

Communications Security Bureau (GCSB)—so they can find out who and why, and so they can protect us.

Mr Shearer said yesterday that when he was the victim of a terrorist attack, he witnessed the death, the human suffering, and the carnage that that brings. I am sure he has played over in his mind many times how that attack might have been prevented or stopped. The quickest way to invite a terrorist attack is to become complacent and to say “It can’t happen to me. Why would anyone attack us?”. Is that what happened to Mr Shearer? Was he a victim of “It can’t happen to me.”? Had complacency crept in? Mr Shearer indicated yesterday that he had to witness death and suffering before he became serious about security. Well, our Prime Minister has shown that he cannot, and will not, wait for people to die before he becomes serious about our security. He takes our security seriously right now.

We are incredibly lucky in New Zealand that we have the most transparent and open political system in the world, which allows us to debate and challenge ideas and legislation. The GCSB legislation has been a classic example of this. The legislation has had the full blast of sunlight on it for all to see. It has been debated until the cows come home. It is good legislation, which has created certainty and clarity where there was none. It provides rigorous checks and balances and multiple hoops to jump through before any information is able to be obtained by the agencies tasked with protecting us.

Finally, I would like to share some of my own observations. I do not want to be an alarmist but, on the other hand, I do not want a malaise to become part of our psyche—a malaise that tells us that somehow we have become immunised against the threats that the global community faces. We have not. For a decade I witnessed the pain, suffering, and fear that come with terrorism. I was forced to deal directly with groups like al-Qaeda, al-Shabaab, and the Lord’s Resistance Army. Sometimes they are brutal and unsophisticated in the way they operate. At other times they have the use of the best and the most sophisticated technology available. Sometimes terror attacks are planned sitting on a dirt floor in a shanty town in Mogadishu. At other times they are planned in a penthouse in a European city. But one thing they have in common is a desire to defeat security measures that Governments put in place to protect their people. They can sniff out weakness and complacency at a thousand miles.

I would like to acknowledge our Prime Minister, who is making sure that we are not an easy target and who is taking the steps necessary to ensure that someone like Mr Shearer does not become a victim again. Thank you.

The debate having concluded, the motion lapsed.

GOVERNMENT COMMUNICATIONS SECURITY BUREAU AMENDMENT BILL

INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY AMENDMENT BILL

INTELLIGENCE AND SECURITY COMMITTEE AMENDMENT BILL

Third Readings

Rt Hon JOHN KEY (Minister responsible for the GCSB): I move, *That the Government Communications Security Bureau Amendment Bill, the Inspector-General of Intelligence and Security Amendment Bill, and the Intelligence and Security Committee Amendment Bill be now read a third time.* This is essential legislation that has attracted a lot of debate, much of it alarmist. It is one of the strengths of our country that people who oppose legislation have the opportunity to do so. That is their right, whether or not they understand what the legislation actually does. Some people are fundamentally opposed to the work of the intelligence agencies. Those critics oppose

the agencies almost on principle. As Prime Minister, I am not one of those people. That is because I have access to evidence that shows that without the Government Communications Security Bureau (GCSB) and the SIS, our national security would be vulnerable. There are threats our Government needs to protect New Zealanders from. Those threats are real and ever-present, and we underestimate them at our peril. New Zealanders are entitled to expect that their security is something that the Government takes seriously. We do, and we take it very seriously. But we cannot say that we take it seriously and then not make the tools available to allow our security services to do their job. That is the opposite of taking security seriously, and that is something that I will never do.

Over the past 4½ years that I have been Prime Minister, I have been briefed by intelligence agencies on many issues, some that have deeply concerned me. If I could disclose some of the risks and threats from which our security services protect us, I think it would cut dead some of the most fanciful claims that I have heard lately from those who oppose this legislation. But to disclose that work publicly would in some cases jeopardise it, and so I cannot. I can only assure New Zealanders that the GCSB is a necessary and valuable contributor to our national security, just as my predecessor, Helen Clark, said when she said much the same thing a couple of weeks ago.

Today, as the House debates this legislation, I think it is important that we all know why it is needed. It is not a revolution in the way New Zealand conducts its intelligence operations. It is not about expanding the powers of a mysterious intelligence empire. It simply makes clear what the GCSB may and may not do, and it fixes an Act passed under the Labour Government a decade ago that is not, and probably never has been, fit for purpose. So it is a great shame to see Labour now running away from sorting out the problems it created. But here, in the National Government, I recognise the importance of national security, and I am pleased that John Banks and Peter Dunne do too. I acknowledge Mr Dunne and Mr Banks for their efforts to strengthen this legislation. It is better legislation for their input.

The legislation makes clear the GCSB's three functions. These are information assurance and cyber-security, foreign intelligence, and assisting other agencies. The first of these functions allows the GCSB to help protect Government organisations and important private sector entities from cyber-attacks. This is a growing threat that targets our information and the intellectual property of our best and brightest. Already this year the number of logged cyber-attack incidents is larger than it was for all of last year. The GCSB's specialist skills can help protect departments and companies, and this legislation gives it a clear mandate to do that. A lot has been said about this, so I want to be clear about a few things. Firstly, cyber-security is about protecting our secrets. It is not about spying. The legislation requires the GCSB to get a warrant from the independent Commissioner of Security Warrants and me before it can intercept a New Zealander's communications. That warrant must be issued for a particular function—in this case, cyber-security. The clear intention of the function is to protect, not to spy.

The legislation also allows for conditions to be put on warrants, and I intend to do just that. I will not allow cyber-security warrants in the first instance to give the GCSB access to the content of New Zealanders' communications. There will be times when a serious cyber-intrusion is detected against a New Zealander, and the GCSB will then need to look at the content. That is why the legislation allows for that, but that should be the end point, not the starting point. So I intend to use a two-step process for warrants, requiring the GCSB to come back and make the case for a new warrant to access content only where the content is relevant to a specific threat. I also expect the GCSB to have the consent of the New Zealander involved unless there is a very good reason not to.

The second function of the GCSB is, as I said, collecting foreign intelligence. That, by the way, is the largest proportion of the agency's work.

The third function allows the GCSB to assist the police, the New Zealand SIS, and the Defence Force. This is something it has been doing for more than a decade, including under the previous Government. At all times the GCSB believed that it was acting lawfully, as did the Inspector-General of Intelligence and Security and successive Prime Ministers. This is because the Government Communications Security Bureau Act said that it could assist others, but it also stated that it could not undertake surveillance on New Zealanders. No agency should operate with such an ambiguous legal framework. The Kitteridge review identified just 88 cases of assistance over 10 years, at an average of under nine people a year, so this is not, and never will be, about wholesale spying on New Zealanders.

The truth is that the GCSB has unique capabilities, and it makes no sense to duplicate those when they are so rarely used. Instead, we will make it clear that the GCSB can assist only those three agencies and only when they are able to show that they have the lawful authority to undertake the surveillance themselves. Nothing in this legislation allows for wholesale spying on New Zealanders—nothing. The legislation actually tightens—it does not widen—the existing regime.

I also want to be clear about another issue in the legislation, and that is metadata. There have been claims that this legislation offers no protection for metadata and that it allows for the wholesale collection of metadata without a warrant. None of that is true. Metadata is treated the same in the legislation as the content of a communication. So when the GCSB wants to access metadata, it is treated with the same level of seriousness and protection as if the GCSB was accessing the actual content of a communication, and there are protections around that.

The legislation is good legislation and it is necessary legislation. It fixes the problems with the current Act and clears up the ambiguities that Labour passed into law a decade ago. It puts in place a robust review of the intelligence agencies in 2015 and every 5 to 7 years thereafter. It requires more transparency through open public hearings for the financial reviews of the intelligence agencies. It requires the GCSB to tell New Zealanders how many times it has assisted other agencies and how many warrants and authorisations have been issued. It gives the GCSB a set of guiding principles. It acknowledges the importance of human rights, independence, integrity, and professionalism. It puts in place a stronger oversight regime, which will go some way to rebuilding confidence in the GCSB.

Let me finish by saying this. I have rarely seen so much misinformation and conspiracy about a subject as has been perpetuated about this legislation. That has some citizens agitated and alarmed, which I regret, but my regret about this would be nothing compared with the regret if this measure was not passed and New Zealanders were harmed because of the gap that currently exists in our security arrangements. This legislation is being passed today because its provisions are needed today. They are needed right now because there are threats against us right now. Others may play politics with the security and lives of New Zealanders, but I cannot, and will not, do so. That is why I commend this very good legislation to the House.

DAVID SHEARER (Leader of the Opposition): I start by first thanking the Prime Minister for coming to the House and explaining to us what his Government Communications Security Bureau (GCSB) legislation is, in fact, going to do, and may I recommend that next time the Government puts the clauses into the bill, rather than having to rely on a third reading.

Today we confront a challenge that countries around the world are grappling with: how we keep our countries safe from cyber-intrusion and terrorism. That threat is very

real, and I have experienced it at first hand. I absolutely understand the critical importance of national security, and we in the Labour Party take that very seriously. But just as important is how we balance that with the need to protect our freedoms and our right to privacy. That is our challenge.

We are living in an age dominated by everything digital and developing at a pace without equal in humankind. Just a few short years ago we communicated solely via letters in the mail. That is a dying trade these days. Instead, the internet dominates our lives, and we use it to educate ourselves and others, to create new innovations, to communicate, and to do business at home and around the world. With it and other technology, almost anything can be found out about anyone at the touch of a button: where someone lives and works, what they do in their spare time, whom they talk to, and what they say—every detail of our most private moments that we hold sacred. In the wrong hands this technology can be used as a weapon to pry into our lives in a way that we all find abhorrent. We cannot completely prevent that kind of abuse by individuals and organisations with malicious intent. The power of the Government and its security agencies can play their part to combat that threat, but we must have confidence in those agencies, we must be clear about the limits, and we must trust the oversight that has been given to them.

The legislation being passed today was the perfect opportunity to be a world leader in addressing this area. The revelations of Bradley Manning and Edward Snowden have created global disquiet, but the sad fact about the GCSB legislation is that all that it has achieved is to fuel fear about the State's ability to pry, not about those threats that we may face. That has been because of the way the GCSB legislation was written and rammed through Parliament.

We could have seized the chance to thoroughly investigate how our intelligence sector works in an increasingly global environment. We could have robustly debated the rights and responsibilities of the State and when and how it should deploy the tools at its disposal for our national security. We could have based the legislation on the findings of a full and independent inquiry. We could have been a world leader, confronting these dilemmas and charting through a path that would act as a model for other countries. We have been a leader in the past. We led in giving women the vote in the 19th century, and we led in having a nuclear-free New Zealand in the 20th century. This was our opportunity to lead again. That would have been a great starting point for restoring Kiwis' confidence.

Instead, this legislation is about simply getting across the line. It is about finding a quick remedy to a political hangover. John Key tells us that people do not care about this issue. Well, we know that that is not true. Thousands of New Zealanders have marched in the streets and gone to rallies, and there have been debates in workplaces, homes, and communities right across the country. They might not understand John Key's confused and complex explanations about how sections 8A and 8C relate to section 15 or section 14 or whatever, or the two-stage warrant process that he would be sure to put in place as Prime Minister. But they do not find this legislation at all reassuring. They have no faith that we have got the balance right or that we have fully thought through the consequences of this law.

Labour was open to negotiations from the beginning. We had a principled position that we needed a thorough inquiry right across our entire intelligence network, because that was fundamental to getting the solution correct. John Key did us the courtesy of listening, but he made it crystal clear that he was not interested in any compromise. He did not want to deal with Labour or anyone else because he already had Peter Dunne in the bag. He had the single vote, the one vote, that he needed to pass this legislation today. I find that deeply, deeply disappointing. This issue strikes at the heart of our

society, our sovereignty, and our rights and freedoms as citizens of this country. It is too important to simply bring it back to a numbers game, to a situation where you have a willing buyer and a willing seller.

This is a sad day. We are passing legislation that is ad hoc, that is mickey mouse, and where you have to have a third reading to explain exactly what it will do. It will do nothing to reassure New Zealanders that their private lives are safe from the prying eyes of our spies. Right up to the last minute, the Prime Minister has been forced to clarify what the GCSB will actually achieve, whether it will be able to read your emails, how many warrants it needs, and what foreign powers it might share that information with. New Zealanders deserve much better than that. They deserve better than bad law. They deserve better than the loose law they are seeing in front of us today, the law that leaves them looking over their shoulders. New Zealand could have led the way in responding to an increasingly digital age and got the balance right between keeping our citizens safe and our personal freedoms intact.

There is hope, though. The next Government, a Labour-led Government, will take a different path. We will act on day one in office to commission the full review that we have promised. We will seek agreement across this Parliament for terms of reference. We will involve New Zealanders at every step of the way. We will replace this law with a world-leading one that is based on the findings of that comprehensive inquiry, because the only way we will ever win back people's trust, which has been so sadly lost right across this country, is to get an enduring solution that works in the best interests of this country. Thank you.

Hon BILL ENGLISH (Deputy Prime Minister): Well, I think I heard in that speech a reference to a piece of legislation that “strikes at the heart of democracy”. You would think that if this Government Communications Security Bureau (GCSB) legislation that we are debating for the—who knows—fifth or sixth time in this Parliament struck at the heart of democracy, the Leader of the Opposition could have told us how, but he did not. In fact, he pointed out that he needed a third reading speech from the Prime Minister to understand the legislation and show what was in it. That is negligent of his duty as the Leader of the Opposition because, uniquely among the issues a Government deals with, security issues are the ones in which the Leader of the Opposition participates. He participates. He is briefed, not on every issue, but on anything that matters, actually. He ought to know what is in this legislation before he gets to the Prime Minister's third reading speech, at 4 o'clock on a Wednesday afternoon, after 12 months of debate about this legislation.

That is what we have heard from the Opposition members. What we have heard is a whole lot of leftover, half-warmed rhetoric about democratic rights, and none of the attention to the detail, the law, and the balance that this issue deserves. They simply have not contributed—

Hon Hekia Parata: At all.

Hon BILL ENGLISH: —at all—to settling the issues that they say are so important. That makes some of us question their intent on this piece of legislation.

What this debate, which has been so shallow, has done is it has told us more about the state of the Labour Party and the Green Party than it has about security law. Security law, of course, is a bit complicated. That is why we are here—because the Labour Government got it wrong 10 years ago. It got it wrong.

Grant Robertson: Who voted for it, Bill?

Hon BILL ENGLISH: We voted for it.

Grant Robertson: You voted for it.

Hon BILL ENGLISH: We voted for it—yes, we did. And I think that is exactly the point. We voted for it because that regime was better than the one that was there before.

There was a late change made to it that did not suit us politically, but we supported it because we believed that better security and intelligence law was important for New Zealand. What did this Labour Opposition do? Those members sat around in their student politics common room discussions and said: “Why don’t we try to score some political points?”, and now they have learnt a harsh lesson.

The Greens are much better at scoring political points. The Greens believe that there are no threats to New Zealand’s national security. They believe that terrorism is a figment of the capitalist imagination. They are consistent—they are consistent. They score their political points. All the political benefit of opposing this legislation has gone to the Greens.

The Labour Party has deserted, for the first time in a generation, its longstanding role as trusted stewards of security and intelligence issues in the New Zealand Parliament. As the days go by, we have become more appreciative of the balancing and sensible impact that people like Dr Michael Cullen had on that Labour Party, and, to her credit on this issue, the Rt Hon Helen Clark, who in her whole career—and I have seen it unfold for 25 years—was always strong and clear on these security issues.

The Labour Party has shown that it is unsuitable to be a trusted Government on this issue, not because it raises some issues but because it shows a complete inability to deal with and resolve those issues. That was what was required here. We could have had an in-depth, informed debate about the details of this legislation that would improve it. We got that from Peter Dunne, the man who has been on the sharp end of privacy issues. We got it from Peter Dunne. He made suggestions that illustrated that he understood the rules, understood the threats, and understood the seriousness of the issues, and the Government adopted a number of those suggestions because they were sensible.

This piece of legislation was described in detail by the Prime Minister in a way that our political opponents have made sure the public did not understand. It is more cohesive legislation. There is much more transparency.

Andrew Little: What about the Law Society and the Human Rights Commission and the Privacy Commissioner—they didn’t understand it, either?

Hon BILL ENGLISH: Well, the Human Rights Commission did not read it, either. The Human Rights Commission did not read the legislation. More cohesive legislation, more transparency, and more accountability—it is pretty simple. No activity can be conducted under this legislation without a warrant—no activity without a warrant. Secondly, there can be no warrant without scrutiny of that warrant. You cannot just issue it; it has got to be scrutinised. Thirdly, there can be no scrutiny of that issued warrant without independence—that is, independence from the people who signed the warrant. That is the core of this legislation, and nothing we have heard from the Labour Party today makes one single suggestion about any change to that legislation that improves the balance.

Labour has taken the position of someone who has no idea what they are doing. “We’ll have a review. We’ll have a review. We’ll talk to everybody.”—that is the Labour Party, which has been intimately involved with New Zealand security and intelligence issues since the day it became a political party. In recent years it has been fully briefed, in Government and in Opposition, as it did to us. When it comes to rewriting the law, with a whole lot of public interest in it, Labour has got nothing to say—nothing. That is because it chose the shallow, easy, short-term political point-scoring on which the Greens have not just outpointed those members but knocked them out. The Greens have not just outpointed them; they have knocked them out. I have to say that that has been a disappointment—a real disappointment.

It is possible that because the Labour Party has given up that role as a responsible leading political party, this legislation—it is possible—could have been better. It could

have been better, but those members could not be bothered, because they had listened to Grant Robertson, who said to his leader, who has decent and sound instincts on this stuff: “No, take the short cut. Get the political points scored.” Well, Russel Norman dealt to that strategy.

We probably will not have to do security and intelligence legislation for a while because this legislation is much better than the last legislation, and the last legislation—the legislation passed by Helen Clark—was better than what existed before it. Before that, the GCSB had no legal framework whatsoever, and she, rightly, thought that that was a bit much and that there needed to be some framework. We have now intensified that framework in terms of accountability, cohesion, and transparency. That is why the National Government stands behind this legislation.

We are taking the responsible act of a Government that has been entrusted with the security of New Zealanders. We have improved the legislation. More people can see what is happening, and that is good. It is legislation that will stand the test of time. Do you know what I think? I think that if the Labour Party ever got to be in Government and did a review, this is what would come out at the end of it. I just wish that Labour members could have taken the bother to think it through this time and contribute to the debate, but they did not.

GRANT ROBERTSON (Deputy Leader—Labour): New Zealand is a country that has been built on the values of democracy, independence, and transparency. We value our security. We value our privacy. A lecture from Bill English about the importance of security and independence, when it is his Government and John Key who have undermined New Zealanders’ confidence in our security and intelligence agencies, is something we on this side of the House will not take. The politics that have been played here have been played by John Key, demeaning and diminishing any opposition to this bill and arrogantly dismissing agencies like the Human Rights Commission, the Law Society, Marie Shroff, who is the Privacy Commissioner, Sir Geoffrey Palmer, and Sir Bruce Ferguson—all of them dismissed out of hand by an arrogant, out-of-touch Prime Minister, John Key. We will not take that from this National Party.

As we stand here today, this Government Communications and Security Bureau (GCSB) legislation undermines those core New Zealand values of democracy, independence, and transparency. It damages our democracy, and the Labour Party opposes this legislation absolutely. It has been driven through by John Key and a National Party that has lost touch with the concerns of New Zealanders—the thousands of New Zealanders who have marched up and down streets across New Zealand, the 1,500 or 2,000 who showed up at the Auckland Town Hall, and the 50,000 who emailed *Campbell Live*. John Key dismisses those concerns as being wrong and irrelevant. He has lost touch with New Zealanders on this issue. He has lost touch, and arrogantly dismisses all of the concerns raised by genuine people who say to him: “You, John Key, are destroying the trust and confidence of New Zealanders in their security and intelligence agencies.”

John Key is not taking New Zealanders with him on an issue that is so serious for our future. He is relying on a one-vote majority to fundamentally expand and change the powers of the GCSB—a one-vote majority that the person giving it has acknowledged was bought; willing buyer, willing seller. That is what changes the law today to expand the powers of the GCSB. The loss of confidence in New Zealand’s security agencies lies at the feet of John Key. It started with his evasions around Kim Dotcom, his inability to front up to New Zealanders. He had to have every detail dragged out of him about that illegal spying, and then when it emerged that there was more illegal spying, the details of that had to be dragged out of John Key. He tried to cover it up for months.

He loses touch with New Zealanders and he loses their trust and confidence when he does that.

Then he appoints his childhood friend to run the GCSB. He pretends he did not contact him, and then it emerges that he did contact him. He was the only person interviewed for the position, Mr Key. That is not consistent with the values of New Zealanders. New Zealanders know it is wrong to appoint your mate to a job like that. That is so serious and important for New Zealanders, and that is what reduces the confidence and trust of New Zealanders in our security agencies.

Then John Key loses touch with the international events that are going on. We are not living in a vacuum here. There are things happening all over the world around the security of citizens and around how their privacy is treated. This was, as David Shearer said, an opportunity for New Zealand, a moment for New Zealand to say: "We understand how much the world has changed in a decade. Yes, this legislation needs to change, and we'll do that on the basis of the values of New Zealanders—on the basis of democracy, on the basis of independence, on the basis of transparency." But John Key did not take up that opportunity. He did not take New Zealanders with him. If there had been a review, that would have been an opportunity for a conversation with New Zealanders about what they want from their agencies. It would have taken New Zealanders with them and rebuilt that trust. But John Key ploughs on, trying to put a Band-Aid over the political wound that is the GCSB, and he does that at the expense of our democracy.

The Government and John Key have failed to make the case for this legislation. He threw out the al-Qaeda threat on *Breakfast with Si and Gary*. We had him stand up in the House today and say: "I can't tell you about all these terrible things that are happening, but, by the way, when I was talking to Si and Gary, I threw Yemen in." That is how much respect John Key has got for this Parliament. He puts that out there to Si and Gary, but he will not come to this House and be upfront with us. The work has not been done to build New Zealanders' confidence and trust into this bill.

John Key and Bill English have both said today that this bill does not expand the powers of the GCSB. That is wrong. It fundamentally does. It includes a brand new function for the GCSB. John Key chose to come to the House today and reinterpret section 8A, inserted by clause 6 of the legislation. He tells us today that he can define how warrants will be put under that legislation. Well, I say to Mr Key: "Put it in the law." Put it in the law if that is what you believe, because section 8A deals with something that New Zealanders are very concerned about—the question of whether or not the content of their emails and their communications can be looked at. It is clear that there is no clause in this legislation that provides that protection.

John Key says that section 8A is about protection. Well, how is he going to provide that protection? He is going to provide that protection by using the powers of the GCSB to spy, and therefore New Zealanders deserve to be protected. But you know what? New section 14, inserted by clause 12 of this legislation, which allegedly protects New Zealanders, applies to only one of the three functions of the GCSB. It does not apply to section 8A. So New Zealanders are not protected in this legislation when it comes to the cyber-security and information assurance function. Today in the Privileges Committee, Ministers from the National Government were horrified when they discovered that their metadata was suddenly going to be looked at. They were appalled by this. Well, if they are appalled by that, why will they not provide those same protections to ordinary New Zealanders whom they are so worried about? My colleague David Parker will talk more about that in the future.

I also want to refer to another expansion of powers that John Key will not admit to. Section 8C, inserted by clause 6, allows the GCSB to cooperate with other agencies and

provides support to them. Once upon a time, when that power was in the Government Communications Security Bureau Act 2003, it was limited to the safety of any person and the prevention or detection of a serious crime. Those criteria, those provisos, have gone. They have gone. Section 8C says that the GCSB can support the SIS, the New Zealand Defence Force, and the Police in any of their functions. Anything that they do, the GCSB is now able to work in that space. Remember that section 8C is not covered by new section 14, which protects the rights of New Zealanders.

This was an opportunity to improve the oversight mechanisms. A lot has changed in a decade in this country. We do need to improve the oversight mechanisms that were in the 2003 Act, but, instead, there is a tinkering around the edges that concentrates all the power in the hands of John Key, the very man who has ensured that New Zealanders' trust and confidence has disappeared from our security agencies. There is still an opportunity for a member of National to show some conscience and get up and cast their vote against this bill. John Banks could do it. He could listen to the libertarian part of his party—the ACT Party—that is telling him and saying to him that this is wrong and against the ACT Party's principles. He could vote against it. Peter Dunne could actually come good on his word when he said this: “New Zealanders will never be spied on.” That is what he said. He said: “I would never vote for that.”, but today he votes for that. He could turn it round.

What we need in this House is for MPs to stand up for New Zealanders' values of democracy and independence and transparency. The Labour Party is standing up for those values by opposing this bill today. When we are in Government, we will get rid of this law and we will replace it with a law that will restore the confidence of New Zealanders in their security agencies. It will get the balance between security and privacy, and it will support the values of New Zealanders. Labour will stand up for those values; today National trashes them.

Dr RUSSEL NORMAN (Co-Leader—Green): I rise on behalf of the Green Party to speak on the third reading of the “Big Brother Government Communications Security Bureau Amendment Bill”. As the moment of truth approaches on this legislation, there will be 121 people in this House who will have to make a decision on how they feel about freedom. They have to make a decision as to which way they are going to vote about freedom. Are they going to vote for freedom—for liberty? Or are they going to vote against it? That, fundamentally, is the decision that everyone in this House—the 121 of us here—have to make.

This legislation is a fundamental constraint on freedom. It fundamentally restricts our freedom of expression. It reduces our freedom to live free from State surveillance. In that respect, it is legislation that reduces the freedom of New Zealanders. This is the moment of truth. This is not just an issue for New Zealand, because the Government Communications Security Bureau (GCSB), which this legislation considers, is part of a global spying network called the “Five Eyes”. I think the global context is absolutely essential when considering this legislation.

A few days ago the *Guardian* newspaper revealed that it was forced by the Government of the United Kingdom to physically smash up the hard drives of its computers. We had the Government of the United Kingdom, which prides itself on being the home of freedom and liberty, to some extent, forcing the *Guardian* newspaper people to smash up their computer hard drives in the basement of their newspaper offices. That was because those computer hard drives contained information about the “Five Eyes” global surveillance network—the documents that were released by Edward Snowden.

Those documents have revealed to every citizen on planet Earth that the “Five Eyes” network, of which New Zealand is a member, is engaged in a global surveillance

activity, where it is spying on all electronic communications that it can possibly get its hands on, which is a pretty complete set, and is analysing them and storing them in a very large database.

Beyond that, the partner of one of the journalists who has been intimately involved in exposing this global surveillance network that the United States and the “Five Eyes” network have established was detained without an arrest warrant for 9 hours under anti-terrorism laws, as he passed through an airport. He was detained for 9 hours under anti-terrorism laws, without any kind of arrest warrant. All of his information devices were taken away from him and copied.

The reason why this is relevant to this legislation in particular is that the GCSB is New Zealand’s contribution to the “Five Eyes” network and the global surveillance State. The way that New Zealand and New Zealanders, whether they realise it or not, whether they consent to it or not, participate in this global surveillance State is through the GCSB. What we are seeing is that the States that have prided themselves on their commitment to liberal values and a commitment to freedom of expression are now leading the world in cracking down on those very values themselves.

The veil of liberalism, which all of us, I would hope, believe in, is slipping, and what we are seeing is that the kind of State that has emerged now in the United Kingdom and in the United States is the kind of State that would have Edmund Burke spinning in his grave. This kind of global surveillance State is the exact antithesis of what those who led revolutions, through the 19th century in particular, believed in when they believed we should extend citizens’ freedoms rather than constrain them. They believed that citizens should be free of mass surveillance by the State, and that was a fundamental value that many fought for and many gave their lives for over the past couple of centuries, in order to establish those basic principles.

But here today we find ourselves once again fighting for those basic principles. This legislation significantly extends the power of the GCSB, the New Zealand branch of the “Five Eyes” network. I read to you from the Law Society’s submission on the bill—the Law Society, which the Prime Minister has, very sadly, denigrated over and over again. The Law Society says: “The Bill changes the Government Communications Security Bureau (GCSB) from being a foreign intelligence agency to a mixed foreign and domestic intelligence agency. The Bill empowers the GCSB to spy on New Zealand citizens and residents, and to provide intelligence product to other government agencies in respect of those persons”—those persons being New Zealand citizens and residents—“in a way not previously contemplated and that is inconsistent with the rights to freedom of expression and freedom from unreasonable search and seizure under the New Zealand Bill of Rights Act 1990 (NZBIRA) and with privacy interests recognised by New Zealand law.”

All of the leading law professionals who presented to the Intelligence and Security Committee came to the same conclusion, yet time and again we have had this Government, in a way that is very reminiscent of other authoritarian regimes, denigrating anyone who dared to differ with the Prime Minister on this issue. It is a very sad day in this Parliament when it would appear that there is a majority of a single vote in favour of progressing this law, at a time when the global debate is exactly around these issues—about protecting our freedom in an environment where security is being debated.

It is easy to say that you believe in freedom and liberty in abstraction. But when it comes down to it and we have the debate about freedom and liberty within the context of the Prime Minister screaming hysterically about al-Qaeda, and various other things that he introduces randomly into the debate, I think that is when it gets hard to have the debate around freedom and to protect freedom. What it requires is that we have courage

in our values, courage that those who came before us stood up for something that was important, and that our job here in this House tonight is to stand up for those values once again.

What is important, I believe, is that although we have the somewhat bizarre commentary coming from the other side of the House, it is none the less important that we defend the rights of freedom of speech, that we defend the rights of expression, and that in the House we vote against this bill. We are not, obviously, confident that we will get that result today, but none the less I think it is important.

What we have seen with the debate around this bill is that the Government has consistently tried to confuse people and actively tried to confuse people. The Prime Minister went on *Campbell Live* and said that the GCSB would not have access to the content of people's emails under the cyber-security function. That was completely false, and the Prime Minister was required to correct his answer to that later. Either the Prime Minister does not understand the legislation, which is why he gave a false answer on live television to hundreds of thousands of New Zealanders, or the Prime Minister purposely set out to deceive New Zealanders. Whichever interpretation is correct—that the Prime Minister set out to deceive New Zealanders, or he simply does not understand the legislation—it does not fill us with confidence.

I would also point out that we in the Greens have consistently attempted to amend this legislation, and have put up a series of substantive amendments, which the National Government has voted against. For example, we put forward Supplementary Order Paper 316 to make sure that metadata was included in the definition of communication, so that it was abundantly clear that any protections around communication applied to metadata as well. The National Party, United Future, and the ACT Party voted against that because, of course, they want access to your metadata.

We put up Supplementary Order Paper 317, which said that we should return the GCSB to just its foreign intelligence objectives rather than the spying on New Zealanders objectives that this bill introduces. Again, the National Party, the ACT Party, and United Future voted against it. We moved to tighten section 8B so that the information that is gathered about New Zealanders cannot be passed offshore. The Government says it does not want to pass this information offshore. So we sought an amendment on exactly that point—to prevent the information gathered about New Zealanders from being sent offshore. This was Supplementary Order Paper 315. The Government voted against it. National voted against it once again.

We moved a whole string of amendments to this legislation to try to protect freedom from the depredation of this Government and this Prime Minister, or future Governments and future Prime Ministers who would seek to constrain the freedom of New Zealanders in order to facilitate this global surveillance State, which we now know exists and is coordinated by the United States. The National Party, United Future, and the ACT Party consistently voted against every attempt to tighten this legislation to protect freedom. The Green Party will stand up for freedom and liberty today. We will vote against this legislation.

GRANT ROBERTSON (Deputy Leader—Labour): I raise a point of order, Mr Speaker. I did not interrupt Dr Norman's speech, because I did not think that was fair, but the Attorney-General used an extremely unparliamentary comment—a word that has been ruled out of order numerous times. I am not going to repeat it. He knows what it was. It was in reference to the leader of the Labour Party, and I would ask that he withdraw and apologise.

Hon CHRISTOPHER FINLAYSON (Attorney-General): I was simply repeating what Mr Mallard had said about the Prime Minister.

The ASSISTANT SPEAKER (H V Ross Robertson): Order! I never heard it, but all members here are honourable and their word is their bond. If the member did use an unparliamentary term, I would require him to stand and withdraw.

Hon Christopher Finlayson: Why are different standards applied to members other than the special case, Mr Mallard?

The ASSISTANT SPEAKER (H V Ross Robertson): Order! The member will be seated. He is now challenging my ruling, and I am asking the member—all members are honourable; their word is their bond. If he used an unparliamentary term, I am asking him to stand and withdraw, please.

Hon Christopher Finlayson: I withdraw.

The ASSISTANT SPEAKER (H V Ross Robertson): Thank you very much.

Hon TONY RYALL (Minister of Health): I am pleased to take a call in this very important debate. This legislation, formerly part of the Government Communications Security Bureau and Related Legislation Bill, is more constrained, is more transparent, and offers more scrutiny than the previous legislation. I want to particularly acknowledge the Prime Minister's comments earlier in this debate. He talked about the fact that many people have been unduly alarmed because of the scaremongering associated with this legislation. There are always people in our communities who think their activities are of such interest that some Government agency is monitoring what they are doing, and we saw that from a number of people before the Intelligence and Security Committee, which considered this bill. But let us be quite clear here. This legislation came to Parliament because the legislation that was introduced in the 2000s was not fit for purpose. It was not sufficiently focused, and it created a level of legal uncertainty that required the Government to take the action that it has. I do also want to associate myself with the comments that the Deputy Prime Minister made.

Actually, the issue is an indictment on the Opposition. You know that an Opposition party is ready for Government when it behaves like a Government-in-waiting, a Government-in-waiting that accepts that it has not only a responsibility to secure its own election but also a responsibility to the security of the realm. It has a responsibility to take these issues seriously and responsibly and to act in the better interests of the nation and allow the politics to be run by the smaller parties, which people expect will behave on the fringe, as the Green Party has done. But the Labour Party, as the party in Government that introduced this legislation in the 2000s, the party that had Prime Ministers who acted under the authority of that legislation, would have taken a far more responsible role. And I think the former Prime Minister Helen Clark was right in her subtle criticism of the Labour Party when she appeared on television and alerted the nation to the fact that these powers were needed—these powers were needed. She understood that. Actually, I think senior members of the Opposition are aware of those issues and they are aware of their responsibilities, but this tension playing between the parties of the left meant that those who wanted to play politics in Labour got to have the greater say in the position that that party opposite had.

This Government is responding to the concerns raised in the Kitteridge report and to the issues that were raised before it in the Intelligence and Security Committee, and that is why we have brought this legislation forward. The Government Communications Security Bureau (GCSB) can act under this legislation in three key areas: information assurance and cyber-security, foreign intelligence, and, thirdly, assisting other agencies. I would just like to go through each of those. In regard to information assurance and cyber-security, this legislation is giving the GCSB power to render assistance to Government agencies and key private sector infrastructures in order to protect their information infrastructures. It is not about delving into the information; it is about protecting their structures. I think, as the Prime Minister has said, it is more of a swept-

up version of Norton AntiVirus, which we all have on our computers at home. It is not filtering. It is not sort of reading all of our emails. It is protecting our infrastructure, protecting our communication systems from malware and outside attack. That is the GCSB responsibility there in terms of that area.

The GCSB has specialist skills in this area that can help protect departments and companies, and, what is more, we have made it very clear in this legislation that we now have principles and descriptions of how those responsibilities should operate, and that is a new addition. Cyber-security is about protecting people's information infrastructure, protecting their secrets. It has got nothing to do with spying. In fact, if any action needs to be taken in respect of that overseas attack coming into a New Zealand computer system, and we need to access that system in order to help protect infrastructure, then any of that needs to involve warrants, and that is very, very important. Secondly, as the Prime Minister has detailed, he will have a two-step process in respect of those warrants if there is any necessary part of that, and I think that that is really good.

The second function of the GCSB is in respect of foreign intelligence, and that is the largest part of the agency's work. That is very much set out in the purposes of the legislation, and it makes it very clear that the agency's purpose is in respect of foreign intelligence, in respect of foreigners, not New Zealanders, and it is very restricted and very clear in the legislation. The third function of the GCSB is to use its centre of skill in this area to assist other Government agencies. In the previous legislation it just said "other Government agencies" and that is actually very wide, but as a result of the select committee process members on this side have narrowed that down to three agencies: the New Zealand Police, the New Zealand Security Intelligence Service, and the New Zealand Defence Force.

We have restricted that ability to assist other agencies down to those three, and here is the rub. The GCSB cannot act or support those agencies under its own volition. It needs the warrant of those other agencies to be legitimately obtained in order for it to provide support and assistance. So it can do nothing in support unless one of those three agencies is acting under their lawful powers, and then the GCSB must give that information to the retention of those other agencies. That information goes to those other agencies because the GCSB is acting in support of those agencies. It is restricted by the mandate of the warrants of those other three agencies. It cannot go outside the mandate of the warrant of those three agencies. This means we do not need to have the specialist capacity in the GCSB replicated in three other agencies. In a nation the size of ours, 4.5 million people, we should not expect to have to go through the expense, and, in fact, I do not know whether we would even be able to replicate the skill of the GCSB in those particular areas in those other agencies.

So it is pretty clear that this legislation is about greater transparency, greater restraint, and greater scrutiny. It does provide for annual appearances before the Intelligence and Security Committee and for reports on the use of the GCSB's powers in the various warrants. It now gives the Inspector-General of Intelligence and Security additional people whom he can consult with. We never had that before, so that is going to be very important as well.

Can I also raise this issue of metadata. This legislation goes further than the members opposite think it does. It does not allow any differentiation between metadata or any other information. It is not allowed to make that separation.

Hon David Parker: Then why not say that?

Hon TONY RYALL: Because that is in the legislation. The legislation defines communication in such a way that says communication is what metadata is. It does not allow for metadata. Metadata cannot be separate. There is no ability for the GCSB to get metadata and not communications without a warrant, because the only thing it can get is

communication with a warrant, and that includes metadata. So it needs a warrant. There is all this stuff about how it can go and get the metadata—and I can understand people’s concerns with all the stuff that has been going on in this Chamber about it—but it cannot access metadata without a warrant, because it is not separated from communication.

I think this is a very important piece of legislation. It tidies up the issues raised in the Kitteridge report. It does provide greater transparency, it does provide for greater scrutiny, and it does provide greater restraint on the powers of these authorities and their granting officers than there previously was.

DENIS O’ROURKE (NZ First): The Government is all over the place with this legislation arising from the Government Communications Security Bureau and Related Legislation Amendment Bill. Initially it was interested in collaboration on it and we in New Zealand First would have been willing to play a constructive part, but then the Government bought Peter Dunne’s vote. Suddenly, then, there was no need for collaboration any more. Then the Government said that the public did not care, and then it saw that the public, in fact, did care, and, therefore, all of a sudden Government members show up in force here today to defend the indefensible. With that one vote of Peter Dunne the Government will still rush through this defective and ill-considered piece of legislation.

There is an inherent conflict between the freedom of speech and privacy of information on the one hand and national security on the other. The public are concerned about a creeping loss of those freedoms of speech and the protection of the privacy of information. In fact, as we have seen from recent reliable, I think, polls, 75 percent of the New Zealand population is concerned about those things to some degree. In the age of electronic communication this highlights the conflict between personal rights and the national interest. Greater care is required to ensure the protection of those freedoms while at the same time giving sufficient powers—but no more—to enable national security needs to be met. This needs to cover especially external and internal terrorist activity, internet terrorism, major illegal drug importation operations, money-laundering, and other serious crimes.

But New Zealand First’s thrust in these matters has been for greater control in three areas. The first is the grounds for authorisation and what must be in a warrant or authorisation. I see that the new and amended section 15D(1)(e), inserted by clause 14 of the Government Communications Security Bureau Amendment Bill, now refers only to “the purpose of the warrant or authorisation:”. But we think that is too low a standard. It needs to require justification, not just some airy-fairy concept of purposes in terms of the functions of the Government Communications Security Bureau (GCSB) as set out in new sections 8A and 8B, inserted by clause 6.

We think the need for justification is at the core of the issue because that is where the balance between the national interest and the public’s right to freedom of expression and privacy of information lies. This section needs expansion as to what that justification would need to be. We in New Zealand First would like to have had the opportunity to discuss that very issue with the Government, but that opportunity was removed from us. What we have, therefore, is something of a blank cheque in this section as to what the purpose is rather than what the justification would be.

There is a case for some information sharing also. That is our second issue, as to who the information can be shared with. We think the Government Communications Security Bureau Amendment Bill is still too wide concerning ministerial discretion on where the information may go. I refer to new section 8B(1)(c), which says that the function of the bureau is “to provide any intelligence gathered and any analysis of the intelligence to—(i) the Minister; and (ii) any person or office holder (whether in New

Zealand or overseas) authorised by the Minister to receive the intelligence.” So the Minister may send information to anyone he likes, whether in New Zealand or overseas. We said at the beginning that this was too wide, but nothing has been done about that issue. There is, as I have said, a case for some information sharing, but this legislation, to me, needs to be much more restrictive on the who and why concerning overseas recipients, whether they contribute funding to the bureau or not. New Zealand First would have wished to discuss that issue with the Government too.

Thirdly, a much more robust regime of oversight on the issuing of warrants and authorisations is needed. This is the biggest issue for New Zealand First. New Zealand First sought much better engagement on the content and was prepared to help. We thought clause 33A of the Inspector-General of Intelligence and Security Amendment Bill had potential. It inserts new sections 15A to 15F, which provide for an advisory panel and advice to the inspector-general. The panel could also report direct to the Prime Minister. New section 15C states the panel is the inspector-general plus two others appointed by the Prime Minister, one of whom must be a lawyer.

But this does not fully meet our requirements. The problem with it is the lack of independence of the panel because of appointments by the Prime Minister alone. It is far too much power in the hands of the Prime Minister acting alone. The appointments need to be made by Parliament, and the panel also needs teeth—that is, the power to recommend rather than just advise on the cancellation of warrants or authorisations. We would have liked to have pursued this also, direct with the Government in a collaborative process, to produce legislation with much wider parliamentary support. But once Peter Dunne sold his vote so cheaply the rug was pulled out from under New Zealand First’s feet, and it was left out in the cold. It was left trying to make amendments through the process that we have just been through.

Consequently, New Zealand First’s proposed Supplementary Order Paper 323, now defeated by the Government and Peter Dunne, was what it required before it could have considered supporting the new legislation. That Supplementary Order Paper provided for a review panel to ensure that warrants and authorisations are clearly justified. It would have inserted a new section 15G into the Government Communications Security Bureau Amendment Bill. It required a review of every warrant or authorisation within 15 working days, and the panel could have recommended cancellation, the addition of new conditions, or the amendment of existing conditions. The panel would have been of three people—former, and therefore independent, members of the judiciary, police, and the military. That Supplementary Order Paper would have achieved the balance that I have spoken of—national security versus freedom of speech and protection of privacy. That is what is so clearly lacking in these bills, and what fully justifies the deep concerns felt by so many members of the public today.

If the changes sought by New Zealand First had been agreed to, Labour’s commission of inquiry would have been simply unnecessary. If the legislation had not been so rushed, if the process had been much more collaborative, if New Zealand First’s requirements or something like them had been adopted, and if more time and effort had been put into the development of properly balanced and carefully drafted pieces of legislation, which is not the case, then cross-party support may have been possible. Peter Dunne saw to it that it was not possible. He sold out cheaply, and the Government was eager to buy.

In doing so the Government has caused considerable public disquiet over the GCSB. None of the parties in this Parliament want that. We all want the GCSB and the Government’s agencies to have full public support. We want the proper balance to be achieved. That is not what the Government has done. It has followed a bad process. It has got technically bad pieces of legislation, and it has lost the support of the public.

How could you better define a failure in terms of legislation? It is being put through on the strength of one vote, and one vote only.

Finally, the Prime Minister gave a public assurance that his Government would see that there was no spying on New Zealanders without their consent. That, of course, was untrue. He should now say that he was wrong about that. The Government has clearly resolved to tough it out, and with Peter Dunne's vote obviously it can. But I predict that the damage done will be remembered all the way to the next election, and this Government deserves nothing less.

Hon CHRISTOPHER FINLAYSON (Attorney-General): That was a very disappointing contribution from that member of New Zealand First, Denis O'Rourke, because there is no substitute for substance rather than rhetoric. Take, for example, the issue of review of the legislation. The proposal in the legislation provides for a mandatory review of, among other things, all the relevant pieces of legislation not once, as suggested by the Labour Party, but in 2015 and thereafter on a regular basis. The review provisions provide a very sensible way of making sure that this legislation is kept under constant surveillance and scrutiny.

At the end of the day, for all the hyperbole, the waffle, and the incoherent and the disturbed contributions, this debate really boils down to one central question: do new sections 8 to 8D, inserted by clause 6, in the Government Communications Security Bureau Amendment Bill, represent an expansion of the powers of the Government Communications Security Bureau (GCSB)? Only one person on the other side of the House has canvassed this matter with any rigour, and that is Mr Parker. Although I disagree with him on some of his conclusions, at least he spoke to the legislation, something that other speakers on the Labour side were incapable of doing. That is why I respect him as a parliamentarian, because these are important issues. But the answer to the central question, to the critical question, is no. Labour's 2003 legislation contains an imprecise and an inconsistent statement of the functions of the GCSB.

It is important to deal with the facts. The 2003 legislation is the aberration, not this bill. It does not matter who is speaking about the bill—whether it is the Law Society, the high and mighty like Dame Anne Salmond, or the Green Party—if people do not start by acknowledging the fact that the 2003 legislation was fundamentally inadequate, then perhaps it is easy to see how they reach the conclusions they do. But those conclusions are wrong. The 2003 legislation should never have been passed in the form that it was.

Let us look at the present section 8 in the 2003 legislation. It gives the GCSB three functions: foreign intelligence, information assurance and cyber-security, and cooperation and assistance to other entities. Section 14 codifies the basic premise underpinning the GCSB's operations, which is that it is not to conduct foreign intelligence activities against New Zealanders. However, the way the basic premise was incorporated into the 2003 Act meant that it applied not only to foreign intelligence functions but also to its other two functions. Helen Clark never intended to limit the GCSB's ability to assist the SIS or the police, as it has always done. We know this because she has gone on record in recent weeks saying that she signed warrants for non-foreign intelligence matters. That is how she had been advised, and that is what she understood to be the role of the GCSB, but under her own legislation she was wrong.

This defect in the legislation has resulted in a growing number of difficulties, and it is restricting the bureau's ability to carry out its other two functions. This amendment bill does nothing more than address that issue and increase the safeguards that sit over the GCSB—I emphasise “increase the safeguards”. The unsatisfactory section 8 is replaced with a simplified and clearer version contained in what will be new sections 8 to 8D. At the same time, we have been able to provide for significant limitations and

restrictions on the powers of the GCSB, which were all lacking—all lacking—from the 2003 Act.

So what does new section 8 contain? Well, we have heard some pretty wild claims about it. New section 8 does not change the three functions of the GCSB—they remain information assurance and cyber-security, foreign intelligence, and cooperation and assistance to other entities—but, as I said, greater restrictions surround all three functions. This is tight legislation. It provides numerous safeguards—safeguards that were not present in the 2003 Act.

I want to address some of the claims we have heard about the new section 8A. That section confirms the GCSB's existing ability to assist with information assurance and cyber-security. To claim that it gives the GCSB the power to spy freely on New Zealanders is wrong. It is wrong especially when one considers the wording of the provision. That would be so far out of the scope of new section 8A that it is simply scaremongering to suggest otherwise.

I have to say that the Law Society's contribution to the debate has been disappointing. Its initial submission asserted that the bill represented an expansion of powers—it hurts me to say so—but omitted to describe how the legislation actually did so in light of the problems with the existing Act. The society's representative then claimed that the bill provided greater powers to assist other agencies, but even the bloggers understood that was not true. So then Dr Harrison decided to claim that new section 8A represents an expansion of powers. It is not true that we have not allowed for enough time to craft good legislation, but maybe we have not allowed enough time for the rate at which Dr Harrison can get to grips with this legislation.

There have been a number of contributions from outside this place, but I want to single out three. The first is that of the former head of the GCSB, Sir Bruce Ferguson. Let us not forget that despite his recent attempts to reinvent himself as a political commentator, many of the problems we are dealing with today in this legislation occurred on his watch. Secondly, there is Sir Geoffrey Palmer, who allowed the GCSB to operate with no legislation at all when he was Prime Minister. Sir Geoffrey has claimed that this legislation is rushed. Well, it is not. It received a full time in the Intelligence and Security Committee. It received very full debate in this House.

Hon Phil Goff: It did not. It reduced the time, and they couldn't even hear from the GCSB.

Hon CHRISTOPHER FINLAYSON: As the Prime Minister said yesterday, if we want to talk about rushing something, I say to the sad Mr Goff, let us have a look at the debate on the State-Owned Enterprises Bill in 1986, when he was a junior Minister, when Sir Geoffrey forced the House into urgency to deal with the second reading, the Committee stage, and the third reading in 1 day. These days he has managed to recast himself as the guardian angel of constitutional propriety. He is not. He is deeply partisan, deeply political.

But the worst contribution—the worst contribution—has come from Dame Anne Salmond. Let us consider some of her shrill and unprofessional comments: that one cannot attend Anzac Day commemorations if people support this bill, comparisons with McCarthyism, and comparisons with Nazi Germany. Those comments are disgraceful. On this last point, I say this: I stood in the guardhouse at Auschwitz-Birkenau in January, I walked under the “Arbeit macht frei” sign, and I signed the book of remembrance on behalf of New Zealand. I know people who suffered at Auschwitz. For someone who considers herself a professional historian to trivialise that period of history in order to engage in political point-scoring reveals a lot about the nature of the woman. It was a disgraceful attack, and she ought to consider just what exactly she was hoping to achieve by using it.

The 2003 legislation is the problem. This legislation is the fix. Perhaps it is no surprise that the Labour Party refuses to acknowledge its mistake in passing the 2003 legislation. Admitting error is not its style, but it is time that we addressed what exactly is going on here—the corrective action that is being taken, the promise of not just one review but ongoing review, the promise of great additional safeguards. This legislation clarifies the powers of the GCSB. It does not expand those powers. I commend the legislation to the House.

Hon PHIL GOFF (Labour—Mt Roskill): Most New Zealanders would not have known it from that speech, but that man, Mr Finlayson, is the Attorney-General of New Zealand, whose sworn role is to uphold the New Zealand Bill of Rights Act. What did we hear from the Attorney-General? We heard the entire 10 minutes taken up with a speech that denigrated many prominent and respected New Zealanders. He attacked Dame Anne Salmond. Dame Anne Salmond, Mr Finlayson, was voted unanimously as the New Zealander of the Year earlier this year. Dame Anne Salmond is a respected historian. He attacked Dr Rodney Harrison. You know, Dr Rodney Harrison is a QC. So is the Attorney-General, but the difference is that Dr Rodney Harrison earned his QC; he did not give it to himself. He did not give it to himself.

Hon Christopher Finlayson: I raise a point of order, Mr Speaker. That member is misleading the House. Under no circumstances did I give that rank to myself.

The ASSISTANT SPEAKER (Lindsay Tisch): Order!

Hon PHIL GOFF: There are other prominent people in the New Zealand Law Society, like Austin Forbes, who have spoken out against this Government Communications Security Bureau (GCSB) legislation. Sir Geoffrey Palmer is regarded as the foremost constitutional expert in this country, but he, apparently, was wrong as well. Sir Bruce Ferguson used to run the GCSB; you might think he understood a little about it. But what we have seen that will alarm New Zealanders most in this debate is the absolute arrogance of the Government, which at no stage—at no stage—has listened and at no stage has sought what traditionally a Government would seek in legislation of this nature, which is to earn cross-party support.

The Prime Minister—well-qualified in law, as we know—criticised the New Zealand Law Society as knowing nothing about the law. He then criticised the Human Rights Commission. Mr Finlayson, is it not true that the role of the Human Rights Commission is to uphold, as the watchdog of human rights, the rights and the freedoms of New Zealanders? Yet what did John Key do? He threatened the funding of the Human Rights Commission.

Then there was the Privacy Commissioner. I knew the Privacy Commissioner for a long period of time as the Secretary of the Cabinet in New Zealand for more than a decade. Her role also, Mr Finlayson, is to uphold the rights and the freedoms of New Zealanders. She said that this legislation is not ready, it is not appropriate, and it needs a proper inquiry before it is proceeded with, and that the last thing that should happen is that this legislation be rushed through.

Then there was Mr David McDowell. Mr David McDowell was the head of the Department of the Prime Minister and Cabinet. He warned also that this legislation does not provide adequate safeguards to stop the GCSB from abusing its powers. I say to Mr Finlayson: that is a group of people with considerable expertise and experience, and they are well-respected by New Zealanders. By denigrating those people, all the Attorney-General has succeeded in doing is increasing the concern of New Zealanders that this legislation does not find the balance between security and the protection of rights.

You know, I said before that normally with this legislation, the Prime Minister of a country reaches out across the House and says: “Here is an agency that has powers

unique in a democratic society to intrude into the freedoms of New Zealanders and the privacy of New Zealanders. Here is an agency unique in the fact that it is not subject to openness, transparency, and accountability, because of the nature of what it does. I would like to bring the House together to find a way of getting the balance between security and the rights of New Zealanders.” This Prime Minister came into the House and said correctly that Grant Robertson and I had met with the deputy head of staff of his office. And we did. We told her Labour’s position. Labour’s position is that we accept that there is a need for security agencies. We accept that they need to have the powers to do the job, but we also believe that before you give extended powers to these security agencies, there must be a full independent inquiry. Paula Oliver, his deputy chief of staff, said that, yes, that is exactly what the Australians did. That is what she said. Paula Oliver said that that is exactly what the Australians did.

We are asking for nothing more than what our colleague democracy across the Tasman said was necessary before they gave their powers to their security agency. We said that we need to have proper scrutiny of how those security agencies work. Dr Coleman, you will know that in the United Kingdom and in Australia, Ministers are not allowed to sit on the intelligence and security committees that have oversight over security agencies. In the United States, there are two committees, neither of them controlled by the executive—the presidency—that exercise scrutiny over its security agencies. New Zealand is unique in the democratic world where it has a Prime Minister that is in charge of the committee meant to exercise scrutiny over the GCSB, and where the Minister who should be scrutinised is actually on the committee and chairs it. He sets the agenda. He restricts the times that that committee can meet.

How many times, Mr Finlayson, has that committee met outside of the needs of this legislation? Rarely and briefly, and chaired by a Prime Minister who shows absolute contempt and arrogance for the process by not contributing to it when he is present. I know that because I have sat on the committee, Dr Coleman. I know that when a Minister is in charge of an agency and you are scrutinising that Minister, that Minister should be appearing before the committee. He should not be chairing the committee.

Then Mr Finlayson will say: “But we have recognised that problem and what will happen is I will chair it.” I will chair it, says Mr Finlayson. I have no confidence on the basis of your speech, Mr Finlayson, that you would do anything other than ingratiate yourself with the Prime Minister—

Hon Dr Jonathan Coleman: I raise a point of order, Mr Speaker. That member is repeatedly bringing the Speaker into the debate—

The ASSISTANT SPEAKER (Lindsay Tisch): I am listening. *[Interruption]* Order! I am on my feet. I am the determiner of that.

Hon PHIL GOFF: The fact is that this Prime Minister and this National Government have arrogantly decided that they will impose their will on this House on the basis of only their own party’s support and the support of two members of Parliament who are discredited and disgraced in this Parliament. My challenge to Mr Dunne is this: Mr Dunne said 3 weeks ago that under no circumstances would he support this legislation, which gives the GCSB the power to spy on New Zealanders—under no circumstances. That man has broken his promise to New Zealand. That man was sacked by the Prime Minister because he leaked the GCSB report. The other man is John Banks, who told the country that he did not know anything about the \$50,000 donation from Kim Dotcom, which he picked up and took when he was personally flown by helicopter to Kim Dotcom’s mansion in Helensville—the Prime Minister’s electorate. That was not the truth. That was a lie.

Both of those members—

The ASSISTANT SPEAKER (Lindsay Tisch): Order! The member must withdraw that comment.

Hon PHIL GOFF: I withdraw, Mr Speaker.

The fact of the matter is that this is legislation that does not provide adequate scrutiny. Mr Key said in the course of an interview on *Campbell Live* that the GCSB would not be allowed to look at the content of communications when conducting its cyber-security functions. That is wrong. That is wrong. And yet that man came into the House and said the Opposition did not understand the bill. You know his answer to that? Not to change the law to prevent it, but to do his “King John”—that is, before the Magna Carta—by saying: “But I will not allow them to do that.” If you do not want the GCSB to do that, Mr Finlayson, put it in the legislation.

New Zealanders have no confidence in this Prime Minister. He appointed the head of the GCSB. He did not disclose the fact that it was a long-time personal friend. He said he hardly knew him, when he had been having dinner with him. How can we have confidence in that Prime Minister to actually do the right thing when his scrutiny of the GCSB is not open and transparent? If you have safeguards against the abuse of power by the GCSB, you put it in the legislation.

TE URUROA FLAVELL (Co-Leader—Māori Party): Tēnā koe, Mr Speaker. Kia ora tātou katoa. On Monday night 1,500 or so New Zealanders gathered at a public meeting in the Auckland Town Hall and came together in opposition to this legislation arising from the Government Communications Security Bureau and Related Legislation Amendment Bill.

I was not there, but that does not mean that the issues and concerns raised have not been expressed already by the Māori Party. I understand that speakers at that event talked about this legislation as a threat to fundamental freedom. I am told that one of the challenges put to the hui, aside from digs at Dr Rodney Harrison QC, was that according to him through this bill the nation was “sleepwalking into a surveillance society”. That was his quote from his speech. Today the Māori Party stands, as we have at every single stage of this legislation, to oppose the virtual nightmare in its absolute entirety.

While the crowd was gathered in Auckland, I was with representatives of whānau, hapū, and iwi at Tūrangawaewae. I know that you arrived there not long after I arrived, supporting them in, I suppose, the seventh-year celebration of the famous koroneihana—the coronation—of King Tuheitia. Just for a second I would like to acknowledge the incredible organisation, the devoted commitment, and the inspirational momentum that that hui represents to the heart and soul of tangata whenua. If you did not know, since 1858 the Kīngitanga—the Māori King Movement—has stood strong to survive intense challenges, wars, land confiscation, poverty, and destitution. It has endured two major global conflicts and several bouts of severe economic crises.

It is the Māori Party’s submission that the introduction of mass surveillance must surely be seen as yet another injustice that our iwi have had to withstand. Tangata whenua are saying today in this House that we will never ever agree to submit to surveillance by the Government’s spy agencies. Each of our iwi have horrendous stories to tell of the experiences that we have been put through in the name of colonial rule.

I have listened to what Tūhoe leader Tāmāti Kruger has said about the impact of this bill. Tāmāti told the nation that Tūhoe know all too well about injustice resulting from Crown suspicion, as highlighted by their fraught historic relationship. It was his advice that extending the powers of the Government Communications Security Bureau (GCSB) will only fuel the Crown’s suspicions of New Zealanders and contribute to further injustices. Indeed, according to Tāmāti, if the legislation is made law, Tūhoe and, by default, all other iwi must find ways of protecting themselves by being vigilant,

as their privacy is no longer respected. I have seen logs of surveillance on innocent Tūhoe people. The Tūhoe raids are a blight on New Zealand society.

The Māori Party has put out there, from the moment that this legislation was floated, that we will oppose it because it is intrusive and it lacks justification for what we believe is an extraordinary extension of the GCSB's powers. This is absolutely consistent with our vigilant opposition to all of the other variations of legislation that have paved the way to this legislation. In 2011 we opposed the Video Camera Surveillance (Temporary Measures) Bill, which was being pushed through under urgency, and called for all of our constituents and the public to make submissions. It was such an issue of importance, yet New Zealanders were given 24 hours to have their say. We also opposed the Terrorism Suppression Amendment Act 2007, introduced by Labour, which was passed post - Operation Eight to justify and validate the actions of the police during Operation Eight.

The Māori Party believes that this latest legislation is inconsistent with the rights of freedom of expression and freedom from unreasonable search or seizure under our law, and that it will merely validate actions like those of Operation Eight, where some police actions were also deemed illegal. As this House knows full well, the Independent Police Conduct Authority report on Operation Eight found that in some areas police had acted "unlawfully, unjustifiably and unreasonably" during those raids. All that this legislation does is increase the powers of the GCSB, and it makes it easier to spy on New Zealanders. Last year we opposed the Search and Surveillance Bill for similar reasons, because we believed that the search powers vested in police officers under the bill were too broad, and we were concerned that they did not require a search warrant. That bill allowed more Government agencies to carry out surveillance operations, changed the right to silence, and allowed judges to decide whether journalists can protect their sources or not.

Earlier this year the Kitteridge report revealed that 88 New Zealand citizens were subjected to surveillance by the GCSB. In the interests of transparency, the Māori Party requested that these names be revealed. However, this request was declined. I think this is one of the key issues of concern for all of us in the Māori Party and, indeed, for Māoridom generally. Why on earth Māori would believe that the State, through its agencies, would act honourably, when history suggests otherwise, is a little bit beyond me.

I want to conclude this debate by referring to an issue I spoke of earlier in the second reading debate, and that was the claims made in 2004 in a newspaper article by Anthony Hubbard and Nicky Hager. Their claims were that SIS spies were investigating Māori activists, perhaps me and others, and Māori in general, including the Māori Party. The articles revealed the campaign coded Operation Leaf in which the SIS was told to gather intelligence on internal iwi business negotiations, finances, and Treaty of Waitangi claims, as well as inter-tribal communications. The article went further to suggest that agents were instructed to watch for dirt on Māori leaders, and that computer geeks had been hired to plant bugs in the computers of Māori organisations.

I think it is important to further describe the context of the time. This was the heyday of Don Brash and his infamous Ōrewa tirade attacking special treatment for Māori. My co-leader, Tariana Turia, crossed the floor in abject opposition to the Foreshore and Seabed Bill. The mighty Māori Party was born and took four seats at the 2005 election. Then, to cap it off, an ancient charge of sedition was taken out by Labour against Tim Selwyn, a young man accused of throwing an axe through Helen Clark's electoral office in protest at the Foreshore and Seabed Bill. Selwyn was later charged under the Crimes Act for the act of sedition, defined as "speech, writing or behaviour intended to encourage rebellion or resistance against the government". Selwyn was charged with the

publication of a pamphlet, his crime being the opportunity to incite, procure, and encourage violence, lawlessness, or disorder through the publication of that said leaflet. It was the first prosecution for sedition in at least 75 years, and drew considerable controversy. I took us back to that history lesson on a decade ago because the Māori Party has an extremely powerful objection to any such power of the State. We believe that all that these Acts do is invite abuse of our rights to freedom of speech.

To conclude, let me put two facts on the record. Firstly, as a result of the extreme agitation in Māori communities about Operation Leaf, Tariana Turia called for an independent inquiry, writing to the Inspector-General of Intelligence and Security. Her statement at the time was that an inquiry was needed, as New Zealanders take for granted that our freedom to live in an open democracy is a basic standard of living for our nation. In April 2005 the official investigation overseen by Justice Paul Neazor concluded that there was nothing to suggest that the allegations around Operation Leaf were true, and the SIS director of the time, Richard Woods, assured Mrs Turia that there was no cause for concern. The second development was that of the crime of sedition—inciting insurrection against the State. This was eventually thrown out by Parliament in October 2007 by an overwhelming majority of 114 to seven. The only party to vote against it was, ironically, New Zealand First.

This history is a vital backdrop for the GCSB legislation that we are debating today. We do not need to waste time on fixing something that is not worth salvaging. It is for that reason that we came out yesterday and declared our universal opposition to amendments put up by parties. We will never contribute to an environment in which a surveillance and siege mentality is overall. We must be free to associate with whomever we want, wherever we want, whenever we want. This legislation threatens our basic human rights. It is invasive and intrusive and we will never support it.

The ASSISTANT SPEAKER (Lindsay Tisch): I understand that the next call is a split call. I call the Hon David Parker.

Hon DAVID PARKER (Labour): And a 1-minute bell?

The ASSISTANT SPEAKER (Lindsay Tisch): Yes, a 1-minute bell.

Hon DAVID PARKER: I want to respond to some of the statements made by earlier speakers on the part of the National Party. It is now a matter of record that John Key said on *Campbell Live* that no New Zealander's email content would be looked at. He has since admitted that that is not correct in respect of the cyber-security function of the Government Communications Security Bureau (GCSB). Then he has come to this Parliament today in the third reading debate on the GCSB legislation and now said, despite him having it wrong on *Campbell Live*, in an interview that the media said was par excellence: "Trust me. I know what I'm doing. I am not going to put the protection in the law, but I am not going to give a first-round warrant in respect of section 8A cyber-security warrants that allows the GCSB to look at the content of emails." But he will do it on second-round warrants. He will do it on second-round warrants.

In any event, there is no protection in this legislation against the content of emails being looked at by the GCSB in respect of new section 8A investigations into cyber-security. I would have thought that that in itself would be enough for the National Party and its support parties to be saying: "Whoa, looks like the Prime Minister got that wrong. We shouldn't be voting for this." But, no, they continue to vote for it.

The next issue is that the Hon Chris Finlayson—in response to a contribution I made in respect of new section 8B, which is inserted by clause 6 and which is the intelligence-gathering function, not the cyber-security function, aspect of this bill—rightly pointed out in his response at the Committee stage that new section 14, inserted by clause 12, says there is some restriction on the bureau's function in new section 8B in respect of intercepting private communications.

What he did not address was the Law Society's concern that the definition of private communications is narrower than the definition of communications. So when Tony Ryall in this debate said that concerns around metadata were irrelevant, he was bypassing the concern raised by the Law Society that the definition of "private communication" is narrower than the definition of "information infrastructure", which includes any communication. There is a difference between those two definitions, and there is an argument that is being put by some that metadata is not the sort of communication that is a private communication. One of the amendments that the Greens put forward was to try to clarify the fact that that metadata was, in effect, private communication, by removing that ambiguity that the Law Society says exists.

We have today seen in the Privileges Committee how that metadata can contain very private elements. We know that within a 2-week period the metadata that was disclosed, probably wrongly, by the Parliamentary Service to the Henry inquiry showed that there were 86—[*Interruption*] Well, it might actually have been accessible under the Official Information Act, but it was wrong for the Parliamentary Service to hand it across. But that showed 86 emails between Andrea Vance and Peter Dunne in a period of less than 2 weeks. It is very unusual—very unusual—to have 86 emails like that, and there have been various innuendoes that have been put around as to what that signified. I am not perpetuating those innuendoes by this contribution; I am making the point that the privacy considerations of a quantity of emails are in that metadata.

Secondly, that metadata disclosed by the Parliamentary Service in the Dunne instance included reference to a meeting, which was in the subject line of the email rather than in the body of the email, and it thought that that was metadata. Arguably, if the Law Society is right, that might be the sort of communication that is not a private communication, as opposed to the body of an email, and that is not clarified by this legislation.

The oversight by the Intelligence and Security Committee—the Hon Phil Goff has already spoken about that. I will make one additional point. There is an express prohibition on that committee. The functions of that committee do not include inquiring into any matter that is operationally sensitive, including any matter that relates to intelligence collection and production methods. So that is no great solace, either. This legislation ought not be supported.

STEFFAN BROWNING (Green): I rise to speak to the third readings of the Government Communications Security Bureau (GCSB) legislation. These bills collectively are an arrogant, unjustified, and fundamental extension of the ability of the State to intrude into the private lives of ordinary New Zealanders. These bills pre-empt a very necessary and long-overdue robust and genuinely independent inquiry into all aspects of New Zealand's security and intelligence services.

Something between 75 and 90 percent of New Zealanders say that they are concerned about the direction of this legislation. We are told this through some polling. So, even on a more conservative figure, if National MPs or Peter Dunne or John Banks listen to their constituency and their own conscience and vote against this GCSB legislation, then we can have that independent, robust inquiry now, ahead of legislation that can actually address the realities of need and civil rights and the expectation of privacy that is so strong among New Zealanders. New Zealanders have jealously guarded democratic rights and freedoms, and it is anathema to those rights and freedoms to support this legislation. I implore one of the 61 MPs who have previously supported this legislation to change at this vote and allow a full inquiry first.

The Government has failed to provide a real justification for this fundamental attack on our democratic rights and freedoms, and the legislation facilitates the legal establishment of a surveillance State in New Zealand. The total State access to

surveillance is of the kind that was previously imagined only in fiction—*Nineteen Eighty-Four*, for example. However, this previous fiction has now been revealed as a reality in the US with the revelations of mass surveillance activities by the GCSB's "Five Eyes" partner, the USA's National Security Agency. The Waihopai spy base is the face of the National Security Agency and the GCSB in New Zealand. I want to acknowledge Bob Leonard, who passed away just over a week ago, aged 74. Bob visited the USA GCSB Waihopai spy base, albeit from the perimeter fence, more often than any one member of Parliament, or possibly more often than all of us put together.

Bob moved to New Zealand to escape the Reagan era and threats of nuclear war. In 1987 Bob helped found the Anti-Bases Campaign when the Waihopai spy base was first announced. Bob knew of the links with the military and the USA's big business. A true gentleman and advocate for peace to the end, Bob Leonard was also the "Uncle Sam" for the street theatre at many of our protests. Bob Leonard founded *Peace Researcher* in 1983, which he edited and wrote extensively for. Bob Leonard wrote all of the Anti-Bases Campaign's submissions, some of which are remarkably topical, such as the one on the Government Communications Security Bureau Act, which is now being replaced with these bills. He fronted up at parliamentary select committees, including—well, it is not a parliamentary one—the Intelligence and Security Committee. He spoke at public meetings around the country and gave innumerable media interviews. Bob Leonard was a great example of those people and groups dedicated to true democracy, justice, civil rights, and the environment. These dedicated people and groups are all the more likely to be surveilled by John Key and his schoolmate the Director of the GCSB, using their new powers and "Five Eyes" international spy agency resources to spy on New Zealanders.

This legislation allows economic well-being to be considered as a target around the spying. Does that actually mean academics and environmentalists such as Mike Joy and Bunny McDairmid, or champions of social justice who might dent the profits of this Government's friends? Mass surveillance, such as the surveillance that the USA GCSB Waihopai spy base is part of, would have a very corrosive effect on the kind of free and democratic country that generations have fought for. The Green Party will be opposing these bills. Thank you.

The ASSISTANT SPEAKER (Lindsay Tisch): The Hon Dr Jonathan Coleman.

Brendan Horan: I raise a point of order, Mr Speaker. I was seeking the call, and I was up before the honourable member.

The ASSISTANT SPEAKER (Lindsay Tisch): Well, I have called the Hon Dr Jonathan Coleman.

Hon Dr JONATHAN COLEMAN (Minister of Defence): That contribution from the Green member—

Brendan Horan: I raise a point of order, Mr Speaker. I ask whether you could indicate whether you had given sufficient consideration to Standing Order 103.

The ASSISTANT SPEAKER (Lindsay Tisch): The Business Committee determines the business under Standing Order 77. It has not allocated any time to you to speak in this debate, and I have called the Hon Dr Jonathan Coleman.

Brendan Horan: Point of order. Yes, Standing Order 77 does give—

The ASSISTANT SPEAKER (Lindsay Tisch): Order! I have ruled, and that is the end of the matter. I am calling Dr Jonathan Coleman.

Hon Dr JONATHAN COLEMAN: I raise a point of order, Mr Speaker. I just noticed that we are very close to the dinner break, and I am just wondering whether the clock will be restarted at the start of my 10 minutes, because—

The ASSISTANT SPEAKER (Lindsay Tisch): No, you will start—

Hon Dr JONATHAN COLEMAN: Well, I did not even get my mouth open.

The ASSISTANT SPEAKER (Lindsay Tisch): You will start now.

Hon Dr JONATHAN COLEMAN: OK. Well, listening to that Green contribution shows you what a threat that party would be if it ever secures the Treasury benches, because Steffan Browning quite clearly does not believe that there is a need for the Government Communications Security Bureau (GCSB) in New Zealand. That is what you would expect from the lunatic Green fringe, but I expected much more from the Labour Party, and it is very disappointing that through this debate the Labour Party, with the notable exception of David Parker, has failed to—

The ASSISTANT SPEAKER (Lindsay Tisch): I am sorry to interrupt the honourable member. 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.

Hon Dr JONATHAN COLEMAN: As I was saying, this is vital legislation, which needs to be passed. It is in the very best interests of the nation's security, it is in the very best interests of the New Zealand people, and it is legislation that I am not surprised that the Green Party is not supporting, although I am very, very disappointed with the comments of Labour members here tonight. Those members over there should know better, and they do know better, but they have chosen to play politics with this issue right throughout this debate. What they realise, and Grant Robertson fully understands it, is that the Government is just tidying up the flawed legislation of 2003—legislation that the Labour Government brought into being. There was an inherent contradiction in that law. It allowed the GCSB to act on behalf of Government agencies that had a lawful basis for carrying out surveillance activities, but at the same time, that legislation stipulated that the GCSB could not spy on New Zealanders.

This legislation that the House is going to pass tonight provides a clear and consistent statutory framework for the GCSB, as well as greater oversight. It is absolutely important that the public understands that, because this does not widen the powers of the GCSB—

Andrew Little: Yes, it does.

Hon Dr JONATHAN COLEMAN: —as the angry man from the Koru Club is claiming. What it is actually doing is narrowing the powers of the GCSB and providing greater oversight. I can tell you that as technology moves forward, the nature of the national security threats that we face will continue to evolve.

The new section 8, as set out in clause 6 of the Government Communications Security Bureau Amendment Bill, sets out and confirms that the GCSB has three functions. Chris Finlayson covered those very well in his speech, but just to reiterate, they are foreign intelligence; cyber-security; and assistance to police, the New Zealand Defence Force, and the SIS. In light of the modern threats to New Zealand's physical and economic security, each and every one of those functions is vital. I think it is disappointing that no one from the Labour side has actually discussed the substance of the bill, apart from a little bit there from David Parker. There needs to be a far greater contribution from Labour members. But the time has passed. The debate is virtually over.

It is also critical that the GCSB has proper oversight and operates pursuant to very clear legislation. This bill achieves all of those critical requirements. On the matter of foreign intelligence the function of the GCSB is largely unchanged, but the law is made clear and simplified, and it adds protection for New Zealanders inadvertently caught up in incidentally obtained intelligence. That is a very important point.

In regard to the cyber-security function, the bill gives the GCSB a clearly defined and limited role. As we know, cyber-attacks are a growing and ever-changing threat, and this law needs to be updated in response. For that reason, the bill sets out a very

clear mandate for the GCSB to help Government organisations and private companies prevent cyber-attacks, thereby protecting our economic well-being and our intellectual property. The threat from those cyber-attacks is very real. The damage that they can inflict, from theft of intellectual property through to damage of critical infrastructure, is a threat that New Zealand faces on an almost daily basis. Those who suggest that New Zealand should not empower our security agency to protect the country from those types of threats are, frankly, being both very reckless and extremely naive.

Left-wing critics of this bill are effectively saying that New Zealand should refuse to provide cyber-security protection to New Zealand citizens and businesses. Doing so would not be a grand act of principle; it would be the single most reckless security decision that any New Zealand Government has ever taken. No serious political party would ever consider abolishing the police and leaving New Zealanders vulnerable to internal criminal threats. No serious party would consider abolishing the New Zealand Defence Force and leaving New Zealand unable to protect itself from external threats or to pursue our interests overseas. So no serious political party could seriously suggest kneecapping the GCSB's cyber-security function—New Zealand's single biggest defence against a new and insidious form of attack that is more than doubling every year. But Russel Norman explicitly spoke out against the GCSB. He spoke about a global surveillance State. He called New Zealand under the National Government an authoritarian State. I believe that is misleading and untruthful. But what it does show is that the Greens do not believe that the GCSB has a function in New Zealand, and, quite frankly, that is reckless and irresponsible, and just demonstrates that they are unfit to ever be part of a Government. I think the Labour Party should bear that in mind.

The bill also provides the GCSB with the legal framework needed to ensure that it can provide a vital level of protection to New Zealand and the oversight to make sure that it does so lawfully. In terms of its assistance function, this bill makes it clear that when the GCSB assists another agency, it is subject to the same limitations, oversight, and restrictions that the requesting agency is subject to. As Minister of Defence I am directly aware of just how important the assistance of the GCSB is for keeping our people safe when they are overseas on deployment. Although we cannot talk about the operational details, it has to be put on record that the work of the GCSB saves New Zealand lives when our people are on deployment in theatre. There is no question that that has happened. So I am very disappointed, actually, that Phil Goff has not shared some of the knowledge that he has from his time as Minister of Defence and Minister of Foreign Affairs and Trade and instead has decided to play petty party politics.

It is also true that the GCSB's resources are absolutely vital for assisting the SIS and police. It would be beyond stupid to try to replicate those functions independently across all three agencies. That would drastically increase costs and decrease effectiveness. Of course, there has been a lot of talk during this debate about oversight of the GCSB, but increased oversight is exactly what this legislation enables. It provides a clear and consistent statutory framework under which the GCSB will operate.

The Labour Party has done a good job of pretending to be constructive during the debate, but its demands for safeguards have pretty much been hollow political posturing. The safeguards are already there in the legislation. They are probably the most extensive safeguards that exist in any New Zealand legislation. Labour has called for limits on warrantless powers. The warrantless powers in its 2003 legislation are severely restricted by this legislation, which will pass tonight.

Labour has also called for the inspector-general to be given more powers. That has already happened. The inspector-general will now be one of the most powerful independent officials in New Zealand, and, further, they will have an advisory panel to back them up. Under the old legislation the Inspector-General of Intelligence and

Security was a one-person band with limited powers. Under this new legislation the inspector-general will be supported by staffing resources, a deputy, and a two-person panel. The inspector-general will also be able to undertake on-the-spot surprise audits.

Labour has called for a review of the legislation. This legislation requires not only that an independent review occur before 30 June 2015 but that subsequent reviews be held every 5 to 7 years. It is already there in the legislation.

So for all the hyperbole, the debate has boiled down to the simple question of whether new sections 8 to 8D represent an expansion of the GCSB's powers. Everything else has been noise. This bill provides a vast array of further checks and balances. New limitations have been added, such as the requirement that warrants must be issued jointly by the Minister responsible for the GCSB and the Commissioner of Security Warrants, and that privileged communications cannot be targeted. The GCSB will have to report annually on the number of warrants and authorisations issued and the number of instances where it provided assistance to the three agencies. Further public hearings will be held, and there will be an independent review of the operations and performance of the GCSB and the New Zealand SIS in 2015 and then every 5 to 7 years afterwards. Those changes have improved the legislation, enabling greater transparency and stronger independent oversight.

There has also been plenty of scrutiny and debate around process. There were 122 submissions. The Prime Minister chaired the Intelligence and Security Committee, which considered those submissions, and I would ask the public to consider this: in what other country in the world could someone like Kim Dotcom come into Parliament and harangue a Prime Minister? That is exactly what happened there. So to say that we have not been upfront and open about the legislation is totally misleading. Anyway, I think we have outlined comprehensively the case for the GCSB. We have described the three functions. This is vital legislation for New Zealand. It is intrinsically tied up with our security. It is good legislation. It should pass. I commend this legislation to the House.

BRENDAN HORAN (Independent): Given the importance of this Government Communications Security Bureau legislation, I seek the leave of the House and of my colleagues to make a very short 5-minute contribution to this debate.

The ASSISTANT SPEAKER (Lindsay Tisch): This is a time-limited debate. There have been 12 speakers. The member can seek leave, but I just remind the member that there have been 12 speakers and it is a time-limited debate. If the member wishes to seek leave, he can.

Hon TREVOR MALLARD (Labour—Hutt South): I raise a point of order, Mr Speaker. I think one of the problems with the leave will be if a member seeks it for a short time, because that, of course, is as short or as long as a piece of string. If the member sought leave for 5 minutes, then certainly the Labour Party would not object.

The ASSISTANT SPEAKER (Lindsay Tisch): The House can decide. There is a point of order from Brendan Horan.

BRENDAN HORAN (Independent): I seek leave for a 5-minute contribution.

The ASSISTANT SPEAKER (Lindsay Tisch): Leave is sought for that purpose. Is there any objection? There is objection.

BRENDAN HORAN (Independent): Given the long-term ramifications of this legislation, I seek the leave of this House and of my colleagues to make a 4-minute contribution.

The ASSISTANT SPEAKER (Lindsay Tisch): No, no. You sought leave, and leave was denied. It is your right to seek leave. It is the right of the House to determine otherwise.

Brendan Horan: I raise a point of order, Mr Speaker.

The ASSISTANT SPEAKER (Lindsay Tisch): If the member is trifling with my rulings—

Brendan Horan: I raise a point of order, Mr Speaker.

The ASSISTANT SPEAKER (Lindsay Tisch): I will hear this one more, and if it is like the other ones, the member will have to go.

BRENDAN HORAN (Independent): I raise a point of order, Mr Speaker. When I was unceremoniously dumped from New Zealand First in this House—

The ASSISTANT SPEAKER (Lindsay Tisch): That is not a point of order. [Interruption] Order! The member will sit. That is not a point of order; it is a matter between you and that party.

Brendan Horan: I raise a point of order, Mr Speaker.

The ASSISTANT SPEAKER (Lindsay Tisch): The member will sit or he will leave. The member will sit or will leave.

Brendan Horan: I raise a point of order, Mr Speaker. This is a new point of order.

The ASSISTANT SPEAKER (Lindsay Tisch): No, the member will leave the House. The member will leave the House now.

Brendan Horan withdrew from the Chamber.

A party vote was called for on the question, *That the Government Communications Security Bureau Amendment Bill, the Inspector-General of Intelligence and Security Amendment Bill, and the Intelligence and Security Committee Amendment Bill be now read a third time.*

Ayes 61

New Zealand National 59; ACT New Zealand 1; United Future 1.

Noes 59

New Zealand Labour 34; Green Party 14; New Zealand First 7; Māori Party 2; Mana 1; Independent: Horan.

Bills read a third time.

INQUIRIES BILL

In Committee

LOUISE UPSTON (Senior Whip—National): I seek leave for the Inquiries Bill to be taken as one debate, with all questions put at the conclusion of the debate.

Hon TREVOR MALLARD (Labour—Hutt South): Before that leave is taken, I want to make two things clear—that we are not going to limit the number of speeches that individual members make, and that closures are not going to be put. If that is the case we will grant leave. If it is not, we will not grant leave.

The CHAIRPERSON (Lindsay Tisch): I will ask the senior whip to respond.

LOUISE UPSTON (Senior Whip—National): My understanding is that in the Committee stage the maximum number of calls per speaker is four, and that will stand.

Hon TREVOR MALLARD (Labour—Hutt South): I will object, then.

Louise Upston: That's fine.

Hon TREVOR MALLARD: I think what the member just said is that there is going to be a limit of four speeches, and what that does is cut out three-quarters of the ability, or in fact 80 percent of the ability, of members to make speeches. If that is what the National Party wants to do, we will not grant leave.

The CHAIRPERSON (Lindsay Tisch): OK, are we very clear on the matter? Leave is sought for that purpose. Is there any objection? There is objection.