then we should not—as a society, as a Committee, and as any party in this Chamber—sit quietly by.

When I hear speakers in this Chamber in respect of this bill talk about the United Nations and ask how we could possibly not go along with the United Nations, I think to myself: “How could we possibly not go along with the United Nations Declaration on the Rights of Indigenous Peoples?”

**John Hayes:** I raise a point of order, Madam Chairperson. The member is confusing the Permanent Forum on Indigenous Issues, which is an advisory body of the Economic and Social Council, with the United Nations Security Council, which is the pre-eminent body of the United Nations.

**The CHAIRPERSON (Ann Hartley):** That is clearly a debating point, and the member is debating the bill.

**HONE HARAWIRA:** Thank you, Madam Chair. If Mr Mapp wants to talk about our honouring the call from the United Nations for this, that, and the other, then I would say to members that we should not be picky about it—let us honour them all. If one of the calls from the United Nations happens to be the Declaration on the Rights of Indigenous Peoples, then let us honour that as well. Let us not say we will honour only certain aspects of it—those which go along with the United States' version of what terrorism should be. Let us honour all aspects handed down to us by the United Nations, including, for example, the recommendation of the Committee on the Elimination of Racial Discrimination that the Foreshore and Seabed Act be thrown out because it discriminates against Māori people here in Aotearoa.

Coming back to the name of this bill, in terms of terrorism the Māori Party does support the rule of law. The Māori Party does oppose terrorism. The Māori Party will oppose terrorism in all of its forms, whether it is international terrorism or State terrorism. Madam Chair, thank you very much. I will come back to this later. Kia ora tātou.

**RON MARK (NZ First):** Given the controversy before, I seek leave to table a statement from Mr Hone Harawira: "If they tried this up north, we'd be out with guns."

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

**Dr WAYNE MAPP (National—North Shore):** It is extraordinary to hear Mr Hone Harawira, is it not? He actually took an oath in this Parliament 2 years ago to uphold the laws of New Zealand. What did he say today? He said that he does not believe in the rule of law. What does he believe in—the rule of anarchy? That is, effectively, what he is justifying today. Surely one of the fundamental duties of a member of Parliament is to uphold the rule of law, because the alternative does not bear thinking about.

I want to turn directly to the provisions of the Terrorism Suppression Amendment Bill that relate to committing a terrorist act. The Law Society, for instance, said that that should not be in the legislation. It said that all these events are ordinary crimes, and of course that is right. They are crimes. But what makes an ordinary crime a terrorist act? It is defined in the Terrorism Suppression Act 2002—as my colleague John Hayes referred to—by a threefold test. It is a high test; each one of the tests must be satisfied. There must be an ideological motivation, a religious motivation, or a political motivation. There must be the intention to cause death, injury, or serious risk to the health and safety of the population. Those must be the intentions, and that is stated in the 2002 legislation. The purpose must be to induce terror or unduly compel or force a Government to do or abstain from doing something. Those are high tests, and I acknowledge that. There must be a specific intention—

**Keith Locke:** There's no need—

**Dr WAYNE MAPP:** Read the Act, Mr Locke.

**Keith Locke:** The Act doesn't require the actual intention to cause harm—

**Dr WAYNE MAPP:** Yes, it does. It actually says that in the Act. Those are high tests.

I want to draw attention to something else, because a lot of ignorance has been shown by Mr Locke. To avoid doubt, I say any person who is engaged in protest, advocacy, strikes, lockouts, etc. does not commit one of those acts. Exercising the right of protest—and I do appreciate that some protests involve breaches of the law, minor crimes, and so forth—does not constitute a terrorist act, because the threshold is so high. Terrorism is a grave matter, and the legislation makes that plain and transparent on the face of it. That is why it is actually right for this Parliament to legislate a special sanction for committing an act of terrorism—a sentence of up to life imprisonment—because it is different from an ordinary crime.

Because committing a terrorist act is different from committing an ordinary crime, of course it is right that Government agencies have very high duties when invoking this legislation. I understand that that is the case, and I guess that is the source of the discussions to date by the Māori Party and others on this point. I can understand why many of the public will ask questions about why the authorities are using this legislation. That, of course, is to be expected, because there is such a high threshold. I would also have to say that the public has a right to know the answers within 2 years. We cannot have such a serious issue being raised and then have to wait for 2 years for the actual trial itself.

I want to bring this point to the Māori Party: the Solicitor-General is dealing with those issues right now. That check was put in place under the Terrorism Suppression Act, and it was put in very deliberately in order to ensure that the threshold is deliberately high. That Act cannot be used politically or by the police on their own initiative. The police know they have to bring these things to the Solicitor-General and that judgement will be made on them soon. Because it is going to be made soon, I do ask the Māori Party to actually have a bit of patience on this matter. We will know the answers pretty soon.

I would like to say that on an issue of this nature, I personally think it is very important that justice will need to be open. I have expressed my concerns on a number of occasions about the way the courts operate in this area. I do think we need to be very, very careful on an issue of this nature that justice is open, because that gives confidence to the public that the issues are material and that they do not have to wait for 2 years. I would like to see the issue dealt with pretty soon, and because it is in the hands of the Solicitor-General and will be dealt with very soon I do ask parties like the Māori Party, and perhaps particularly its more inflammatory member Mr Hone Harawira, who apparently does not understand his obligation to uphold the rule of law, a fundamental duty of any member of Parliament, surely more than that of anyone else in the country—

**Dr Pita Sharples:** I raise a point of order, Madam Chairperson. Te Ururoa Flavell explained right at the beginning that the Māori Party stands by the rule of law and is opposed to terrorism. That member should stop talking rubbish.

**The CHAIRPERSON (Ann Hartley):** I remind members that there is to be silence when I am ruling on points of order. I say to the member that this is a Committee debate, and certainly those two points have been raised. But the member is not restricted in the same way that he would be in the readings of a bill. There is time and the opportunity to answer things that are said in Committee.

**Dr WAYNE MAPP:** It was noteworthy, was it not, that Dr Pita Sharples referred to Te Ururoa Flavell. I, of course, was not referring to him; I was referring to his colleague Hone Harawira. I only assume that he did not hear Mr Harawira's speech, because that is precisely what he said.

**The CHAIRPERSON (Ann Hartley):** The member asked for a second call, so I ask him to please come back to the point.

**Dr WAYNE MAPP:** I was just answering the member's point.

I want to conclude on this point, because I said I would finish briefly. It is right that we have a specific crime relating to committing a terrorist act. The reason it is right is that terrorism affects fundamentally the stability of society. It is also right that the threshold for defining such a crime is very high. This Parliament, in 2002, went to a great deal of trouble to ensure there was a high threshold. I would like some of the parties to acknowledge that reality. Clearly, when Government authorities use the powers given by the legislation, they ultimately do have to account for using them. I want to conclude by saying to the Māori Party that its members will know the answers

pretty soon, because the Solicitor-General is dealing with the issue right now. Thank you, Madam Chair.

**Hon PAUL SWAIN (Labour—Rimutaka):** I move, *That the question be now put.*

**KEITH LOCKE (Green):** I raise a point of order, Madam Chairperson. I think it would be wrong to end this debate now. As you said when points of order were raised previously, people like myself would have the right to reply; I also have not fully had time to motivate my Supplementary Order Paper; and also, the Māori Party has had two speakers.

**The CHAIRPERSON (Ann Hartley):** The member has called a point of order. It is the Chair's decision. Is the member calling?

**KEITH LOCKE:** Yes, Madam Chair.

**The CHAIRPERSON (Ann Hartley):** OK, Keith Locke.

**KEITH LOCKE (Green):** The final point on my Supplementary Order Paper is that I support, by an amendment, a thorough review of the original Act by the Human Rights Commission, to be completed, according to my Supplementary Order Paper, by 1 December 2009. Wayne Mapp talked about whether there is a difference between criminal offences and terrorism offences when they involve exactly the same activity of a criminal nature. The only real difference between them, if the crime is exactly the same, is that one—the terrorism offence—has a higher penalty, and the only reason for that is the political, religious, or ideological motivation. People are not being punished additionally because of something they have done that is worse; they are being punished additionally because their motivation is political, religious, or ideological.

There are two parallel offences in the Crimes Act and the Terrorism Suppression Act: participation in a criminal organisation is in the Crimes Act, with a penalty of 3 years; participation in a terrorist group is in the Terrorism Suppression Act, with a penalty of 14 years. There is no difference in reality between those two offences apart from the penalty.

I think it is important to see that there are different forms of terrorism. The examples used by Ron Mark, Hone Harawira, etc. were effectively forms of State terrorism: the Rainbow Warrior bombing and the historical State terrorism against Māori earlier in New Zealand history, as has been described. Even over the last 2 weeks other examples have been coming to light, such as a determination that the British State murdered the Brazilian de Menezes, although no one is going to be punished for that, apparently.

Dianne Yates made the point that if people send money overseas to a nationalist organisation like the African National Congress, as has been done in the past, they should not worry—that will not be caught under this terrorist legislation. I think there are two practical problems with that. We are not talking about a Government like the one we have in New Zealand today, which is quite a liberal Government in many respects. We are talking about a Muldoon-type Government or an even worse type of Government that could apply this legislation using the executive power that is being increased in this amendment bill. That is a problem.

Secondly, there is the reality of situations such as someone in the Sri Lankan Tamil communities, for example, giving money to some reconstruction work in the Tamil Tiger areas of Sri Lanka. The Tamil Tigers have, in the past, done some terrorist activity. The reality is that with the conflict in Sri Lanka today, and the blockade put around the Tamil Tiger area, the money might go in through some covert channel to get through to do this reconstruction. That would be the same case as with the African National Congress in the past—the person sending the money cannot be absolutely sure where it will end up. There are no absolute guarantees in this process, but people are acting with goodwill. The clause that previously existed in the Act, which is being chopped out, is about people trying to give money to protect human rights or advocating

democratic government. This legislation makes it just that bit more difficult for them and makes it more likely that a Muldoon-type Government with a Muldoon-type Attorney-General—and it is the Attorney-General and not the Solicitor-General who decides whether the charges go forward—could be prejudiced against us.

I talk about Sri Lanka because I have been very aware of a very sad case of State terrorism just these last few days. When I visited Sri Lanka in 2003 to look at the peace negotiations I talked to negotiators on both sides of that conflict. The main person I talked to in the Tamil Tiger area was a chap called Mr S P Thamilselvan, who was assassinated in a Sri Lankan Government air raid last Friday. He was the peace negotiator and he was assassinated, and that was very sad to me. When we talk about terrorism it is not just non-State, small-group terrorism that we are talking about, it is also State terrorism.

Let us get back to the definition of a terrorist act. I do not think Wayne Mapp has presented that properly. A person has to do an act with an ideological, political, or religious cause, and then there are two options. There is an “either/or” option. The first one is “to induce terror in a civilian population”—that is an “either/or” option. A person does not need to fall under that at all if section 5(2)(b) applies—“to unduly compel or force a government or an international organisation to do or abstain from doing any act.” That is what many protest groups around this country and around the world do. They are often deemed by the Government of the day to be unduly compelling the Government to do something, so that in itself is not bad.

Then the legislation defines outcomes, and these outcomes are also “either/or”. One of these is serious interference with, or serious disruption to, an infrastructure facility if likely to endanger human life. There is no need whatsoever to have any intention to harm anyone, or to endanger anyone’s life—it just needs the ancillary result of the action to endanger human life, even if there was no intention of doing so.

That is where the legislation creates such a problem for non-violent protest groups who may intentionally or unintentionally disrupt an infrastructure facility. There is nothing to state that one has to have any nefarious intent towards human life or health. I think it is important to get that, because that is what is so problematic.

There was talk earlier in the debate about the balance of the rights of individuals and the rights of communities. This bill is moving more and more away from individual rights, and away from the right to due process. It is cutting the High Court out of the renewal of the terrorist designations, giving the Prime Minister the right to do that, and continuing the problem in the bill of the State determining what happens, rather than the judiciary. The Green Party sees this as a problem as we put it against the background of current events, without referring to any particular legal proceeding.

There is a huge amount of concern in the community, and I think that has to be addressed. We need only go back and read the debates on the original legislation to see that people tended to pooh-pooh the idea that domestic protestors of various types would ever be caught up in this legislation—that their homes would be raided, or whatever. What is causing concern in the community today is that it seems that the principal Act, which imposes 14-year sentences on people for recruiting for, financing, or participating in a terrorist group, is being amended by this bill to add a life sentence for a terrorist act, when a terrorist act, as I have explained, can cover people who do not even intend to do any harm to other individuals. Thank you.

**Dr PITA SHARPLES (Co-Leader—Māori Party):** Tēnā koe. Tēnā tātou katoa. In speaking to Part 1 of the Terrorism Suppression Amendment Bill, I have worries that as we pass into law pieces of legislation that have a particular requirement and cover a particular area, we do so without looking at the large-scale implications of them on our country as a whole. Although Te Ururoa Flavell quite correctly characterised the Māori

Party's stand, which is that we are totally against terrorism and that we accept the rule of law as paramount, nevertheless at the end of the day we are here building a society in Aotearoa. Although we have a whole lot of history behind us, a lot more is still to come, and, unless we build quality race relations as we pass these laws, then I believe we are heading in the wrong direction. I say this because there has been quite inflammatory kōrero—talk—in this Chamber about this bill and about other pieces of legislation, relating to race relations and to actual people in the Chamber.

To me, we have to look at where the Māori people are at this time to understand why there have been widespread repercussions in respect of recent events that have happened under this particular law. I think it is terribly dangerous for us to look at terrorism suppression without us clearly defining the role and, if you like, the limitations of the behaviour of those who have to execute the Act so that we do not get stuff happening that is quite beyond the cause, such as women's panties being taken out of households in front of the women themselves, as though they were pieces of evidence of terrorism. To me, we have to take it in terms of where we are going in the future. As a country I think we have underestimated the effects of what has happened over recent weeks. I believe there was even a remit at the Labour Party's own conference from Māori suggesting a reconsideration of this legislation because of its repercussions on Māori themselves, put forward by the Māori council of the Labour Government.

I went to talk, as I do from time to time, to the participants of the Police College refresher courses. In this case there were 25 kaitakawaenga. These are specially trained senior Māori policemen who have a role in iwi liaison.

**Ron Mark:** They weren't happy with you, were they?

**Dr PITA SHARPLES:** They were not happy with you, Ron. Let us be straight up. They asked me what they could do, because they are so hurt from the actions that have taken place. First, they have empathy and sympathy for their Māori people, particularly the Tūhoe people, and, secondly, they uphold the rule of law and are proud to be policemen. They felt caught in the middle. I made some suggestions to them and followed these up with a note to the Commissioner of Police. I hope it reaps benefits for them. My reason for mentioning that is to show members how widespread the hurt is. And I say to Ron that he is quite wrong. They hongied me and praised—

**The CHAIRPERSON (H V Ross Robertson):** The member must refer to members' full names. Under Speakers' rulings 26/6 and 26/7 members must use another member's full name or title.

**Dr PITA SHARPLES:** Ron Mark is quite wrong, because the whole purpose of my going to the course was to address the question of how the participants could get back their mauri—their life force, as they described it. They were feeling depressed and did not know what to do. I was able to be part of a discussion that would perhaps lead them along a path of restoring their mauri. I just mention that, although it is not to be discussed here.

The matter has gone now to the Solicitor-General, but, at the end of the day, I believe it is the Attorney-General who actually lays the charges. The point is that the damage has been done. So what happens if it turns out that a couple of idiots have been playing up and that the training camp and the use of weapons without permits was for something else but was not actually terrorism? What happens then? Already in Bangkok it is being reported that Māori want to assassinate the Prime Minister. Already the papers in Turkey and in many other countries are saying that Māori are uprising. Those are the reports that have gone out. The damage is done, and once again Māori are being painted as the bad guys—all Māori, not just the two or three who have been arrested. That is how the story has gone out, and that is the picture that many different countries have in relation to what has happened. But for Māori themselves, it is like "Oh, my

gosh, here we go again!” You see, we are one of the few races or ethnic groups in the world that still retains its whakapapa and use it in its daily culture—for instance, when we go to funerals, when we meet on the marae and greet each other, and when we talk about land, inheritance, and things like that. It is given verbally. But when we have a people who still have their oral culture and whakapapa in place, then their history is as fresh as if it had happened just the other day.

I will just finish this point: if we implement the provisions of Part 1 and at the end of the day we do not come up with the goodies, then the whole country loses. More important to me is that race relations loses. As someone who has spent 8 years in the area of race relations, 8 years as chairman of the third-largest tribe in New Zealand, and 34 years as the chairman of an urban Māori group, I have a feeling about how Māori feel. I can tell members now—and this is from Pākehā sources, too—that we are worried about what implications this legislation will have on race relations in this country, for us all. That is really what we are on about in life—building our nationhood together. Thank you, Mr Chairperson.

**Hon MURRAY McCULLY (National—East Coast Bays):** I take the opportunity in the Committee at this stage to put on record my support for Part 1 of the Terrorism Suppression Amendment Bill. I was a member of the Foreign Affairs, Defence and Trade Committee when it gave consideration to this particular measure, and prior to that I was a member of the select committee when it concluded the review of the Terrorism Suppression Act 2002—in particular, the sections that are being amended by Part 1 of this bill. As a result of that initial select committee process, I became concerned about the workability of the arrangements in the original bill, and the amendments contained in Part 1 of this measure will give effect to some important changes that I will touch on briefly.

At the heart of this measure, at the heart of this part, in fact, is a difference of view—and I acknowledge that it is a genuine difference of view—about how we deal with the threat of terrorism. Some, like myself and, I am pleased to say, some like members of the Government, see the threat of terrorism as something that is sufficiently serious, and sufficiently difficult and complex to deal with, that it cannot be dealt with by way of the normal processes of the court or by having the standard of proof required before any action can be taken by the agencies of State. It is my view that terrorism in its various guises can be dealt with only by vesting in some authority the ability to arrive subjectively at judgments based on material placed before that authority—material that is of itself unlikely to be admissible in court because of the consequences for intelligence agencies both here and abroad.

I take the view that we have to trust some designated officer—and in this case we are talking about the Prime Minister of the country, who is the most senior elected official in the land—who will have to make that subjective judgment as to whether a particular group, on the basis of the material before him or her, should have certain sanctions taken against it. Those sanctions will obviously have the impact of intruding upon the group’s civil liberties. That is not a step that any Parliament should take lightly, but I do not think that I need to offer too many pieces of evidence for members to be convinced that there is a genuine threat of terrorism around the world, and that every country in its own way has to do something to combat that threat. So I think that what is done in Part 1 of this measure—which effectively is to take away from the courts a role in proceedings that were never going to be suitable for our judicial situation and to place that decision-making capability in the hands of the highest elected official in our country—is the appropriate step for Parliament to take.

I say to Dr Sharples, and to others who have concerns about recent matters, that it is not a power we should vest lightly in any authority, and that where there is any evidence

that those powers—indeed, extraordinary powers in this legislation—are misused in any shape or form, this Parliament, and I hope its executive branch, will come down like a tonne of bricks on anyone who steps across the line. As a member of this Parliament, I certainly say to Dr Sharples and others that I presume that the authorities will use these powers wisely in all circumstances, but if there is any evidence to the contrary I will certainly be quick out of the blocks to ensure there is some accountability. I know that other members feel the same.

I support Part 1, vesting as it does considerable authority in the hands of the Prime Minister, who of course is briefed by the Security Intelligence Service on a regular basis, and I urge other members to lend their support to it as well.

The question was put that the amendment set out on Supplementary Order Paper 158 in the name of Keith Locke to insert new clause 5A be agreed to.

A party vote was called for on the question, *That the amendment be agreed to.*

**Ayes 10**

Green Party 6; Māori Party 4.

**Noes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

Amendment not agreed to.

The question was put that the amendment set out on Supplementary Order Paper 158 in the name of Keith Locke to omit clause 6 be agreed to.

A party vote was called for on the question, *That the amendment be agreed to.*

**Ayes 10**

Green Party 6; Māori Party 4.

**Noes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

Amendment not agreed to.

The question was put that the amendment set out on Supplementary Order Paper 158 in the name of Keith Locke to omit clause 7 be agreed to.

A party vote was called for on the question, *That the amendment be agreed to.*

**Ayes 10**

Green Party 6; Māori Party 4.

**Noes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

Amendment not agreed to.

The question was put that the amendment set out on Supplementary Order Paper 158 in the name of Keith Locke to omit clause 12 be agreed to.

A party vote was called for on the question, *That the amendment be agreed to.*

**Ayes 10**

Green Party 6; Māori Party 4.

**Noes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

Amendment not agreed to.

The question was put that the amendment set out on Supplementary Order Paper 158 in the name of Keith Locke to insert new clauses 16A and 16B be agreed to.

A party vote was called for on the question, *That the amendment be agreed to.*

**Ayes 10**

Green Party 6; Māori Party 4.

**Noes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

Amendment not agreed to.

The question was put that the amendment set out on Supplementary Order Paper 158 in the name of Keith Locke to omit clause 20 be agreed to.

A party vote was called for on the question, *That the amendment be agreed to.*

**Ayes 10**

Green Party 6; Māori Party 4.

**Noes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

Amendment not agreed to.

The question was put that the amendment set out on Supplementary Order Paper 158 in the name of Keith Locke to omit clause 21 be agreed to.

A party vote was called for on the question, *That the amendment be agreed to.*

**Ayes 10**

Green Party 6; Māori Party 4.

**Noes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

Amendment not agreed to.

The question was put that the amendment set out on Supplementary Order Paper 158 in the name of Keith Locke to omit clause 39 and substitute new clause 39 be agreed to.

A party vote was called for on the question, *That the amendment be agreed to.*

**Ayes 10**

Green Party 6; Māori Party 4.

**Noes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

Amendment not agreed to.

The question was put that the amendments set out on Supplementary Order Paper 157 in the name of the Rt Hon Winston Peters to Part 1 be agreed to.

Amendments agreed to.

A party vote was called for on the question, *That Part 1 as amended be agreed to.*

**Ayes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

**Noes 10**

Green Party 6; Māori Party 4.

Part 1 as amended agreed to.

## **Part 2 Amendments to other Acts**

**The CHAIRPERSON (H V Ross Robertson):** The debate on this part includes schedule 5.

**KEITH LOCKE (Green):** This is a relatively small part of the Terrorism Suppression Amendment Bill, comprising amendments to other Acts. I think it is interesting to discuss this along with schedule 1, because if people read the Green Party's minority report they will see there is a part of this bill that the Green Party does support, which is the measure that enables us to adhere to two international conventions. Those are the International Convention for the Suppression of Acts of Nuclear Terrorism and the Convention on the Physical Protection of Nuclear Material. I do congratulate the Foreign Affairs, Defence and Trade Committee. Dianne Yates spoke earlier, and I was going to congratulate the committee, as part of that discussion, on making sure that our adherence to those conventions did not wrongly penalise people who may be involved in anti-nuclear protests.

As members may know, there have been protests in the past against nuclear waste ships passing through the Tasman, between France and Japan—both ways, I think—and a flotilla of peace boats went out and protested against one of those boats passing through the Pacific. The protesters did not actually stop its passage, but they flew the flag and got a bit of international publicity. They were rightly very concerned about the safety of the nuclear waste materials on those long sea journeys between France and Japan. They were concerned that maybe something would happen to the boat and it would sink into the sea, potentially creating a danger to our fisheries and our environment, not far off the coast of New Zealand. So that was a very good protest. The Government itself was protesting in its own way about that shipment of nuclear materials.

The bill as it was originally conceived had a good motivation: it sought to stop people from interfering with nuclear material in a way that would be harmful to the populace. But the original provision could have been interpreted as meaning that the act of stopping a boat that was passing through the Pacific—stopping the boat by means of

a peace flotilla, as people stopped boats in Auckland harbour during the protests against the visits of United States nuclear warships—might be deemed under the wording to be in contravention of this legislation and to carry a very heavy penalty. So the wording was adjusted in the select committee to avoid that possibility, and that is a good thing.

Another amendment was referred to previously, although I do not know whether it was spelt out by anyone. It was a movement in a good direction: to refer any renewal of a terrorist designation—or any terrorist designation, I think—to the Intelligence and Security Committee, which is a statutory committee of this Parliament. It is made up of the Prime Minister, the leader of the National Party, who is called the Leader of the Opposition in the bill, and in the case of the Prime Minister there are two other people, and in the case of the Leader of the Opposition there is one other person. It is not a proper select committee. In an answer to a parliamentary written question, I found that it has met for only 2 hours and 38 minutes in the couple of years since the election, but at least it provides some little check on terrorist designations. There is some accountability, even though I do not think the committee is able technically to cancel the Prime Minister's designation, but it is a step in the right direction.

I am saying that because the select committee did discuss things and take on board some of the concerns of the many submitters who were against many of the provisions of this bill. I think that as a leading anti-nuclear nation, under schedule 1 and the international convention it refers to we have to be part of the international campaign leading not only to nuclear disarmament but to stopping anyone in non-State organisations using nuclear bombs or using nuclear material in a way that is really disastrous to populations, short or long term. The release of nuclear radiation into certain environments, be they physical or sea environments, can affect many generations of people into the future, and their environments.

In Part 2 there are some useful provisions, at least in terms of schedule 1, although the other amendments in clause 46 to the Terrorism Suppression Amendment Act 2005 do continue some of the problems that exist in Part 1. The Greens will not be voting for Part 2, because of that problem. But we do want to endorse that part of Part 2 and the schedules, namely schedule 1, that adhere us to the Convention on the Physical Protection of Nuclear Material. Thank you.

**DIANNE YATES (Labour):** I just point out that Part 2, with the schedules attached, is a very technical part of the Terrorism Suppression Amendment Bill—it is just a very small part of it. The changes that the Foreign Affairs, Defence and Trade Committee made were to clause 13 and clause 5 in Part 1, where we made changes relating to the Convention on the Physical Protection of Nuclear Material. The actual changes to the wording of the bill were made in Part 1, which we have already discussed. I thank the select committee members and those who made submissions on this matter. We have cleared up very clearly that the legislation would not affect protest against ships that are transporting nuclear waste through the Tasman Sea, and so on. That matter has been clarified, as has the definition of a nuclear facility. Those definitions are actually in Part 1.

**TE URUROA FLAVELL (Māori Party—Waiariki):** Tēnā koe, Mr Chair. Tēnā tātou katoa. I just want to take a brief call, acknowledging that Part 2 is a small part at the end of the bill. Unfortunately I have been tied up in other places, but I want to make a couple of points, in particular around the amendment to other Acts and, of course, the consequences in terms of the principal Act.

I ask members to track this scenario through with me. Let us say, for example, the nation was to be woken up to the notion that terrorism was in Aotearoa, and that in order to deal with it the forces of the State were to move to particular areas throughout the country. Along with that scenario, let us say that a force of 50 or 60 police or other

personnel were to move in on a community where they suspected that terrorism was possibly there, and that along that line the possibility of charges under this legislation might be put in front of those people. Let us suppose that in going about that action, as one would expect in terms of dealing with terrorism, the forces of the State were to block off particular communities, maybe. After all that action of, firstly, Aotearoa being woken to the notion of terrorism, secondly, the State using its forces to deal with that, quite rightly so, and thirdly, under the banner of terrorism that community maybe being marked as a community of terrorists, let us say that 50 to 70 police were to go about their work in order to subdue the notion of terrorism within that community.

Let us suppose that at the end of the scenario one person was to be taken out of that community after that whole action—and I ask members to please follow me now—and that that one person, after all that activity and the label of “terrorism” having been put on that person as well as the community, was to be charged with another offence, let us say, just for example, under the firearms legislation, then we, as the Māori Party ask this: what happens if we have not necessarily addressed the issue at heart—namely, terrorism? What happens if we have not quite nailed it down? That is the concern in terms of this particular debate. I have already declared from the start—and my colleagues have also declared—that the Māori Party is clear about the notion of dealing with terrorism. If people are caught for a crime, they need to be processed through the right channels of the law. But what happens if one gets it wrong? What happens if one uses a label such as “terrorism” and one gets it wrong because one has changed direction? What happens to the people who may have been affected by that action?

Let us say, for example—as I stressed during question time in this House today—as a possible scenario one goes into a small community, let us say Remuera, does the same thing and maybe, as part of an action to suppress the notion of terrorism, tells people to get out of their cars and have their photos taken. If every person who went left or right, north or south, was instructed to get out of the car to have his or her photo taken, what would New Zealand society think about that? Would our society think that was about addressing the notion of terrorism? In fact, I suppose one would think that if one was going to deal with terrorism, one would go to the source. One would know where it was, and one would go directly to the source. Yet in a possible scenario like this, other people are affected.

Sure, what we are talking about here is an amendment to the principal Act. But the Māori Party is alerting the Committee to the fact that yes, other Acts are part of this scenario, yet this amendment has come out of the primary Act that addresses terrorism. That is why I am trying to draw the whole thing together. We need to be careful in case, in fact, we do not actually nail the source of terrorism. All of us are concerned about nailing the source absolutely. We have to go there. We have to weed those people out, should there be a case. I would have thought that our intelligence would tell us exactly where to go.

But the downside of that is, what flows out of that? For example, in the community I talked about earlier, what would happen if there had already been a historical experience of the State moving in on that community? What would happen if that community had already had an experience, which had been talked about in history, whakapapa, waiata, and kōrero on marae, of the arrival of the State in that community? What would happen is that basically the development of terrorism would move on from one generation to the next. So what we would do, in fact, is to fill people with anger, frustration, and sadness in having to deal with the consequences of this sort of legislation. As I say, I want to make that really clear, because we can almost get into a them-and-us scenario, which was played out in the House today.

But we take these issues really seriously. Why? Because, in a sense, this particular bill and the amendments that are in it have arrived at Aotearoa. We know that because of the current actions—not that we need to talk about them too much, because it has been plastered over all the media that terrorism is in Aotearoa. So the Māori Party tells the Committee to think about those things. After a short space in time we will end this debate and it may all be forgotten. But in a sense, while we talk about terrorism, let us not forget the consequences if we do not quite get it right. Kia ora tātou.

**DIANNE YATES (Labour):** I move, *That the question be now put.*

A party vote was called for on the question, *That the question be now put.*

**Ayes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

**Noes 10**

Green Party 6; Māori Party 4.

Motion agreed to.

The question was put that the amendments set out on Supplementary Order Paper 157 in the name of the Rt Hon Winston Peters to insert new clauses 46A and 46B and their headings be agreed to.

Amendments agreed to.

A party vote was called for on the question, *That Part 2 as amended be agreed to.*

**Ayes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

**Noes 10**

Green Party 6; Māori Party 4.

Part 2 as amended agreed to.

**Schedule 1** agreed to.

**Schedule 2** agreed to.

**Schedule 3** agreed to.

**Schedule 4** agreed to.

**Schedule 5** agreed to.

**Clauses 1 to 3**

**Dr WAYNE MAPP (National—North Shore):** I want to reflect on the history of this legislation, because I think it is relevant when we consider the tone and tenor of the debate today. Of course, this legislation has its origins in September 11. That is why the Terrorism Suppression Act came into being. I note that one particular party in this Parliament—a party that does not exist any more, the Alliance—broke apart on that legislation. I guess that the remnants, the wreckage, of that party are still here. I was listening to the radio this morning, as I do from time to time, and I heard that there are trade unions that are proud that they are staunch against the Terrorism Suppression Act 2002. They claimed that the Law Society was against it in 2002, which is not actually true, in fact. Hearing that reminded me of the irredentist left, who see this as a reflexive

approach. With things as drastic as September 11, when thousands and thousands of people were killed, even then, the irredentist left could not bring itself to act internationally to deal with it. One particular political party fell apart on that very issue.

The Green Party, I guess we would have to say, has been consistent. Right from the get-go it has opposed any and every legal measure to deal with terrorism that arose out of September 11 and al-Qaeda. Those on the left have all sorts of pettifogging legal justifications for that. But we have to look more deeply, do we not, and we have to ask ourselves why they would always oppose anything to do with dealing with terrorism and September 11. Ironically, today is the very first time that I have not heard the Green Party vote against something around this legislation, and that was the schedules. Does that mean that the Green members, for a change, support the schedules? Realistically, probably not, because their pattern is against this. So we have in this Parliament two parties, one of which—the Green Party—is always opposed, no matter what, because that is basic to its anti-Americanism. Let us be honest about this. The Greens are fundamentally opposed to the United States, and whenever they get the opportunity, they vote against anything that has anything at all to do with the United States, even though thousands and thousands of innocent people were killed in September 11.

We have to give Jim Anderton some credit on this—actually, a good deal of credit. He knew on that day what he had to do. He was prepared to take the risk in the full knowledge that the irredentist left of his party would depart—and it did—and he remained strong, right through that process. The Green Party, interestingly, has taken completely the opposite view. Today we see the Māori Party members—for somewhat different reasons, I admit—also opposing the legislation. I wonder whether Mr Hone Harawira's colleagues would take quite the same view had the events of the last few weeks not happened—Mr Hone Harawira would, I guess, but I wonder about his colleagues.

I mention that history because it is actually why this bill is here today. That is why we are debating this bill today. It is not about events that have occurred in the last 3 weeks. It is about New Zealand's international responsibilities in supporting the mandatory parts of the United Nations, and that is an important legal point that I bring to the Committee. Some parts of the United Nations' activities are essentially discretionary. Other parts are mandatory—the parts that deal with the Security Council. The Security Council has membership from literally across the globe, and we know that the member countries do not always see eye to eye, but on this particular issue—the need to deal with terrorism, particularly by al-Qaeda—there is a unified international viewpoint. That is what we are dealing with today, fundamentally.

National has been totally consistent on this. We take seriously our responsibilities as part of the international community. We know that much of the way to deal with international terrorism is through the proper framework of law and justice. If political parties cannot support those fundamentals, we have to ask ourselves whether they even support the rule of law. I was amazed to hear one particular member today in the House—Mr Hone Harawira—saying he does not support the rule of law. Well, we have to ask ourselves why he is here. Is he not better outside protesting, where he obviously feels somewhat more comfortable? I just make that point. Supporting the rule of law, irrespective—

**Hone Harawira:** Thousands of your wife's relations put me here.

**Dr WAYNE MAPP:** That is true, I would have to concede. I know the origins of the Māori Party, but surely of all parties, because of its belief on the foreshore and seabed, it actually does want the rule of law. That was the motivating event—they saw the Government perhaps not supporting the rule of law. I would have to say that, irrespective of particular views, the rule of law matters, and on this issue, that is what

we are actually debating today. Do we support the rule of law or not? I think the answer is pretty clear. National does support the rule of law. We take our responsibilities as international citizens seriously, and that, ultimately, is the only way we are going to deal with the scourge of international terrorism.

**DIANNE YATES (Labour):** I thank the member opposite, Wayne Mapp, for his contribution. I point out that we have been discussing respect for the rule of law and members' commitment to the rule of law, and I do honour what members have said in this debate. The select committee was concerned that we achieve in the Terrorism Suppression Amendment Bill a balance between protecting New Zealand citizens, protecting the rights of New Zealand citizens, and freedom of speech, freedom of association, and that we have democratic transparency within this bill. The committee did listen to submissions, and very, very seriously took into account what members said and what submitters said.

I am also aware that in this debate members have sometimes oversimplified the arguments, and have made assumptions about other people and other parties that are not always correct. As I have said, we tend to oversimplify. We have mixed up some genuine concerns with a desire to whip up concerns about things that are not in the bill. Things have been said about matters that are not contained within this legislation.

I thank the select committee for the balanced approach that it took, and for the changes that were made to the bill. I am satisfied that the committee members put their best minds to it and did the best job available. Once again I thank the members of the committee.

**KEITH LOCKE (Green):** It is good that people are talking in this debate about the rule of law, because I think that is at the heart of it. Wayne Mapp also talked about it in a historical perspective, going back to 11 September 2001. The key thing is that most people around the world—90-something percent of the citizens of the world—recognise that an undermining of the rule of law has accompanied George Bush's so-called war on terror. They see that in Guantánamo Bay, where people are not subject to the rule of law; they are subject to interminable executive detention without any access to judicial process, or with highly flawed access when, in the odd case, it does occur.

We have seen huge injustices being brought in under the auspices of the terrorism laws. We saw that just across the Tasman a few months ago in the Haneef case, whereby an innocent Indian doctor was persecuted by politicians at the highest level, who were determined to get him and cancel his visa and do all kinds of things. Even though it was clear that he was totally innocent, the politicians were determined to make a scapegoat of him. That is the problem. The Haneef case is a good example of why one should not, as has happened since September 11, substitute judicial power for executive power. That is exactly what has happened, and this bill is a part of that—substituting the Prime Minister's approval for that of the High Court in relation to extending the terrorist designations. The Prime Minister—and we have a pretty good Prime Minister in most respects—can be a little prejudiced, or the system can go a little wrong.

Just to indicate how the executive branch can undermine the rule of law, I say we saw that in the case where Helen Clark was subject to a private briefing on what was happening in the recent alleged terrorism events—and I will not get into the detail of them. We do not know any of the detail of the charges, other than that they are in the general category of arms charges. We do not know any of the evidence. Yet Helen Clark got up and said, on the basis of her private briefing, that those arrested in the terrorism raids had “at the very least ... illicitly used firearms, constructed Molotov cocktails and trained themselves in how to use napalm”. That illustrates why it is wrong to give a Prime Minister power in such cases. We saw that across the Tasman, with the

Minister of Immigration getting right in there—boots and all—to try to get that chap, Dr Haneef.

The Greens are very much in favour of the rule of law. The submissions both on the original bill and on the amendment bill came from a range of organisations, probably including all the civil liberties organisations in the country, and came from the most highly trained lawyers—the ones most conscious of the rule of law and civil rights issues—and the Human Rights Commission, which wanted a whole review done because it could see that this amendment bill and the original Act breached the rule of law in many respects and made it unfair for our society. The New Zealand Law Society in its submission said we do not need a body of law and something called a terrorist act to override what is already covered. All the crimes are covered in the Crimes Act already—every single last one. Whether they be conspiracy crimes or participation in a criminal group—whatever crimes members care to name—then they are covered. The Law Society said that if there is a little twist and one says the particular crime was committed with the aim of terrorising a population—and that can be a twist, as to whether it involves a criminal gang or a political group—then the judge can take that into account in sentencing. The judge has the power to take into account whether there has been terrorism—be it in a local suburb for some criminal reason, or in a group or community for a political reason. The judge can take that into account in sentencing.

We do not need to have a whole realm of laws on top of the existing law. The Law Society said that would lead to great confusion as to which charge to lay: the terrorism charge or the criminal charge. If we lay both charges, then we will get a plea bargaining system whereby someone will look at it and say that for participation in a criminal group the maximum sentence is 3 years' imprisonment but that for participation in a terrorist group the maximum is 14 years. Therefore, people may plead guilty to the lower charge even though they are innocent, in order to get off the charge that carries the higher sentence on conviction. That is the problem.

**Dr PITA SHARPLES (Co-Leader—Māori Party):** Tēnā koe, Mr Chair. Speaking on the rule of law, what are we talking about here? This is a country where everyone goes around saying “One law for all.” So what was the story with the foreshore and seabed legislation? Where the hell did that come from? The National Party had a chance to stand up for justice by supporting the Māori Party on the repeal of that legislation. It missed a golden opportunity, because it was frightened of losing its support out there—instead of being true to National's own conviction, which was to repeal the legislation. But I should get back to the rule of law—good thinking!

I do not see that National supports the rule of law. Let me take the Treaty of Waitangi. When we came into this place we went to a few seminars on what law was and things like that, and on what the constitution was. We were told the bits and pieces that make up New Zealand's constitution, and one of them is the Treaty. Both the National Party—whose members are now talking over the top of me—and the Labour Government have said that the Treaty of Waitangi is our nation's foundation document. So why is it not in the rule of law? Why is it not ratified in some form, as the umbrella, if you like—the matua Act or the senior Act—if it is the foundation of our constitution? At the end of the day, that is what we are talking about: our nationhood. If the Treaty is truly the foundation document of our nationhood, why is it not enshrined in place and legislated for as the guardian document, and let everything come out of it? It is so cheap to talk about the rule of law, yet we have all these anomalies. People say they cannot have the Māoris owning the foreshore and seabed, so they will keep it—but they will sell a bit for mining and stuff like that.

Seriously, it is more than just the rule of law; what about exercising the rule of law? I am waiting. People say we should wait and see. I will wait and see whether that

policeman who took that woman's panties out of the drawer in front of her and walked out with them was exercising the rule of law, and whether that was correct procedure. It is one thing to have the rule of law, but the other feature is exercising the rule of law, and having restrictions to stop it from being abused.

To go with the rule of law and exercising it is interpreting it. We have just done away with the fraud squad and we will look at organised crime. If one goes to the New Zealand Police website and looks up organised crime, one sees reference to Māori gangs. They are the most disorganised people I know. They do not even agree amongst themselves. Although most of them are trying to do good now, pockets of them are still offending under the Acts. So how can they be called organised, for a start? And why does organised crime consist of those Māori gangs? I went to a seminar in which Australian and New Zealand police chiefs said that a certain gang—it is not a Māori gang; it is a well-known gang throughout the world—is now the new Mafia. If that gang is the new Mafia, it is organised. If it is organised, why is it not on the police website as organised crime? [*Interruption*] That is my point. Wayne Mapp said that if the events of the last few weeks had not happened—

**Ron Mark:** Dr.

**Dr PITA SHARPLES:** Dr Wayne Mapp.

**John Hayes:** No, it wasn't him; it was me.

**Dr PITA SHARPLES:** It was Dr Mapp too. It was both members—two of them. They wondered whether we would be speaking like this if the events of the last few weeks had not happened. But that is the whole point. The events of the last few weeks highlight the danger of this particular Act: that it can be used, and, at the end of the day, there is a clean-up procedure. A whole lot of stuff out there will not be able to be accounted for, but the damage will have been done because the message has gone out, and so on.

Finally, talking about the rule of law, why are people in this Committee giving so much lip-service to the United Nations when they will not accept the word of the special rapporteur on race relations and they will not ratify the Declaration on the Rights of Indigenous Peoples? Thank you, Mr Chair.

**The CHAIRPERSON (H V Ross Robertson):** Just before I call the Hon Murray McCully I wish to advise members that a Standing Orders review was done in 2003. A result of the review was that the point was made that when debating the preliminary clauses at the end of considering a bill in Committee, members should have some latitude to summarise and make concluding remarks about the issues they have raised during the Committee's consideration of the bill. So although it is a wide-ranging debate, it has to be related to the issues that have been raised during the course of the debate in the Committee stage.

**Hon MURRAY McCULLY (National—East Coast Bays):** I will agree with the speakers from the Māori Party and the Green Party on one matter. The Terrorism Suppression Amendment Bill that we are debating today will substitute the judgment of the executive branch, and particularly the most senior member of the executive branch, of the Government for the judgment of the judiciary in determining who will have the toolkit of the Terrorism Suppression Act applied to them. I agree with those members that that is essentially what is at issue here. They advance various reasons why they are unhappy about that development taking place. I do not want to say to them that I have no difficulty at all in supporting this bill, for a very simple reason. You see, there are some very, very bad people out there in the world today. Those people will do some very, very bad things to some other people unless the authorities have a toolkit that enables them to deal with those people.

They are people who fly planes into buildings. They are people who put car bombs into cars and drive them into nightclubs. They are people who kill in cold blood. They are people who do not care about the misery they cause or about the harm they do. They do not play by any rulebook. They play by foul means, inevitably, so our authorities must have a toolkit that enables them to deal with a threat that is as serious and as complex as that. That is what the Terrorism Suppression Act was passed to deal with in 2002, and that threat is every bit as serious today, not just in the wider world we live in but also in this country.

I have no problem at all in substituting the judgment of the executive for that of the courts in dealing with this matter, because we have two UN resolutions that this bill gives some force to. First of all, we have UN Resolution 1267, which states that we should pick up the list of terrorist entities the United Nations Security Council designates, and designate those entities in this country. I do not think we should have any difficulty with doing that, and the New Zealand Government has so far followed faithfully its obligations to do that. What this bill will do, as my colleague Dr Mapp pointed out previously, is to ensure that as those designations cease to have effect, we will not have the courts but the Prime Minister decide on the information available to him or her as to whether those designations should be rolled over. I have no difficulty with doing that, because to rely on the courts is to ask the courts to determine matters on which they simply cannot have the information before them to be able to determine them, and I think that this is why we should pass this component of the bill.

But I remind the Committee that we also have UN Resolution 1373, which calls upon Governments to designate other terrorist entities that are a threat in their region. I take this opportunity to again remind the Committee that in that respect the New Zealand Government has been negligent, in my view. Australia has designated under UN Resolution 1373 some 88 organisations that are a threat to the people of Australia, in the view of their Government, and not one—not one—of those entities has been designated in this country under UN Resolution 1373.

Although we might pass this legislation and give this toolkit to the Prime Minister to use, we have no guarantee that the Prime Minister will use it. In Australia organisations like the al-Aqsa Martyrs' Brigade, the Basque separatist movement, certain wings of Hezbollah and Hamas, and the Tamil Tigers, are all designated as terrorist entities under Australian legislation, yet in this country we have no such designations for those organisations. We have an open border with Australia and relative freedom of movement, yet we are singing from a completely different song sheet when it comes to the designation of those terrorist entities.

I simply say to the Government and to the Prime Minister that we are happy to pass this amendment to the Act. It makes sense. We are happy for the Prime Minister to have this toolkit to deal with a threat that we on this side of the Chamber regard as serious—very serious indeed. I say to the Prime Minister that if she does not use this toolkit and we do not see New Zealand move on to the same page as Australia with the designation of terrorist entities under UN Resolution 1373, then she and her Government run the risk that they will be found out, and I hope that is not something we see in this country.

**KEITH LOCKE (Green):** I would just like to respond to some of Murray McCully's comments. He rightly points out that there is disagreement over whether we should give the Prime Minister extra powers in this respect and he uses a security argument, but I think that argument tends to fall down, because we have seen—particularly over the last few years in the Ahmed Zaoui case—that when we give the executive branch too much power to determine a person's fate in secret, using so-called classified information that is very broadly defined, the political agendas of the Government of the day tend to predominate and people suffer. This is the case, be it

Ahmed Zaoui, be it Dr Haneef in Australia, or be it any of the many examples in Canada and in other Western countries.

Just about every other advanced Western country with a good system of democracy and a good judicial system has suffered through giving to the executive those powers to determine someone's future through using secret information, and it need not be so. We can defend ourselves by keeping the judicial process as it is and by keeping the situation where a person can be sent down, be imprisoned, only if they know the accusations against them and if they can properly defend themselves. We can see the problem. Murray McCully said that we should have all these other designations, and he ranged across a whole lot of nationalist groups. It is a characteristic of some of those nationalistic groups that at the edges they do engage in terrorist activity, which we all condemn.

There are wild elements, and wrong tracks may be taken that we are all against, as a democratic community. But if we want to get from A to B in order to improve the situation—as we found in the Northern Ireland peace process—we have to engage in those situations with those people who want to move towards a democratic resolution. We have to engage with the Gerry Adamses, to use the example of Northern Ireland. When we go about just designating entities willy-nilly, we cannot do that. The person I referred to before, Mr S P Tamilselvan, who was assassinated last Friday, was a person whom I met and discussed the peace process in Sri Lanka with in 2003. It is very much a fact that the Western countries that designated the Tamil Tigers as a terrorist organisation cut themselves out of the peace process, which was going very well in 2002, 2003, and 2004, and the ceasefire was holding. But because Australia, Britain, America, and later the European Union designated the Tamil Tigers as a terrorist organisation, they cut themselves out of that peace process, and it opened it up to a resumption of the warfare rather than to a peaceful resolution. They left countries like Norway stranded in trying to hold the peace process together.

We must take a different course. It is so damaging to just categorise people as “terrorist”, as was discussed before by speakers from the Māori Party. The image of someone being related to terrorism and being raided over potential terrorism charges and terrorism matters is just so damaging to the proper consideration of the issues involved—the community issues, the political issues—in bringing people together, bringing justice to the situation, trying to get at people's gripes, and trying to understand why they go off the rails a bit or do things that we all condemn.

We have to get at the basis of it to be able to lead to a resolution. The terrorism suppression legislation, whether it applies to the designation of international organisations—which Murray McCully talked about—or to people in New Zealand, is very dangerous. It is much better to stick to the criminal law, rather than to label people and punish people more just because they have political views and are involved in a political movement.

**TE URUROA FLAVELL (Māori Party—Waiariki):** Tēnā koe, Mr Chairperson, and thank you for your lead in respect of the direction about the—

**The CHAIRPERSON (H V Ross Robertson):** I am sorry to interrupt the honourable member, but the time has come for me to leave the Chair for the dinner break.

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

**TE URUROA FLAVELL:** In reflecting on your comment earlier, Mr Chairperson, about the wrap-up time of the discussion, I want to comment a little bit about Mr Mark's kōrero in making us aware that maybe we need to consider that issues of terrorism might be just around the corner. He referred to the *Rainbow Warrior* scenario,

and we acknowledge that—it is a fair call. He talked also about what our tūpuna Māori fought for, and possibly implied that they may well be turning in their graves in respect of our stand now against terrorism, or at least the perceived stand by the Māori Party. He talked about the Māori Battalion and those who went overseas. He did not talk about Haane Mānahi and Willy Apiata, but they follow a long line of people who have been committed to this country in trying to create a better nation for us. Always in Māori communities we tend to ask what their sacrifice was for. On Anzac Day our people generally reflect on that discussion—what was the death of so much Māori leadership all about. I think it was about creating a better New Zealand and creating a positive environment for both Māori and Pākehā to come together.

That is all very well, until it comes time to deal with the Māori issue. As Dr Sharples reflected, the notion of one law for all is all very fine and good, until it comes to the crunch when we get to issues like the seabed and foreshore where people have the ability to change laws at the drop of a hat, whereas they may not necessarily support the dreams and aspirations of one of our peoples of this land. Recently in the courts of this land Federation of Māori Authorities has been challenging some of the developments by the Crown, in respect of Crown forest rentals trust lands. The notion about one law for all is all very well and good, but if one has the ability to change those laws to the detriment of another, and without the discussion, then we question that.

At this point in time a number of speakers have talked about the notion of waiting—let us wait and hear, for example, about some of the scenarios that we face as a country right now in terms of particular actions in the Bay of Plenty. Even with this particular bill and the possibility of having to wait on the outcomes of actions taken under any sort of terrorism suppression legislation, one of the questions that is still hanging is “how long?”. How long will people have to wait to receive, to know, and to understand the charges they have to face? Will it be 3 weeks, a month, a year? Is there an end time? Will people, if they come under this legislation tracking through, be incarcerated for up to 2 years, without necessarily knowing the length and breadth of the charges? At the moment, in a scenario that we face as a country, right now a lot of the information under the notion of terrorism suppression is not well known. It is locked down because of the actions of the court.

That is all very well and good, but what about the consequences for those families and children who have to wait for their mothers and fathers? What about the hapū that have to wait for their uncles and aunties, and so on, while somebody makes a determination about whether a charge will be laid under the Terrorism Suppression Act?

In trying to draw some of the discussion together, the Māori Party is concerned that under this legislation New Zealand would automatically adopt the UN list of terrorists and terrorist organisations, in the sense that it is the US that dominates the compilation of these lists. The effect is that New Zealanders working to support, for example, liberation struggles, and democracy, and human rights overseas would now be faced with the prospect of being charged with supporting terrorist organisations. Under the new proposal it would have been illegal to provide support, as Mr Keith Locke talked about, to the African National Congress in the fight against apartheid, or for campaigns to have Nelson Mandela released from jail. The previous legislation allowed support and assistance to organisations, provided it was “for the purposes of advocating democratic Government or the protection of human rights.” This wording is to be removed. New Zealand will give up its right to make its own independent assessments of terrorists and terrorist designations, and without the ability to make our own independent assessments, we will become rather captive to prejudiced, politically motivated overseas assessments such as those that relate to Ahmed Zaoui.

Previously, New Zealand adopted the UN designations, in the absence of evidence to the contrary. The Māori Party says that this safeguard would be removed. The process for review of designations would become less independent and more vulnerable to political interference, also allowing greater influence from other nations. The new offence of “terrorist act” could be applied to non-terrorist persons and actions, for example, protests—bringing back the concerns raised over the Terrorism Suppression Bill.

Mr Keith Locke talked about current criminal offences covering all terrorist acts. So the introduction of the new offence of terrorist act seems almost unnecessary. I note that the New Zealand Law Society submission argued that the new crime “engaging in a terrorist act” should not be added to our statute book. As Mr Locke said, such terrorist behaviour is already covered by a range of offences such as murder and kidnapping, each with heavy maximum penalties. We say that the new terrorism offence could cause confusion amongst prosecutors as to which charge to lay—engaging in a terrorist act or the underlying offence—which could result in inconsistent sentencing and the possibility of that notion of double jeopardy. The fact is the terrorist act carries a penalty of life imprisonment, so it is critical that all of the issues are worked through properly, or else we could end up with a situation that possibly every political and environmental protester in the country is locked away for undertaking activities like fund-raising, as clause 7 talks about, or posturing, as clauses 11 and 12 talk about—in other words, recruiting members and participating in terrorist groups. We have a real concern about that.

The courts are removed from considering designations of terrorists or terrorist organisations. At the moment, if the Prime Minister designates a terrorist organisation, then this is reviewable by the High Court after 3 years, as we understand it. Independent scrutiny of cases will no longer be available. The Prime Minister will be the judge and jury. The US wants this—we say that the US has some vested interest in this—and it could be that we are subject to international pressure in respect of who is and who is not a terrorist. At least with the courts there is some semblance of independent scrutiny, although I did hear what Mr McCully talked about earlier.

The assumption of power by politicians over court processes is demonstrated pretty clearly by the US with its treatment of Guantánamo Bay detainees, and the CIA rendition programmes whereby suspected terrorists have been transferred around the world for, possibly, torture. In both cases the court has been sidelined. We say that in terms of New Zealand that would be a disgraceful episode. That is just drawing together some of the comments made in the Chamber a little bit earlier in trying to focus us in on some of the arguments that the Māori Party has attempted to put before the Committee, and also hearing the arguments of the other parties. Kia ora tātou.

**JOHN HAYES (National—Wairarapa):** I have an idea that it was Bertrand Russell who said something about people getting pleasure in two ways—either by getting pleasure, or by trying to impose their authority and gain power. I keep thinking, when I look at the way the votes have gone in this Chamber this afternoon—whereby we have 10 votes against the bill and everybody else voting for it—that there is something fundamentally wrong with those who are opposing this Terrorism Suppression Amendment Bill.

My colleague Wayne Mapp woke up this morning—or yesterday morning, or the morning before—and he was listening to the radio. He heard the representatives of the Council of Trade Unions and all other manner of organisations opposing this bill. As it happened I thought to myself that I could have woken up this morning and felt that the Prime Minister was being a touch “Stalinesque” when she said: “I’m going to ban Guy Fawkes.”, and last night was our Guy Fawkes Night. Whether she does that remains to

be seen, but there is a “Stalinesque” quality to that. There is a “Stalinesque” quality to the whole work-for-income scheme, to supported families, and to putting everybody on the State’s payroll. There is a “Stalinesque” element in the Green Party’s argument that we should be opposing this legislation.

I am proud to support this legislation because my concern is for the community and the collective protection of the community. Whether or not we like it, there are people who wish to commit terrorist acts. Despite the comments made by my colleague Keith Locke earlier today, the reality is that there was an incident involving the *Rainbow Warrior*, when terrorists from another country infiltrated our border and got back through it again without being caught because we did not have the right rules in place to stop them.

**Hone Harawira:** No; we let them go, mate.

**JOHN HAYES:** We did not have the right rules to stop them, and I am going to come to the member shortly. We have to balance the rights of the bulk of the community against the rights of the individual. Although in an ideal world I would warmly support this legislation being implemented by our justice system, the fact is— with a background in foreign affairs inevitably one has had some rubbing up against the intelligence infrastructure in this country, and one knows—that the conjecture and the nature of that means that we cannot really expose that information to the court process, because if we did we would end up not getting the information in the first place.

So we have to rely on somebody, and in our country the reality is that in our democracy we rely on the Prime Minister, whoever he or she is, and whichever party he or she comes from. The Prime Minister is ultimately the decider, the arbitrator, of the security apparatus in this country. Therefore, we are comfortable with the fact that the Prime Minister should be adjudicating on these issues.

When we come to the arguments advanced by the Māori Party members, and setting into one parcel the race-based arguments they have advanced in this Chamber today, I would like to talk to them a little bit about the United Nations. Whether or not we like it, we are part of the collective nations of this world. We are a member of the United Nations, along with a lot of other countries. And, as my colleague Wayne Mapp says, we are a member in good standing.

One of the obligations and the benefits of belonging to the United Nations is the one bit of that entity that works: the Security Council. We can forget about most of the rest of the United Nations, but the Security Council actually still works. It is the only part of the United Nations apparatus that still operates effectively, with the possible exception of the World Bank and the World Food Programme. When the United Nations meets in the Security Council, which contains a mix of core members who do not get voted in and out and other countries that do get voted in and out, there is a balance in the process. Countries can talk to Security Council members. It is in that process that the resolutions defining those entities that are considered terrorists are made. When we look at the infrastructure of the United Nations, it is the Security Council that listens to representations from a lot of communities around the world, and the council has decided collectively on the list of people who go on the terrorist list. When that is done, there is an obligation on this country, in the form of a United Nations resolution, that requires us to sign up to that. If we consider the case of South Africa, the only reason we imposed sanctions on South Africa was because of the collective action of the Commonwealth, to which we were similarly obliged to implement such resolutions. We had to do this, as we have to in the case of the United Nations’ resolutions; we have no option but to sign up to this process.

We are not like our colleagues and cousins in Australia—and there are almost a million New Zealanders there—because the Australian Government signed up to this

more than 2 years ago. Our Government has been dragging its heels. It was only through our select committee process that we managed to discover this and expose the Government's fragility for not acting on this issue. Furthermore, the Government of Canada signed up to this some years ago and it has 50 people on its list. There are 88 on the list in Australia. What did we do? We did nothing. We sat on our hands. Is it because we have a small foreign ministry? I doubt it. Is it because money was in short supply? I doubt it. The problem was simply that the political will did not exist on that side of the Chamber to move it. The Labour Government has now moved and we commend it for that. We are absolutely in support of what it has done.

Finally, I would like to address some comments to my colleagues in the Māori Party. I feel deeply upset that they are tying this legislation to the activities that happened in the Tūhoe area. I do not know one way or another what is right and what is wrong, and I venture to suggest that the Māori Party members do not know either. What is important is that every politician in this House, whether from National, Labour, United Future, New Zealand First, Māori Party, or ACT, supports the legal process that applies in this country. It does not matter who we are, or whatever. If there is an issue and one goes before the court and is found guilty, one suffers the penalty. There has been a very good example of that in the Pacific in the last few days when a former Prime Minister of the Solomon Islands found himself behind bars for instituting a terrorist act in the Solomon Islands in the coup that overthrew Ulufa'alu and the events in the wake of that.

It seems to me that all of us need to use a measure of common sense and judgment. I saw things in recent events that I did not particularly like, but it is not for me to comment. My job—and, I venture to suggest, the job of the Māori Party members—is to hang in tough and to support due process in this country, and then, when that process is completed, ride hard on whatever the decision is. If we do not do that, our country has no future. I do not condone a separatist State here and I am disappointed by the separatist arguments, and the race-based arguments, I have heard in this Chamber this afternoon.

Thank you, Mr Chairperson. National is fully supportive of this bill and we look forward to its early passing.

**DIANNE YATES (Labour):** I move, *That the question be now put.*

**KEITH LOCKE (Green):** I think that John Hayes and myself have a common agreement on not banning fireworks, which is a step forward. John Hayes talked about “Stalinesque”, and Kafkaesque comes to mind, too. I saw a film, I think it was called *The Lives of Others*, on Stalinism in East Germany recently and it has similarities with the operation of the rule of law under terrorism laws, in that John Hayes said we must trust the Prime Minister. It is no accident that National and Labour are voting together on this when National is saying “We trust the Prime Minister to do things right.” That is what happened in *The Lives of Others* in East Germany. I think it was a chap called Honecker. Everyone trusted him to do things right. He had his security service.

That is one of the things worrying people at this present time, if members talk to them—the level of surveillance involved in what has been going on, in texts, in emails; you name it. Somehow people have realised that and said: “Hold on.” One of the provisions in the legislation we passed back in 2001 allows the police to access a person's computer without that person knowing and changing his or her files in order to hide his or her entry and exit. That was one of the laws that was passed in 2001. Those sorts of laws are now being applied in the context of this terrorism legislation, and people are getting worried.

In *The Lives of Others* the person affected, the writer, did not quite know who his friends were, who his accusers were, and what was the information against him. That is the Zaoui scenario, the scenario of the people at Guantánamo Bay detention centre. It is

that Stalinist type of approach, with a person not knowing what he or she is up against. It is Kafkaesque in that sense. That is where we are headed, unfortunately.

We were talking about one law for all, before. One reason why the law is more prejudiced against certain sections of the community in terrorism cases is the very fact that the thing that distinguishes terrorism laws from criminal law is that terrorist acts are deemed to be political crimes, whether the motivation is political, ideological, or religious. Once laws are defined in that sense, it depends where a person sits in terms of those political motivations as to how the Government treats those people doing the crimes and how heavily it wants them punished. So political prejudices automatically affect how terrorism crimes are dealt with. The application by the police of searches and raids are then also politically coloured by Māori radicals or whoever might be in their minds.

It was not because the police were naturally bad, although I will not give them a clean bill of health at this stage, but the political context in which they were operating and bringing in terrorism warrants, and what not, actually coloured how they saw the situation. It meant that they could do things in Tūhoe country, like stopping and photographing people, which they would never apply where I come from in Auckland—in Mount Eden or Remuera Road. *[Interruption]* Yes, if they had tried it in Remuera Road, how long would it have lasted? I ask members to ask themselves that question.

There is the whole serious political accusation stuff—these are bad people; they have bad political motives. It was mentioned before that the proceedings can then tend to drag out longer. At Guantánamo Bay they last for years and years and years. It is the same in other cases. Sometimes at the end of it, as in Ahmed Zaoui's case, it was almost 5 years before it was found there was nothing really against him and he wasted those years of his life without his family. That is how it goes.

Because the Green Party does not support this legislation, of course we do not support any Attorney-General applying the legislation in whatever situation. I will not comment on the particular cases that we are not supposed to comment on, but in any cases we would not support the Attorney-General proceeding with terrorism charges because we see them as politically discriminatory and everything can be covered under the criminal law anyhow.

Reference was made to the *Rainbow Warrior* and that is the point that the Greens and the Māori Party have been making all through this debate, not only under this legislation but under other legislation, that with State terrorism, the State becomes more of the problem in many situations. The *Rainbow Warrior* is a case in point—the French State, for its own political interest, bombed the *Rainbow Warrior*. The rendition programmes of the Bush administration are a form of terrorism by the State, in terms of its application to some of those involved without any trials. In terms of the different prejudices of the New Zealand State in relation to different forms of terrorism—State and non-State—there was the case of an admitted war criminal Moshe Ya'alon who visited New Zealand in January. The District Court ordered him to be arrested, and was he treated the way the Tūhoe people were treated? The police—and this needs to be remembered and dealt with at some point—refused to obey the judge. They refused to obey the arrest order. That they did that was, to me, a State crime. What the Solicitor-General and the Attorney-General did was equally bad. A huge box of papers arrived from the plaintiff in Auckland.

**The CHAIRPERSON (H V Ross Robertson):** Order!

**KEITH LOCKE:** I am talking about the issue of State and non-State terrorism, and how State terrorism is caught in practice by such legislation, including this bill. The papers arrived at 5 past 1 on the Tuesday afternoon at the Solicitor-General's office. By 5 o'clock he had processed this huge thing, done all the legal determination of it, and

sent the papers over to the Attorney-General who had signed them off by 5 o'clock. That was a gross miscarriage of justice and it was part of that inherent bias on terrorism issues. A self-confessed State terrorist who had killed 15 people in Gaza with a bombing a year or two back, was ordered to be arrested by a judge, and the case was disposed of because essentially the Government did not want to politically embarrass Israel, because it was closer to Israel in that political context.

So that is the problem we get into once we start dealing with terrorism laws, State terrorism, and non-State terrorism—the political content of terrorism. State priorities and State prejudices come into play. That is why the Greens are so opposed to this amendment bill. Thank you.

**HONE HARAWIRA (Māori Party—Te Tai Tokerau):** Tēnā koe, Mr Chairman. Tēnā tātou katoa e te Whare. When I was listening to Dr Mapp talk about being in bed and listening to the radio, it reminded me of a book that I was reading when I was doing bed and breakfast at Mount Eden Prison. The book was called *Watch for Me on the Mountain* and it was about the rebellion of Geronimo and his people against the rampaging racist terrorists of the United States 7<sup>th</sup> Cavalry operating under a clear mandate from their masters in Washington to crush everything that stood in the way of the land-hungry, gold-maddened settlers, and to round up, hunt down, and kill, where necessary, any natives who stood in their way.

Everyone in this Chamber knows the saying “The only good Indian is a dead Indian.”—such were the sentiments of the United States just a couple of hundred years ago. So when I think about this Terrorism Suppression Amendment Bill, that too is where my understanding of terrorism comes from. I reckon we could update that “dead Indian” threat to read “The only good sand-nigger is a dead sand-nigger.” to explain the United States’ current misbegotten crusade in Iraq. It is misbegotten because it is a military campaign born out of the union of the lies about the weapons of mass destruction that were never found and the link between al-Qaeda and Saddam Hussein that was never proved. And yes, I call it a crusade, because it was a venture of Christian paranoia against Islam—a task that “Richard the Lion Breath” and his foolish followers could not achieve hundreds of years ago, and a failure that George Bush, with all his technological superiority, is doomed to repeat. So when I think of this Terrorism Suppression Amendment Bill, that too is where my understanding of terrorism comes from.

Now we hear that the United States has finally charged some poor dumb Aussie, David Hicks, as its first Guantánamo “war on terror” detainee. An Australian, for heaven’s sake! Six years after 9/11, is this the result of billions of dollars of US intelligence spent on securing a conviction to justify its war in Afghanistan? An Australian? Heaven forbid that we should be connected in any way with the mind-numbing stupidity and pointlessness of a process that has failed so spectacularly that after 6 years all that it could come up with was the so-called confession from an Australian charged with providing material support. Seriously, hands up all those in this Chamber who believe that that confession was entered into freely and willingly. So when I think of this Terrorism Suppression Amendment Bill, that too is where my understanding of terrorism comes from.

And I recall too a very personal connection to South Africa. One brother member of the African National Congress, Andrew Moletsane, who fled the terror in his own homeland, came to our home in Ōtara in South Auckland to give testimony about the terror being imposed by the apartheid regime of South Africa. A few years later he was hunted down and murdered in Botswana by one of Botha’s goon squads. So when I think of this Terrorism Suppression Amendment Bill, that too is where my understanding of terrorism comes from.

Bringing it back to our local situation, I point out that the arrest and detention without bail of 17 individuals on the grounds that they were planning terrorist attacks against political targets in this country represents a step towards the Guantánamo-isation of national security policy in this country, at least as it applies to political dissent. Like the Cuban soil occupied by the United States military base, it seems that the normal rules of legal rights and due process apparently do not apply to political extremists. Those detained have been remanded without bail for weeks on firearms charges and with all information about their cases suppressed, which assumes that the clear and present danger to national security and public safety posed by these individuals is so great that they are denied the basic right to swift justice and the presumption of innocence reserved to all others—and I will stay right away from mentioning any particular case before the court.

Do the Urewera 17 constitute a viable terrorist threat, and were they engaged in a terrorist conspiracy?

**Dr Wayne Mapp:** I raise a point of order, Mr Chairperson. I would have to say at this point that Mr Harawira has definitely strayed into cases that are currently before the court and is making specific statements about them. I think you know the rule on that, about the separation of powers. This is not like other cases that his colleagues were referring to, which did not result in charges. These cases did.

**HONE HARAWIRA:** Speaking to the point of order, Mr Chairperson, I would willingly stand down from speaking about any particular case if Mr Mapp could say which case it was.

**The CHAIRPERSON (H V Ross Robertson):** You see, the member, by referring to them collectively, is still referring to any particular case, so he cannot actually go down that road. He cannot refer to them collectively.

**HONE HARAWIRA:** Speaking to the point of order, Mr Chairperson, I understand the issue about matters being sub judice, but in this situation I am not speaking about a particular case, at all. I have not mentioned the name of one person who has been arrested; nor have I mentioned the details of any one of the cases currently being prosecuted by the police. What I am talking about is the general arrest of people in New Zealand—no names.

**The CHAIRPERSON (H V Ross Robertson):** I am really cautioning the member because we have to be very careful about this, with the issue being sub judice. It might be in the member's interests to come back to the general purpose of the bill and to try to relate his comments around that, without involving people collectively.

**HONE HARAWIRA:** From what has surfaced in the public record, the case for terrorism in respect of those arrested to date is debatable. Unlike guerrilla organisations, or terrorist organisations operated by ideologically committed militants pursuing common political causes, those who have been detained are from all over this country and are not practising common operational security. I am talking here in terms of terrorist organisations, rather than of a particular case that is before the court.

**The CHAIRPERSON (H V Ross Robertson):** The member is treading on very dangerous ground. He should just get on with his speech.

**HONE HARAWIRA:** Some of those people emailed, texted, and phone-called with apparent abandon, including so-called recruitment efforts of unaffiliated individuals. They did not have safe houses and did not move constantly to avoid apprehension. They did not hide their bush camps, which were a matter of local knowledge. They did not kill or recruit the unaffiliated people who—

**The CHAIRPERSON (H V Ross Robertson):** The member is starting to bring individuals into it now, and he cannot actually do that under law, sub judice.

**Dr Wayne Mapp:** I raise a point of order, Mr Chairperson. You anticipated my point of order. At this point the speaker is definitely speaking about allegations, facts, and circumstances relating to these various charges, which have not been heard by a court, as yet. I think it is a breach of the Standing Orders to do so, and I ask that you bring the member back to the bill and to issues that are not before the courts.

**HONE HARAWIRA:** Speaking to the point of order, Mr Chairperson, I want to comment on what the previous speaker just said. All the information in respect of the charges themselves has actually been suppressed by the court. All the information to which I am referring has been garnered from media reports and not from the cases themselves. If they are already a matter of media speculation, then they are surely available to us to speak to in this Chamber.

**The CHAIRPERSON (H V Ross Robertson):** I advise the member that he cannot actually refer to anything that has been suppressed. I want him to look at Standing Order 111, “Matters awaiting judicial decision”, which states: “Subject always to the discretion of the Speaker and to the right of the House to legislate on any matter, matters awaiting or under adjudication in any court of record may not be referred to—”, and it gives a number of cases. In this case “in any debate” applies. So the member really needs to refer directly to the bill and steer clear of the course he is going down now. Otherwise, we will have to move on.

**Te Ururoa Flavell:** I raise a point of order, Mr Chairperson. I seek some clarification. My colleague Mr Harawira has referred to issues that have been published by the media. Can I take it that those issues that have been put out in the media already are also under that ruling?

**The CHAIRPERSON (H V Ross Robertson):** If they relate to any specific charges, yes.

**Eric Roy:** I raise a point of order, Mr Chairperson. It may be of some help to the Committee to know that there is quite a suite of Speakers’ rulings in regard to this matter. I think it might be helpful if members looked at Speaker’s ruling 28/6, which refers quite clearly to issues where there could be “real or substantial danger of prejudice to the case”, and if you, Mr Chairman, have listened to the debate that has been promoted by Mr Harawira, you will know that he has made quite clear what his intentions are. So can I suggest that, broadly speaking, it is out of order.

**The CHAIRPERSON (H V Ross Robertson):** On that point, too, if I could advise the honourable member, Speaker’s ruling 27/2 states: “The sub judice rule is not intended to inhibit members discussing the law in general, but a particular case before the court may not be referred to. The House is not in the same position as the media when reporting cases.”

**Te Ururoa Flavell:** I raise a point of order, Mr Chairperson. Again, I just seek some clarification. The Standing Orders do apply in respect of, I understand, the rules and regulations as bound by the House. Mr Locke referred earlier to comments made by the Prime Minister that, according to him at least, might prejudice the outcome of the particular cases we talked about. Can I ask whether there is any correlation in respect of the Prime Minister’s comments about those people versus the discussion in the Committee at this point in time.

**The CHAIRPERSON (H V Ross Robertson):** Again I advise the member that members cannot refer to any cases specifically before the court. That is the situation we now find ourselves in. There is no reason why Mr Harawira should not continue his speech, but he cannot go down the same track as he is now, because he is referring to a case specifically before the courts and we cannot do that. We are not a newspaper.

**HONE HARAWIRA:** Given the hypothetical case of a number of people being arrested and charged under the Terrorism Suppression Amendment Bill, it seems as if

that bill is being invoked even though it was originally oriented towards countering the support for, or financing of, foreign terrorist groups by New Zealanders, and not towards arresting domestic militants in pursuing anti – status quo political agendas. In that regard, the prediction of Māori activists at the time the Terrorism Suppression Act was passed in 2002, that they would eventually be targeted, has come to pass sooner rather than later.

Although, hypothetically, some sectors of the community might argue that it is better to be safe than sorry, and that perhaps it is appropriate that the police act in a preventive capacity, that still begs the question of why people are being held without bail on—hypothetically, of course—minor firearms offences while additional charges are being decided against them. In reality, gangsters, rapists, and child-murderers can be bailed, so why cannot those who might, hypothetically, be held only on firearms charges?

It is incumbent upon the Government, the judiciary, and the police to immediately outline the legal grounds on which such a group might hypothetically be held. Otherwise, the impression could be left that this country is on the slippery slope towards a Guantánamo approach to political dissent—in spite of its very different strategic and geopolitical position—with people being detained on minor charges and on suspicion of something worse while the authorities decide what to do with them.

In dictatorships, the denial of legal rights to those suspected of terrorism is of little concern; in liberal democracies like the one we say we practise as having, and particularly in small open democracies with a history of political tolerance and non-violent protest, it is a troubling development. In dictatorships, security overrides human rights; in democracies, civil liberties are expected to be the priority, with domestic security operations constrained by notions of due process and full disclosure, regardless of the ideological persuasion of those who might—hypothetically—be defendants. The threat of terrorism does not alter that basic premise. The reaction to any hypothetical arrests suggests that the public is right to be sceptical of police motivation, and old wounds are likely to be reopened as a consequence of those actions. If for no other reason than these the police need to make a compelling case, make it soon, or let them all go. Thank you very much.

Clause 1 agreed to.

Clause 2 agreed to.

A party vote was called for on the question, *That clause 3 be agreed to.*

**Ayes 109**

New Zealand Labour 49; New Zealand National 48; New Zealand First 7; United Future 2; Progressive 1; Independents: Copeland, Field.

**Noes 10**

Green Party 6; Māori Party 4.

Clause 3 agreed to.

Bill reported with amendment.

Report adopted.

**LAND TRANSPORT MANAGEMENT AMENDMENT BILL****First Reading**

Debate resumed from 25 October.

**Hon MARK GOSCHE (Labour—Maungakiekie):** I rise in support of the first reading of the Land Transport Management Amendment Bill. It is a further step in this Government's progress in terms of providing the administrative infrastructure to carry on the significant work we have been involved in, both in the building of roads and in the improvement to public transport. I am pleased to see that this Government is committed to improving our bureaucracy—the agencies and Government departments that are charged with implementing transport policy.

I recall that back in 1999 when I became the Minister of Transport it probably took me a week to meet with all the Government agencies and departments that had been set up, but now we will see that number reduced again. I am sure that that is a good thing, because our experience was—

**Simon Power:** Why is this member against bureaucracy?

**Hon MARK GOSCHE:** —it was just spread too thinly—that the expertise in transport, as previous Ministers of Transport will know, is not large. We do not, for instance, have university courses—or we never did when I was the Minister—that people could go to that would set them up as good bureaucrats, policy analysts, and implementers of transport in New Zealand. We found that many of those people were working in different organisations, but this bill will put Transit New Zealand and Land Transport New Zealand together into one entity, a New Zealand Transport Agency, which I think will be able to carry out its work in a much more efficient and proper way. That follows on from the work that the Minister of Transport has done in the Next Steps process, which looked at the structures and which has come up with what this bill now delivers.

The other important issue in the bill that the Transport and Industrial Relations Committee I chair will be looking at is around the question of regional fuel tax. That will be allowed for in this bill, should it pass—which I am sure it will—and that will allow an excise duty of up to 5c per litre to be added on to the existing duty and to be used for each region, after the regions have been through a process that will involve the Minister. In this bill we have also put together a better planning process. It has new structures, again, that are probably streamlined in a way that will get much better results, and it has plans that will be more realistic in their time frames. So I am very pleased that this legislation is coming forward.

Some important challenges still face us. We have a huge road-building programme throughout New Zealand. I travelled back and forward to the North Shore on the weekend, as many Labour Party members did, and quite frankly it was very hard to go anywhere on the North Shore where there was not a busway being built, a new road being widened, motorways being improved, and so on. That is a picture we will find up and down the country. However, we do need to continue the process of better planning. We do need to allow for extra funding so that transport infrastructure or services that are important to a region can be brought forward sooner than the current funding regime would allow for, and that will mean that regions that are prepared to pay extra will get their infrastructure more quickly.

The other thing that needs to be noted in this bill is the use of the fuel excise for land transport only. That is something that I think every member of this House would support. I do not think any party would vote against that particular element of the bill. If it did, then it is not following its own policies, because all parties have said that they

want what is collected off the motorists to be spent on the transport infrastructure and services in New Zealand, and surely that is something we will do. Just as an added little bonus, there will be some of that relief that the pleasure boat, maritime search and rescue boat safety education, and maritime safety services people have been asking for. That is another small part of this bill, but it is important for people who feel that it is wrong to pay excise duty on the fuel that was purchased, as if it was going to be used on our roads, when in fact it is being used on our oceans.

I look forward to the opportunity for this bill to be referred to our select committee. It is, as I said, a very important step down the path of improving our transport infrastructure. It deals with a better bureaucracy, in terms of the new transport agency; with the question around a regional fuel tax; and with the hypothecation of the fuel excise taking care of better planning. I know that we will be able to make improvements to this bill through the select committee process, and I look forward to bringing it back to the House next year.

**Hon MAURICE WILLIAMSON (National—Pakuranga):** I say from the outset that in the National Party's view this legislation is very much like the curate's egg—it is good in places. There are parts of it we are very supportive of. In fact, parts of it contain policies we campaigned on at the last election. Many, many New Zealanders, I am sure, will remember the red and blue billboard, the first in a series, that said: "What's your petrol tax for?". On the blue side of the billboard we campaigned on one word "roads", and on the Labour side it was "Treaty lawyers, wanangas, hip-hop tours, twilight golf", etc.

Dr Cullen has said at times that the National Party was a bunch of loonies for wanting a petrol tax—that is what he said—and that it was just absolute "loony-nomics" to suggest that all the petrol tax should be dedicated to the Land Transport Fund. Surprise, surprise! What a difference a 2-year period makes! Since the 2005 election campaign Dr Cullen has come onside. I am not going to be churlish and dwell on that. I thank him; it is a great idea. I think it is finally time, because it has been a barrier for a lot of New Zealanders to pay anything further for the roads while money was being stolen. When I was the Minister of Transport a number of people used to say to me: "While you are stealing money from the—

**Peter Brown:** What did you do about it?

**Hon MAURICE WILLIAMSON:** Mr Brown is not taking account of the fact that during the 1990s, when National was in Government, there were serious structural deficit problems across the nation. But here we have a Government that has been running surpluses for a long time and not spending anywhere near as much as it could do or should do.

The next myth I want to dispel relates to this graph I am holding. I hope that our cameras in the House can get a nice close-up so that my adoring drive time audience in Auckland, if they have a TV on, can see this. I am holding up a graph showing the amount of money spent on roading as a percentage of GDP. That is the standard international measure that should be used. It is drawn in blue for when National was in Government, and it is drawn in red for when Labour was in Government. I know that Sue Kedgley will be delighted with this graph, because when Labour came into office the amount of spending on roading went down. But that is not what Labour would have us believe. It would have us believe that the amount of money spent on roading went up. Well, actually, it has gone up every year we could ever name, even back in the 1950s and the 1960s, except for one year. This little straight brown line on the graph shows the actual dollars. It is not a really good measure because as the GDP grows we would expect revenue to grow. But what is interesting about that first full year of a

Labour Government—2001—is that it is the only year in the last 50 years that the actual spending on roading went down—not the percentage of GDP—

**Hon Damien O'Connor:** Rubbish!

**Hon MAURICE WILLIAMSON:** These are the Ministry of Transport's own answers to parliamentary questions, so I have to say that that the member is wrong.

But I say to Mr O'Connor that he should not take my account of it. He should take what the New Zealand public say in a survey done about our transport network in Auckland. The headline states "Motorway work has not helped the crawl". Then it goes on to show that the speeds being achieved in Auckland at present are the worst that have been. So Labour members can get up and wax lyrical all they like about what they have done. We should have a survey of 1,000 people in Auckland, at random—and I am happy to bet my salary against Mr O'Connor's salary any time—and ask just one simple question: "Has congestion got better or worse?". I tell that member that he can have my entire salary for the year if Aucklanders come back saying that they think congestion has got a lot better. I can tell that member what the answer will be. The poll will show that it has got a lot worse.

Another part of this particular legislation that we find really quite obnoxious relates to the Government running surpluses. It is interesting that at question time today we heard that the surpluses are now "structural". They are not cyclical any more; they are structural, and they are mega-big surpluses. I find it unbelievable, because I now have a copy of *Hansard* from 1992 and I would like members to listen to this. In 1992 the National Government—and there is Mr Brown saying we did not do anything—tried to implement a regional fuel tax of 2c a litre that would last for only a 3-year period. It was 2c a litre over 3 years.

**Hon David Parker:** Waste of time.

**Hon MAURICE WILLIAMSON:** Let me tell Mr Parker what the Labour Party said. It said it was an outrage that the Government was trying to introduce regional fuel tax. The member should read the *Hansard*—here it is: Volume 526, from June-July 1992. Labour voted against it.

**Eric Roy:** What page?

**Hon MAURICE WILLIAMSON:** I will give the member the page reference. The best quotes occur on page 9041. There are another couple of doozies on page 9045. Labour voted against a 2c regional petrol tax that was to last for only 3 years, and that was a disgrace. Now the legislation that the Government is bringing to the House, at a time of mega-surpluses, is not for 2c and it is not for 5c; it is for 10c a litre and it is to last for 35 years. How come it was so evil back then? By the way, I have lovely quotes from the *New Zealand Herald*, the *Dominion*, and the *Evening Post*—and I think that even the *Auckland Star* was still going at that stage—from people like Pete Hodgson saying—listen to this: "This tax measure is not progress. It's a disgrace. Instead of being an exercise in environmental friendliness, it's prostituting the environmental cause to bring in a 2c a litre regional petrol tax."

I think that members on that side of the House had better start stumping up to the public. How come, back then, when the country was in major deficit and did not have enough even to pay for the running of the schools and the hospitals, Labour was opposed to an extra 2c regional petrol tax for only 3 years?

**Peter Brown:** What year?

**Hon MAURICE WILLIAMSON:** It was 1992—June and July. Here is the *Hansard* for Mr Brown to read—Volume 526. Labour waged a campaign, and those members voted for it. Their record is in here. I know that Mr Parker was not here. I do not think that Mr O'Connor was here in 1992. How about Mr Barnett? I am trying to find someone who was here in 1992. No, there is not anybody in the Chamber tonight

who was here in 1992. I may be it, but all I can say is that those who were here, like Annette King, the Minister who is in charge of the bill—oh no; actually she was gone in 1992. She lost her seat in 1992.

**Eric Roy:** John Carter was the only one.

**Hon MAURICE WILLIAMSON:** But Annette King was not a member of Parliament between 1990 and 1993, was she. But there were others. Pete Hodgson certainly was, because he is quoted as saying it was just a disgrace and outrageous and wrong. I have to say that it is just amazing that it could be so wrong back then—when it was only 2c a litre for 3 years—but that when it is 10c a litre for 35 years, it is all right. Now, as I said, this bill is a bit like the curate's egg—it has some good bits. I quite like the idea of providing for a Government policy statement to set out the Government's planned investment and funding priorities for the next 3 to 6 years. I think that is a sensible move. I think changing to a 3-year planning cycle is a sensible move.

There is one organisation I will be watching with great interest—Local Government New Zealand. I will watch with great interest, because when I was a Minister it was on my case regularly about the conflict between the funding agency and the provider of roading. Back in those days Transit was just the one agency. It was the provider of State highways and it allocated the funding. What Local Government New Zealand said to me, over and over—and I have got all its documents; I have kept them all, and I am really pleased I kept them—was: “Minister, Transit has an inherent, almost, sort of drive to fund its own roading rather than ours. There's a complete lack of transparency and a complete lack of consistency. The bids all come up and, lo and behold, State highways get a better than expected allocation each year and local roads seeking to get the financial assistance get to be the poor cousin.”

Now, I have to say it was a pretty compelling case, and when one looked at a number of years of Transit's behaviour I think that it could easily be argued. The reason we separated funding and providing—the reason we set up Transfund New Zealand and Transit—was that Transit was to manage the State highway and Transfund would fund all the land transport programmes, which would be the State highways, the private roading network, etc. We were supportive when Transfund was moved into the Land Transport Safety Authority and made up Land Transport New Zealand because that was no conflict. But now the Government is proposing merging back the agency that decides who gets the money and one of the major agencies that will be bidding to get that money. I will watch with great interest what Local Government New Zealand and a whole lot of councils around this country have got to say on that.

Finally, can I say that we oppose this bill for a lot of reasons, but mainly for what is not in it. The Land Transport Management Act has been a complete and absolute barrier to private sector investment in roading. We are one of the few countries that do not have it. Instead of this bill opening up land transport management, freeing it, and taking away the prescriptions, it has actually done nothing and it is silent on it. The National Party is totally opposed.

**PETER BROWN (Deputy Leader—NZ First):** Let me say from the beginning that New Zealand First will support this bill going to the select committee, and the principal incentive we have for giving that support is the fact that the Government has finally agreed to transfer all the petrol excise tax that goes into the Crown bank account into the National Land Transport Fund. New Zealand First has been advocating that for a long time, well before I arrived in this House. But certainly since New Zealand First came here with several MPs we have advocated that the petrol tax that goes into the Crown bank account should, in fact, go into the National Land Transport Fund, as roading has suffered, as the Hon Maurice Williamson said, because of the lack of injection of funding.

Now, we were a little reluctant to support the innovation, as we called it, of the regional fuel tax, but we do recognise that regions in this country basically get responsibilities thrust upon them by central government and therefore it is reasonable to say “we will give you the additional funding stream, if you so desire.” We know that the Auckland region will want it, and I have no doubt Wellington will follow shortly thereafter, and probably the area I come from, the Bay of Plenty region, will be fairly swift off the block—I do not know. They will not all want 10c a litre. Auckland most certainly will—5c to go to the electrification of the rail and 5c to go into roading. Bay of Plenty will want something less, and I suggest that Wellington will want something less.

But it intrigued me, listening to what the Hon Maurice Williamson had to say about National’s track record, because in 1995, I think that was the year, the Rt Hon Winston Peters had a bill drawn out of the ballot that would have taken all the petrol tax that went into the Crown bank account at that time—I think it was 21c—and put it into the roading account. What did the Hon Maurice Williamson say, when he had the opportunity to do something?

**R Doug Woolerton:** Tell us.

**PETER BROWN:** I will quote from *Hansard* for Mr Woolerton. I have the Hon Maurice Williamson’s *Hansard* here. He said: “The first thing is there would not be enough roading projects or enough contracts out there to do them.” That is what he said in 1995 when a bill gave him the opportunity to do what he now says he has wanted to do for several years. He went on to say: “Even at conservative estimates with the doubling of the current annual road expenditure and present levels of charge Transit New Zealand has identified no more than \$500 million worth of projects that are worth doing into the future.” That is all the Minister of Transport at that time, the Hon Maurice Williamson, could come up with in terms of an argument against putting all the petrol excise tax that goes into the Crown bank account into the National Land Transport Fund.

I draw it to members’ attention that at that time only 9c a litre went into the National Land Transport Fund, but something like 20c to 21c went into the Crown bank account. In other words, under the regime of the Hon Maurice Williamson the petrol motorist was being ripped off, big time. He said—I think he alluded to it or stated—that the reason was that the Government was running in debt and was not running in surplus, so the National Party at that time thought it wise and fair for the petrol motorist to pay for that shortfall.

Currently, at this point in time, 23.8c a litre from the petrol motorist goes into the roading account, and 18.7c goes into the Crown bank account. In July next year that 18.7c will all go into the roading account—the National Land Transport Fund, which pays for more than roading. That represents a transfer of \$570 million a year into roading. I say to members that we are still building roads or enhancing roads in this country, particularly in Auckland, that were planned for in the 1960s and should have been well built by this time. This money going across will help significantly, but not as much as it would have done had it been transferred across when National had the opportunity. Since that time concrete, bitumen, and steel have all gone up hugely in price, well above the inflation rate and well above the CPI, so to some degree we are playing catch-up. In other words, the 2007 dollar will go nowhere near as far as the 1990s dollar, and it is not just inflation that has taken care of that.

We welcome this bill for a number of reasons. We have no problem with Land Transport New Zealand merging with Transit. We think that probably makes good sense. I know that the Hon Maurice Williamson objected to that because basically he was the Minister who split them up. But we see some common sense in combining the

two entities and making one organisation totally responsible for road building and other matters in this country. We think that is a move in the right direction. But we have one concern, and that is in this bill—and I want to record it here—the Treaty of Waitangi principles are mentioned. I challenge anybody in this House to tell me—

**Hone Harawira:** I'll be next.

**PETER BROWN:** Oh, the honourable member will tell us. I will listen with interest when he tells us what the Treaty of Waitangi principles are and how they should affect a Land Transport Management Amendment Bill. I can tell members that at the select committee we will be asking officials, and, indeed, anybody there who thinks they have an interest in this sort of legislation, what the Treaty of Waitangi principles are all about as they pertain to roading, or, indeed, as they pertain to anything. So I forewarn the House that that will be a concern that New Zealand First will take on board and try to address.

A little bit in this bill that pleases New Zealand First no end—and the Minister made reference to it the other day in a question and answer session—is the part the Minister has taken directly from our transport policy. I want to read that policy, because it says it all. I am reading from the section headed “Recreational Boating”, which states: “The New Zealand Coastguard provides an essential service but is dramatically under funded, relying heavily on donations and voluntarily raised income.” It goes on to state—we have a couple of options here but it is the second option that the Minister has taken on board—“New Zealand First will ... allocate petrol taxes generated by boating activities to these operations.” Again, we say it is about time. This has been a long time coming. The leisure boat industry is a major industry in this country. It is also a cause for concern to professional mariners, such as myself. We go out on the harbour, we know and understand the boating rules, and we might see a group of individuals out on the harbour, or sometimes further afield, with a case of beer or what have you, thinking they can manoeuvre or meander their craft anywhere they want. They are very dependent on the coastguard coming to their aid when they get into real trouble. We think it is about time that some official funding went to help that organisation and indeed other organisations that are involved with recreational boating.

So we compliment the Minister on taking that initiative. She read our policy. She admitted in a question and answer session in the House that it was a New Zealand First policy, and we think that is a good move. There is much more to this bill than we have had time to cover right now, but New Zealand First will most certainly support this bill's referral to the select committee.

**HONE HARAWIRA (Māori Party—Te Tai Tokerau):** Tēnā koe, Mr Assistant Speaker. Tēnā tātou e te Whare. Tēnā koutou e taku whānau e mātakitaki mai ana i te pou whakaata.

*[Greetings to you, Mr Assistant Speaker, and to us in the House. Greetings to my family watching on television.]*

A couple of weeks ago, BP raised its petrol prices by 3c a litre. That does not sound like much; it is such a small amount that it does not even have a coin value any more. But as all those Māori families who headed back home on Labour weekend for unveilings, reunions, weddings, church hui, and other gatherings found out, 3c a litre very quickly adds up to a lot of money.

These are the families who, on the same day, were identified in the *Social Report 2007* as experiencing high levels of inequality. They are the same families who even the Labour Party faithful know have been hurt by the actions of their own Government, which has acted against their interests, as evidenced in the discussion on remit 38, welfare benefits, at the Labour Party conference just last weekend.

That remit, I tell those who have not seen it, calls for the Government to urgently consider more assistance for those on low incomes and single and invalids benefits, and for other beneficiaries and caregivers, who have been deliberately cut out of support under the Working for Families package.

That report I referred to, *Social Report 2007*, stated that some 12 percent of the citizens of Aotearoa live in households with incomes below the OECD threshold, and that, to no one's great surprise, Māori and other ethnic groups are those most affected. The report shows that 22 percent of Māori, 29 percent of Pasifika, and 13 percent of others are affected. Unfortunately, that is the continuing theme running right through all of this Government's social policies.

Beneath the veneer of social equality beats the heart of a Government that deliberately ensures that Māori and Pasifika consistently make up the most underprivileged sector of our society. It is those families who are continually bypassed in the economic growth of this country that the Māori Party is concerned about as we think about funding for land transport purposes.

This bill will impose a new regional fuel tax of up to 10c per litre of petrol for regional transport projects. Of that, 50 percent is for roading and 50 percent is for public transport. Hopefully, the select committee process will encourage innovative ideas to ensure that low-income families are not doubly penalised by this new fuel tax.

As the MP for Te Tai Tokerau and a regular commuter into and out of my North Shore and west Auckland constituencies, I am constantly blown away by the magnitude of the Auckland traffic snarl. It takes me just over 3 hours to get from Kaitiāia to the outskirts of Auckland, and then it takes me another hour to get from the harbour bridge to my mum's place out in Avondale. I am glad it is not a traffic scenario I have to deal with daily, but, then, I do not know that my constituents out west will be too keen on the proposed solution, either. They will be happy to know that more money is going into public transport and roading, but they will not be too keen to hear that it is coming out of their pockets.

Mind you, it is only in the last few years that Tāmaki-makau-rau has got its fair share of the roading dollar, based on its economic contribution to the country. Before 2003 it got a lot less. Wellington and Canterbury, though, are still significantly underfunded compared with their contribution to the national economy, so maybe Auckland ain't that badly off after all. Which region gets what has long been a source of controversy. Hopefully, this bill will ensure more strategic guidance from the Government about funding priorities.

Of course, when the Māori Party members think strategically we think of the principles of the Treaty of Waitangi, which Parekura Horomia, Nanaia Mahuta, Dover Samuels, Mita Ririnui, Mahara Okeroa, Dave Hereora, and my ministerial whanaunga Shane Jones voted to delete. That does not give us much hope that the New Zealand Transport Agency will bother to meet its Treaty obligations. I mean, if the Government ain't going to bother, why should its agencies?

We will also be interested to learn whether the views of tangata whenua have been considered in the drafting of this bill, and we are very interested to hear about provisions in this bill aimed at reducing the consultation process. We are already concerned about the number of councils not bothering to consult with Māori, even though they are required to do so under the Local Government Act.

We note that the publication *He Wharemoa Te Rakau, Ka Mahue*, which came out just a couple of months ago, stated that Māori felt that engagement with local government was not genuine and was often conducted after the real decision-making had already been done. Māori also feel that any interest in engaging Māori normally

happens only at election time and tails off very quickly after that. The Māori Party is wary of any moves in this bill that might make this situation worse.

The Māori Party also takes the opportunity of this debate on funding for roading and public transport to again raise the crucial issues of peak oil and global warming. With the price of oil already at US\$89 a barrel, and no hope of future price drops, there is an urgent need for formal national planning on energy use and conservation of fossil fuel, for ramping up community education on energy alternatives, and for encouraging personal ownership of national goals.

We are happy that some of the regional fuel tax will go towards more public transport, but, given the ever-increasing car mania in this country, more thought might have gone into more innovative ideas to encourage people to car pool, use public transport, bike, or even walk. Building more roads does not reduce fuel consumption and does not lead to a low-energy future.

This bill is part of a well-overdue step to increasing access to affordable public transport in a world crippled by rising fuel prices. Petrol is a major cost to whānau, and any tax hike will hurt those on low incomes who have large families. We will be seeking assurances during the select committee process that iwi and Māori communities will continue to have the right to be consulted, as is the obligation under the Local Government Act.

We support the development of low-cost public transport, and we urge all members of this House to give serious consideration to some of the complex concerns raised in respect of public transport, the needs of our more vulnerable communities, and the more pressing issues of peak oil and climate change. The Māori Party will support this bill's referral to the select committee. Kia ora, Mr Deputy Speaker.

**JEANETTE FITZSIMONS (Co-Leader—Green):** The Green Party is the only party in this House that has not spent years calling for all tax on petrol to go into roads. We are proud of that position, because there is really no more reason why all petrol tax should go into roads than there is why all tax on alcohol should go into booze barns, or all tax on cigarettes should go into tobacco factories. There is no particular reason why motor fuel should not be taxed just like any other product or any other source of revenue.

But there is another reason too why in the past we have not had full hypothecation of revenue from motor fuel. Two major Government studies—each of which has taken years and considerable resources, and neither of which has led to any action at all—have looked into the costs that motoring causes to the economy as a whole. Both the Land Transport Pricing Study of the late 1990s and *The Surface Transport Costs and Charges Study* of the early 2000s established a remarkable amount of agreement that the costs of motoring to the public purse that are not paid for out of the National Land Transport Fund and are not covered by petrol excise or road-user charges are very considerable. The minimum amount was around \$1,200 million a year, with the upper limit of the band being considerably above that. These are costs for things like dealing with air pollution, water pollution from runoff from building roads, climate change, noise, and all the health and policing costs that are not directly paid for out of the National Land Transport Fund or the accident compensation levy. It is a substantial amount of money and it has always seemed to me rather fair that motorists should pay it. What is not fair is that petrol users have contributed towards that cost, and diesel users have not. All road-user charges have been going into the National Land Transport Fund, and all petrol excise has not.

The other thing that has been unfair about the situation is that it is totally untransparent. There is no indication that the money that has been taken as excise and not put into transport projects has in fact been spent on dealing with any of the

externalities of roading. It has just disappeared into the general consolidated account. So although the Green Party has never called for full hypothecation, and in fact believes that those external costs should be covered by motorists, we will not oppose that part of the Land Transport Management Amendment Bill, but we will be pushing for payments to be made to cover those external costs out of the National Land Transport Fund itself.

The Green Party has also been pushing for years for the electrification of the Auckland commuter rail system. It is absolutely the key to better public transport in Auckland. It is the key to an upgraded signalling system; to newer electric units that will be quieter, cleaner, and more reliable; to a huge increase in capacity on the commuter rail; to greater reliability; and to trains actually running on time. Until we have made that basic step we cannot look at the further developments that are needed, such as a connection to the airport, and a connection under or through the central city between the southern line and the western line, which would start to give us a genuine commuter rail network in Auckland rather than just two lines that do not really talk to each other.

The problem has always been that under the crazy funding system known as the financial assistance rate, central government cannot put anything into a project like this, which is clearly of national importance, unless regional or local government pays half. The Auckland Regional Council, after years of neglect of public transport, had got to the stage where it simply could not raise rates any further in order to contribute to decent public transport systems. The money was there in the National Land Transport Fund but it could not be spent because of the rule that regional councils have to raise half.

It always seemed very peculiar to me that if we wanted to build a State highway or a motorway from one side of Auckland to the other, mainly for the use of Aucklanders who want to drive from one side of the city to the other, it would be 100 percent funded by central government out of the National Land Transport Fund. But if we wanted to build a railway to do exactly the same thing and carry exactly the same sort of people from one side of Auckland to the other side, then Auckland would have to fund half of it. So it is not exactly surprising that for many decades roading has gone ahead and public transport projects have not.

We now have the situation whereby the way to fund this project seems to be a regional fuel tax. Because the project is such an important key to unlocking the potential for public transport in Auckland, the Greens will support this bill. We note, however, that the Government's half of the project is to be funded by raising a loan on which Auckland pays all the interest for 30 years. Auckland's half is to be funded by its providing the capital and interest. That does not sound like a fifty-fifty split to me, but anyway this is the way the Government is doing it and this is the way it is proceeding. At least the thing is going to get done.

The bill as I first saw it allowed the whole of up to 10c of regional fuel tax to be levied by a regional council, and all of it put into roading. The Greens said we could not support that. There has been a huge imbalance for many years between the billions spent on roading and the few millions spent on public transport. We have to have a better balance than that. So we settled in the end, after some negotiation, on no more than 5c for roading, and an additional 5c that can be raised for other projects if the regional council wishes, as long as they are alternatives to roading and we try to get some balance. We can if we wish raise all of it for public transport. Auckland's share of the 10c for public transport would be more than 8c, but other regions are less likely to do that.

So what could we do with that other 5c? Of course, we could build other public transport systems, such as busways, and make improvements to rail systems. We could

do travel demand management, such as computer and network-based carpooling systems, school travel plans, workplace travel plans, better cycle facilities, flexible minibuses in smaller cities that are more responsive to demand, and ferries. There is a whole range of alternatives to the one person, one car model that we are sadly lacking in all of our cities, large and small, and that should be built with that second 5c.

It is not clear yet how much of a regional fuel tax that Wellington, for example, will raise and what it will spend it on. But it is quite clear that no more than 5c can go into that gross white elephant, Transmission Gully, which will be a sink for money forever without ever actually being built. If they want to raise more than 5c then the other 5c will need to go into some of the greatly needed public transport projects in Wellington. Rail upgrade projects are greatly needed all over the city. Hopefully, the regional fuel tax will speed up the introduction of public transport in a number of centres, because it is money that is there only if it is used for this sort of purpose in some of the regional cities that have very poor or no public transport at the moment.

**MARTIN GALLAGHER (Labour—Hamilton West):** It is with huge—

**Hon Mark Burton:** The old reflexes are getting a bit slow, but the presence is still there.

**MARTIN GALLAGHER:** The reflexes are slow because the great danger is that we take for granted the huge strides made in transport over the last 7 to 8 years. That is the problem with the slow reflexes, I say to the good member for Taupo—and a very active member he is. I say to him that that is the danger. The danger is that we have short memories in this country. We have short memories in this country when we reflect on how hopeless the previous National Government was in terms of transport. There was only one good National Minister of Transport—he came from the Waikato region—and that was the Hon Rob Storey. What did National members do to him? They axed him; they dispensed with his services.

This Government has an exceptionally proud record in terms of transport in this country, to which the Land Transport Management Amendment Bill is but another very, very important addition. The previous speaker, Jeanette Fitzsimons, spoke very eloquently about the need for public transport. The reality is that this Government has spent a record amount on promoting public transport in this country. It puts the previous Government to shame.

As the member of Parliament for Hamilton West, I take this opportunity to acknowledge the really good leadership and partnership that we have had between the Minister of Transport's central government agencies, our regional government agency—Environment Waikato—and the Hamilton City Council. I acknowledge the work that local government and my good colleagues Mark Burton, Sue Moroney, Dianne Yates, and Nanaia Mahuta—and I will take some small credit myself, as well—did in lobbying for the wonderful package that the Joint Officials Group put together for the Waikato, along with places such as Auckland and Wellington. That was a culmination of local government, regional government, and central government working together. It was also a very good example that we in this Government mean business when it comes to transport in the Waikato. We mean business when it comes to improving transport in the Auckland metropolitan area. We mean business when it comes to improving transport in the Wellington area. We mean business when it comes to improving transport massively in the South Island. We mean business when it comes to improving transport in the regions.

I think the frustration of the Opposition members comes from their being able only to watch and wonder at the progress we have made. *[Interruption]* Again I acknowledge my good colleague the member for Hamilton East, Mr Bennett. In his quiet moments he will admit that when he came into this Parliament after he was elected he was shocked

at the absolute inaction of some of his colleagues. This Government has done so much. We can look at the *New Zealand Transport Strategy*. We can look at the integration of massive extra spending on State highways, roading, and public transport. The irony is not lost on me that we had those blue and red billboards with one of the previous leaders of the National Party on them—I am not sure which leader of the National Party it was; National has had about five or so in the last 10 years—that said: “What should petrol taxes be used for? Roads.” Well, here is the message, folks: that is exactly what petrol tax is being used for. Petrol tax is being used for transport—nothing more, nothing less. Indeed, there is a further subsidy from the consolidated account, and that is indicative of just how much we are spending as a Government on transport in this country. [Interruption] I know that it hurts; I know, when we hear the interjections from the Opposition, that it hurts. It is wonderful to be in a Government that is seriously committed to transport. Those interjections are indicative of a party in Opposition that has a memory loss, a memory blank, at what little its Government did—zero—in the transport area.

This Labour-led Government is committed to delivering high-quality transport networks. We are already seeing that now throughout the country. This bill is designed to maximise the performance of the Government land transport sector and to enhance New Zealand land transport planning and funding systems. In respect of that, I pay a personal tribute to people like Chris Allen, the retiring manager of Transit New Zealand in the Waikato, who has been promoted to the Hamilton City Council. I know that my colleagues Sue Moroney and David Bennett want to congratulate Chris Allen, because he has been a wonderful advocate for roading and transport in the Waikato.

This bill also implements the recommendations from the Next Steps review of the land transport sector, and it introduces measures that will allow New Zealand’s land transport sector to move forward in an integrated manner. You know, the news is all good; the news is all good. The bill provides for a Government policy statement that will set out planned investment and funding priorities for the next 3 to 6 years. Interestingly, the bill will create the New Zealand Transport Agency as a new Crown entity, replacing the existing Land Transport New Zealand and Transit New Zealand. I think the appointment of the interim board of the New Zealand Transport Agency will be very important, and I am sure that the Ministers and the Government will be paying due attention to getting the right skill mix, but we should not underestimate the talent, skill, and dedication already in those two organisations, which are to be merged.

Going back to the billboards that featured one of the many leaders of the National Party that I saw in my city during the last election campaign—[Interruption]—members should listen to this, and listen carefully—I say that the bill will reserve fuel excise duty for the National Land Transport Fund from 1 July next year. Members of the Opposition put up, and get their Business Roundtable mates to fund, a whole lot of billboards around the country. This Government does not talk about it; this Government actually does it. In fact, that crowd opposite spent 9 years in Government talking about it, but what did they do? They did absolutely nothing.

The bill will also introduce regional land transport programmes to rationalise land transport planning documents, it will reduce consultation, and it will encourage integrated land transport planning—another good step in the right direction. Regional land transport programmes will include land transport projects and services, including State highways, and will need to be prepared and consulted on every 3 years only, so that we do not have this incredible perpetual annual navel-gazing. We can actually be moving forward, and I think that is a great step to take. Also, the legislation will enable the levying of a regional fuel tax, which is a tool available to regions for priority projects that would not otherwise get adequate funding within the desired time frame.

I have paid tribute to Chris Allen, who is a fantastic manager of Transit New Zealand in the Waikato region. In the time I have left, I will also take the opportunity to pay a particular tribute to Jenni Vernon and the regional council. I acknowledge Jenni Vernon's wonderful work in terms of some of the regional planning, her wonderful advocacy for land transport, and the really hard work that she did—I know that Mark Burton joins with me in that acknowledgment, as do Sue Moroney and Dianne Yates—in advocating for our region. The great Joint Officials Group scheme for the Waikato is due in part to Jenni Vernon. I acknowledge that, and it is my hope that the incoming chair, Mr Peter Buckley, whom I congratulate, and also the Environment Waikato team, will carry on that very, very good work in the land transport sector.

I also acknowledge councillor Dave Macpherson from my own city's transport committee, the new chief executive, Michael Redman, who was the mayor at the time, and their officials for their sterling work in terms of the Joint Officials Group programme. I am proud to represent a city that is really walking the talk with this Government, and that in its own right has an integrated land transport management strategy. It does not just talk about public transport and buses, but actually does those things. It is wonderful to see those green buses going around Hamilton. They are an absolute testament to this Government and its strong support for public transport.

I am so delighted at the introduction of the Land Transport Management Amendment Bill. This is another great step in the wonderful work that this Government and Minister Annette King are doing to advance the crucial investment in the New Zealand transport infrastructure that is so critical to our economy and our society.

**COLIN KING (National—Kaikoura):** In speaking to the Land Transport Management Amendment Bill, I take considerable comfort from the knowledge and recognition of Maurice Williamson, who commented that National's opposition to the bill is as much about what is not in the bill as what is in the bill. National objects to the Government's intention to put forward a bill to raise another excise tax. The Government is sitting on huge surpluses but has no intention to offset that excise tax.

National also takes exception to the contribution provision of the regional fuel tax that would be directed into public transport, especially from the point of view of the regions. There has been a lot of talk about the needs of the cities, and National appreciates that fact, but this bill totally overlooks the needs of the regions.

There is a lack of any ability in this bill to consider what this country certainly needs—that is, the creation of public-private partnerships. New Zealand is one of the few countries in the OECD that does not have any public-private partnerships around roading. On that basis, National finds little difficulty in objecting to this bill. In saying that, I agree that there are certainly some quite laudable things in the bill.

**Hon Clayton Cosgrove:** What's your policy, "Eight Ball"?

**COLIN KING:** I point out to members on the other side of the House that self-praise is no recommendation, because when we look at the problems we are presently facing in the transport infrastructure, and so on, we see that the status quo or the present situation is entirely failing New Zealand. The *Next Steps in the Land Transport Sector Review* report comments that the current situation is not "fully delivering", and that there are gaps between the "vision and the broad objectives" and there are "confused accountabilities". So the Government has entitled the review Next Steps, but, in effect, we have a failing economy mainly because we do not have an adequate infrastructural road system. Although we talk about the failed roading system in Auckland costing a billion dollars, it is probably costing equally as much throughout the country.

The New Zealand economy is performing pretty ordinarily. It is in urgent need of an efficient roading system. I want to talk about some of the challenges that we are facing in the provincial areas of New Zealand, where we are totally ignored in relation to the

ability to raise funds and prioritise things so that we can get them done properly. We are confronted with geographical limitations—like the insurmountable Alps, and whatever—and with regional requirements, and we need more funding in the regions so that we can get some of the infrastructure up to standard. On State Highway 1 along the east coast of the South Island we have the problem of trucks tipping over. The problems are enormous there, and that is limiting this country's economy. We are sitting in the Chamber discussing this Land Transport Management Amendment Bill, but we have a long way to go on the issue.

Roading ranges over a whole set of things—highways, byways, and streets. Every function of human society revolves around roading, like dropping kids off at school, taking produce to the port or to the works, trucking, and dealing in traffic around tourists. We need roading infrastructure that is a lot better. On that basis, what shape are we presently in after 8 years of Labour? We are not in good shape.

**Hon Clayton Cosgrove:** We haven't sold one road—not one road.

**COLIN KING:** As I said before, self-praise is no recommendation. One would be struggling, and stretching the truth, to say New Zealand has a first-class roading infrastructure. When we consider the consequences of what is occurring on the main State highways, we know we are in serious deficit. Sure, money has been put in in that direction but it has not shown any benefit.

**Hon Member:** Has that member been to Seddon lately—seen the new bridge we've built down there?

**COLIN KING:** After 8 long years of Labour we still have a single-lane bridge over the Hurunui, with regard to the experience of trucks rolling over.

In this country we have very low-cost road infrastructure requiring high maintenance, and we are using poor materials. I received an email today from a motor cyclist complaining about the cut-cost measures on State Highway 1 of putting wire ropes as guard rails. Has anybody stopped to think what this might do in terms of safety? It is not safe; it is dangerous. At the end of the day, we really have some serious problems. I doubt whether this bill will get to the select committee, but a lot more could have been done to get provisions in this bill to move the job forward. As I said, it is more about what is not in the bill than what is in the bill. That is why National will vote against it.

The strategic development of New Zealand's roading infrastructure is enormously important to the economy. This is what brings us back to this Land Transport Management Amendment Bill. In terms of roading problems we agree that road transport needs increased funding, but we are opposed to the Government raising another tax to fund roading when it is sitting on massive recurring surpluses. Only 18 months ago we paid 5c in regional R funding, and when we gave it away we believed we would be able to get it back and do regional development. But then we got the rules from the Government saying we would have to match it with another 5c. Again, we are seeing a Government that does not play straight and true with its requesting of funds. So National will oppose this bill on the basis that we are not seeing the flexibility that would be appropriate.

I would be quite interested in the suggestion that there would be some flexibility around the raising of a petrol excise tax, if we could use it in the regions. Unfortunately, that is not the case. It has to be a situation whereby 50 percent of it goes into public transport, and I tell members that most of regional New Zealand is not really crying out for public transport. When we go to the Hurunui or Kaikōura, to anywhere in Marlborough, to Wanganui, or to the inner parts of Southland, we do not see that demand.

In fact, we would like to have the opportunity to use a fund of that nature to replace things. In Marlborough 280 wooden bridges have to be repaired, but more money goes out of Marlborough than has ever come into it. The regions are doing well in spite of the Government, not because of the Government. The Government should bear that in mind, and be warned, because when we look at the situation in the House we see very few Labour representatives from the regions.

So it is quite appropriate that somebody from the regions wraps up this debate on the Land Transport Management Amendment Bill. National looks forward to the voting down of the bill. The bill is as much about what is not in it as about what is in it. When I look at the whole structure of things, I think that it would probably be wrapped up best by the concerns expressed by Local Government New Zealand, which reported that “a concern about possible additional costs for regions and land transport committees as a result of the new prioritisation was expressed by these people”; and that “a number of public and private sector parties consulted had concerns about the efficiency and effectiveness of the differentiated regional fuel tax regime.” So on balance National will oppose the bill for a number of reasons. On that basis, I thank the House for the opportunity of replying to members on the other side of the House.

A party vote was called for on the question, *That the Land Transport Management Amendment Bill be now read a first time.*

**Ayes 72**

New Zealand Labour 49; New Zealand First 7; Green Party 6; Māori Party 4; United Future 2; ACT New Zealand 2; Progressive 1; Independent: Field.

**Noes 49**

New Zealand National 48; Independent: Copeland.

Bill read a first time.

**Hon RUTH DYSON (Minister for Social Development and Employment)** on behalf of the **Minister of Transport**: I move, *That the Land Transport Management Amendment Bill be considered by the Transport and Industrial Relations Committee, that the committee report by 25 March 2008, and that the committee have the authority to meet at any time while the House is sitting, except during oral questions, during any evening on a day on which there has been a sitting of the House, on a Friday in a week in which there has been a sitting of the House, and outside the Wellington area during a sitting of the House, despite Standing Orders 192, 194(a), and 195(1)(b) and (c).*

A party vote was called for on the question, *That the motion be agreed to.*

**Ayes 66**

New Zealand Labour 49; New Zealand First 7; Green Party 6; United Future 2; Progressive 1; Independent: Field.

**Noes 55**

New Zealand National 48; Māori Party 4; ACT New Zealand 2; Independent: Copeland.

Motion agreed to.

**THIRD READINGS**

Debate resumed from 24 October on the third readings of the Armed Forces Discipline Amendment Bill (No 2), the Court Martial Appeals Amendment Bill, the Defence Amendment Bill (No 3), and the Court Martial Bill.

**Hon GEORGINA TE HEUHEU (National):** I am pleased to speak on the third readings of the Armed Forces Discipline Amendment Bill (No 2), the Court Martial Appeals Amendment Bill, the Defence Amendment Bill (No 3), and the Court Martial Bill. As the titles indicate, specific matters are dealt with in each bill. I want to focus primarily on the overall principle underpinning the reforms in these bills, and that is that the military justice system in place in New Zealand must ensure that the rights enjoyed by all New Zealand citizens in the overall justice system are available to our Defence Force personnel.

It goes without saying that as New Zealand citizens themselves, our military personnel have a right to expect that their access to justice and the maintenance of their rights within the military justice system are no less than if they were living their lives as civilians. Indeed, given that discipline lies at the core of a modern, professional, highly disciplined, fully functioning, and efficient military capability, those same serving men and women might expect more. In the exercise that has led to these reforms they can, I think, be confident that to the fullest extent possible they have been afforded no less than their fellow New Zealanders. In this regard we as parliamentarians have been presented with a once-in-a-generation opportunity to update our military justice system and, in the process, to provide the New Zealand Defence Force with a modern system that befits New Zealand's democratic tradition and reflects the values we hold dear—values such as liberty, respect for the rule of law, respect for human rights, fairness, and so on.

The 21<sup>st</sup> century was probably always going to be an appropriate time to update the law, so in that sense, I guess—although we are 8 years into this century—we might say it is timely to have these reforms, but it has taken the Government nearly a decade to bring these reforms to the point where they are about to be passed into law. It is timely not only because every country likes to think there is a certain time at which it will modernise its institutions but also in so far as regarding some of the changes that have occurred both in our domestic situation and in international terms.

With these reforms we have been given an opportunity to ensure that the military justice system is properly aligned to the structure and modern conditions of our armed forces. Over recent years we have seen the joint orientation of our military—or three into one, so to speak—with the army, the navy, and the air force being brought together in a joint operation. Not only are they working together, training together, and operating together in a joint capacity at home, but also in their deployments overseas they are working in a way that better aligns the overall objectives of a modern military force.

The other reason that these reforms are timely is that they ensure that our military justice system is consistent with international developments and international human rights standards, which we are always diligent about incorporating into our domestic law. We have done that in recent years. Through modern technology, the actions and behaviours of nations in the conduct of their military operations, particularly outside of their own territories, are now wide open to international scrutiny. In that environment it is absolutely imperative that New Zealand, a country that has a very fine reputation for upholding human rights and freedoms, is seen to be in line with international norms not only in the way that it conducts itself in its military operations but also in the way it upholds and supports the rights of its serving personnel. The reforms before us come with those values and notions primarily in mind.

Our reputation is high in this area. We always have to be diligent about making sure that our reputation for protecting human rights and, no less important, the rights of our serving armed personnel is maintained. As I have mentioned, discipline lies at the core of a professional, modern, and efficient defence capability. Integral to that is a comprehensive military justice system that keeps pace with the current military

environment. Of course, this has changed markedly from the environment of, say, a decade to 15 years ago, particularly following 9/11. The images that have come out of Iraq and Guantánamo Bay, in particular, clearly show what can happen when discipline as we know it and as we value it has broken down and when human rights standards are violated. We will not want to be any part of that kind of violation, and we never will be, but, as I say, it does take a determined effort on the part of our officials and also of ourselves as parliamentarians to make sure that those sorts of images remain far away from where we are in the international scene. Over the past few years our Defence Force has been going through a process of modernisation to meet new and complex challenges, and it is absolutely appropriate that we ensure that our military justice system undergoes the same treatment.

I will briefly look at the bills in their single form. The Armed Forces Discipline Amendment Bill (No 2) standardises across the three services the delivery of justice at the summary level. It will ensure that service members appearing before their superiors on disciplinary matters will be better advised of their rights and will have someone to speak on their behalf.

The Court Martial Bill will, for the first time, establish a Court Martial of New Zealand as a permanent court of record. It provides for the constitution, powers, and procedures of the court, and, in particular, that the judges of the Court Martial will preside over hearings and may more efficiently deal with preliminary issues before the military members of the court have been assembled. It also introduces new features that reflect the nature of modern armed forces, and the manner in which discipline should now be effected within them.

The Court Martial Appeals Amendment Bill will introduce important new provisions relating to the constitution and powers of the Court Martial Appeal Court. The Defence Amendment Bill (No 3) clarifies the relationship between the new appeal process at summary and court martial level, together with the very important right that members of the armed forces have to seek redress of a complaint about any other matter from their commanders under the Defence Act.

Our serving men and women of the armed forces make the ultimate sacrifice on our behalf; when they are called they go willingly. Those decisions to deploy them to areas of armed conflict are made right here in this Parliament. The very least that we as parliamentarians can do is to make sure that the military justice system, which serves those serving armed personnel, is up to date, is modern, and ensures that their rights are no less than those of all other New Zealanders.

**Dr PITA SHARPLES (Co-Leader—Māori Party):** Tēnā koe, Mr Deputy Speaker. This bill is being read in a context that reflects the fickle state of popular favour. If this bill had been read a month ago, as the nation commemorated the 90<sup>th</sup> anniversary of the Battle of Passchendaele, the context of military action would have been described using words like courage, sacrifice, comradeship, discipline, and honour. A more dramatic contrast to that would be hard to find than the descriptions of military training that erupted from the depths of the Urewera Valley on what is now known as Black Monday—15 October 2007. Suddenly military training became likened to guerrilla warfare, with wild descriptions of balaclavas, camouflage clothing, napalm gel, and paramilitary activity decorating the debate.

Just an hour's drive from Rūātoki one will arrive at Tūkāki Marae in Te Kaha, where Corporal Willy Apiata VC was recently celebrated in a grand event supported by the New Zealand Defence Force and Te Puni Kōkiri. Tūkāki Marae also has strong links to Second Lieutenant Te Moananui-a-Kiwa Ngārimu who was awarded the Victoria Cross posthumously for actions while serving with the 28<sup>th</sup> Māori Battalion in Tunisia. Fighting for the honour of the country or guerrilla wars—what is it to be?

I raise those contrasts in perceptions because they seem to be central to the context in which military reform is to take place. The suite of bills that we are considering today in this third reading debate has been constructed in such a way as to promote core values of discipline, consistency, fairness, efficiency, and simplicity across the military system. I am particularly interested in the notion of consistency. How is it that “camo” clothing—the parachute pants with multiple pockets and zippers, in colours that blend into the lay of the land—is considered to be acceptable across the pages of the 2007 fashion catalogues but is unacceptable when the people of the Tūhoe nation take it upon themselves to wear it?

Indeed, ironically, camouflage clothing has, in previous eras, been associated with the direct opposite of war—that is, peace. During the Viet Nam War, for example, protestors wore camouflage jackets with peace signs and anti-war slogans written on the backs. Activists made powerful fashion statements in taking on the clothes of soldiers from the very war they were speaking out against. Will the duck and game hunters and gatherers from deepest Canterbury be taken in for questioning if they dare to go shooting in clothes that carry the shading of the jungle?

I mean no offence in raising these questions. They are questions that New Zealanders have emailed to me, written to me, or have rung me about over the last month. They have asked me why it is legitimate to enrol on the 6-week military training course and earn the title of Limited Service Volunteer in a programme run at Burnham Military Camp and sponsored by Work and Income, yet a wānanga run by Tūhoe is likened to a preparatory school for al-Qaeda.

This suite of bills amends the armed forces discipline legislation and reforms the military justice system in line with human rights law. And this, of course, is the greatest inconsistency of all: a Government that has denied indigenous rights and that is happy to disregard the human rights of citizens and children in our small rural communities makes, on the other hand, a great public pretence of being the biggest human rights defender of the South Pacific.

We in the Māori Party, of course, are wholly supportive of the move signalled in this legislation to be compliant with national and international human rights law. We do believe that the proposals in this legislation better protect the human rights of people who face military justice. But one good piece of legislation does not make us a role model for human rights compliance. The proposals in the armed forces law reform legislation, although positive, can in no way justify New Zealand having the audacity to announce its candidacy for the United Nations Human Rights Council for the period 2009-12.

It is also of interest to us in the Māori Party that despite the fact that Māori are strongly represented in the army and navy, no briefing or advice on this legislation had been received from Te Puni Kōkiri. Once again, the question must be asked as to why we have a department ostensibly set up to advise the Government about the impacts for Māori, yet we do not ask it for informed comment on legislation such as this. In particular, we would be interested in seeing what advice Te Puni Kōkiri could bring to bear on these four bills in relation to the application of the Declaration on the Rights of Indigenous Peoples. In that declaration, article 30 states: “Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a significant threat to relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.” So when we think of the purpose of these bills being to reform the military justice system in line with developments in human rights law, we would of course presume that to be in line also with the human rights of indigenous peoples.

Another key movement in these bills has been to respond to the anomaly of the existing practice that legal representation is excluded from the courts of inquiry in all cases. That has long been thought to be inconsistent with the right to natural justice, so we welcome the assertion of rights that will make these bills compatible with the New Zealand Bill of Rights Act 1990. In particular, we welcome the initiative this legislation makes with regard to sections 24(c) and 25(a) of the New Zealand Bill of Rights Act. The House will recall that section 24(c) states that everyone charged with an offence has “the right to consult and instruct a lawyer”, and section 25(a) states that everyone has “The right to a fair and public hearing by an independent and impartial court.” The Māori Party supports, therefore, the amendments included in the bills, which now better protect the human rights of those who take up the challenge of working for the military.

Finally, we are pleased to support the momentum ensuring that there will be consistency across all strategic environments in respect of the summary disposal systems. The existing law lacks any appeal system for summary disposals, so the changes included in these four bills to ensure joint operational orientation across the army, navy, and air force are very positive. We believe that the key features of the four different bills included in this package will greatly enhance the efficiency of the military justice system in its first significant reform since the original Armed Forces Discipline Act came into force some 24 years ago. We support also the possibility of better justice for all, and if these bills are the starting point in the military sector, then the Māori Party is happy to lend its support to them at their final readings. Thank you.

**JILL PETTIS (Labour):** I am pleased to speak in the third readings of the bills coming out of the Armed Forces Law Reform Bill. There has been no substantial reform of the military justice system in New Zealand since the Armed Forces Discipline Act 1971 came into force in 1983. As we know, domestic and international developments in human rights law, particularly the enactment of the New Zealand Bill of Rights Act 1990, necessitated a thorough review of the military justice system in New Zealand. The review, most ably conducted by the New Zealand Defence Force, recommended a large number of reforms. Those reforms are reflected in this bill, which will amend the Armed Forces Discipline Act 1971, the Courts Martial Appeals Act 1953, and the Defence Act 1990.

The legislation will also make a number of consequential amendments. The amendments are the result of a review of the New Zealand military justice system conducted by the New Zealand Defence Force. The review was aimed at revising the system to take account of changes in domestic and international human rights law, including the New Zealand Bill of Rights Act 1990. The legislation makes major and quite considerably far-reaching changes to New Zealand’s military justice system. These alterations were the subject of extensive internal consultation by the New Zealand Defence Force during the whole of the review period.

Over 4 long and intensive years detailed input was sought from all members and at all levels of the armed forces, including the Judge Advocate General. I had the pleasure of participating in some of the process of this legislation through the Foreign Affairs, Defence and Trade Committee, and I know that the committee wanted to commend wholeheartedly the legal staff of the New Zealand Defence Force for their competence and professionalism in the initiation and conduct of the review and the modernisation of the law. The whole review process was excellent and highly professional, and we were proud to listen to the advice we were given by the legal arm of the New Zealand Defence Force personnel as they presented to the select committee.

Military discipline has changed considerably, and today, as a consequence of this armed forces reform legislation, it more closely reflects the social mores of present society. The legislation is a reflection of the many changes we have seen in society not

only in our relatively short lifetimes but also in the history of the military in New Zealand. The discipline meted out today is far different from what it was even 30 years ago, and if we look back through the annals of history we see that what was acceptable in our parents' day and grandparents' day is no longer relevant today.

The Labour-led Government believes that the same rights enjoyed by civilians in the criminal justice system should be applied to our armed forces personnel under the military justice system. The purpose of this legislation is to establish an effective and fair system of military justice, and I believe that it does that, partly because of the highly professional work that was done during the 4 years of the review. The current military justice system is governed by the Armed Forces Discipline Act 1971. However, domestic and international developments in human rights laws, as well as the enactment of the New Zealand Bill of Rights Act, made it necessary to review the military justice system, as I referred to before.

I take this opportunity to compliment the New Zealand Defence Force personnel, who make us very proud when they serve internationally and domestically, and I commend the legal staff of the New Zealand Defence Force for the work they have done to modernise the armed forces legislation. Thank you.

Bills read a third time.

### **BUSINESS OF THE HOUSE**

**Mr DEPUTY SPEAKER:** We will proceed to elect a temporary Chair for the Committee. Do I have a nomination?

**Hon RICK BARKER (Minister of Internal Affairs):** I would like to nominate Mr Burton to be the temporary Chair.

**Mr DEPUTY SPEAKER:** Thank you for that. Mr Mark Burton, thank you.

### **HUMAN TISSUE BILL**

#### **In Committee**

#### **Part 1 General provisions**

**Dr JACKIE BLUE (National):** I am delighted to stand to talk to Part 1 of the Human Tissue Bill. It is a bill that the National Party is supporting all the way through, although we have some concerns about the fact that an organ donor register will not be implemented immediately and there is provision for one only under a future Government.

The Human Tissue Bill replaces the Human Tissue Act 1964. It regulates the collection and use of tissue primarily from deceased people, and also covers the use of tissue for non-therapeutic uses, such as education, research, audit, the use of cadavers in medical schools, and so on. It also regulates the trading in tissue, regulates the schools of anatomy, and closes gaps in the current regulations for the use of tissue in living people. As I mentioned, it allows for the provision of an opt-on organ donor register, with the details to be determined by a future Government.

The Human Tissue Bill provides a consent framework in which the individual's wishes are given primacy, and the definition of "informed consent" is included in Part 1. The National Party certainly supports this intention. In fact, it is the basis to the Code of Health and Disability Consumers' Rights, which was launched in 1996. Certainly, the code of rights came out of a recommendation from the cervical cancer inquiry in 1988, which really was a turning point in the health system. So this bill certainly has a very good tradition. It goes right back to that cervical cancer inquiry. Specifically, the code talks about the individual's right to be fully informed of the right to make an informed choice and give informed consent. The difference with the Human Tissue Bill is that it

predominantly regulates the collection of tissue from dead human bodies, and the code is about living people.

It does raise a number of complex issues. The purpose of this bill has been defined, and it covers principles such as taking into account the autonomy and dignity of the individual, and the cultural and spiritual needs, values, and beliefs of the immediate family, as well as the cultural, ethical, and spiritual implications of the collection or use of human tissue. Generally, it does not involve the requirement or acceptance, or the offering or provision, of financial consideration. That means we are not allowed to pay for services.

The Health Committee heard from a company called CordBank in Auckland, which is a private company that collects cord blood from the umbilical cords of newborn babies. The purpose is that there are a lot of rich stem cells in cord blood. Stem cells are the precursors of all living cells. The parents of these newborn babies elect to have the cord blood collected and stored in case their child might develop some blood cancer abnormality in the future. Obviously, it is not a widespread practice at the moment, though I understand from a ministerial letter that there could be a publicly funded cord bank available. CordBank is a private cord bank, and of course the midwives who take the blood are paid for the service—there is a fee, a transaction. Under this bill, that would not be allowed. CordBank was very concerned that it would go to the wall and have to close its business. Fortunately, everyone on the committee could see the company's point, and provision was made for this particular organisation.

Clause 4 gives an overview of the Act. It talks about the collection of non - health care tissue. This did cause a little bit of concern and confusion as to what a non - health care tissue or procedure was. The officials tried to give us some examples, but it was a little bit confusing. Essentially, from what I took of it, a non - health care tissue was like a hair sample taken through not a health care procedure but perhaps a haircut. If later on that piece of hair was used for donor analysis or genetic testing, it would come under this Act.

We had a number of definitions that we had to get to grips with, but once they were explained and we had some flow chart diagrams they were quite simple. There was a definition of “immediate family”, which is members of the family or whānau who were in a close relationship with the individual and had, in accordance with the customs or traditions of that community, responsibility for the individual's welfare. Then we had the definition of “close available relative”, which was in relation to a person who was over the age of 16 at the time of death. There were different levels of “close available relative”. At one level we had the spouse or civil union partner—

Progress reported.

Report adopted.

**The House adjourned at 9.56 p.m.**

