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THURSDAY, 24 JULY 2008

Madam Speaker took the Chair at 2 p.m.

Prayers.

BUSINESS STATEMENT

Hon Dr MICHAEL CULLEN (Leader of the House): When the House resumes on Tuesday, priority will be given to the remaining stages of the Lawyers and Conveyancers Amendment Bill (No 2) and the Committee stage of the Appropriation (2008/09 Estimates) Bill, which of course takes the form of the 8-hour estimates debate. If time allows, the Government will also seek to progress first readings of bills currently on the Order Paper. Wednesday is a members' day.

GERRY BROWNLEE (National—Ilam): I thank the Leader of the House and Deputy Prime Minister for that indication of what the Government hopes to progress as business. I would ask whether he is able to give us any further update on where things are with the emissions trading scheme bill, and also with the Real Estate Agents Bill, which was a high priority for the Government just a short time ago but now appears to be slipping down the Order Paper somewhat.

Hon Dr MICHAEL CULLEN (Leader of the House): The Government now has, as no doubt members will notice, a very full Order Paper. There is plenty of work to continue through to the election, and indeed into the new term of the Government. On the other matters that the member raises, we shall see what progress is made.

POINTS OF ORDER

Privilege—Donations to Members

RODNEY HIDE (Leader—ACT): I raise a point of order, Madam Speaker. The Prime Minister has said that the proper approach to the issue of Mr Peters and the $100,000 donation is through you, on the matter of members' pecuniary interests. Mr Copeland and I have made complaints to you. I was wondering, as there is a great deal of interest in this matter, whether you could enlighten the House as to the process that you are following and the timetable as to when we might hear the outcome. Thank you.

Madam SPEAKER: Thank you, Mr Hide. I refer you to Speaker's ruling 170/4, for your information and maybe for the information of others in the House: "Once a matter of privilege has been raised with the Speaker it is out of order to refer to it in debate in the House." I am aware that you have asked a question. I am following due process.

QUESTIONS FOR ORAL ANSWER

QUESTIONS TO MINISTERS

Accident Compensation—Funding Mechanisms

1. LESLEY SOPER (Labour) to the **Minister of Health**: Has he received any reports from medical professionals on possible changes to funding mechanisms for accidents and injury?

Hon DAVID CUNLIFFE (Minister of Health): Yes. [*Interruption*] Thank you, Gerry. I have seen a report from *New Zealand Doctor* magazine, which calls National's accident compensation policy "ideologically blinkered" and goes on to state: "It leaves a reader wondering why National would want to trash ACC, save for putting money in the pockets of lawyers and international insurance companies." Doctors do not want National's accident compensation policy, I say to Mr Brownlee.

Lesley Soper: Has the Minister seen any other reports from the medical sector regarding changes to funding mechanisms for accidents and injury?

Hon DAVID CUNLIFFE: Yes; I have seen a report from the Society of Physiotherapists that states that under privatisation last time “patients were caught in the middle of a ‘bureaucratic nightmare’, as physiotherapists and other providers struggled to see which company covered them.” The only choice that National is offering patients is the choice to suffer. If National was committed to increasing choice, then it would have been up front with its policy, instead of whispering it to private business audiences, and it would not have come forward if it was not leaked by one of Mr Key’s former colleagues at Merrill Lynch.

Lesley Soper: Has the Minister seen any reports on who may benefit from changes to funding mechanisms for accidents and injury?

Hon DAVID CUNLIFFE: Absolutely. The major beneficiaries of National’s plans to privatise accident compensation would be lawyers and insurance companies. The real question that Mr Key needs to answer now is: would there be a competitive tender process, or has he already stitched up a deal and set a price?

Madam SPEAKER: That last comment was inappropriate.

Peter Brown: Noting that the Minister referred to the report by the Society of Physiotherapists that says how disgruntled it was at the last privatisation of accident compensation, has he seen the report of the physiotherapists that expresses their total disappointment that the Government has not gone with the financial aspects of the review into physiotherapists employed under the endorsed provider network scheme; if so, can he advise the House whether he would recommend to his colleague the Minister for ACC that something be done about that immediately?

Hon DAVID CUNLIFFE: The member is quite right; that is a matter within the portfolio of my colleague the Minister for ACC. I have briefly seen the report, and I am advised that there has been good dialogue between physiotherapists and the Government and that more progress can be expected.

Political Funding—Sources

2. GERRY BROWNLEE (National—Ilam) to the **Minister of Justice**: Does she stand by her statement that “greater transparency about the sources of political funding will lead to increasing public confidence in our democracy.”?

Hon ANNETTE KING (Minister of Justice): Yes.

Gerry Brownlee: Is it Government policy that a party should be able to solicit and collect a $25,000 donation, yet not declare any such donation in its returns to the Electoral Commission?

Hon ANNETTE KING: It is Government policy, with the changes in the Electoral Finance Act, that there be greater transparency. But I think this Parliament ought to know the real rort that has been going on here. The real rort is the National Party, which cashed up every penny it had before 31 December, cleaned out its trust accounts, cleaned out its anonymous donations, and cleaned out every piece of money it could get its hands on—and we have the evidence for it: “Nats call in their secret donations”—

Gerry Brownlee: By Nicky Hager.

Hon ANNETTE KING: No, in fact it came from the press gallery, which that member bases all his arguments in this House on. They transferred it to the National Party, and now there is no accountability as to where that money came from, what trust it came from, whether it was from the Exclusive Brethren, or whether it was from the fishing industry, the insurance industry, or the tobacco industry. The money went into the account to rort the Electoral Finance Act. That is the real scandal of this House.

Gerry Brownlee: I raise a point of order, Madam Speaker. The Minister appears to have forgotten what my question was, and she has gone on to her prepared answer,

which is, of course, only able to be given because the National Party does say which trusts it gets money from—unlike New Zealand First. [*Interruption*]

Madam SPEAKER: Order!

Gerry Brownlee: It is not us that have those hundreds of thousands of dollars worth of donations, like the Labour Party has. Is the Minister concerned that Sir Robert Jones has confirmed this morning that he paid $25,000 as a donation to New Zealand First as a party in 2005, but that New Zealand First returns to the Electoral Commission in 2005 and 2006 list no such donation; and if she is not concerned about that, how would her lack of concern line up with her stated desire to bring transparency and increased public confidence to political party funding?

Hon ANNETTE KING: That would certainly be a matter for other authorities, not me. However, the Electoral Finance Act does ensure that there is greater transparency. But, of course, if one rorts the system before the Act comes in, as the National Party did, then one can be assured that lots of things are hidden. The Waitemata Trust, for example, handed over $424,000 just before the end of the calendar year, and the Ruahine Trust handed over $69,000, as National scooped up every piece of money it could. [*Interruption*] The member said that at least National knows what the trusts are. Well, nobody knows who the trustees of the Waitemata Trust are. Only one Mr Robert Brown, a longstanding business associate of National campaign strategist Murray McCully—

Gerry Brownlee: I raise a point of order, Madam Speaker.

Madam SPEAKER: Yes, there is a speech there.

Gerry Brownlee: Yes, there is a speech. What is more, it is all available in the newspaper, because nobody is hiding anything. I take this opportunity outside of the normal range of questions to seek leave to table documents to show that Labour took $230,000 in donations from trusts in 2007 prior to the Electoral Finance Act.

Document not tabled.

Hon ANNETTE KING: I seek leave to table an article by Ruth Laugesen, which shows that the National Party called in secret donations by Judy Kirk, who asked anonymous donors to put the money in before—

Document not tabled.

R Doug Woolerton: Does the Minister agree that there is a huge difference between trust accounts that were set up many years ago, and have channelled millions of dollars to the National Party, and the present situation of smears, innuendo, and false allegations levelled against New Zealand First?

Hon ANNETTE KING: In my view, what the National Party is trying to do is hide its own activities by highlighting stories out of the media, which is what I have just been accused of doing. National has no other evidence than what it reads in the media, and on the basis of that it is attacking the New Zealand First Party to cover up its own shabby, dirty behaviour before the end of the financial year.

Gerry Brownlee: I interrupt the flow of the Minister's answer for a further seeking of leave, because I think it will help the Minister's answers. I seek leave to table a transcript of Bob Jones saying this morning that he gave the money to New Zealand First and now wants to know where it went.

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

Sue Bradford: Will the Speaker, in the light of concerns over donations to both New Zealand First and National, now support a Green Party amendment to the Electoral

Finance Act proposing that only those who give very small donations should have their names left undisclosed to the public?

Hon ANNETTE KING: The Prime Minister has made it clear that the Labour Party would support getting rid of all anonymous donations, with State funding of political parties. That is a much cleaner approach.

Gerry Brownlee: Is the Minister concerned by the fact that the New Zealand First leader, Winston Peters, received $100,000 from overseas billionaire Owen Glenn, and that Mr Peters and New Zealand First failed to declare that funding on official returns while Mr Peters has been considering a diplomatic appointment for Mr Glenn?

Hon ANNETTE KING: My understanding—and there have been many questions in the House this week on it—is that Mr Peters did not receive that money.

Dr Russel Norman: Does the Minister agree that the use of the Waitemata Trust by the National Party to hide the identity of donors was reprehensible, but does she also agree that New Zealand First's failing even to declare the existence of the Spencer Trust is just as bad?

Hon ANNETTE KING: I know little or nothing of the Spencer Trust, but I certainly know a lot about the Waitemata Trust, because a lot of work has been done to show just what a sneaky little vehicle it is—controlled and managed by Mr Browne, along with Mr McCully, to hide its donations from people like the Exclusive Brethren. I think any questions about the Spencer Trust would have to be directed to New Zealand First.

Gerry Brownlee: When the Minister said she did not know that Mr Peters had received a $100,000 donation, had she not heard the Prime Minister yesterday acknowledging that he had, and saying that he does not have to give it back?

Hon ANNETTE KING: No. I do not agree with what the member has said the Prime Minister said.

Gerry Brownlee: Does the Minister think the recent revelations about the undisclosed funding given to New Zealand First undermine the integrity of Labour's Electoral Finance Act, given that New Zealand First was one of its most vehement supporters; if not, why not?

Hon ANNETTE KING: What has made the whole system a lot more transparent, going forward, is the Electoral Finance Act. I am really interested that this member asking the question is now very interested in transparency, but during the debate on the very bill, he opposed the bill.

Rodney Hide: How can there be any confidence in New Zealand's democracy, when an overseas billionaire pays off Winston Peters' legal bill to the tune of $100,000 while seeking an honorary consulship, and Bob Jones gives Winston Peters $25,000 that disappears into his brother's trust account; and is not the real corruption the fact that Helen Clark refuses to investigate this money because she needs the vote of New Zealand First?

Madam SPEAKER: No. If the member used the word "corruption", would he please withdraw that and rephrase his question. He knows that that is a word that is unacceptable in the House.

Rodney Hide: How can there be any confidence in New Zealand's democracy, when an overseas billionaire pays off Winston Peters' legal bill to the tune of $100,000 while seeking an honorary consulship, and Bob Jones gives Winston Peters $25,000 that disappears into his brother's trust account; and is not the real problem in all of this the fact that Helen Clark refuses to investigate because she needs the vote of New Zealand First?

Hon ANNETTE KING: The Prime Minister has made it clear that there are many avenues to look at all the accusations the member has made, which are not backed up with proof. But I would say to the member that people in glass houses should not throw

stones, because in 2007 ACT was late putting in its party donations return. So although ACT is very smart about everybody else, it could not keep up with what it was supposed to do.

Rodney Hide: I raise a point of order, Madam Speaker. I am concerned that the Minister of Justice would suggest that what I said in my question was not factual, when in fact it is absolutely factual. We have had the statement from Bob Jones, we have had the statement from Brian Henry, and I think it is a bit rich—

Madam SPEAKER: That is not a point of order.

Rodney Hide: It is a good point, though.

Madam SPEAKER: No. Another comment like that and the member will be asked to leave the Chamber.

Gerry Brownlee: What are the penalties for deliberately submitting an incorrect or incomplete donation return to the Electoral Commission in any particular year?

Hon ANNETTE KING: I do not have the legislation in front of me, but there are penalties; I refer the member to the Act.

Gerry Brownlee: I raise a point of order, Madam Speaker. That is a very simple question. This Minister presided over the passing of the Act. Without losing a supplementary question, I wonder whether I might reword it in a way that the Minister might be able to answer it.

Madam SPEAKER: No. I listened; the Minister addressed the question. The member may not like the answer, but she did address the question. You may ask another supplementary question, if you wish.

Gerry Brownlee: Does the Minister think the public interest in the revelations about undisclosed donations to New Zealand First, and the considerable donation made to New Zealand First by Owen Glenn, warrant further investigations by the Electoral Commission to ensure that New Zealand First now understands—

Peter Brown: I raise a point of order, Madam Speaker. It has been well established that Owen Glenn did not make any donation to New Zealand First. He made a donation to the legal fund of the Rt Hon Winston Peters, and that is quite a different thing—quite a different thing.

Madam SPEAKER: This is a matter of debate; it is not for the Speaker to rule on the accuracy of questions or answers.

Gerry Brownlee: Does the Minister think the public interest in the revelations about donations to New Zealand First from both Bob Jones and Owen Glenn that have not been declared by New Zealand First warrant further investigation by the Electoral Commission; and will she, as Minister, ask the commission to consider making those investigations, or is it just—as the Prime Minister said—that there is a smorgasbord of things that could happen and they hope none of them do?

Hon ANNETTE KING: Of course, the Prime Minister never said any such thing; and the member just did what he constantly does—he makes it up. He pretends he knows a lot about the Electoral Act, but he may not know that the Electoral Commission is actually independent of the Minister of Justice and it will decide whether it will investigate any action of any party in this House.

National Policy Statement for Freshwater Management—Safety of Water

3. Dr RUSSEL NORMAN (Co-Leader—Green) to the **Minister for the Environment**: Does the Government still promise New Zealanders it will clean up the nation’s rivers to a level where they are safe to swim in within a generation; if so, can he say which objectives, if any, in the proposed National Policy Statement for Freshwater Management, released yesterday, give a deadline by which our rivers and streams will be safe for New Zealanders to swim in?

Hon TREVOR MALLARD (Minister for the Environment): I refer the member to pages 4, 6, 7, and 9 of the proposed National Policy Statement for Freshwater Management, but suggest that he works from the one that was issued, not the one his friend gave him earlier, which was an earlier draft.

Dr Russel Norman: Can the Minister confirm that those page references refer to a date of 2035, but that this date—2035—is held and mentioned only in the preamble to the national policy statement, which has no authority, is not binding, and has no legal effect, and therefore will have no effect whatsoever in actually cleaning up our rivers and lakes by 2035?

Hon TREVOR MALLARD: No.

Su'a William Sio: How does the proposed national policy statement improve the guidance to councils on local consultation on water issues?

Hon TREVOR MALLARD: The local government consultation process allows changes around policy statements and plans. It allows communities to express their social, economic, and environmental aspirations, so that there can be the best use of fresh water in the region. The methods of achieving "swimmability" will obviously differ between Otago and the lower Waikato.

Dr Russel Norman: What does the Minister think that Kiwi parents will make of his national policy statement, when its ultimate goal is that 17 kids per 1,000 will be made sick when they swim in their local river, and that this goal may never even be achieved, because there is no time line or deadline for achieving it?

Hon TREVOR MALLARD: Unlike that member, I do not aim to make kids sick.

Dr Russel Norman: I raise a point of order, Madam Speaker. I raise it in terms of whether the Minister addressed the question. It was about the national policy statement; it was not about whether I aim to make kids sick. I ask that the Minister address the question.

Madam SPEAKER: I think the Minister did address the question. I listened carefully to the question, and the elements were there, and the Minister did address it. He was asked the question as the Minister, not as an individual.

Hon Dr Nick Smith: I raise a point of order, Madam Speaker. The issue of water quality is a serious one. The Green Party quite properly asked the Minister questions about it, but the Minister simply insulted the Green members by saying that they are somehow out to make children sick. I do not think that is appropriate conduct, and I ask you to reflect on whether those sorts of personal, derogatory statements to members are fair.

Hon Dr Michael Cullen: Firstly, Madam Speaker, the question itself tried to imply that the Minister intended to make people sick; and, secondly, it misrepresented what the standard actually means, by turning it round and making an imputation on the basis of that. If members ask questions in that form, they can expect to get a fairly short, sharp response.

Madam SPEAKER: As I have said before in this House, I know that this is difficult for members to accept but often the answers reflect the questions. I do listen to them carefully, and that answer did address the question, but obviously not to the satisfaction of members in this House.

Organised and Financial Crime Agency—Operation

4. SIMON POWER (National—Rangitikei) to the **Minister of Police**: Does she agree with the former Director of the Serious Fraud Office's statement yesterday that the powers of the new Organised and Financial Crime Agency were not the same as those of the Serious Fraud Office, and that court proceedings would delay cases by years, or lead to cases being dropped; if not, why not?

Hon ANNETTE KING (Minister of Police): No, I do not agree, nor, I am advised, does the Law Commission or the Commissioner of Police. In fact, I understand that Mr Power's two National colleagues Kate Wilkinson and Chester Borrows do not agree, either. The only person, as far as I can work out, who does agree with Mr Bradshaw is Mr Power himself.

Simon Power: Was David Bradshaw correct, then, when he told the select committee that the Serious Fraud Office currently has the power to make people front up to interviews and answer questions, even if they are self-incriminating, but under the new law "the examination powers are totally different" because a court order is required for an interview, and the interviewee is now able to refuse to answer questions; if so, can she explain how this change in powers will not cause significant delays?

Hon ANNETTE KING: There are no changes to the powers; there are changes to the procedures in order to authorise the use of those powers. That is what was said by those who made submissions to the select committee—except for Mr Bradshaw.

Simon Power: Can the Minister confirm that section 9 of the Serious Fraud Office Act states that the Director of the Serious Fraud Office may require any person to attend an interview, answer questions, and supply information, yet clause 30 of the bill before the select committee allows the interviewee to assert privilege against self-incrimination, and even if the Serious Fraud Office seeks a further court order, the court could uphold the person's refusal to answer?

Hon ANNETTE KING: The issue of self-incrimination was raised in the decision making around the change. The issue was not sought by the police, because things have moved on considerably. It is not a power; the powers of examination and the powers of production have not changed. The issue around self-incrimination has not been carried over, because it was not asked for by the police, and also because we know that self-incrimination powers are not needed to be able to get information from people. The police have shown that over many years. People can be required to give information, but they forget to give information, they can lie, and they can refuse to answer. It was always said that self-incrimination would not be carried over. The changes that the member has been speaking about are around production and examination powers. Those powers are peculiar to the Serious Fraud Office. They are carried over to the new agency.

Martin Gallagher: Does the Minister expect that there is a risk of delay associated with the requirements of the Serious Fraud Office (Abolition and Transitional Provisions) Bill?

Hon ANNETTE KING: I am aware that Mr Bradshaw has raised the issue of court delays through judicial review. The common law already protects the police from judicial review of their decision to investigate or prosecute. In addition, clause 33 of the bill intends to carry over the current section 21 of the Serious Fraud Office Act, which prevents people from using judicial review as a way of holding up investigations or delaying compliance with orders.

Simon Power: Does she stand by her statement in the House yesterday that the new Organised and Financial Crime Agency has the same powers as the Serious Fraud Office but with judicial oversight; if so, how does she reconcile that with the papers she submitted to Cabinet in March, which, in addition to judicial authorisation, "propose more precise thresholds or restrictions for the examination power." that will be "limited by … clear legislative criteria or restrictions around their use."?

Hon Dr Nick Smith: Sounds like change to me.

Hon ANNETTE KING: The production and examination powers in the bill—the changes—require the approval of the Commissioner of Police or his delegate, and, in a small number of cases, examination orders, in a non-business context, require the

additional approval of the Secretary for Justice. That is what the change is—not the powers themselves.

Simon Power: Sounds like a change to me.

Hon ANNETTE KING: It might sound like it to that member. He should ask Chester Borrows and Kate Wilkinson, who have heard how it works, whether they now agree with it.

Simon Power: How can the current powers of the Serious Fraud Office and the new powers of the Organised and Financial Crime Agency be the same, as she claimed yesterday, when under the new regime people will be able to refuse to answer questions but under the current law they cannot?

Hon ANNETTE KING: Under the current law they cannot refuse, but they could lie, they could forget, and they could, in fact, not provide evidence. The police have far more experience, as Mr Borrows knows, in getting evidence from people than any such provision in the Serious Fraud Office Act could provide.

Simon Power: Can the Minister confirm that on 10 December last year Cabinet asked her to resubmit a paper that specifically sought to clarify "the nature of the powers proposed for the Serious Fraud Office in the new Organised Crime Agency, particularly regarding document production and compulsory examination, and how those powers could be ring fenced …"; if so, does that mean that, at an earlier stage, there was an intention to retain the identity of the Serious Fraud Office within the Organised and Financial Crime Agency, with its current powers intact?

Hon ANNETTE KING: No. A decision was made to shift the Serious Fraud Office to a new agency under the control of the New Zealand Police. I announced that, Cabinet asked for further work to be done on what the agency's powers would be, and I made that announcement at the time that we announced we were transferring the office.

Community Organisations—Funding

5. RUSSELL FAIRBROTHER (Labour) to the **Minister for Social Development and Employment**: What progress has been made towards the full funding of community organisations delivering essential services to children, young people, and families?

Hon RUTH DYSON (Minister for Social Development and Employment): The first Pathways to Partnership payments are now going out to over 850 community groups. Yesterday I met with the Mother of Divine Mercy Refuge Charitable Trust, which supports families that have experienced family violence. This year the trust will receive a funding increase of more than $110,000, and its funding will continue to increase every year until it reaches full funding in 2012. Organisations like the Mother of Divine Mercy Refuge Charitable Trust are being recognised by our Government for the vital services and support that they provide.

Russell Fairbrother: What reports has the Minister seen of alternative funding models for the community sector?

Hon RUTH DYSON: I have seen a model built on the philosophy that "the Government is really just a purchaser of services and the need to sustain a longer-term relationship is not an explicit part of its actions." That is the model advocated by the National Party—an approach based on competitive bidding wars. The model would favour large providers, such as the huge Australian organisation currently courting the National Party. Local community groups would be left struggling and unable to support the vulnerable families that need their help.

Judith Collins: Why has it taken 9 years for this Government to finally adopt full funding, when it has known for years that community groups are struggling to meet their costs due to the uncertainty over funding, the 1-year contracts, and the taking away

of contracts just as they get going; and why is the full-funding model that the Minister has announced being adopted by the Government only after National announced it would do it—why does she have to copy National Party policy again?

Hon RUTH DYSON: There are three quick points that I would like to make. Firstly, it is a bizarre situation for that member to be saying "too little, too late" to a move in the Budget that she and her party opposed and voted against on the public record. Secondly, within each Budget there is only a certain amount of National Party wreckage that we can restore—like restoring superannuation, and like returning to income-related rents for State housing. Thirdly, I want to clarify the misunderstanding that the member has about her own party policy, which is not to have full funding for essential social services, but is, to quote John Key, to "encourage community groups to put in bids"—in a competitive tendering process—"which reflect the full cost of delivery,". That is a big difference.

Judith Collins: I seek leave to table a Ministry of Social Development document on Pathways to Partnership that shows that it is 60 percent funding, not full funding.

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

Child Support—Total Debt

6. JUDITH COLLINS (National—Clevedon) to the **Minister of Revenue**: What is the total current child support debt broken down by assessment and penalties?

Hon RUTH DYSON (Minister for Social Development and Employment) on behalf of the **Minister of Revenue**: As at 30 June 2008 the total child support debt owed by liable parents, payees, and child support employers was: in assessment debt, $501,889,098; in penalty debt, $833,937,558—totalling $1,335,826,657.

Judith Collins: Is it not true that the assessment debt has grown from $192 million in 2000 to more than $471 million today, and what is the explanation for this, given the $280 million increase in assessment debt?

Hon RUTH DYSON: In both the cash collections, which are now approximately $1 million per day—an increase of 4 percent—and the collections on Australia, which is now $20.6 million for the last financial year compared with $13.3 million the previous year, we have seen an increase. More can be done, but in both instances we have seen an increase.

Judith Collins: Is it not true that the number of Inland Revenue Department staff employed specifically to deal with unpaid child support has increased from 98 in June 2004, to 214 in June this year; and does the Minister have any idea what these staff are actually doing, because clearly they are not collecting the unpaid child support debt?

Hon RUTH DYSON: From the figures I gave to the member in the previous supplementary question: clearly they are. But they are now on notice that should that member ever be part of a Treasury front bench, their jobs will be on the line.

Judith Collins: How can he be satisfied with a child support system that enables 35 of the top 100 child support debtors to take off overseas, free to leave and enter New Zealand as they please, even though they owe between $300,000 and $600,000 each, and if these same people owed $5,000 for parking or speeding tickets they would be stopped at the airport; what is the difference?

Hon RUTH DYSON: Data match legislation was passed by this House enabling the Inland Revenue Department and the Customs Service to ensure that people leaving and entering New Zealand did have their child support liabilities checked. That member and her party voted against that legislation.

Judith Collins: How can he be satisfied with the child support system when just 35 people owe a staggering $14 million between them, yet they are free to enter and leave

New Zealand as they please because this Government cares more about parking fines than it does about children?

Hon RUTH DYSON: No indication of total satisfaction has been given. That member should recall that her party voted against strengthening provisions that enabled the Inland Revenue Department and the Customs Service to data match in order to enable more child support debtors to repay that debt.

Judith Collins: What does it say about the values of this Government when it thinks that stopping child support debtors at the airport is Draconian, but when it comes to people with speeding or parking tickets, it has adopted the following approach: "If you are planning on going overseas this summer you might want to pay your fines, or you could end up staying in New Zealand.", and "fine dodgers must pay the fine or pay the price."?

Hon RUTH DYSON: As I have said in the answers to previous supplementary questions, the most recent of several provisions, either in legislation or in inter-Government agreements to strengthen the arm of the Inland Revenue Department to reduce child support debt, were opposed by that member and her party.

Judith Collins: I seek leave to table the leaflet *Pay or Stay*, Rick Barker's getting tough on—

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

Rural Health—Ministry of Health Actions

7. BARBARA STEWART (NZ First) to the **Associate Minister of Health**: Will his ministry be taking any action to address the concerns outlined in the discussion document recently released by the New Zealand Institute of Rural Health; if not, why not?

Hon DAMIEN O'CONNOR (Associate Minister of Health): Yes, I can tell the member that the Ministry of Health has been taking action on the issues outlined in that discussion document since Labour came into Government. Every year we spend an additional $100 million through the rural adjuster to district health board funding. We have committed $150 million for safer drinking water and $173 million for sewerage schemes for small rural communities. Each year we commit $8 million for health workforce retention in rural communities. We spend $5 million for mobile surgical services. We spend $4 million for the rural bonus to rural general practitioners and nurses, and $2 million for reasonable rosters for rural general practitioners and nurses. We have paid rural midwives a rural bonus and developed a Rural Innovations Fund. I could go on and on. We have an excellent track record in rural health compared with the National Party, which has less than one page on rural health policy.

Barbara Stewart: Does the Ministry of Health's implementation plan for the rural sector date back to 2002; if so, is it not time to formulate a new strategy taking into account factors such as workforce shortages and clinical safety in rural hospitals; if not, why not?

Hon DAMIEN O'CONNOR: A rural expert advisory group wrote a report for the Minister in 2002 on implementing the Primary Health Care Strategy in New Zealand. The vast majority of its recommendations, as stated in the recent report, have been addressed and implemented. For example, the discussion document states that the Government has been focusing on workforce issues through that period.

Lesley Soper: What is the Minister's view of the value of the discussion document?

Hon DAMIEN O'CONNOR: Although I acknowledge the good intent behind the document, I have to question the accuracy of some of the data that are included. For example, it refers to a downturn in the rural economy, when in fact the rural sector has

been thriving under high commodity prices in recent years. The discussion document also claims there has been a 32 percent reduction in the rural primary health care workforce, when my figures show there has been an increase in rural general practitioners receiving the rural bonus from 415 in 2005-06 to 453 in 2007-08. I also note that the organisation that wrote the discussion document is soliciting a contract to write a rural health strategy.

Jo Goodhew: Why, after failing to complete the review of the rural emergency response scheme PRIME, after failing to complete the review of the rural ranking scale, and after failing to complete the review of after-hours services—all detailed in the discussion document—is this Labour Government so intent on hui and “no do-ey”?

Hon DAMIEN O’CONNOR: I have to inform that member that I do not think there has been one hui on this particular issue. The vast majority of the health workforce in this country, with a few exceptions of course, is non-Māori—which is a little unfortunate, I have to say. We have been working through a review of the rural ranking scale and the after-hours issues. Unfortunately such anomalies as the general practitioners in Queenstown receiving a significant rural bonus are things that I want to work through. I have every intention of paying, including the $5 million allocated in this year’s Budget for after-hours services, money to those rural practitioners who are under pressure. I am not prepared to commit money to rural practitioners who are not providing after-hours care or who are not working in rural areas but have somehow qualified, through an inappropriate ranking scheme, for a rural bonus. I am working through those issues as quickly as I can, and I would welcome the opportunity to engage with the Rural GP Network on that.

Barbara Stewart: Is he aware that the rural general practice workforce declined by 32 percent between 2000 and 2005, and will that hasten consideration of voluntary bonding initiatives by the Ministry of Health; if not, why not?

Hon DAMIEN O’CONNOR: I have to say that I do not accept those figures. There is some debate around the information on how many rural practitioners there are, and I would welcome more cooperation with the Rural GP Network in that area to clarify those issues. In regard to rural bonding, which the National Party has committed itself to, can I just quote back from the Rural GP Network, which says: “Don’t, because it won’t work.” It supports incentivising, because bonding does not work. It is an old-fashioned idea. That is classic National Party policy.

Biofuels—Compulsory Requirement

8. Hon Dr NICK SMITH (National—Nelson) to the **Minister of Energy**: Is the Government reconsidering its mandatory requirement for biofuels from 1 October 2008, given the widespread international concern about sustainability and impacts on food prices and the sustainability standard not coming into effect at the earliest until July 2009?

Hon DAVID PARKER (Minister of Energy): No. Biofuels are already being sold in New Zealand. Currently they can be imported and used from unsustainable sources. Whatever way we look at it, the bill improves the status quo. National’s opposition is just another excuse for delay, exposing once again its hollow pretence on climate change issues.

Hon Dr Nick Smith: Can he confirm that, like with the emissions trading legislation, he does not have the numbers on the Biofuel Bill, and that is why it sits at No. 22 on the Order Paper and more than 4 weeks has passed since it was reported back from the select committee, with no signs of getting to a second reading?

Hon DAVID PARKER: I would have thought that Dr Smith learnt yesterday that questions on the progress of legislation in the House are to be addressed to the Leader of the House.

Hon Marian Hobbs: To the Minister—[*Interruption*]

Madam SPEAKER: I am sorry I did not hear the member. I cannot hear with the level of chatter, particularly from members who sit close to the Speaker. It is almost impossible to hear.

Hon Dr Nick Smith: I raise a point of order, Madam Speaker. My question asked whether the Minister had the numbers. On previous occasions you have ruled that is within a Minister’s responsibility.

Madam SPEAKER: That was not all, however, that the member asked in the question; I listened to it. If the Minister wants to add anything more that is within his portfolio, then he may. [*Interruption*] He does not want to.

Hon Marian Hobbs: What reports does the Minister have of New Zealand companies that want the Biofuel Bill to pass?

Hon DAVID PARKER: New Zealand companies are queuing up to produce sustainable biofuels once the bill is passed, but they want the certainty the legislation provides. I find it extraordinary that National, which claims to support enterprise in business, is doing everything it can to stop sustainable New Zealand businesses getting off the ground.

Hon Dr Nick Smith: Has he read the latest report from the OECD published last week that concludes that biofuels have limited benefit in reducing emissions and are responsible for 30 percent of the international increase in food prices—this coming on the heels of negative reports from Oxfam, the G8, the World Food Programme, the Royal Society, and the United Nations Secretary-General all calling for such biofuels policies to be reconsidered—and why is the Government ignoring those reports?

Hon DAVID PARKER: Dr Smith remains confused by the proposition that just because some biofuels are bad, not all are. I am not surprised he is confused, because there is confusion on climate change issues across National. We have Mr Key, on the one hand, saying: “I firmly believe in climate change and always have.”, despite being on the *Hansard* record—

Hon Dr Nick Smith: I raise a point of order, Madam Speaker. It is a habit of the Government when it is in trouble to want to talk about National policy and what we say, rather than being accountable. My question was about the OECD report on biofuels and what Oxfam, the G8, and the United Nations have said about biofuels, and it made no reference to National’s climate change policy.

Madam SPEAKER: If we could just listen to the Minister’s answer, then we can judge whether it addresses the question.

Hon DAVID PARKER: I was pointing out that confusion can arise in National on these issues because it has Mr Key saying: “Even if one believes in global warming, and I am somewhat suspicious of it …”, yet later saying: “I firmly believe in climate change, and always have.” Mr Key will say whatever he thinks New Zealanders want to hear, but he and National have a very different agenda.

Hon Dr Nick Smith: I raise a point of order, Madam Speaker. How can that response in any way be considered an answer to the question? If you would like me to, I will read it again. It was about the OECD report that concludes that biofuels have limited benefit in reducing emissions, about the responsibility of biofuels for the 30 percent increase in international food prices, and about reports from other organisations. If you are to allow that response as an answer to a question, then a Minister can effectively talk about any old thing and you will say that it addressed the question.

Hon Dr Michael Cullen: The Minister has pointed out that the member who asked the question is confused about the difference between sustainable biofuels and non-sustainable biofuels, and that that confusion was interpretative of the National Party's approach to the entire climate change area. Unfortunately, politics goes both ways in this House, not just from there to here.

Madam SPEAKER: I know that members may at times feel frustrated with the answers, but members cannot require a specific answer to a question. Often the questions are long and prefaced by many statements, and, therefore, the answers they get are sometimes not satisfactory. In this instance, the answer did relate to the question. It may not have satisfied the member, but it did address it.

Hon Dr Nick Smith: How can the Minister justify the cost identified in the OECD report on biofuels of between US$960 and US$1,700 per tonne of greenhouse gas emissions saved; and why would any Government want to impose this cost at a time when inflation is at the worst it has been for 20 years and families are under record budget pressure?

Hon DAVID PARKER: Because not all biofuels are to that effect. Dr Smith has already been outed for misrepresenting the advice given to the select committee. It is now clear that with the current prices of oil, sustainable biofuels can be brought forward at or below the current cost of oil-based alternatives.

Hon Dr Nick Smith: Can the Minister confirm to the House whether he has a majority in Parliament to support the Biofuel Bill, given that the compulsory requirement is due to take effect in just 8 weeks' time?

Hon DAVID PARKER: I could if I desired to, but I will not.

Peter Brown: Is the Minister aware of the submission made to the select committee by the Automobile Association, and, noting that the association represents one million - odd motorists in this country, can he advise whether cognisance will be taken of its recommendations?

Hon DAVID PARKER: The Automobile Association raised proper concerns about biofuels at some levels being incompatible with vehicles. It is clear that biofuels at the levels that are proposed currently, which are similar to the biofuels that are already being delivered around the country at a number of locations, will not cause a problem.

Hon Dr Nick Smith: Can he explain why under the Government's biofuels policy there is a 42c a litre advantage of ethanol over bio-diesel when both officials and the select committee concluded that there is no justification for that bias?

Hon DAVID PARKER: The select committee reported the bill back in that form.

Jeanette Fitzsimons: Can the Minister confirm that during the mere 10 months before detailed sustainability regulations come into force, those selling biofuels in New Zealand will have to report publicly on their origin and on how they are consistent with the sustainability principles of the Act; and does he think that any firm would be stupid enough to try to foist on to the New Zealand public biofuels that contribute to world hunger, given the Act that is about to come into force and given the wide publicity about the kinds of biofuels that are used overseas?

Hon DAVID PARKER: The question makes the point quite well, but I would also re-emphasise what I said in response to an earlier question—that is, without this legislation, of course, those protections do not exist.

Jeanette Fitzsimons: I seek leave to table the Green Party's contribution to the Biofuel Bill, new section 34GA, which shows that biofuels will not be able to contribute to—

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

Hon Dr Nick Smith: I seek leave to table the report of the OECD on biofuels, urging Governments not to proceed with such—

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

Māori Education—Secondary School Qualifications

9. TE URUROA FLAVELL (Māori Party—Waiariki) to the **Associate Minister of Education**: Ka pēhea te whakatika a te Minita i nga hapa o te pūnaha kāwanatanga e pā ana ki te haurua, neke atu o ngā ākonga Māori i mutu te kura i tērā tau me te kore oti i a rātou tētahi tohu mātauranga o te rēanga tuaono?

[*What will he do to address the systemic failure which has resulted in more than half of Māori students leaving school last year without completing a sixth-form qualification?*]

Hon NANAIA MAHUTA (Minister of Customs) on behalf of the **Associate Minister of Education**: Tino nui rawa atu ngā āhuatanga pai kua puta ki roto i ngā tikanga akoranga Māori. I te tau 2007, ko te wāhanga ō rātou i wehe mai i ngā kura i eke ki te tautama tuarua o National Certificate of Educational Achievement, runga ake rānei, e 44 ō-rau. Kia whakaritea ki te tau 1999, anā, 19.7 ōrau noa iho o rātou i wehe mai i ngā kura, i eke ki tēnā taumata. Ko ēnei pikinga i whakaata i te piriponotanga a te Kāwanatanga ki te whakapai ake i ngā huanga akoranga Māori. He nui rawa atu ngā mahinga kua oti, he nui anō me mahia, ā, kei te mahi tonu mātou. There has been massive improvement in Māori educational achievement. In 2007 the proportion of Māori school-leavers achieving National Certificate of Educational Achievement level 2 or above was 44 percent; only 18.7 percent of Māori school-leavers in 1999 achieved an equivalent level. This improvement reflects the Government's commitment to improving Māori educational outcomes. A lot is being done, there is still more to do, and we are doing it.

Te Ururoa Flavell: He aha ngā tauira Māori e puta mai ai i te kura he iti ake ngā tohu mātauranga ki ngā tohu o wētahi ake momo iwi?

[An interpretation in English was given to the House.]

[*Why are Māori students leaving school with lower levels of education than students from other ethnic groups?*]

Hon NANAIA MAHUTA: Ahakoa he iti ka haere whakamua. Ko te mea nui mō tēnei kāwanatanga, ka haere tahi mātou ki te hāpai i ngā hua o te mātauranga ki te iwi Māori. Although these are small steps, they are a concerted effort to go forward. The most important thing for this Government is that we take a combined approach to ensure that the benefit and support of educational opportunities extend to Māori. In fact, the statistics show that since 1999 there have been great improvements in terms of Māori staying at school and gaining qualifications while at school.

Louisa Wall: Kia ora koe, Madam Speaker. Tēnā koutou katoa. Ka taea e te Minita te kōrero mō ētahi kaupapa kōkiri e whakatinana ana tēnei Kāwanatanga hei whakapai ake i ngā putanga mā te ranga Māori?

[An interpretation in English was given to the House.]

[*Can the Minister outline some specific initiatives that this Government is implementing to improve Māori educational outcomes?*]

Hon NANAIA MAHUTA: Āe, kei te mahi tonu tēnei kāwanatanga ki te whakapai ake i ngā huanga akoranga mō ngāi Māori tāpiri atu ki te whanaketanga o Ka Hikitia i takoha mai rā e ngā tohunga ako Māori, ngā hapori Māori me te Rārangi Akoranga, Te Marautanga, he marautanga ārahi akoranga i roto takotoranga Māori, te marautanga hou mō Aotearoa, a Schools Plus, e rapu ana ki te whakatika i ngā hapa pūnaha o muri me te

whakawhiwhi i tētehi rautaki mō ngā akoranga katoa kia noho mai ki roto i ngā mahi whakangungu akoranga atu hoki, ā, eke noa ki te tau tekau mā waru. This Government continues to work towards improving educational outcomes for Māori, including the development of Ka Hikitia, which was contributed to by Māori educationalists, Māori communities, and the education sector; Te Marautanga, the curriculum to guide education in Māori medium settings; a revised New Zealand curriculum; and Schools Plus, which seeks to address the systemic failures of the past and to provide a strategy for all learners to remain in education and/or training until the age of 18.

Pita Paraone: Tēnā koe, Madam Speaker. Tēnā tātou o te Whare. Kei te ’hakaae te Minita mēnā e hiahia ana tātou kia kite i te kōkiritanga o te iwi Māori, nā reira e tika ana nā tātou o tēnei Whare kiatautokongia ngā hōtaka kia noho tonu ngā tauira Māori ki te kura kia whai tohu mātauranga, mēnā, āe me pēhea, mēna kāhore e aha ai? Does the Minister agree that if we wish to see the advancement of Māori, then it is right that this House support programmes to have Māori students remain at school to gain an educational qualification; if he does, how; if not, why?

Hon NANAIA MAHUTA: Āe, koinā te take ka huri ō mātou hiahia ki ērā o ngā ripoata kua kōrerohia e au. [*Yes, that is the reason why our ambitions refer to other reports that I alluded to previously.*] Ko te hiahia kia noho roa ngā tauira ki te kura. Our aim is to ensure that students stay at school for longer. Ko te mea pai ake o te Schools Plus he maha ngā huarahi hei awhi ā tātou nei tauira me ā rātou akoranga ki te kura, ki te whiwhi mahi, aha rānei. The most important aspect of the Schools Plus initiative, for example, is to ensure that there is a range of pathways for young Māori to support their learning and career opportunities, so that they can get a job or pursue higher learning opportunities.

Te Ururoa Flavell: He aha te take e pēnei ana te kōrero, e toru ō-rau noa iho ngā tauira Pākehā e puta mai ana i te kura, kāore rawa ō rātou tohu mātauranga; otirā, tekau ō-rau ngā tauira Māori e pēnei ana te kore tohu?

[An interpretation in English was given to the House.]

[*Why are only 3 percent of Pākehā leaving school with no formal attainment while 10 percent of Māori are in that same position?*]

Hon NANAIA MAHUTA: E ai ki ngā tatauranga o Te Tāhuhu o te Mātauranga, ko te mea nunui mai i te tau 1999, ka pai ake ngā āhuatanga ki ō tātou nei tauira Māori. Koinā te mea nunui. I think when people look at the statistics from the Ministry of Education they will certainly see an improvement in educational outcomes for Māori since 1999. They have been attaining higher qualifications. That shows that this Government has done more in our 8 years than the previous National Government did between the years 1990 and 1999.

Hon Dover Samuels: Pēhea ōna nei whakaaro ki a wai te tino rangatiratanga mō ngā tamariki haere ana ki te kura, ko ngā mātua, ko ngā whānau o ngā tamariki, ko ngā Tari o te Mātauranga, ki te kāwanatanga, ki ētahi atu raini? Does the Minister think that parents and whānau have a responsibility to ensure that their children attend school and complete their education, or should it just be left to the Ministry of Education, to the Government, or to someone else?

Hon NANAIA MAHUTA: Āe, ko koutou e mōhio ana ki te whāngai pēpi, ki te tiaki ō koutou nei tamariki, koi nā te mea nunui kei waenganui i ia whānau ngā whakautu ki ērā o ngā o ngā toimahatanga ki te taha mātauranga engari, i te mutunga, kei a mātou ki te taha kāwanatanga hei whakatakoto ērā o ngā kaupapa ki te hāpai tēnei āhuatanga me pēwhea e taea e tātou te tautoko ngā hiahia o ō tātou nei tamariki kia eke ai rātou ki ō rātou nei taumata. Yes, I certainly agree, and many members across the House who are parents and who have raised children know that within the family there are many

solutions to support the educational aspirations of our young people. On the Government's part, we are working hard to ensure that there are responses that continue to work to support the educational aspirations of young Māori.

Te Ururoa Flavell: E mōhio ana ia, tokorua irakati ono ngā tauira Māori e whakatahaina ana mō ia tauira Pākehā; tokowhā e panaia ana mō ia tauira Pākehā; he maha atu ngā tauira Māori e whakatārewatia ana, ā, e pēnei ana ngā rere kētanga i ngā tau; hoi, āwhea ia tahuri ai ki te whakatika i tēnei parekura?

[An interpretation in English was given to the House.]

[*Is he aware that Māori students are stood down at a rate 2.6 times greater than that of their Pākehā peers, are excluded four times more often than Pākehā are, and are still disproportionately represented in suspension statistics, and that these differences have remained relatively constant over the years; when will he do anything to address this crisis of endemic proportions?*]

Hon NANAIA MAHUTA: I will respond to that question quite directly, because although the member has raised a number of issues, let us put them into context. Since 1999 this Government has made a number of moves to ensure that the ability to stand down, suspend, and exclude students is limited, and the member will know that. Many initiatives around the country have shown that where we have taken action to limit the ability for schools to suspend, exclude, and stand down students, the outcomes have been tremendous. More to the point, since 1999 we have seen an improvement in the numbers of Māori staying at school for longer and gaining more qualifications. This Government has not stopped its programme of work; Schools Plus will work hard to ensure that many more of the students whom that member talks about can continue to be engaged in further education, training, or upskilling.

Māori Trustee—General Purposes Fund

10. Hon TAU HENARE (National) to the **Minister of Māori Affairs**: Does the Māori Trustee support the expropriation of $35 million out of the Māori Trustee's general purposes fund?

Hon SHANE JONES (Minister for Building and Construction) on behalf of the **Minister of Māori Affairs**: The Māori Trustee has been closely involved in the development of this proposal, and supports the Māori Business Aotearoa New Zealand concept.

Hon Tau Henare: Is it not correct that last year the Minister's office was in talks with the Māori Trustee about becoming an investor in a development fund; and that the Minister put papers to Cabinet recommending it expropriate $35 million of trustee money, only after the Māori Trustee refused to become that investor, to the tune of $35 million?

Hon SHANE JONES: The Māori Trustee is a highly valued civil servant and administrator, and, indeed, he released a public statement yesterday amplifying the level of support he gives to the proposal.

Hon Tau Henare: In the press release that the Minister refers to, did the Māori Trustee refer to his support, or otherwise, of the expropriation of $35 million out of the general purposes fund?

Hon SHANE JONES: What is at stake here is a proposal to write off over $60 million worth of historical debt, and to introduce $19 million—to improve the operational capacity of the Māori Trustee—a $4 million capital grant, and a transfer of $35 million. It is akin to transferring from one waka to the other—something the member is a tohunga at.

Hon Tau Henare: Can the Minister confirm that yesterday's press release was not issued by the Māori Trustee but by the communications manager at Te Puni Kōkiri after news of the Māori Trustee's opposition to the expropriation of $35 million of trustee money was leaked, and that none of the comments his department strong armed out of the Māori Trustee in a vain attempt at damage control even mention the expropriation of the $35 million that I have asked about in the last three questions and not got an answer?

Hon SHANE JONES: Obviously, a bill lies before the select committee, which the member occasionally turns up at. Number two—

Madam SPEAKER: That comment was inappropriate. Would the Minister please address the question.

Hon SHANE JONES: The bill lies before the select committee. I repeat that it is not impounded money. It is not confiscated money. It is a transfer from one organisation to another—an entity that will have the Māori Trustee as its chair.

Hon Tau Henare: Can the Minister confirm evidence presented to the Māori Affairs Committee yesterday that none of the 2,000 attendees at the consultation hui on the Māori Trustee Bill were told of any intention to expropriate the $35 million of general purposes fund money, but rather were only asked whether they supported general reform of the trustee and the principle of having a development fund?

Hon SHANE JONES: There was a consultation process, and the overwhelming response was that such reform and the creation of an entity with at least $35 million would be a boon for the iwi.

Hon Tau Henare: I seek leave of the House to table the transcript of yesterday's select committee, where the Māori Trustee said he did not support the movement of $35 million.

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

Health Services—Access

11. JILL PETTIS (Labour) to the **Associate Minister of Health**: How is the Government improving young people's access to health services?

Hon STEVE CHADWICK (Associate Minister of Health): As part of the Budget this year, over the next 3 years more than 40,000 secondary students will gain better access to health services. Over 4 years, $17.2 million will go towards health services for young people based at all decile 1 to decile 3 secondary schools, teen parent units, and alternative education facilities. That adds to the Labour-led Government's commitment to delivering accessible primary health care to all New Zealanders, wherever they are.

Jill Pettis: What are the benefits of the Government's delivering health care at school, and what sorts of services can young people and their parents expect?

Hon STEVE CHADWICK: We know that it works much better to bring health services to where young people are, rather than just hoping they will go to existing services when they need to. We know that healthy students are much more likely to learn. School-based services will differ depending on each school's need, but are expected to be nurse-led and may include regular general practitioner clinics. These services will be developed in consultation with the school, the primary health organisation, and the district health board.

Rest Homes—Standard of Care

12. JO GOODHEW (National—Aoraki) to the **Minister of Health**: What are the names of the five rest homes that he believes are potentially in the same league as Belhaven Rest Home in Auckland?

Hon DAVID CUNLIFFE (Minister of Health): I want to make it clear that at no time did I suggest that there are other rest homes "in the same league" as Belhaven Rest Home, potentially or otherwise. The level of care of, and the lack of respect given to, residents at the Belhaven Rest Home were absolutely unacceptable. That is why the Ministry of Health and the district health board moved quickly to shut it down. Failing to meet basic standards of care in any rest home will result in strong and appropriate action.

Jo Goodhew: Why does the Minister not take action now to introduce spot auditing and a comprehensive review of Labour's failing auditing processes?

Hon DAVID CUNLIFFE: In the first instance, I have already asked for such a review and have proposals under way. In the second instance, I draw the House's attention to National's discussion paper on aged residential care, where the only real proposal it makes about auditing is to lower compliance costs.

Jill Pettis: Oh!

Hon DAVID CUNLIFFE: Oh!

Sue Moroney: How long after receiving the complaint about Belhaven Rest Home did the Ministry of Health act?

Hon DAVID CUNLIFFE: The Ministry of Health acted immediately and its officials were at the rest home within hours of the ministry receiving the complaint. Failure to treat our elderly with the respect and care that they deserve will not be tolerated. I encourage those who have complaints about the care that they or their loved ones have received to contact the Ministry of Health on 0800 113 813. We will not sit idly by when there are serious failures, and those responsible will be held to account.

Barbara Stewart: What action is being taken to ensure that basic standards of cleanliness, hygiene, and food safety are maintained for residents, given that rest home managers are always advised in advance of planned audits?

Hon DAVID CUNLIFFE: District health boards currently contract a range of assessment companies, which undertake thorough audits according to agreed specifications. Those auditors themselves are currently under an assessment regime whereby they are reviewed for effectiveness by the district health boards and the Ministry of Health.

Jo Goodhew: How widespread does the Minister think this problem of the safety of residents of rest homes is, and how has he come to his conclusions about residents' safety?

Hon DAVID CUNLIFFE: I think it is important to state firstly that although the Government has zero tolerance of elder abuse, we believe that in most cases rest home care facilities are appropriate and well managed. I think it is unfortunate if the member or anyone else is attempting to spread by innuendo any material that would undermine legitimate and well-run businesses. It is also very important that we ensure that the auditing processes are appropriate, and I have already said to the member that I have a review under way on that matter.

Jo Goodhew: Has the Minister received any reports from the Ministry of Health of any concerns that it has about the safety of rest home residents; if so, what do those reports say?

Hon DAVID CUNLIFFE: Yes; as I have said publicly, I have asked the ministry for a full report on any concerns that it may have about rest homes. The point I made earlier is that it is not true to say that I have said that five other rest homes are in the same league as Belhaven Rest Home. I am advised that there are no other rest homes about which similar reports have been received.

Jo Goodhew: Why, after 9 long years of this Labour Government, are we seeing such obvious failures in the Government's auditing system, despite growth in Labour's audit bureaucracy?

Hon DAVID CUNLIFFE: The member's last comment begins to chime rather well with the complaint in her party's discussion document about compliance costs. Can the member please come clean and tell the House whether she is asking for tougher auditing standards, or for weaker auditing standards as is called for in National's elder care paper?

I seek leave to table an extract from National's elder care discussion document, where the party calls for a reduction—

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

Question No. 10 to Minister

Hon TAU HENARE (National): I raise a point of order, Madam Speaker. I am wondering whether you could assist me. The issue that I would like you to have a look at is that, some time ago, the Chief Executive of Te Puni Kōkiri personally approached the clerk of the Māori Affairs Committee—he did not go through the select committee itself—to ask the select committee to request that the Māori Trustee make a submission to the select committee. I am not sure why that was, but he approached the clerk of the select committee to ask the select committee to request the Māori Trustee to make a submission to it. I wonder whether you could have a wee look at that issue to see whether there was any impropriety. I think there was. I think the Māori Trustee was not too keen on making—

Madam SPEAKER: I thank the member. I have got the point. I am happy to look at it.

THIRD READINGS

Hon ANNETTE KING (Acting Minister of Trade): I move, *That the Tariff Amendment Bill, the Customs and Excise Amendment Bill (No 4), the Radiocommunications Amendment Bill (No 5), the Fair Trading Amendment Bill (No 2), and the Electricity Amendment Bill (No 3) be now read a third time.* The bills amend New Zealand's domestic legislation so that the free-trade agreement between the Government of New Zealand and the Government of the People's Republic of China can come into force on 1 October 2008. Securing this comprehensive free-trade agreement was a major achievement for New Zealand and this Labour-led Government. It took more than 3 years and 15 rounds of negotiations to reach the deal. The agreement liberalises and facilitates trade in goods and services and in investment, removes barriers to trade, and promotes cooperation in a broad range of economic areas between New Zealand and China, our third-largest individual trading partner.

Initial tariff cuts will take place when the agreement comes into force. This will result in the immediate elimination of tariffs on over $200 million worth of current New Zealand exports to China. Tariffs on 96 percent of our exports to China will be phased out by 2017. The removal of tariffs and other obstacles to trade will give our businesses a competitive head start in the fastest-growing economy in the world. New Zealand exports to China will now total $2 billion a year and will continue to grow. That will create opportunities for a better standard of living and more jobs for New Zealanders. The agreement contains measures to make it easier to do business by improving customs procedures, and by enhancing the cooperation between officials in technical areas. It also has rules to counter unfair trade. It aims to reduce barriers to trade and services between the two countries and to provide additional protection for investors.

The bill enables the agreement to be brought into force. The Tariff Act 1988 will be amended so that tariff cuts can be applied. Amendments to the Customs and Excise Act 1996 will create a system for issuing certificates of origin for goods exported from New Zealand to China, to ensure our exports benefits from preferential tariffs. Amendments to the Fair Trading Act 1986, the Electricity Act 1992, and the Radiocommunications Act 1989 will mean that conformity of agreement on electrical and electronic equipment can be put into place.

New Zealand is the first developed country to seize the opportunity of negotiating and concluding an agreement with China. Being first will give New Zealand, for a time, a unique competitive advantage. This will better enable us to strengthen existing commercial relationships and to create new ones. New Zealand businesses are already leveraging off the deal.

As the Foreign Affairs, Defence and Trade Committee noted in its report back to the House on the treaties and the bill, the agreement is important because it contributes to New Zealand’s strategic trade objectives, including the objective of broadening and deepening relationships in Asia. The agreement is also significant in the wider international trade context. It goes towards New Zealand’s goal to strengthen economic integration in the Asia-Pacific region, and is being seen internationally as a pointer to enhance cooperation in our region. New opportunities for free-trade agreements are being explored with Korea, Japan, and India, and they have gained some momentum from the success of completing the China free-trade agreement. The Government’s confidence in the agreement is shared by a wide range of New Zealand businesses and industry groups, which have publicly welcomed the successful negotiations of the agreement and are looking forward to its enforcement.

I acknowledge the hard work and skill of the negotiating team, led by David Walker of the Ministry of Foreign Affairs and Trade. I acknowledge the role played by the Prime Minister, Helen Clark, and Minister of Trade, Phil Goff, in intervening to support the negotiations when required. I thank members of the Opposition for their support with this agreement. The New Zealand - China free-trade agreement has huge economic and strategic significance for New Zealand. The enactment of these bills will allow New Zealand businesses to begin benefiting from tariff cuts, and from the trade facilitating measures contained in the agreement, from 1 October 2008. I commend these bills to the House.

TIM GROSER (National): This is the final legislative stage of a process to mark what I think a number of people have rightly called a very historic moment in terms of New Zealand’s chequered trading history, and, because I think it is appropriate to use this occasion to go back to first principles, I want not to dive into the detail of this agreement but just to rehearse the broad argument that underlies this whole initiative. Before doing so I will comment on the fact that although we now accept there is a large measure of consensus in New Zealand politics on international trade issues, this agreement marks a remarkable change from when I first became involved in such politics well over a quarter of a century ago. At that time international trade issues were one of the most divisive issues in New Zealand politics, and any move to open up New Zealand to import competition raised issues of the greatest sensitivity. For reasons we all understood at the time, because New Zealand had developed an industrial model that was highly dependent on very high levels of protection, I think it meant that no New Zealand negotiators of the past could likely enter into any international trade agreements with their front foot forward, because of the sensitivities of a political nature at home. So we have travelled quite a way; I happen to hold the view that this is the path we will eventually have to take on climate change, but we are well removed from that point at this stage.

But the basic infrastructure of the argument, although very important, I think is very simple. It is this: at the moment New Zealand's trajectory, in my opinion and the opinion of my party, is not sustainable. We are losing—leaching—people. The most worrying statistic that I have in my head, when I think of the 80,000 people who left the country last year, is that 80 percent of them—four out of five—were under the age of 40. And they are moving abroad in their legions. I regret to say that I see, still, the likelihood of that accelerating until we can actually address the root of the problem, because the opportunities for highly skilled and semi-skilled New Zealanders now outstrip those opportunities available to them in our own country. So the key to this is to improve the functioning of the economy; to increase the productivity growth rate, which is the key to higher real wages; and to make New Zealand once again a dynamic place so that our young people can see a future for themselves in New Zealand.

Central to that process is the promotion of a greater export orientation of New Zealand. A trade agreement is simply an agreement about opportunity. We will not intrinsically earn a dollar from the Chinese free-trade agreement unless the opportunities are translated into specific action by individual New Zealand companies and entrepreneurs, and backed by all the agencies that the Government has to bring to bear to help New Zealanders take advantage of these opportunities. Nevertheless, the agreement is absolutely a central part of that equation, and I think that is the reason why we are—I would use the argument—celebrating today the final passage of this bill.

This agreement is fundamentally important for New Zealand simply because of the scale of the issue; it is about gaining access literally to a quarter of mankind. And as I and others have commented in recent days, for a country that has historically had a massive political problem in finding markets for its exports, this is absolutely a paradigm shift. It is absolutely a change of major significance for this country, and its implications will come through over the next 20 years, just as they did over the long term in respect of the other landmark trade agreement that New Zealand has in its own free-trade area with Australia—the CER agreement.

So that is the broad economic picture. It is not just about agriculture; it is also about the new economy that is emerging in New Zealand. It is very important we do not see here a false dichotomy set up between the traditionally great strengths of New Zealand and the emerging companies that I think so many members are so proud of, such as the examples given yesterday by my colleague Mr Tremain of the Bay, around the Napier-Hastings area.

But let me take a couple of examples to illustrate the point, and instead of using general arguments I will use some highly specific arguments. I will talk about a leading industry of exported goods—dairy—and then I will take the clothing industry, as an example. The dairy industry story I think is well known to members. We are seeing a situation where the average compound rate of growth—the average annual rate of growth—of dairy consumption in China is an astonishing 30 percent. Any number that increases by a compound rate of 30 percent is doubling in less than 3 years, obviously. But this is not all about imports, because Chinese dairy production is also growing at a stellar rate. I forget the figure, since I am speaking here without notes, but from memory the expansion in the last 5 years has been equal to the entire New Zealand dairy production. We must never forget this central fact about dairy: although we are a huge player internationally, with something over 40 percent of total world trade—and it is astonishing for a country of our size to have 40 percent of world trade in anything—we are still only around 2 to 2.5 percent of world production. So the paradox here is that New Zealand is not very large in world dairy terms in respect of production but it is massive in respect of world trade.

So this incredible, stellar rate of growth of dairy consumption in China is stimulating not only domestic growth but also a very rapid increase in imports, of which New Zealand, being the leading exporter of dairy products in the world, is the principal beneficiary. That is underwriting wealth creation, jobs, and export income for our future. By the way, this does not mean there is any particular reason to believe that the end of adjustment difficulties for the dairy industry has been seen in New Zealand. I think it means—and most people who deeply understand the dairy regime understand this—that we are moving to a higher equilibrium price in world dairy, but there will still be New Zealanders in the future who will lose their shirts over it. There will still be marked fluctuations around that higher equilibrium world dairy price and, unfortunately, since it is immediately capitalised into land values, some people will go in at the wrong time with far too high a gearing and still suffer.

But looking at it from an overall, national New Zealand perspective, this agreement underwrites an incredibly bright future for New Zealand. The debate that agriculture is a sunset industry is dead in this country. Agriculture will play just as vital a part in New Zealand's future as it has done in our past, and this signal agreement will underwrite that future to a very considerable extent. For those members who think that we have seen the last of dairy expansion, I say they should just reflect on this: even given these high growth rates, dairy consumption in China is of the order of 12 kilograms per head. Well, in Europe it is 250 kilograms per head, and in Japan it is around 80 kilograms per head, so we will still see a remarkable growth for the future. We are well positioned; we are better positioned than any other country to take this up, in terms of both our intrinsic strengths and the competitive edge that we now have into this giant, emerging consumer market. Yesterday we talked about the fact that Fonterra has already cashed up on this by announcing a $300 million expansion with Chinese companies, to take advantage of the agreement even before it has come into effect. So that is a very positive example. That is my dairy example.

The other example I will give the House is less well known, and it is the Icebreaker example. I had the privilege of being briefed by its managing director, Jeremy Moon, in Beijing when I went there with the very large delegation for the signing of the agreement. Here we have a company that is in a sector that I believe every New Zealander, bar the most optimistic few, thought a liberalisation of our import regime would mean the end of—and understandably so, because the clothing and textile industry was deeply reliant on the highest levels of protection. In 1980, prior to the signing of the CER agreement, essentially its exports were zero, and it has made an adjustment that at times has obviously been quite painful for a number of the companies that were positioned in the wrong area of the market. New Zealand was never going to get rich by trying to compete on a pure labour-wage cost basis with countries like China.

So an adjustment has taken place, and now we can see companies emerging out of that adjustment process with an entirely different business model. I recall very clearly the managing director telling me that it had taken him, I think, from memory, 6 years to reach the very modest figure of $1 million in sales and another 5 years to reach $100 million. That is all done by this globalisation model. The design is done here, and it is, as everyone knows, outstanding design. The product is a very expensive, high-quality product that uses New Zealand merino wool. The company then uses factories in Shanghai, which the managing director described to me as having an atmosphere more akin to that of a university campus. Anyone who read the *Listener* article on its visit to Shanghai will know that this production model is a million miles removed from a sweated labour arrangement. So those are two practical examples, and I think that they should give New Zealand a great deal of confidence in our exporting future.

MARTIN GALLAGHER (Labour—Hamilton West): As I have done previously, I certainly commend the contribution of the previous speaker, and not only his work on the free-trade agreement itself but also his contribution to the Foreign Affairs, Defence and Trade Committee. As I have done on previous occasions, I also acknowledge the contributions of all the members of the select committee. Obviously, I particularly want to acknowledge the excellent role of the Hon Phil Goff, that of our Prime Minister, the Rt Hon Helen Clark, and also that of the team of negotiators and advisers, some of whom were represented in this Parliament yesterday and last night during the Committee stage of this legislation.

As the Acting Minister of Trade, the Hon Annette King, said, securing this comprehensive free-trade agreement is indeed a major achievement for our country. It took more than 3 years and 15 rounds of negotiations to reach the deal. As we are aware, the agreement liberalises and facilitates trade in goods and services and facilitates investment. It removes barriers to trade and promotes cooperation in a broad range of economic areas between New Zealand and China, which is our third-largest individual trading partner.

I want to quote, if I may, from the report of the Foreign Affairs, Defence and Trade Committee, which, of course, I chair. We said in our report to the Parliament: “We believe that this agreement is a major event in New Zealand’s history and fundamental to the future economic wellbeing of this country. The main values for New Zealand in entering into the FTA and associated instruments are as follows … increased access for New Zealand trade and investment, which will contribute to growth, jobs, and higher living standards … the framework the FTA establishes for resolving trade and investment issues that may arise in the future … the framework established by the Memorandum of Understanding and the Environment Cooperation Agreement for discussing and cooperating on labour and environment issues”. I think that is a particularly important point, and I acknowledge the contribution of the Council of Trade Unions, other unions, and other organisations in terms of that very important specific issue. The report goes on to say the value for New Zealand is also in “the support the treaties give to New Zealand’s objective of broadening and deepening relations in Asia and with China in particular … the support the FTA gives to New Zealand’s wider trade policy interests in strengthening economic integration in the Asia-Pacific and multilaterally …[and] the FTA’s assistance in raising the commercial profile of New Zealand companies in China.” Our report, obviously, emphasises and illustrates those particular points.

I do not want to spend much longer on my contribution to this particular reading of the legislation, but I just make the point and emphasise yet again that before this free-trade agreement with China was signed our exporters faced extra costs when trying to sell their products and services. They faced tariffs of up to 20 percent, making it harder for them to make money and, of course, to feed that money into our economy. Chinese tariffs on New Zealand products cost exporters almost $120 million a year. On the other hand, conversely, Chinese exporters faced very few tariffs when they sold their products to New Zealand. The free-trade agreement will help to address that imbalance by reducing, and in many cases eliminating, tariffs, so that New Zealand goods will be able to enter China on a more even playing field.

I make the point that when it is easy for our Kiwi companies to do business, we all benefit. Companies can expand, hire more staff, develop new products, and grow our economy. And of course I make the point that the support for this free-trade agreement has come from a wide cross-section of groups, including the Council of Trade Unions, the Dairy Companies Association of New Zealand, Federated Farmers, Air New Zealand, Fonterra, the Hospitality Standards Institute, Ngāi Tahu, Meat and Wool New

Zealand, the National Distribution Union, Zespri, Business New Zealand, the Seafood Industry Council, and the Wellington Chamber of Commerce.

Having said that, I acknowledge—and I have acknowledged in previous contributions on this issue to this House—there is a counter point of view, and I acknowledge it was reflected also in the submissions to the select committee. Hopefully the select committee report has tried to comprehensively acknowledge, if you like, some of the cross-section of concerns that were raised.

I quoted from the Prime Minister in my contribution to the debate on this legislation in the Committee of the whole House, and I will just repeat that quote in conclusion. I think it is a very apt and appropriate quote, which sums up the issue very well: "The agreement sets a high standard. It is a model for how two trading partners, disparate in size but complementary in the products and services they offer, can take a trading relationship to a new level." There are certainly challenges. No one doubts that there are challenges in taking that relationship to a new level, but I think that with the skill and innovation of our whole country and the major players in our economy across the board there are huge opportunities under this agreement in terms of our relationship with China. I certainly believe that history will record that this is one of the major achievements of the current Government. But I also acknowledge the very broad multiparty support we have in terms of the legislation and the agreement. I congratulate all those who were involved, and I hope we will now seize the opportunity that this free-trade agreement gives to our country.

Dr WAYNE MAPP (National—North Shore): Today we are passing into law legislation relating to the China free-trade agreement. I predict the legislation will be passed into law today by literally an overwhelming majority. There is a very, very good reason why this is the case, and it is fundamentally that—and I say this, in fact, to the three smaller parties that are opposing this bill—fair trade is free trade. I know this will come as a bit of a shock to those parties, but the reason is simple, actually—nations should concentrate on what they do best. New Zealand has a world advantage in agricultural products. Obviously we want to develop our economy, but at this point in time, and for some years to come, that is our fundamental advantage—and I say that to the Māori Party. One has only to work out where our economy grows best to know that it is in agriculture. Indeed, for the last 50 years it has been quite remarkable just how agriculture has sustained and retained its share of exports. We gain when other countries lower their export barriers. That could hardly be contradicted by anyone in this House, I would have thought. Even those with a modicum of economic understanding, and even those who will worry about the position of lower-paid people, would see, surely, the advantage in that.

Conversely, looking at it from the other point of view, every New Zealand consumer benefits when the cost of the things that he or she can buy reduces, and that will be the case in a wide range of goods, particularly clothing and other items. That has been one of the great gains of the reforms of the last two decades. China clearly has a comparative advantage in the production of all sorts of electronic goods, clothing, and so forth. It is not called "the factory of the world" for no reason; it is called that because it is the best at that production. New Zealand gains from that when we can buy goods from China at the lowest possible price.

I know the argument put up by other parties is that we have to be careful about this, there have to be transition arrangements, and so forth. I have to ask those parties whether they really believe that a 10 percent tariff actually saves any jobs at all in New Zealand. Ten percent is the maximum tariff in New Zealand. If a company can survive only on the basis of a 10 percent tariff, then I would suggest to members that it is a company that is quickly going to go out of business in any event. But, in truth, the

lesson we are supposed to draw is to concentrate where we have skills and expertise. That is exactly the point about Icebreaker. You know, China can produce a billion T-shirts for $1, but it cannot produce high-fashion Italian wear that people are willing to pay thousands of dollars a suit for—or, for that matter, $1,200 for a yellow jacket. That is where areas of expertise are built in countries that go for their comparative advantage. Surely Italy is the object lesson for us in terms of clothing, not China's billion T-shirts?

I have to say to those parties that are resistant to the idea of free trade that there is a vast body of research—not just opinion; actual, proven research—that demonstrates the fundamental importance of the proposition that fair trade is free trade, as was very carefully pointed out by my colleague John Hayes yesterday. That is why virtually every country has signed up to the World Trade Organization. That is why the European Union has been so successful. The European Union has gained immensely by the elimination—not just the reduction—of all tariffs between its parties. That is why European nations are clamouring to get in; that is why Turkey is clamouring to get in. I can tell members many nations in the Middle East also ultimately want to join the European Union. They want to do so because they want to join a successful trading area where there are no barriers. And, closer to home, who could possibly doubt that the New Zealand - Australia free-trade agreement has not been a great success? It has been, and much of our contemporary prosperity is built on it.

This agreement is profoundly important because the third-largest economy in the world has made a strategic decision—not obviously just about New Zealand, but about how it sees the trading environment globally—to enter into a free-trade agreement with New Zealand. It is a full and total agreement. It is a strange irony that New Zealand First comes along to say: "Oh well, we would quite like to support the agreement. If only it had been faster." I would have to say to—

Peter Brown: Who said that?

Dr WAYNE MAPP: I say to Mr Brown that his leader said that. That is exactly what he said, and the remarkable thing is he might be right—if it was faster, it would be better. But in truth 10 years is a short period of time, and I think we know that New Zealand First is not supporting the agreement for reasons other than the speed in which it is being implemented. It has its own little constituency, which frankly does not understand the proposition put forward by John Hayes yesterday—that fair trade is free trade. Sometimes political parties should take the time and trouble to explain why that is so; not just say that if public opinion or a section of it is resistant to free trade, then we should simply go with that opinion. It is always easy to identify the one company that might suffer; it is much harder to identify that every single consumer in New Zealand benefits by the reduced cost of clothing products or whiteware. We only have to look at the growth rates in New Zealand from the 1960s and 1970s, and the step change that occurred in the opening up of the economy from the 1980s onwards, to see that benefit to consumers.

I take this point in time to congratulate the Government on this legislation. I have to say that when the history of the 9-year Labour Government from 1999 to 2008 is written up by the historians, they will say this agreement was the Government's most significant economic venture. There were other things they could have done, but, of the things they did, this was the most significant. To that extent, both the Government and the officials—who worked exceptionally hard—need to be congratulated on the agreement. That is why National is supporting the legislation. Of course, we say to ACT, it is the only thing the Government has done that has boosted the economy. There were many other things it could have done as well, but it failed to do them.

As New Zealand looks forward over the next decade, I predict it is going to gain huge benefits—far, far greater than the $300 million projected by the Ministry of

Foreign Affairs and Trade. Within 5 years—as indeed Mr Groser, who has a deeper understanding on these issues than anyone in this Parliament, has said—China will become the leading export market for New Zealand. One of the reasons—not the only reason—for that will be this agreement. New Zealand's prosperity across the board will benefit. I say to the smaller parties that no New Zealand company will be disadvantaged by this agreement, because a 10 percent tariff does not actually protect industry at all. This is an agreement where fundamentally and absolutely there are gains right across the board for New Zealand, and we should be applauding this day when New Zealand has taken a strategic decision and allowed China to pave the way for opening free trade in the Asia-Pacific region.

PETER BROWN (Deputy Leader—NZ First): New Zealand First has taken a particular interest in this issue, although we were not on the Foreign Affairs, Defence and Trade Committee that addressed the agreement. We sat here yesterday—

Hon Harry Duynhoven: I raise a point of order, Mr Speaker. I am sorry to interrupt the honourable member, but there has been a long-held convention in the House that members do not interject from benches directly opposite a member when he or she is speaking. I think Mr Hide is being rather impolite to Mr Brown. He should let him get on with his speech without barracking him.

Rodney Hide: I am afraid that my colleague the Hon Harry Duynhoven is quite wrong. Members are entitled to interject, as long as the interjections are rare, reasonable, and witty. I think we would agree that I covered all three requirements. I am certainly allowed to interject from the seat that I have been allocated. Unlike Mr Harry Duynhoven, I do not sit way up the back of the Chamber and have to move forward to interject.

The ASSISTANT SPEAKER (H V Ross Robertson): Thank you, Mr Hide. I refer Mr Hide to Speaker's ruling 59/3. When the cross benches are in close proximity to each other, it is not in order to interject because it muffles the microphone of the other speaker. Mr Duynhoven is correct.

Rodney Hide: I raise a point of order, Mr Speaker. Would it be acceptable, then, if I moved some distance away from Mr Peter Brown and heckled rare—[*Interruption*]

The ASSISTANT SPEAKER (H V Ross Robertson): Order!

Rodney Hide: Now a member is interjecting on a point of order. I make my point. You are trying to shut me down for doing it by the rules, and you let this guy, just because you depend on his vote, interject on a point of order.

The ASSISTANT SPEAKER (H V Ross Robertson): Mr Hide, you know better than that. You nearly got a yellow card; I know you have a yellow jacket. The member cannot interject from that seat because he is too close to Mr Brown. If he wants to move somewhere else, out of the cross benches, then I will permit it, provided that the interjections are rare, reasonable, and relevant. The member can consider himself lucky.

John Hayes: I raise a point of order, Mr Speaker. I listened very carefully to your explanation as to why the interjection was not appropriate. The ruling is that we do not interject from the cross benches because of their close proximity, which causes muffling of the microphones. I would like respectfully to point out that the system has been completely revised in the last couple of weeks—the whole microphone system has changed—so the basis of that ruling seems to be removed.

The ASSISTANT SPEAKER (H V Ross Robertson): I advise the member that although the system might look impressive, it is not yet operating.

Hon Member: I thought they were heaters.

PETER BROWN: And that member thinks he will be fit to govern this country? Goodness me! I do not mind interjections from Mr Hide in the least, provided they stick

to the rules that he outlined: rare, reasonable, and witty. His interjections thus far have been disqualified on all three counts. They were not rare, reasonable, or witty.

New Zealand First sat here for some hours yesterday listening totally to Opposition members, thinking that they would put forward a worthwhile case for this free-trade agreement to be accepted. But we heard rather naive and contradictory statements. We heard from Mr Groser, who is meant to be an expert on these things. At one point he told us it took years to negotiate; the Minister told us it took 3 years and 15 rounds. On his very next call, Mr Groser said that the Chinese knocked on New Zealand's door and said, "Would you like to sell your goods in the largest market in the world?". Those were pretty much the exact words he used. Are those the utterances of a top-notch negotiator? Or are they the utterances of a rather confused backbench MP? That is putting it as politely as I can.

Mr Groser told us about harmonising electrical equipment, noting that the standards are different in China. He said that when one harmonises such equipment, usually one nation adopts the standards of another. The implication was that the Chinese, from a country with a population of 1.3 billion, would change their electrical standards to those of New Zealand. That is arrant nonsense. We can at this point in time get the Chinese to manufacture to our standards any electrical equipment we would like. They would do it willingly for any piece of equipment. In fact, I suggest that if our manufacturers wanted to move offshore and into China, employing Chinese labour to manufacture equipment for us and for anywhere else, that would be allowed.

One of the concerns New Zealand First has is the working conditions of the Chinese people who manufacture these goods—the humanitarian concerns, if you like. I heard Mr Groser touch on it yesterday, but he did not go into any depth. Many people in China work for very, very low wages—exceedingly low wages.

John Hayes: So what?

PETER BROWN: Mr Hayes says "So what?". They work long hours. They start working at a young age, and work into old age. They have very poor working conditions, and little or no commitment from their employers. Some employers might be a little more committed to their staff, but in many cases there is little or no commitment from the Chinese employer in China. And we want to sign an agreement with people who allow that sort of thing in their country? We would not allow it here, yet we are prepared to sign a free-trade agreement and say "Bring it in. We will remove the tariffs." As Wayne Mapp has just outlined, there are minimal tariffs on Chinese imports into this country. We want to remove that and say "Flood it in here; we will buy whatever we can.", on the basis of the one single reason I have heard from the National Party people, which is that it will make it cheaper for us to buy Chinese goods.

Wayne Mapp said that this sort of agreement is similar to the European Union type of agreement. But the European Union started off as the European Economic Community. It might have escaped Mr Mapp's attention, but those countries largely—there are some exceptions now—share the same land mass. When they formed the European Economic Community they realised that they could take away all the border controls between countries that are situated on the same land mass, and let the road traffic and freight move freely from one country to another. Some of those countries have ever-changing borders. Hungary is one country that has had an ever-changing border for hundreds of years. If one looks at the border of Hungary, one sees that it has changed on a very regular basis. Sometimes the country increases in size, and sometimes it shrinks.

There was good reason for the European Economic Community to remove tariffs and to free up trade. It is sound common sense. We would not dream—maybe some members on that side of the House would—of dividing this country in half and saying

that we will have border controls between this half of the country and the other half. The European Union is a much bigger area than New Zealand. It made plenty of sense to take away all the border controls and put the border controls around the outside of the European Economic Community. Of course, the countries have now become the European Union and they share a common currency. Is that where Mr Mapp wants to go with this free-trade agreement?

I hope the National members are correct and that this agreement will lead to more jobs, more exports, and whatever. I hope they are right in their assertion, but I doubt it. I think that we have settled for second best, and this is backed up by some of the comments in the *Exporter* magazine. Let me read the opening comments.

John Hayes: You did it yesterday. Don’t do it again.

PETER BROWN: Nothing seems to sink in to Mr Hayes. The member has a one-track mind. He did not even know that the speakers above were not working.

The article states: “For some exporters, New Zealand’s free trade agreement (FTA) with China is a decisive triumph, laying a clear pipeline for future revenues. For other China old hands, the FTA’s future benefits remain illusory, considering the sheer cultural divide and business complexity China poses. Anecdotal evidence suggests Kiwi business owners are not rushing to the Middle Kingdom. Those already steeped in the Chinese market say the FTA with China should not be seen as a panacea for Kiwi exporters’ aspirations to crack the Chinese market.” There are also some comments by individual exporters. One said: “I might be old-fashioned but I want some of our country left for our children/grandchildren. If they are going to eventually earn 50 cents an hour, then I guess I could also go to China and make my fortune now and stuff the rest. But NO.” That exporter has the interests of this country and these people in sight.

We have concerns about the segment in this legislation that allows Chinese people to come here on a working visa for a year. There is no reciprocal arrangement, at all. They can come here on a working visa with no reciprocal arrangement—we do not agree with that. Further, it is a means of providing temporary entry for Chinese business visitors, installers, and servicers for up to 3 months in a calendar year.

And so it goes on. None of it is reciprocal. Mr Groser, in his opening address yesterday, said not to worry, that this will open the door for the New Zealand winegrower. He said we will sell more wine there. I have to tell the National members that the Chinese do not drink grape wine.

Hon Member.: Absolute nonsense!

PETER BROWN: They do not—not in any quantities. They will sell it to their tourists, and they will buy it for that reason alone. This legislation will not solve the winegrower’s problem.

New Zealand First opposes this legislation but we do hope it is finally successful.

RODNEY HIDE (Leader—ACT): The ACT party rises to support this legislation because we favour free trade. We favour free trade in goods, we favour free trade in services, and we favour free trade in that most valuable commodity of all—a person’s labour and ideas. Therefore, we favour this legislation.

The ACT party is totally perplexed by Mr Peter Brown’s speech. On the one hand, the Minister of Foreign Affairs says that New Zealand First opposes this legislation, this free-trade deal with China, because it is not quick enough—it will take 10 years. Then Mr Brown, the deputy leader of New Zealand First, comes to the House and says that New Zealand First opposes this legislation, full stop, because it is free trade. Well, where does New Zealand First stand on this? Maybe its members need to check with some of their funders about what Winston Peters is saying and square it with what Peter Brown is saying, because it is very, very clear that New Zealand First MPs do not know

who their funders are, they do not know what has happened to the money, they do not know what the interests are—

Dail Jones: I raise a point of order, Mr Speaker. There was an inference of corruption in that comment—a comment that that member makes about me in the House, because his courage matches the colour of his jacket. I suggest that he make it outside the House and feel the consequences. What he has said is totally out of order, and when you ask him to get back to the debate, I suggest that you also ask him to withdraw and apologise.

The ASSISTANT SPEAKER (H V Ross Robertson): I thank Mr Jones. There was an instance there. I ask the member to come back to the debate, and I ask the member to be careful. I ask Mr Jones to be careful too, because he has challenged a man's courage. So it has gone both ways. Would the member please come to order and debate the issue.

RODNEY HIDE: I am happy to debate the issue. I am not worried about Mr Dail Jones questioning my courage. I would be happy if he had the courage to ask Mr Peters a few basic questions—

The ASSISTANT SPEAKER (H V Ross Robertson): Order!

RODNEY HIDE:—like what happened to the $100,000. That is what we would ask if we were talking about courage.

Dail Jones: I raise a point of order, Mr Speaker. You are now being challenged. You asked Mr Hide to get back to the point. You have the right to terminate the member's speech at this very moment, because he is challenging your ruling. I ask you to exercise your authority.

The ASSISTANT SPEAKER (H V Ross Robertson): I thank the member. I will take that into consideration. The member has been warned once, and the next time I will have no option.

RODNEY HIDE: Thank you, Mr Assistant Speaker. My issue with this legislation is New Zealand First's position on it, and that was what I was actually debating before I was so rudely and unforgivably challenged intellectually by Mr Dail Jones. My point was that there is an inconsistency between what the New Zealand First leader is saying and what Peter Brown is saying. That was my point.

There is another irony in all of this in respect of New Zealand First: it is voting against this legislation. If we think about it for a second, we see that it is odd having a Minister of Foreign Affairs of New Zealand who is opposed to trade. Imagine being a Minister of Foreign Affairs and opposing trade! Well, Mr Peters got around this by saying that he did not oppose trade, but that he opposed the legislation because it did not go fast enough. But here we have Mr Brown coming into the House and saying that he opposes this legislation because he opposes trade with China. Well, which is it? Why is New Zealand First voting against this legislation?

I wish to draw another irony to members' attention, and I will do so in a most careful way—in a very, very careful way—because I would not want to stray, and I hope that I will be picked up if I do. The ACT party agrees with free trade in everything, bar one thing: political favours. We do not believe that political favours should be up for grabs. We think that men and women should be able to sell their ideas, their labour, their goods, and their services. But no politicians, no Governments, and no Ministers should be able to sell their policies, a Government favour, or a perk. That is where the trade stops.

The way we deal with that is that, yes, we have free trade, and we will watch for any whiff of a problem with trade of that nature, like an overseas person saying that he or she will do some trade with New Zealand and that he or she will put $100,000 in a lawyer's account. What did he put it in? It was not an account and it was not a trust; he just gave $100,000 to square a bill. That is trade. That is absolutely on the money. It

was trade from an overseas person with New Zealand, because New Zealand was $100,000 better off.

What the overseas billionaire was buying was legal services. I agree that he should be able to do that. The problem was with the nature of the legal services being bought. Those legal services were being bought to try to dislodge an MP in this House, and to overturn the will of the people of Tauranga. That is what the trade of legal fees being paid from overseas was for, for which the trade internationally is perfectly legal.

Hon David Cunliffe: I raise a point of order, Mr Speaker. I listened with interest to the two previous points of order and your two previous responses, and most notably to your final response that if it happened again you would have no option but to terminate the speech. I believe the time for that has arrived.

RODNEY HIDE: Speaking to the point of order, I say that it might be the Labour Government's view that the time to terminate my speech in this House has come. But one would hope that a Minister, in trying to terminate an Opposition member's speech, would point to the Standing Order that I have breached that states that I have to stop talking in this House, because I am actually elected to speak on this legislation.

Hon David Cunliffe: I thought that the member was speaking to the point of order rather than continuing with his speech. The particular point I was referring to, Mr Assistant Speaker, was the fact that you had previously warned the member not to stray from the substance of the legislation and, in particular, not to transfer into matters to do with party funding issues. In your last ruling on that matter, Mr Assistant Speaker, you said that if it happened again you would invoke the Standing Order that the member referred to earlier. Quite clearly, the member has gone back to the same material. Previously you have ruled that that was inappropriate, and I seek your advice as to what action you wish to take.

RODNEY HIDE: Speaking to the point of order, I say that I was not discussing party funding. If I were discussing party funding, then I would be out of order. But we have no lesser authority than Mr Peters and the Prime Minister, Helen Clark, saying that the $100,000 trade that the overseas billionaire paid to—

The ASSISTANT SPEAKER (H V Ross Robertson): I point the member to Speaker's ruling 25/5: "It is not only the right, but the duty, of a member who can show that there has been anything in the nature of bribery or corruption on the part of other members to bring that matter before the House in the proper constitutional way, but a member must not make veiled suggestions during the course of debate." The member has been warned, and his speech is terminated.

RODNEY HIDE (Leader—ACT): I raise a point of order, Mr Speaker. Are you saying that the one speech the ACT party has on the China free-trade agreement legislation is terminated because this Labour Government does not like any references to be made to bribery or corruption, whether or not it is within the rules? I never made a reference to bribery or corruption; it was you who did so, Mr Assistant Speaker. But the speech gets terminated. Is that the message you are giving in this Parliament to the people of New Zealand—that anyone who makes any reference to Winston Peters and $100,000 going to a lawyer will have his or her speech terminated? That is all I did.

The ASSISTANT SPEAKER (H V Ross Robertson): No, I also—

Dail Jones: Speaking to—

The ASSISTANT SPEAKER (H V Ross Robertson): No, Mr Jones, I want—

Dail Jones: Briefly.

The ASSISTANT SPEAKER (H V Ross Robertson): Briefly, Mr Jones.

DAIL JONES (NZ First): Mr Assistant Speaker, no one would have had any problem if the member had been speaking to the China - New Zealand free-trade

agreement legislation. Clearly, he was not. That is why, ultimately, you had to make the decision on the third warning.

The ASSISTANT SPEAKER (H V Ross Robertson): I would also like to point out to the member Speakers' ruling 44/4: "Members must confine their remarks to the bill before the House and cannot make irrelevant matters relevant by suggesting they ought to be included in the bill."

Dr WAYNE MAPP (National—North Shore): I raise a point of order, Mr Speaker. Frankly, I think your ruling has been a bit harsh in this instance. Although Mr Hide's comments transgressed a number of things, he did connect those comments to the free-trade agreement. I note also that the comments were not objected to by the New Zealand First Party, and that it took a Minister of the Government to object. I think that the Minister of the Government should think very carefully when he seeks to have speeches by Opposition members terminated, essentially at his pleasure. I ask you, Mr Assistant Speaker, to review your ruling. I appreciate that it would obviously be in the nature of a final warning at this point, but I think the penalty was excessive, in the circumstances.

The ASSISTANT SPEAKER (H V Ross Robertson): I thank you very much for your consideration, Dr Mapp. I had considered the matter carefully. Mr Hide had been warned a number of times. To me—and I have made the decision—there were veiled suggestions during the course of the debate that there was something other than what there was. So I am going to stick with my decision; the member's speech is terminated.

RODNEY HIDE (Leader—ACT): I raise a point of order, Mr Speaker. I consider this to be very serious in our Parliament, Mr Assistant Speaker—very serious. I would like you to tell the House what I said that caused you to terminate my speech—the exact words—because the Minister who complained never said or implied what those words were. I do not believe that I have breached any Standing Order in what I was saying, and you, Mr Assistant Speaker, cannot point to the words of the Standing Order that I breached.

DAIL JONES (NZ First): Mr Assistant Speaker, it is well known on the part of those who have actually sat in your Chair—and there was a time when I did, as well—that the member is now trifling with the Chair. At this point, it would be quite customary for the member to be named, and, if he persisted, to be expelled from the House. That is the proper way of dealing with disorder in this House; otherwise the matter becomes totally unsatisfactory and everything falls out of order.

The ASSISTANT SPEAKER (H V Ross Robertson): I have made my decision, based on Speaker's ruling 25/5. I will read it again for the benefit of members: "It is not only the right, but the duty, of a member who can show that there has been anything in the nature of bribery or corruption on the part of other members to bring that matter before the House in the proper constitutional way,"—the member is perfectly entitled to do that in the proper constitutional way—"but a member must not make veiled suggestions during the course of debate." As far as I am concerned, veiled suggestions were made during the course of the debate. I have been very tolerant on this.

Dr RUSSEL NORMAN (Co-Leader—Green): This trade agreement between New Zealand and China fails to protect the sovereignty of the democratically elected Government of New Zealand, and it places significant restrictions on the future ability of the New Zealand Government and Parliament to pass regulations to protect the people and environment of Aotearoa New Zealand.

There are many reasons why the New Zealand Government should not have signed this preferential trade agreement with China, not least of which is the fact that New Zealand signed this agreement while China was involved in the murderous oppression of the people of Tibet. It is also of grave concern that this agreement has no binding labour or environmental standards. The lower wages and standards in China will

effectively be a non-tariff barrier to fair trade, giving corporations that pollute or pay inhumane wages a competitive advantage over those that do not.

However, here I wish to focus on the investment provisions and expose the risks to our people, our environment, and our sovereignty. The investment chapter of the agreement, chapter 11, taken together with the annex defining expropriation, annex 13, effectively forms a bilateral investment treaty between our two countries. This bilateral investment treaty inhibits the ability of the two Governments to regulate the businesses of foreign investors without compensating those investors for the cost of those regulations.

The investment treaty means that a Chinese corporation operating in New Zealand can sue the New Zealand Government if the Government changes regulations, resulting in a loss of value for that corporation. And if there is a dispute between a Chinese investor and the New Zealand Government as to whether the Government should compensate the investor, and to what extent, then the dispute is to be resolved in an international forum established under the auspices of the World Bank or the United Nations.

The effect of this investment treaty will be to place a chill over the ability or willingness of the New Zealand Government and Parliament to regulate the business activities of Chinese corporations operating in New Zealand, for fear of facing binding claims for compensation in international tribunals. This will make it much harder for our Government to carry out its duty to protect and advance the well-being of the people and environment of Aotearoa New Zealand.

Bilateral investment treaties have received an increasing amount of attention in the international law literature. This is for the simple reason that more and more bilateral investment treaties are being signed, and more and more cases are ending up in international courts or tribunals of one description or another. Corporations are suing Governments in international judicial hearings on a regular basis. In Canada, the University of Victoria's Faculty of Law has an investment treaty arbitration website that provides access to all publicly available investment treaty awards, and lists over 200 cases since 1996.

It was long standard fare for treaties to protect corporations from expropriation; from the direct acquisition of a company by a Government without compensation. What is new is that now corporations are successfully suing Governments for what they call "indirect expropriation". Indirect expropriation is where a Government changes laws or regulations, or acts in some way that impacts on a corporation's activities, resulting in loss of profits and hence value for that corporation. In these cases the owner's title to an asset is protected but the value of that asset declines.

The New Zealand - China preferential trade deal contains two components that together constitute a bilateral investment treaty between New Zealand and China. Those are chapter 11 and annex 13. The core of chapter 11 is article 145, which, I imagine, almost none of the members of this House have read, except me. It says that the New Zealand Government cannot expropriate Chinese investors unless the expropriation is fully compensated, and vice versa. If there are any disputes between a Chinese investor and the New Zealand Government, the investor can seek redress at the International Centre for Settlement of Investment Disputes or through the United Nations Commission on International Trade Law.

Central to such disputes is the definition of "expropriation". This definition has been of critical importance to bilateral investment disputes overseas. There have been several cases where arbitrators have deemed that measures taken to protect the environment have expropriated investors, and that is extremely and directly applicable to this treaty. For example, in the case of *Metalclad v Mexico*, an international trade tribunal ruled that

Mexico had violated the North American free-trade agreement in preventing Metalclad Corporation from opening a hazardous waste treatment and disposal site in Mexico. The tribunal found that local government opposition to the project amounted to expropriation of the company's profits.

Public protest against Metalclad's approval for the waste treatment led to local authorities investigating the potential environmental impacts of the treatment site. An environmental impact assessment revealed that the site was on top of an ecologically sensitive underground alluvial stream. As a result, the governor refused to allow Metalclad to operate the facility, and later declared it part of an ecological zone.

Metalclad claimed that this action effectively expropriated its future expected profits, and although it was awarded less than the $90 million in damages it sought, its claim was successful. There are more cases like this in international tribunals, and it is clear that measures taken by States to protect human health or the environment can be found by international arbitrators to be expropriation, resulting in large financial penalties. The key question is whether State action to regulate is considered a form of indirect expropriation. The definition of expropriation is addressed in annex 13, which I cannot imagine many other people here have read. This is really at the core of the agreement and what it might mean for the ability of the New Zealand Government to regulate without compensation.

I will assess annex 13 from the perspective of its relationship to the ability of a State to regulate when such regulation results in the partial loss of value to a Chinese investor's asset. Annex 13 has five paragraphs. Paragraph 1 states: "An action or a series of actions by a Party cannot constitute an expropriation unless . . . it interferes with a property right". This is a simple test to meet. Most State actions would interfere with property investment when the State is trying to regulate, and it costs something. Paragraph 2(b) states that indirect expropriation occurs "when a state takes an investor's property in a manner equivalent to direct expropriation, in that it deprives the investor in substance of the use of the investor's property,". The kind of State action where State regulation costs money to a corporation protecting the environment is exactly the kind that would be caught by paragraph 2.

Paragraph 3 states: "In order to constitute indirect expropriation, the state's deprivation of the investor's property must be: (a) either severe or for an indefinite period; and (b) disproportionate to the public purpose." Clearly, if the State was trying to regulate to protect the environment it would be permanent, and the question of whether it would be disproportionate would be decided by an international panel. Whether the Government's judgment was allowed would be determined by an international disputes panel. Paragraph 4 states that if one targets a particular class of investor, one is very likely to get caught up in expropriating. That is an easy provision to meet if, for example, one targets a bunch of agricultural producers or dairy farmers and tries to clean them up.

Paragraph 5 states—and this is probably what the Government is hoping will protect it—"such measures taken in the exercise of a state's regulatory powers as may be reasonably justified in the protection of the public welfare, including public health, safety and the environment, shall not constitute indirect expropriation." Paragraph 5 gives the appearance of protecting State action. It says that State actions to protect public welfare do not constitute indirect expropriation. But there is an important exemption and an important qualifier. The exemption is that it does not cover the kinds of actions where any particular industry or class of investors is targeted. The qualifier is the term "reasonably justified". Even if the State action does not meet the terms of paragraph 4 in that it does not target a class of investors, it must still be reasonably

justified, and an international panel will decide whether the actions of the Government are reasonably justified. There is not even any guidance.

Once the exemption and the qualifier in paragraph 5 are included, the protection to State action looks weak. This is why Professor Matthew Porterfield from Georgetown University, an international expert in trade law, said that in our agreement with China we are actually exposing ourselves to greater risk of legal action than the US Government faces under its investment clauses. So a close reading of chapter 11 and annex 13 makes it clear that any kind of New Zealand Government regulatory action that negatively affects the value of Chinese investors' assets is wide open to action being taken against the New Zealand Government by the Chinese investors.

Where the New Zealand Government action particularly affects a class of investors, then the Government's only defence is to show that its actions were proportionate to the public purpose intended. It will be up to an international panel to decide whether the action was proportionate, regardless of the view of the people or Government of New Zealand. Where a State action does not affect a particular class of investors or is not in breach of a contract, then the Government has a better opportunity to win its case, but only if the tribunal agrees that the Government's action was reasonably justified to protect public welfare. Thus, the New Zealand Government will have two lines of defence, but both of them involve convincing a non-elected, international panel that the actions of the Government were proportionate or reasonable to achieve the public purpose desired.

HONE HARAWIRA (Māori Party—Te Tai Tokerau): Tēnā koe, Mr Assistant Speaker, tēnā tātou katoa e te Whare. I tērā wiki i whakanuitia a Rererangi Aotearoa e te Minita Tāpoi a Damien O'Connor te whakatuwheratanga o te rere-kotahi mai i a Beijing ki Tāmaki-makau-rau. E mea ana te Minita, "he mārea hokohoko tino nui ki a Haina, mō ake tonu". E toru rā ki muri, he tirohanga rere kē mō tēnei "mārea hokohoko tino nui ki Haina, mō ake tonu", nā te Tatauranga o Aotearoa. I te marama o Pipiri, ko heke ngā manuhiri nō Haina i te 24 pai hēneti i te marama o Pipiri, i tērā tau e 1,600 ngā tāngata. E rua marama atu i te hainatanga o te kawenata hokohoko noa, kua kite tātou, kāhore pea ngā huamoni e rite ana ki nga tūmanako.

Ka matakite te pukapuka a *Tū Mai*, a ngā tau tekau e tū mai nei e 61 miriona ngā tūruhi nō Haina ka haere ki whenua kē. Ko te mārea hokohoko whai rawa o Haina tēnei e whakaarohia ana e te Minita Tāpoi. Engari ko te pātai nui ki a tātou me pēhea te mārea hokohoko nei e pātari ai ki tēnei whenua? He hīnaki rānei e mau ai tātou? Ko nga kaimahi utu-iti, hei maunu mā ngā pakihi o Aotearoa e raruraru ana i te kāinga. Kia pēnei rawa a Aotearoa nei? Hei kura pae mō Haina?

Kua tohutohu mai te Rōpū Rongomau me te Tika o te Ao ko te utu ki a tātou, ko ngā turanga mahi rua tekau mano ka ngaro, ko te nuinga he mahi wheketere i te mutunga o ngā taake hoko mai. E maumahara tonu ana tātou ki ngā tau waru tekau, he parekura te whakawāteatanga kia hokohoko noa i pā kino nei ki ngā kaimahi, arā, ngā kaimahi Māori i ngā wheketere. E maumahara tonu ana tātou ki te Multilateral Agreement on Investment me tōna tāhuhu kia taetae noa mai ngā kamupene nunui o te ao ki te hoko haere i wā tātou rawa. Ā, e mōhio anō hoki tātou he aituā ki ngā kaimahi o konei i te wā e whiwhi nui ana ngā kamupene nui o Haina, me ngā taniwha pēnei i a Fonterra.

Ko ngā hua e kore e eke ki te utu engari, ehara te utu i te moni anake. I te wā e ngaro ana te waihanga taputapu ki a Haina, ka heke to tātou mana i wētahi atu āhuatanga o tēnei pīrangi ki tō tātou hoa hokohoko hou. I te tīmatanga o te whakatata haere ki Beijing, e titiro ana te ao ki a Haina kia kitea mēnā e hiahia ana te kāwanatanga ki te whakatika i āna takahanga mana tangata pēnei i te whakapai i te paru ki te one. Engari auē taukuri e, e ai ki ngā kōrero a Amnesty International, ka whakawhiu tonu atu te kāwanatanga i ngā kaiwawao mana tangata. Kino atu i tērā, kei te mauhere tonu ngā

kaiwawao, rātou e tohu ana i ngā hara a te kāwanatanga, kia tika katoa ai i mua o te tīmatanga o te tauwhainga Olympia. E maumahara ana au ki tētahi kauhau a te Pirimia i te Akoranga Rongomau o te Whare Wānanga o Tāmaki-makau-rau, ka pēnei ia: "Kei te tino māharahara au, ina whakawaireka te kāwanatanga Nāhinara ki a rātou o Āhia, e kore e taea tā rātou whakamaru mana tangata te kite."

Kia mārama ai tātou nā te tino kino te takahi mana tangata o Haina, ka tuhi atu a Amnesty International i tētahi reta i runga i ngā auē a te tini mano huri noa te ao, e karanga ana ki a Haina, kia whakatikangia ngā mana tangata kua roa kē e tāmia ana.

Tērā ka mate anō te mātauranga tuku iho a ngā tūpuna i ngā mahi whakawaireka a te kāwanatanga. Kua tohu mai tērā pūkenga pakihi a Aroha Mead, ka totohu ngā toi Māori i te waipuke mai o ngā taputapu noa. Nāna anō te whakatūpato, kei waimeha te tohu mana o Toi Iho i te nui o ngā taputapu tinihanga e hokona ana.

I te wā o te komiti tirohanga, ka pēnei tonu ngā karanga a te Rōpū Tāpoi Māori o Aotearoa, a Toi Māori Aotearoa, o Ngā Aho Whakaari rātou ko kākahu Kia Kaha, ko Huia Kaitā e tautoko ana. Ehara ēnei i te ihu hūpē. He umanga tā pukapuka a Huia kua whiwhi tohu, otirā, nāna anō tō mātou mana o Aotearoa i whakapumau, nā te whakamātau, nā te whiriwhiri, nā te whakaputa i taua mana motuhake ki te ao. Kei a Kia Kaha te tikanga o ngā kākahu mō tō tātou toa haupōro a Cambo, mō ngā kākahu hoki mō o tātou kapa ki nga tauwhāinga o te ao, otirā, kua hokona atu wā rātou kākahu ki Poihākena, ki Amerika, ki Ūropi hoki.

Ko Ngā Aho Whakaari te rōpū o ngā kaimahi Māori whakaata, ngā kaiwhakatū whakaari, ngā ringa tohu, ngā kaimahi hangarau, ngā kaituhi hoki puta noa te ao. Tēnā, i te hui tahi ngā rōpū nei ki te tiaki i te rangatiratanga, me mataara te ao, me kī, tō tātou ao Māori. I mea atu rātou ki te komiti, me whakaū ngā ture i te tikanga kia tautoko te Karauna i te rangatiratanga Māori o ngā taonga katoa tae atu ki te mātauranga. E whakaae ana mātou ki te take i kōkiritia e te Uru Kahikatea me tupu te ōhanga whānui kia ora ai ngā pakihi Māori.

Engari, e kore mātou e whakaae ki te whakaaro kūware o te komiti mā te whai rawa haere o Haina, mā te whakawhanaunga haere ki te ao whānui e kaha ake ai tā rātou ārai i ngā mana tangata. E kore mātou e whakapono mā te kawenata hokohoko pokanoa me tō tātou whenua iti nei ka kitea e Haina te māramatanga kia huri ai rātou ki te ara tika.

Hei whakakapinga kōrero; i a tātou e whakatata ana ki te waru o ngā rā o Here-turi-kōkā, e mōhio ana tātou ki te whakaaro ngā rangatira nunui o te ao, tērā me huri tuarā rātou ki te rā whakatuwheratanga o te tauwhāinga Olympia hei tohu whakahē i te takahanga o Haina i ngā mana tangata, i te mana motuhake o Tibet. Ka pērā anō tō tātou whakahē? Ka huri rānei tātou ki te whakawaireka i a Hōri Puihi i a ia e whakawaireka ana ki a Haina?

E kore mātou o te Pāti Māori e piupiu i te haki whakapono ki te Kawenata Hokohoko Pokanoa. Tūturu, e tautoko ana mātou i te ōhanga Māori, e kite ana mātou i ngā painga ki ngā iwi e puta mai ana i te hokohoko kai moana, mahi tāpoi ki a Haina. Engari, me pēhea mātou e huri kē i te tāmitanga taikaha o ngā reo motuhake o Tibet he takahanga tērā i te tangata whenua? E mataara ana mātou ki ngā tara koi i roto i te hokohoko pokanoa, pai kē atu ki a mātou te hokohoko tika. E rapu ana mātou i ngā huarahi tiaki i te taiao, ngā mana tangata, me ngā tikanga mahi. I te tōnga o te rā, he taumaha rawa te utu o ngā tūranga mahi, ngā utu mahi, ngā mātauranga mahi, te mana motuhake e ngaro katoa ai. E kore mātou e tautoko i te Ture mō te kawenata hokohoko pokanoa me Haina.

[An interpretation in English was given to the House.]

[*Greetings to you, Mr Assistant Speaker, and to us all, the House. Last week, tourism Minister Damien O'Connor was heaping praises upon Air New Zealand as it launched the first non-stop service between Auckland and Beijing. "This very important long-*

term Chinese market" was how the Minister put it. Three days later, Statistics New Zealand gave another view about this very important long-term Chinese market. Short-term visitor arrivals from China in June 2008 were a massive 24 percent down—some 1,600 people fewer than recorded in June 2007. Just 2 months after the free-trade agreement had been signed, it appears the economic benefits of the agreement may not be as secure as first envisaged.

Tū Mai magazine estimated that in the next 10 years, there will be a possible 61 million Chinese outbound tourists heading off to distant places. That is the lucrative Chinese market the tourism Minister is thinking about. But the big question that hangs over all of our heads is: what will it take, to lure this market to our shores? Or will it all be a one-way street? The lure of labour at cheap rates will be an irresistible pull factor for many New Zealand businesses that are struggling to hold it together at home. Is that the type of Aotearoa we want? Just another link in the "Made in China" brand?

Global Peace and Justice Auckland has pointed out that the costs at home may extend up to more than 20,000 jobs being lost—mostly in manufacturing—as tariffs are phased out and removed. We all remember the reforms of the 1980s; the savage impact that trade liberalisation had for workers, particularly Māori in manufacturing jobs. We remember the Multilateral Agreement on Investment, which aimed to allow multibillion-dollar corporates open season on assets in Aotearoa. And we know that New Zealand workers will become collateral damage, while Chinese companies and international corporations such as Fonterra will score big time.

The stated return is simply not worth the risk—and the costs are not only in monetary terms. While our manufacturing needs will be outsourced to China, our international reputation will inevitably be tarnished by the other impacts of our relationship with our new trading partner. As the build-up to Beijing starts cranking up, the international community is looking to China to see evidence of any political will to clean up its human rights violations as comprehensively as it has got rid of the algae on its beaches. But, sadly, the reports from Amnesty International indicate that, far from it, the official persecution of human rights activists continues. Worse yet, human rights defenders who are speaking out about violations are being detained, imprisoned as part of the pre-Olympics clean-up. I am reminded of a speech the Prime Minister once made to the Auckland University Centre for Peace Studies, in which she said: "I am very concerned that the National Government has chosen a path of ingratiation with those in Asia whose human rights record is poor."

Just to make it quite clear: the human rights record in the People's Republic of China is so poor that Amnesty International has sent a letter, inspired by what it describes as hundreds of thousands of voices from around the world, echoing the call to address the longstanding human rights concerns.

Another likely victim of this political path of ingratiation is apparent in the inherent risks to intellectual and cultural heritage. Māori business senior lecturer Aroha Mead has warned about the likely threat that Māori art will become swamped by mass production. She has also suggested that the Toi Iho Māori Made trademark, which protects quality Māori arts and crafts, may well be devalued as the market becomes flooded with cheap, gaudy products.

During the select committee process, these same concerns came through loud and clear from the New Zealand Māori Tourism Society, Toi Māori Aotearoa, and Ngā Aho Whakaari, supported by Kia Kaha Clothing and Huia Publishing. These are not lightweights, by any means. Huia Publishing is not only an award-winning publisher, but its works have made a significant contribution our identity as a nation—defining, creating, and expressing our distinctive edge on the world stage. Kia Kaha not only has the clothing contract for our top golfer, Cambo, and previous Commonwealth Games

uniforms, but boasts wholesale and retail customers in Australia, the UK, US, and Europe.

Ngā Aho Whakaari is the national representative body for Māori working in film, video, and television in New Zealand, so includes internationally acclaimed actors, directors, producers, technicians, and writers across its reach. So when these groups get together, out of concern for the protection of rangatiratanga, the world needs to sit up and listen—well, at least our world, anyway. They told the select committee that the legislation needs to reflect the Crown's active duty to protect Māori authority and control over treasures and intellectual property. Although we acknowledge the points made by the Federation of Māori Authorities that economic growth is essential for Māori businesses to succeed, we cannot turn a blind eye to the risks and responsibilities we hold to argue for ethical investment.

We simply cannot accept the rather naive excuse put up by the select committee, that growing prosperity and engagement with the outside world is likely to be linked with better human rights in China. It simply does not wash with us that the free-trade agreement that China has signed up to with our little country will make the mighty superpower see the light and change its ways.

Finally, as we count down to 8 August, we know that international leaders from across the globe are considering whether they might boycott the Olympic opening ceremony as a powerful criticism over China's human rights record and security crackdown in Tibet. Will we also be prepared to show our concern, or will we instead be sidling up to President Bush as he in turn sidles up to China?

We in the Māori Party will not be waving the flag of faith for the free-trade agreement. Of course we want every opportunity to support Māori economic advancement, and we recognise the opportunities that people see in China, particularly in the area of seafood exports and tourism. But how can we, with any conscience, overlook the brutal repression of dissent in Tibet, which represents a callous disregard for the rights of indigenous peoples? We remain concerned about the fish-hooks in free trade, rather than the justice of fair trade. We seek strategies that are about protection of the environment, human rights, and worker rights. And in the long run, we calculate the costs of lost employment, lost wages, lost expertise, and lost independence, as a cost too big to bear. We do not support the New Zealand - China free-trade agreement legislation.]

JOHN HAYES (National—Wairarapa): I need to make it very clear to the previous contributor to this debate, Hone Harawira, that there is no fairer trade than free trade. There is no fairer trade than free trade, and for any politician in this House to turn his or her back on that statement of fact is to undermine the interests of the people he or she purports to represent. I say to the earlier speaker from the Green Party, Dr Norman, that in China we are operating in a communist country—a country with a record of appropriating possessions belonging to members of its community—and the member expects, very naively, that New Zealand investors will go to that country with no form of protection at all, and will put their capital at risk. I say to the member he should get real and find an electorate that will put him into Parliament to represent it, because he is letting down every one of my constituents with everything he has said.

I say to the Māori Party that many Māori constituents are running businesses in my Wairarapa electorate—dairy businesses, fishing businesses, sheep and beef businesses—and they are doing very well. Those Māori-owned businesses will benefit unreservedly from this agreement, and it astonishes me that we have people who are prepared to get up in this House and let their supporters down. That is what has been going on here this afternoon.

This is the most important legislation that will be passed in this Parliament in its life. In fact, it is probably the most significant legislation in the trade and export area to be passed in this country for 25 years, since we signed up to the Closer Economic Relations agreement with Australia.

We have acknowledged the work of Dr David Walker, and that of officials from the Ministry of Foreign Affairs and 20 or 30 other Government agencies. I commend their work. But I would also like to reflect for a second or two on the contribution that underpins this agreement, made by people like Ted Woodfield—arguably, the father of trade policy work in this country—and also made by the first New Zealand head of the World Trade Organization, Mike Moore, who for a long period in this Parliament advocated for free trade. It was the work of those people, built on by successive generations of politicians and officials, that has led us to this point today.

The benefits from this legislation will flow on longer than the lives of anyone currently sitting in this Chamber and living in our country, because we are writing legislation that will provide benefits ad infinitum—for as far as we can see into the future. I would ask the Green Party and the Māori Party to please get real. Our wealth, our well-being, our ability to buy Herceptin, our ability to pay our schools a decent amount of money to educate our children, and our ability to keep school bus services going in the northern part of my electorate depend on our ability to generate income. If this country does not export anything, it will have no income. Exporting is how our country survives. When we think about this legislation, I want us to think about it as a mechanism to improve the ability of those people who produce things and sell them—and there are a few people around here who have never produced anything in their lives—to do their business better. I have seen difficult regimes make trade very difficult for New Zealand exporters; I have seen that firsthand when I have lived in countries like India, Bahrain, Saudi Arabia, and Iran. The National Party supports this legislation for the very reason that it will make work much easier for the people in our community who are out doing the hard graft of raising our national income.

I want to thank the submitters who came to the Foreign Affairs, Defence and Trade Committee, regardless of whichever perspective they came with—in a democracy they are entitled to their view.

However, it remains incomprehensible to me that people in this Parliament—particularly the New Zealand First Party members—can oppose this legislation, because they have not provided one piece of evidence to substantiate their opposition to it. Mr Brown talked about Chinese people not liking wine. I can only suggest to him that he has never been to a vendor of wine in this country and asked for a bottle of Great Wall wine. It is available in most Chinese restaurants in my electorate. Has Mr Brown heard of Tsingtao beer? Yes, the Chinese drink beer. I tell Mr Brown that some years ago, longer ago than I prefer to remember, I was working in Singapore in our high commission there. A Chinese contact in the national drug bureau, when we were chasing Mr Asia, said there were four things I needed to understand about Chinese communities: wherever there was a Chinese population, there would be gambling, drugs, prostitution, and brandy.

Hon Member: Also hard work.

JOHN HAYES: Yes, also hard work.

Hon Member: Does that apply to Europeans too?

JOHN HAYES: No, no, that man was looking at life from the point of view of criminal activity in communities. Now, brandy is based on what? The grape. Mr Brown is absolutely off track; Chinese people drink alcohol.

A couple of days ago I mentioned that an economist called Ricardo had developed a thesis and tried to educate people like the New Zealand First Party members that free trade, trade without barriers, was the best way to allocate factors of production efficiently across the economy. It is also long established that individual countries are best to do what they do best. That means that in our country we are a food producer, we have ideas, we have technology like Bill Gallagher's electric fences, and we need to export them.

What does this bill mean for my electorate? First of all, for the dairy farmers—and I am thinking of Don Stephenson up in Te Rehunga or Graeme Tulloch in Masterton, or even the dairy support people like Bob Tosswill in Greytown—it will increase their on-farm income really significantly. They will pay more taxes. They will be able to go into the communities and buy goods and services and support our businesses. That is not happening for our sheep and beef farmers, some of whom have often lost $300 every day they have worked in the last 12 months. National is supporting this bill because our farm businesses and our community businesses will be significantly improved by it. Only one company in my electorate, Norsewear, has gone offshore, but that did not happen because of this agreement. It happened because the shareholding in Norsewear was taken over by a bunch of Wellingtonians who sold the brand, and the buyer has gone to China to manufacture clothing items and bring them back here into our community. There is no other negative that I have been able to find in my electorate.

I would now like to refer for a minute or two to the comments from the Green Party on investment. We have in place an agreement with China called the Investment Promotion and Protection Agreement, but it applies only to New Zealand nationals, not to New Zealand residents. Many of the people who work in our country are residents, not nationals, and those people are often working in businesses. The point of the investment part of the free-trade agreement is that it now brings the benefits of an investment agreement to all New Zealanders who are living here. Under the provisions of this agreement as well, no other country that may sign a trade agreement with China will end up with better conditions than we have. Members of the Green Party may not think that is important, but New Zealand investors have $333 million at stake in China—at least they did as at 31 March 2006—and China has $1.66 billion invested in this country.

I tell members that the National Party unreservedly supports this bill, and any electorate MP put into this House by his or her people should do the same, because electorate MPs would know that this step will serve the strongest interest of the people who bring them here.

A party vote was called for on the question, *That the Tariff Amendment Bill, the Customs and Excise Amendment Bill (No 4), the Radiocommunications Amendment Bill (No 5), the Fair Trading Amendment Bill (No 2), and the Electricity Amendment Bill (No 3) be now read a third time.*

Ayes 104

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

Noes 17

New Zealand First 7; Green Party 6; Māori Party 4.

Bills read a third time.

LAWYERS AND CONVEYANCERS AMENDMENT BILL (NO 2)

Second Reading

Hon ANNETTE KING (Minister of Justice): I move, *That the Lawyers and Conveyancers Amendment Bill (No 2) be now read a second time*. The majority of submissions supported the objective underpinning this bill, which is to ensure that members of employer organisations and unions continue to be supported by cost-effective, quality in-house services from their employer organisations and unions. I would like to thank the Justice and Electoral Committee for its careful consideration of the bill within a short time frame.

The Lawyers and Conveyancers Act 2006 is due to come into force on 1 August 2008. This Act significantly reforms the way in which legal services are provided. As enacted, the Act will prevent unions and employer organisations from continuing their practice of using in-house lawyers to provide legal services to their members. This is because the Act makes the provision of legal services to the public by in-house lawyers—that is lawyers employed by non-lawyers—an act of professional misconduct. However, employment organisations and unions have a long-standing practice of providing cost-effective, accessible legal services to their members through their in-house lawyers. This practice has enabled integrated prevention and advice services, including legal services.

Section 9 of the Act contains a list of exemptions to this general rule. This bill amends Section 9 by adding to the exemptions listed in Section 9 the services that unions and employer organisations provide to their members. Alongside this, the bill also protects consumer interests by providing that lawyers providing legal services, as employees of employer organisations and unions, will be guilty of misconduct if they provide legal services to any person other than to the organisation, the union, or its members. This will ensure that the employer organisations and unions continue to provide a timely, practical, financially viable, and relevant service to their members while maintaining the principle objective of protecting consumer interests.

The select committee has recommended that health professional organisations, as defined under the Health Practitioners Competence Assurance Act 2003, be included within this list of exempted organisations, and I support this recommendation. In their submissions to the committee a number of health professional organisations raised concerns that the current prohibition in the Act would prevent them from providing legal services to their members, similar to employer organisations and unions. They noted that a withdrawal of this specialised and cost-effective service could lead to a potential shortage in the number of health professionals, particularly independent midwives, given the high indemnity cover and legal expenses that health professionals would have to bear on an individual basis. The committee has recommended the inclusion of health professional organisations within the list of exempted organisations after careful consideration of these submissions.

Once again, I would like to thank the select committee members for the work they have done on this bill. It is important legislation that will ensure members continue to benefit from the long-standing, integrated prevention, and advice services provided by employer organisations, unions, and health professional organisations.

My colleague Charles Chauvel, who in a former life worked as a lawyer within the union movement, has had considerable experience of just how it works and how it ought to continue to work in the future. This bill will enable that to happen not just for unions, as I said, but for employer organisations, and also for health professional organisations. I commend the bill to the House.

Dr RICHARD WORTH (National): The Lawyers and Conveyancers Act is quite complex legislation, and parts of it are drafted in quite a tortuous manner not particularly explicable to lawyers and—presumably—even more arcane for those who are not legally qualified. But this Lawyers and Conveyancers Amendment Bill (No 2) gives rise to a host of problems—problems that clearly will need to be addressed in the Committee stage of the bill.

I think in essence there are probably three points. The first is that the public have been grossly misled by the scope of this amendment bill—a point I will develop in a moment. The second is that it has been suggested that this change, which we are asked to make in the context of this bill, is a technical change that was, somehow, omitted. It is, in effect, a "slip bill" correcting something that should have been corrected at the time when the Lawyers and Conveyancers Act—the substantive legislation—was in the course of passage. The third point is that this change is clearly contrary to the interest of consumers of legal services because of the breadth—possibly the unintended breadth—of the wording.

I now come back to the first point, which is all about the explanatory note when the bill was introduced. To some extent—and I accept this—that has been overtaken by the commentary on the bill as it has been reported from the Justice and Electoral Committee. But that is not the way that the judges tasked to interpret this legislation would necessarily see it. I refer to the third sentence of the explanatory note, which states: "This amendment is designed to ensure that unions and employer associations can continue a long-standing practice of providing legal services to members of their organisations as part of the delivery of an integrated prevention and advice service"—and then, the key words, which I underscore and emphasise—"connected with employment matters."

The status of an explanatory note is the subject of some academic writing. It need not be academic, because it is actually incredibly straightforward and robust. It is not more complicated than Standing Order 258, which makes it absolutely clear that every bill, when it is introduced, must contain a memorandum—known as an explanatory note—stating the policy that the bill seeks to achieve. The explanatory note usually does explain the individual provisions of the bill. It is an attempt, as it were, in non-legal or less formal terms, to set out the purport of the bill that has been presented to the House and, as a matter of law, it is regarded as a very important indicator of the meaning of the language used in the bill, and also, sometimes, in the subsequent Act.

The explanatory note of a Government bill, such as the Lawyers and Conveyancers Amendment Bill (No 2), is prepared by the Parliamentary Counsel Office and the department principally responsible for promoting the legislation. It is absolutely clear that in all cases an explanatory note must be drafted in factual and not argumentative terms. It is also very clear that if the Minister in charge of the bill does become aware of a factual error in the explanatory note, the House should be informed, and a correction tabled. That should have been done in this case, because the Minister was on notice that what was in the explanatory note of the bill—that the bill was restricted in the way I have described—was not carried forward into the drafting itself. That is most unsatisfactory. It is highly misleading. That is the first point I wanted to make.

The second point is that I am not at the moment a member of the Justice and Electoral Committee, but by chance I was there when the chairman, Lynne Pillay, proffered to those listening members of that select committee an explanation of what the bill was all about. She said: "Oh, it's just technical, really, and it's just to correct an oversight in the Lawyers and Conveyancers Act." That was completely wrong. In fact, when the Lawyers and Conveyancers Act was being looked at, the issue that the

Minister spoke about was very critically looked at by the Justice and Electoral Committee, which came to the view that this change should not be made.

The select committee was right in focus, because a number of entities, including the Law Society, had made comments about the way the legislation was worded. A very clear submission from the New Zealand Council of Trade Unions was also made on this very issue. In the introduction provision the council's submission deals with one aspect of the bill relating to areas of reserved work that only a lawyer or a conveyancing practitioner may do. The submission stated: "Our concerns lie with the effect of provisions that capture and prohibit activities that are central to the purpose of unions in the protection and enforcement of members' entitlements."

The situation that the bill sets out to address is not new. It was not created by the passage of the Lawyers and Conveyancers Act. Under the Law Practitioners Act 1982 it was simply not lawful for non-lawyers to provide legal services to the public or to non-lawyer members, which is the issue directly here, by employing lawyers to provide that service. So there are, legitimately, real concerns about this amendment bill to be resolved in the Committee stage. The first is an issue of principle, and the second is the width of the provisions proposed in the bill as at present drafted.

How appropriate is it that these union organisations and employer organisations have a freedom to offer a substantial range of legal services? Viewed from a consumer perspective, I say it is wholly wrong. It should not be the case that these entities can give advice on drink-driving charges. They should not be involved in drafting family trusts. They should not be involved in tax advice on business structures. They should not be involved in advice on leasing proposals for personal investment.

It was made very clear in the National Party's minority report on the Lawyers and Conveyancers Act that the party was concerned about the drafting of these provisions in the substantive bill. In fact, under a heading of "Reserved Areas of Work" it stated that National would seek rewriting of the provisions to make their intent more clear and to permit, for example, taxation lawyers to practise in accounting firms. I hope that an opportunity will be taken in the Committee stage to rework these provisions to make it quite clear what the scope of the activity of employer associations and union organisations should be. They should be starkly limited, and they are not.

I guess, also, there is a very significant issue around the role of in-house lawyers that has an ethical base. If an in-house lawyer, as part of his or her duties to his or her employer, provides legal services to anyone other than the employer, the contract for the provision of those services is between the employer, a non-lawyer, which in this case is the employers' association or the union, and the client, which in this case is the member—rather than between the lawyer and the client. The provision of legal services by non-lawyer organisations is forbidden under both the Law Practitioners Act and the Lawyers and Conveyancers Act.

I have said enough at this point to identify the key concerns. My hope is that with some amendments, which I trust will be forthcoming from parties in this House, we can fix up this mess.

CHARLES CHAUVEL (Labour): Mr Speaker—[*Interruption*] I want to make just a couple of brief comments in reply, once the familial dispute across the House between Mrs King and Mr Finlayson has finished. I was interested to hear the speech made by Mr Worth, and I want to address two major points that he sought to make.

The first was the issue of scope and the explanatory note of the Lawyers and Conveyancers Amendment Bill (No 2). Mr Worth seemed to suggest that the

explanatory note, which referred to the provision of services being connected to, or arising out of, employment-related services, would somehow cause some difficulty in the construction of the legislation. But, of course, that is not the case. An explanatory note, as all first-year law students come to learn, is only ever prayed in aid in litigation when there is any doubt as to the meaning of the substantive provisions of the legislation. And, of course, that is not an issue here. It is quite clear that the legislation applies, in principle, to all legal services. So the bodies covered by the legislation will, in principle, be entitled to have lawyers employed by them to provide all of those services. The words of the explanatory note, as far as they might have limited the principal Act, simply do not apply.

The second important point to make is that this legislation makes litigation much less likely, as opposed to much more likely. So the prospect of any litigation over argued or contended uncertainty, raised by Mr Worth, is again a shibboleth here. We have a situation that has been a practice over many years—20 to 30 years—where, notwithstanding what is said about the provisions of the earlier legislation, which the Lawyers and Conveyancers Act will replace, the fact is that unions and employers' associations have employed lawyers directly to provide legal services to their members for many, many years. Those legal services have been conducted responsibly and within the ambit of the particular rules of the union or the employers' association. No evidence was heard by the Justice and Electoral Committee that that practice has been abused, that there has been any irresponsible provision of legal services, or that the members of the unions or the employers' associations have, in any way, been unhappy with the services that they have received.

In fact, to seek to permit the principal Act to pass in its current form would result in a great unfairness, because it would irregularise the position of those lawyers currently employed by employers' associations, unions, and others, who are providing a very valuable service at the moment with no complaint, and with no evidence that the service is being provided in any sort of inappropriate way. Passing this amendment, in order to clarify the existing position and to permit it to continue to occur, will minimise the risk of litigation rather than maximise it. It will prevent the Law Society from going to the High Court and seeking a declaration that unions and employers' associations should not, under the principal Act, be allowed to employ lawyers, or make it clear that they can. The argument about the creation of uncertainty in reference to the explanatory note is quite moot, and, indeed, I suspect it is quite mischievous.

The other point that was made by Mr Worth is that somehow this legislation is thought to be inimical to the interests of consumers. I want to dispose of that very quickly. I was—as the Minister in charge of the bill, Annette King, said—employed by a union for a number of years. It was, in fact, my first substantive legal job. I was acting for union members in a blue-collar union, the Service and Food Workers Union, during the introduction of the Employment Contracts Act, which was a difficult time for those members. I can tell the House quite clearly, on the basis of my own experience, that it is not an easy job to do. It is not necessarily a glamorous job, but it is an important job. One can help out people who need a hand and cannot afford expensive lawyers in big firms, QCs, or barristers-at-law but who, none the less, need decent advocacy if something goes wrong in their workplace. The same applies for small businesses that rely on employers' associations around the country to provide them with legal services when they get in a jam in the workplace. They cannot afford expensive lawyers; they need the services that this legislation will allow them to continue to provide. Frankly, the same goes for the health professionals' organisations, which the committee also decided to include in the legislation.

I do not intend to say anymore. If the National Party is somehow now opposed to this legislation, I look forward to National members saying so, but, more important, I look forward to hearing them tell Business New Zealand, to whom they have given assurances as to their support, that that is the case. I certainly hope it is not.

DAIL JONES (NZ First): That was a very interesting speech. Mr Chauvel limited himself to incidents in the workplace. New Zealand First ultimately, after discussing this matter, has no difficulty in limiting this bill to matters that take place in the workplace. For that reason New Zealand First will propose an amendment to section 9, in clause 6, by adding the following paragraph to subsection (1A)(a): "(iii) legal services to a member of the organisation that do not relate to employment issues relevant to the member." If we read subsection (1A) in clause 6 in the bill, we see what that does in the overall context. It states: "Despite subsection (1), a lawyer is guilty of misconduct if, in the course of his or her employment … (b) by a union, he or she provides—(i) legal services to a person other than the union or a member of the union;".

So they can give advice on employment issues; that is fine. But when they give advice on matters that are not employment issues, that is not appropriate. That proposed change is exactly what Mr Chauvel just said he wanted, and that is what New Zealand First proposes. He wanted that, so I expect that Mr Chauvel, when it comes to the Committee stage, will vote for the issue he wants to see in the bill. I am sure that Mr Chauvel does not want to see these people appearing in drunken driving cases. I am sure he does not want to see these people giving advice on trustee law. I am sure he does not want to see them giving advice on leases. But New Zealand First supports the ability of the trade union movement and Business New Zealand to give advice on employment-related matters. We will support that, and I hope that Labour will, as well.

I am looking forward to the comments from the National Party and other members of the House who are interested in protecting the workers' movement and Business New Zealand jointly. It is a simple issue. That is what the explanatory note said, was it not, I say to Mr—I am sorry; the member's name is just too complicated.

Chris Auchinvole: Auch-in-vole.

DAIL JONES: Thank you. That is what the explanatory note said and that is what the amendment from New Zealand First proposes to do.

I think it would be most dangerous if the trade union movement was suddenly known to be available to give advice to its members on all the extraneous matters. What will happen once the Lawyers and Conveyancers Amendment Bill (No 2) becomes known to everyone is that the lawyers in the trade union movement will be contacted by members, who will say that they understand that lawyers can give them advice on matters. Those members will ask the lawyers to give them that advice, as the lawyers are being paid good money to do it. That is what it boils down to, and on all the other issues as well. I am glad that in the short space of barely half an hour we have come to the nuts and bolts of these issues, as lawyers, hopefully, are prone to do.

I think Mr Auchinvole, as a member of the Justice and Electoral Committee, grasps what I am saying. I had the privilege of being at the select committee. Although I am not a regular member of it, the Standing Orders allowed me to be there. I hope that Mr Chauvel is now confirming that the amendment I have in mind will work satisfactorily, and that on Tuesday we will have tidied up this issue. We will also be moving an amendment to give further effect to it—legal services and suchlike—and another amendment to clause 10, which was put forward by the Law Society.

It is great to be able to achieve this. I was very critical the other night. This bill has been before Parliament for only 4 working days—if as long as that. The select committee had its time for submissions curtailed—it was given virtually 1 day to hear submissions. The Minister said the majority of submissions supported the bill. Well,

that was a bit of a long bow to draw; after all, submitters were given only 48 hours to make submissions, and one of them had 350,000 members. That is pretty hard to beat! So I would have to agree with the Minister, but in practice it was a bit of a long bow to draw. Everyone loves a trier, and the Minister of Justice is doing the best she can in the circumstances, but I do hope she takes the suggestion into account.

The law was very well stated by the New Zealand Law Society in its original submission to the select committee, and we had the opinion of Douglas White QC on the matter. We had no doubt as to what the law was as a result of hearing that submission. What was being done by Mr Chauvel and others in the union movement was, as he said, “the practice”. It was a nice way of saying that they were breaking the law but that that was the practice. We had a good look at it, as Dr Worth has said, and we turned it down. I must commend Dr Worth for his speech; he set out the matter very clearly. I believe I have suggested the solution, which is envisaged by the explanatory note. This is really just a technical matter, as Lynne Pillay said. We have identified the mischief and the technicality, we have now come up with solution, and I do commend it to the House. I will not take any further time, because I appreciate that the trade union movement and Business New Zealand want to get this matter on its way. I will be putting forward the amendment on behalf of New Zealand First, I believe, on Tuesday next week.

CHRIS AUCHINVOLE (National): The purpose clause of the Lawyers and Conveyancers Amendment Bill (No 2) states: “The purpose of this Act is to enable lawyers who are employed by employer organisations or unions to provide legal services to persons who are members of their respective employers.” This bill is needed in order to amend the Lawyers and Conveyancers Act 2006, which is due to come into force on 1 August, so some special speed is required.

The Minister Annette King, in introducing the bill during the first reading debate, asked for a very short time frame, and National members responded in their first reading speeches that they would support the legislation and the short time frame. The courtesy of early advice and request has been most encouraging. Speaking as a first-term MP, I say that it is nice to find that this level of cooperation is, on occasions, transacted by the present Government. I guess I can think of other legislation where it would have been nice had that level of communication occurred. One of the reasons for this time frame is to provide assistance to the affected parties that are caught up in this new legislation through no fault of their own.

I admit to having taken a moment or two when on the Justice and Electoral Committee to fully understand the ramifications of it all. My colleague Richard Worth said that the legislation being amended was highly technical, and I concur with that. A number of the submitters we heard from were asking for the status quo to continue—the practice that Mr Chauvel referred to. From my understanding that was not really what they wanted. It was not in their best interests, because the whole situation was about to change. They did not want the status quo to carry on; what they required was to be able to continue their previous practices. But under the new legislation they are expressly forbidden from doing that, and even then they probably should not have been doing it anyway. The legislation does this by distinguishing between legal services required by the organisation—particularly advocacy and representation services—and those required by the organisation’s members.

The intention of the Lawyers and Conveyancers Act 2006 included protecting confidence in the provision of legal services and conveyancing services, and protecting consumers of those services. It could be said, and has been said by submitters, that the reason for this bill was that there was an unintended consequence of the Lawyers and Conveyancers Act 2006, which will be corrected by this amendment bill. The bill

includes employer organisations and trade unions in the list of employers of in-house lawyers who are able to provide the regulated services.

The nub of the matter is that the Lawyers and Conveyancers Act 2006 has a general principle that lawyers must be employed by lawyer organisations if they are to provide legal services to the public. Members of unions and employer organisations are members of the public, so a situation occurs where members of these organisations—such as the 42,000 members of the Nurses Organisation—are suddenly deprived of the services they have enjoyed.

Similarly, Business New Zealand welcomed and supported this amendment bill, which addresses a current anomaly preventing lawyers with practising certificates who are employed by employers' organisations and unions from providing legal services to members of their organisations. The only way they can do so is to work without practising certificates and not refer to themselves as lawyers. That, I would imagine, would not be a particularly easy thing for a professional lawyer to swallow, but I do not have an opinion on that.

But should this bill not proceed, the options would be for unions and employment organisations to use legal personnel without practising certificates, or to provide current legal services through a separate firm set up for the purpose. To a non-lawyer like myself, when one has the representatives from Business New Zealand, the New Zealand Educational Institute, and the New Zealand Nurses Organisation, and letters from the New Zealand Council of Trade Unions, all at the same table making harmonious submissions together, it really is head-scratching stuff.

Legal practice, of course, has intrinsic and intricate relationships, protocols, and a very long history of using precedents, and when one starts to regulate a control in a particular direction, it often cuts into a practice that has been exercised through convention, not regulation. So by introducing regulation, the strength of the convention is then open to question and doubt. This was my impression from listening to the New Zealand Law Society's submission, which related to the practice of lawyers being employed by non-lawyers to provide legal services to their employers but not to other employees. Their list of reasons for this includes the need to ensure that legal services are provided to members of the public by lawyers qualified to practise on their own account or under the direct supervision of a lawyer who is qualified, the need for independent advice, the protection of the Law Society's rules of professional conduct and other regulations, and the liabilities involved.

To me, the Law Society's submission demonstrated that the position and practice that had previously occurred as a convention was condoned, rather than having any formal recognition, but now that the matter was under consideration, then the old ways could no longer be adhered to—hence the problem. The Law Society's submission was true to its profession in looking at everything every which way, and it is indeed the task of that organisation to do that. As a non-lawyer, though, I was taken on a journey of labyrinthine proportions through the reasons, concerns, wise saws, and instances of the sorts of problems that will be associated with introducing this amendment bill, and I have no reason to doubt the veracity of the society's advice and argument. The solution offered was in line with the comments of the other organisations in relation to surrendering practising certificates and setting up separate legal firms or entities, although the others had seen that as being disadvantageous and unwieldy. The Law Society saw the danger of precedence in any move to allow exceptions—as will occur with this amendment—and considered that it could lead to demand for exceptions for other categories of lawyers employed by non-lawyers, such as those in major firms of accountants.

One point made in all the submissions resonated particularly with me, and that is to be seen when looking at the purpose of the bill. An earlier version of the bill stated that it was to enable lawyers who were employed by employer organisations and unions to provide legal services to persons who were members of their respective employers. I see now, in this latest published edition, that it allows them to "provide"; it does not say "enable" them. But the key word to me is that word "enable". It does not compel, and it opens an opportunity.

If I were a lawyer, I wonder how I would feel about having an obligation or a compulsion to provide whatever services employees wanted. I am not sure that I would want that. Then I found there were some 35 lawyers, I think, in this particular category. Those who spoke to the committee indicated that their pressure of work was such that they had scant opportunity to accept engagements of a personal nature from other employees. I myself would have thought that they would probably have a natural reluctance to make themselves too available, anyway. I wonder whether the whole matter could be addressed by the simple addition of a phrase in the purpose of the bill, specifying that such legal services apply to matters of employment only. That, I would hope, would overcome all the raised and perceived concerns expressed during the submission process. Thank you, Mr Deputy Speaker.

CHRISTOPHER FINLAYSON (National): I will take a brief call, because I think everyone acknowledges there is a problem here that needs to be addressed, but, as so often happens, the devil is in the detail, and it behoves us to try to get right the formula of words. That is a point I have made on a number of occasions in debates in this House, and of course the Government has ignored it every time, most recently in relation to the passage of the Electoral Finance Bill, when I said to several people on the Labour side that, even accepting that their prime aim with the legislation was to do in the National Party, there were numerous provisions in the bill where the words are not right. It was not that I was giving them advice on how to do us in, but I was saying there were issues of a general nature where the i's were not dotted and the t's not crossed, and they were ignored. Of course—

Hon Darren Hughes: Stop reading us the email.

CHRISTOPHER FINLAYSON: —that legislation is coming home to haunt them, and I am so delighted because it will hasten the demise of the MP for Otaki.

But let us go to the preliminary provisions of the Lawyers and Conveyancers Amendment Bill (No 2). I think Dr Worth described the Lawyers and Conveyancers Act as tortuous legislation. It is not particularly good legislation. It was in gestation for many years, it passed into law a couple of years ago, and it is all coming to a head because the Act itself comes into force on 1 August, in relation both to lawyers and to conveyancers. So it has had a fairly long transitional period, and this issue has emerged at the 11th hour, which is why the National Party supported the bill going to the Justice and Electoral Committee, and cooperated in the select committee.

As I said, there was an issue that needed to be looked at. The primary purpose of the legislation is to maintain public confidence in the provision of legal services and conveyancing services. We are not so worried about conveyancing services in the context of this bill. But we come immediately to section 9 as it was originally enacted. Subsection (1) states: "A lawyer is guilty of misconduct who, being an employee, provides regulated services to the public other than in the course of his or her employment—(a) by a lawyer;", and then subsection (1) sets out the various categories: for example, the Legal Services Agency, the Public Trust, the Māori Trustee, and trustee companies.

It did appear that there was a gap, because over a period of time there had at least developed a practice—whether or not it was legal—where certain persons who were

qualified lawyers within unions and organisations like Business New Zealand and the Nurses Organisation would, in the course of their work, provide advice to members. My understanding is that the advice offered was in the nature of advice relating to employment. It would be highly unlikely and very, very dangerous for, for example, the lawyer in the Engineering, Printing and Manufacturing Union—whose name is Mr Wilton, I believe—to be giving advice on matters relating to mergers and takeovers, or the law relating to family protection, and so on. The most a person, in that instance, would do is refer the inquirer on to another lawyer who was qualified to give that advice.

So, recognising that this practice has grown up, recognising the constraints of section 9, and recognising that there was a problem in this legislation—which is soon to come into force—the National Party supported the bill going to the select committee. We listened very carefully to the submissions that were made on behalf of those organisations, and on behalf of the Nurses Organisation. But we made a comment in the report that although we supported the passage of the legislation, we may want to introduce a Supplementary Order Paper at the Committee of the whole House stage if, after careful consideration of matters raised in oral submissions to the committee, we considered there were further matters to be addressed.

So I am very interested to hear that Mr Jones of New Zealand First is proposing a Supplementary Order Paper to deal with certain definitional issues. I will have a good look at that over the next few days. The Leader of the House said in the House this afternoon that this bill will go through its remaining stages next week, and I hope that all parties will in good faith take a look at the Supplementary Order Paper that Mr Jones proffers, to see whether it will address the concern on the one hand of the Law Society, while recognising the very legitimate concerns of those who made submissions to the select committee in favour of the bill.

I do not think the various parties are too far apart. It is a question of words, so I think it behoves us when it comes to the Committee stage of the bill to see whether it can be improved. I think that is everyone's intention. I listened very carefully to what Dr Worth said about the history of the Lawyers and Conveyancers Act 2006 and its passage into law. I can understand why we need to give urgent attention to this matter, and I will be very interested to look at the amendments that are being proffered by Mr Jones, to see whether there can be a meeting of the minds, because this is a very important issue.

I come back to the purpose provisions set out in section 3 of the Act, the most important of which is to maintain public confidence in the provision of legal services. We have to make sure that if an opportunity is afforded to the lawyer employees of employer organisations or unions, they are able to carry out what they have traditionally done, but not range into areas that may be well beyond their areas of competence. I do not think they would intend to move beyond what has been the practice over many years, and that is why we need to pay careful attention to the words—to avoid the prospect of litigation once the Lawyers and Conveyancers Act comes into force. So I very much look forward to the Committee stage, and to the members of the Committee working together to see whether we can solve what appears to be a terminological problem.

Bill read a second time.

FISHERIES ACT 1996 AMENDMENT BILL (NO 2)

First Reading

Hon JIM ANDERTON (Minister of Fisheries): I move, *That the Fisheries Act 1996 Amendment Bill (No 2) be now read a first time.* At the conclusion of the first reading debate, I intend to move that the bill be referred to the Primary Production Committee, that the committee present its report to the House on or before 25 August 2008, and that the committee have authority to meet at any time while the House is sitting except during oral questions, during any evening on a day on which there has been a sitting of the House, and on a Friday in a week in which there has been a sitting of the House, despite Standing Orders 192 and 195(1)(b) and (c).

The Fisheries Act 1996 Amendment Bill (No 2) will amend the Act to address a serious problem identified by the High Court in February 2008 in relation to setting the total allowable catch. The ruling of the High Court has made an amendment to the Act inevitable. The ruling the court made concerns setting the total allowable catches, or TACs. The total allowable catch is the main instrument we use in determining how much fish can be taken sustainably from the sea, under our quota management system. The court found that before the Minister of Fisheries can set a total allowable catch under section 13 of the Act for any fishery, he or she must have received estimates of the current stock level of the fishery, as well as its target stock level. The target stock level is the level of biomass that can produce the maximum sustainable yield for that fishery.

The court's requirement sounds straightforward, but it is not. The information needed to produce such estimates is available for very few of our fisheries. Fisheries research is very expensive. To get the information would in many cases be unreasonably costly in terms of time and other resources. Consequently, since the Act came into force a number of management strategies, all consistent with the concept of maximum sustainable yield, have been pursued. Some of these strategies have used modelled estimates of biomass levels and others have used alternative indicators of the relative state of the stocks. Some of the alternative indicators have direct links to maximum sustainable yield; in other cases the links are implied. In all cases the management strategies aim to manage fish stocks towards achieving the maximum sustainable yield.

It is a sensible method. In the absence of an enormous and probably uneconomic level of research, we do not have the information the court has required. This is the case for the majority of New Zealand's 629 quota management stocks. It is particularly relevant to the New Zealand fishery because research costs are recovered from the industry itself. If the court ruling was strictly applied, it would almost certainly put most fishing companies out of business. The approach used in New Zealand is the way other countries manage fisheries similar to ours. It is the approach used in Australia, the United States, and Canada, for example.

The finding of the High Court prevents the Minister of Fisheries from using established practices when making catch-limit decisions for fisheries in the quota management system. In the absence of estimates of the current and target stock level, fisheries Ministers should be able to make decisions on the total allowable catch using the best information available from a range of sources. Catch limits should be set using the best information available, without requiring the level of research that involves unreasonable cost, time, and effort.

The amendment bill will enable the total allowable catch to continue to be set under section 13 using existing management approaches, even where the current stock level of a fishery, and the biomass that can produce maximum sustainable yield, are not able to be estimated reliably. The amendment will not change the general approach of the

Fisheries Act 1996. It will not alter the balance between the objectives of sustainability and utilisation, and it will not alter the balance of interest between stakeholder groups.

Without this amendment the total allowable catch could not be set for many fish stocks in New Zealand and, at the same time, the rulings set by the court could not be met. In other words, the High Court's finding this year prevents the use of established practices in making catch-limit decisions for fisheries in the quota management system.

The next fishing year starts on 1 October 2008. It is important that the Fisheries Act be amended so that I can make decisions on new catch limits before 1 October. I will therefore be requesting that the Primary Production Committee report the bill back to the House by 25 August so that it can be enacted by mid-September. I would appreciate the cooperation of the select committee in this regard. Needless to say, the relevant stakeholders have been consulted. Although the committee will have a shortened consideration period, it is important to note that the bill does not seek to alter the approach taken to setting catch limits in New Zealand; it merely seeks to make the current practice, which was passed by this Parliament, lawful. I commend this bill to the House.

PHIL HEATLEY (National—Whangarei): I would like the various parties in the House to know, and the various fishing interests—commercial, customary, and recreational—that are no doubt listening in, that the National Party will be voting for this legislation. We see it as important legislation to be going through the House at this time. The bill essentially amends section 13 of the Fisheries Act 1996 to allow the continuation of what has always been done in practice—that is, the use of a range of methods and management strategies in the setting of the total allowable catch.

I thank the Minister of Fisheries, Jim Anderton, for keeping the National Party informed of progress in the development of this legislation because, like him, we would be very concerned indeed if, come 1 October, the Minister was not able to make total allowable catch decisions. The making of those decisions is a very important job—in fact, the top job of the Minister of Fisheries. The Minister therefore makes recreational allocations for fish stocks right across the country, makes customary allocations, decides on mortality rates, and, ultimately, decides the total allowable commercial catch. So in establishing that the current legislation is unclear—and certainly the courts have interpreted that and Crown Law supports that view—I and the National Party are very keen to ensure that we endorse what was always intended in the legislation; that is, the continuation of what has always been done. In practice, a range of methods have been used to establish the maximum sustainable yield in every fish stock, and to ensure that the total allowable catch and the total allowable commercial catch are set appropriately.

We agree with the Minister of Fisheries that it is illogical and unreasonable to expect research on fish stocks to find out exactly what is going on in every fish stock. There are hundreds of types of fish species, and an awful lot of fishing goes on with recreational, customary, and commercial fishing. The Ministry of Fisheries, and certainly New Zealand's resources, could not possibly measure fish stocks in every case.

Debate interrupted.

The House adjourned at 6 p.m.