



**Charles  
CHAUVEL**

Labour List MP based in Ohariu



26 September 2011

Hon Christopher Finlayson  
Attorney-General  
Parliament Buildings  
Wellington 6011

Dear Christopher

**Video Camera Surveillance (Temporary Measures) Bill**

Thank you for your letter of 26 September 2011.

Responding briefly to the points that you have made:

1. My question as to your commitment to achieving cross-party agreement arises not out of the volume of material that has emanated from your office to date, but because of your apparent lack of any desire until now to consider and respond with an open mind to the merits of alternative suggestions.
2. I welcome your announcement that the Government will invite the House to refer the legislation to a select committee. Labour has said consistently that in order to test the extent of the problem here and the appropriate solution that ought to be applied a select committee process is necessary.
3. You refer to Mr Parker's letter of 9 November 2010 but you fail to explain why the Government did not take up his offer of bi-partisan support for the measure. Had that offer been accepted, the problems that are currently before us could have been avoided.
4. You have finally provided some rationale for rejecting the solution proposed by Professor Geddis and adopted by us of inserting provisions of the Search and Surveillance Bill into the Summary Proceedings Act (I regret my earlier error in referring instead to the Summary Offences Act). Even if there are some administrative and drafting drawbacks presented by this course of action, it still appears to me to be better than reinstating – for all time in the past and for a year hence – law that is now acknowledged to be unclear.
5. The arguments against giving any interim legislation retrospective effect are well rehearsed in much of the already published legal academic argument on this issue – see for example what Professor Geddis and Mr Knight of Victoria University have already said on the point.
6. As to the scope of the proposed legislation, the difficulty arises chiefly from the definition of "search" in clause 4. Given the difficulty of now knowing the

"circumstances in which a search warrant is not required" without clarifying legislation such as the Search and Surveillance Bill being in force, the potential powers to be conferred appear very broad. This is particularly so in light of clause 5(3) proposed exclusion of the discretion under s30 Evidence Act.

7. I have arranged for Mr Parker and me to see the Solicitor General tomorrow morning. He advises that an official from your office will be present. I trust that the Solicitor General will be free to brief us fully and fairly and to answer any questions that we may have for him concerning the present situation.
8. I will continue my practice of making correspondence between us publicly available, notwithstanding the disparaging reference in the final sentence of your letter. This is an avoidable situation in which the Government proposes to take broad powers under urgency, and with no commitment to a select committee process until today. Transparency is therefore even more important than normal. With haste often comes error. For example, in your letter dated 19 September 2011, you say that one of the groups you are consulting is the Criminal Bar Association. As of this morning, no officer of that organisation appears to have received any communication from you on this matter. Perhaps this is merely an omission akin to the failure to acknowledge Mr Parker's letter last year. Whatever the case, at least if relevant correspondence is available online, stakeholders – and the public - can see it.
9. I would like you to also ensure that the Legislation Advisory Committee is fully briefed. For my part they are one of the organisations from whom any select committee must hear on an issue such as this.

Yours sincerely



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Labour List MP based in Ohariu  
Labour Spokesperson for Justice  
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