

A black and white close-up portrait of John Key, the former Prime Minister of New Zealand. He is looking directly at the camera with a slight, neutral expression. The lighting is soft, highlighting the texture of his skin and the details of his facial features.

UPDATED
EDITION

Why he
walked away

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JOHN KEY

PORTRAIT OF A PRIME MINISTER

JOHN ROUGHAN

2004
2004
2004

average of three clients a night, there must be 100,000 people going to brothels, '10 per cent of the current population of eligible men in New Zealand'. He doubted the bill would make any difference to that number. But when it came to its final reading he voted against it. He did not speak at the final stage. He told the press he had decided in the end that the bill sent the wrong message. He also voted against civil unions, as did all National MPs in 2004 except Katherine Rich, Clem Simich and Pansy Wong. Yet just eight years later, as Prime Minister, Key's voice was probably pivotal to the public acceptance of Labour MP Louisa Wall's same-sex marriage bill when he declared he was not opposed to it.

The political issue that shook the country most in his first year in Parliament came out of nowhere and took all sides by surprise. The country's best judicial minds, sitting as the Court of Appeal and soon to become its Supreme Court, issued a decision that declared the tidal foreshore and the seabed beyond could be still in Maori ownership. The ruling overturned law as it had been understood for more than a century. Acts of Parliament, the court found, had not expunged customary native title which, unlike English concepts of real estate, could extend beyond dry land.

The court had not ruled Maori did own foreshore and seabed, merely that the claim in the case it had heard could be considered. But the door had been opened and the implications seemed obvious. The public might no longer be able to freely use all beaches. A central value of New Zealand life appeared to be at stake. Labour quickly decided it could not let the ruling stand. National was no less anxious, urging the government to assert public ownership by legislation. All parties except the Greens and one or

two Maori MPs, notably Labour's Tariana Turia, wanted the decision overturned. Public alarm was palpable and ran deep but it did not immediately hurt the government in the polls or boost National's numbers. National was still polling an abysmal 26.8 per cent in a *Herald-DigiPoll* survey of August 2003, more than a year after the election.

The days were darkening for Bill English's leadership and early in October he moved to pre-empt a challenge from Brash. Having lined up enough support, he thought, English called a vote a few days before the weekly caucus meeting where the challenge was expected. The ploy failed and Brash emerged from the party room its new leader. When Brash reallocated opposition speaking roles he kept finance for himself but made John Key an associate finance spokesman. Key's vote was one of those English had counted on. When English saw the new MP promoted so quickly to a finance role it would have made him suspect he had been misled. Yet while Brash gave Key a speaking role that Key's credentials could hardly deny him, Brash left him on the backbench. Key has since said he voted for English that day.

I voted for Bill. No one believes me. I'm not 100 per cent sure to this day that Bill believes me, but the reason I didn't vote for Don was I knew he was really, really, really right wing, and I thought, 'How do you win an election when you are at the fringe of the party's support?' You are hugely loved by those people but in the world of MMP, we have to get virtually half the population to like us.

For all that, Brash made a difference. In the New Year of 2004, he used a 'state of the nation' address to the Orewa Rotary Club to launch a frontal assault on the idea that



Maori had a distinctive place in the affairs of New Zealand. Maori, Brash noted, were now all of mixed blood. The nation was one people. The Treaty of Waitangi had been taken out of its historic context and was being used to divide New Zealanders. Policy was making one race a privileged group. Maori were no different from Pacific Islanders or other non-Maori on welfare. It was, he thought, 'bizarre that, in a society where the Prime Minister refuses to allow grace to be said at a state banquet, because, she says, we are an increasingly secular society, we fly Maori elders around the world to lift tapu and expel evil spirits from New Zealand embassies'. When Maori had to be consulted for resource consents, they were 'inventing or rediscovering beliefs for pecuniary gain' in a way that was 'becoming deeply corrupt' and looking like 'standover tactics'.

The speech struck a resoundingly popular chord in the wake of the foreshore and seabed controversy. Talkback radio and letters to the editor hailed Brash for saying what many had previously been reluctant to say out loud. National had an immediate bump in the polls. The positions of the major parties turned completely around, National jumping to 45 per cent to Labour's 38 per cent. In an effort to stem the damage, Helen Clark announced an inquiry into the place of the Treaty in New Zealand, and another to review policies for Maori to ensure they were based on need, not 'privilege'. But inside the National Party, long-standing Maori members Wira Gardiner and his wife Hekia Parata were reviewing their continued membership. Parata said she was 'ashamed' of the speech: 'It's the antithesis of everything I've worked for professionally and personally.' National's sole Maori MP, Georgina te Heuheu, said it was 'an extremely different tack to the National Party I entered Parliament with'. Brash suggested

she resign as his spokeswoman for Maori affairs.

The backlash against Maori rights blew out within a year. The more lasting and significant consequence of the foreshore and seabed debate was Tariana Turia's departure from the Labour Party to form a Maori Party co-led by a prominent cultural figure, Dr Pita Sharples. John Key, meanwhile, was quietly going to Waitangi. His mentor there was Dame Jenny Shipley who continued to observe the national day at Waitangi after leaving office. As Prime Minister in 1998-99, Shipley had worked hard to help the host marae create a constructive annual commemoration of the Treaty. Previous prime ministers had stopped going to the Treaty grounds after indignities perpetrated by protesters every year.

Shipley encouraged the hosts to hold an open forum at Te Tii marae on the day before 6 February, where the chiefs of 1840 had debated on the day before they made the Treaty. She and her ministers sat under a marquee and listened all day to whatever people wanted to say. Opposition leader Helen Clark was listening too and not impressed. She did not attend the forum, or even Waitangi most years, when she became Prime Minister. But the talking at Te Tii has continued and Waitangi offers all parliamentarians a day on which they might feel the pulse of an indigenous culture. Shipley says Key felt it.

Before he became leader, though it was clear to me he was going to be, I made the offer I make to every National leader. I said to John if he would like to just wander around with me up there I could share some of the contacts and insights I've gained. He came. I remember him standing in that lower marae area saying, 'I had no idea all this existed. I understand I will have to come to grips with this.'

schools. The power company share floats were ready to proceed with Maori court actions behind them, but Tiwai Point and a Labour-Green plan for price control had undermined their value. Any prospect of selling Solid Energy had passed. The company was close to collapse after a plunge in the coal price the previous year. The government had contentiously amended labour law so that Warner Bros. would film *The Hobbit* in New Zealand. And Dotcom, like a tar-baby of politics, was still damaging those who dared touch anything to do with him. The previous year it was Banks; that year it was another of National's partners, Peter Dunne.

John Key had commissioned the cabinet secretary, Rebecca Kitteridge, to investigate the illegal surveillance of Dotcom by the GCSB. Her report, finding the agency had frequently misinterpreted its legislation, was leaked a week earlier than its scheduled release, while Key was on a visit to China. He did not welcome the distraction and, on his return, had Eagleson commission an investigation. Parliamentary emails and swipe-card records were checked and suspicion fell on Dunne, who had exchanged 86 email messages with the reporter who received the leak, the *Dominion Post's* Andrea Vance.

The government, meanwhile, had put a bill before Parliament that would allow the GCSB to provide police and domestic agencies with data on the communications of citizens and residents. The GCSB bill faced a wave of concern heightened by a worldwide disclosure of the United States National Security Agency's access to telecommunications logs. The GCSB would have similar powers to keep track of somebody's communications and provide the information to police or domestic intelligence agencies with a warrant for the surveillance. Its own role would also be widened

in cyber-security protection. The bill provoked an outcry from lawyers concerned for civil liberties and prompted public meetings as well as submissions to Parliament. Some prominent people spoke out, including the esteemed historian, Dame Anne Salmond, who wrote:

The GCSB bill would give the agency sweeping powers with the only effective controls in the hands of politicians. Given the recent record of legislative attacks on human rights in this country, very few New Zealanders could be confident that such powers, if granted, would not be abused for partisan political purposes.

Kim Dotcom, still facing extradition to the United States over his own use of the internet, appeared before the parliamentary committee hearings on the bill, chaired by the Prime Minister. A memorable exchange was replayed on television. Labour leader David Shearer asked Dotcom if he believed Key did not know of him before the Coatesville raid.

'Oh, he knew about me before the raid. I know about that,' said Dotcom.

'I didn't,' said Key.

'You know I know,' said Dotcom.

'I know you don't know actually, but that's fine,' Key replied.

'Why are you turning red, Prime Minister?' Dotcom glared.

'I'm not,' parried Key. 'Why are you sweating?'

'I'm hot,' retorted Dotcom.

Through all this, the government was incurring a flood of protest on a different subject. Primary Industries Minister

entered a deep cyclical downturn and dairy farms were no longer making a profit, though urban New Zealanders, particularly in Auckland, hardly noticed. The average house price in Auckland was rapidly rising towards \$1 million. The Reserve Bank decided it had to start bringing its official cash rate down and try to offset the impact on house prices by tightening its loan-to-value restrictions on borrowing for speculative investment in Auckland.

In 2015 the government finally realised it could not treat the rising unaffordability of houses as solely a supply-side problem. It would need to restrain the demand too. Just before the budget in May, John Key announced a 'bright-line' test for capital gains tax on investment property along with a tax registration requirement for offshore buyers. The very words 'capital gains tax' had been unspeakable in New Zealand politics for generations. No party would risk the wrath of property investors and accountants who argued there was a sacred distinction between returns on capital and income. Even the radically reforming fourth Labour government feared to tax capital gains. It had taken just four years, 2011 to 2015, for the political attitude to change. Most of the credit should go to Labour's third leader in the Key years, David Cunliffe.

As Labour's finance spokesman in 2011, Cunliffe convinced the party to go to the election that year with a capital gains tax. National, surprisingly, did not attack it as trenchantly as previously it would have done. At the 2014 election, when Cunliffe was leading Labour, he floundered in debates on details of his capital gains tax and Labour's next leader, Andrew Little, promptly dropped the policy. But eight months later Little looked sheepish when Key adopted a bright-line test. Key insisted it was not a capital gains tax, at least not a new one, which was technically

true. New Zealand had long had a tax that was practically unenforceable because the Inland Revenue Department had to prove a property was bought solely with the intention of capital gain. Intention is hard to prove. The bright-line test declared any house resold within two years of purchase could be assumed to have been bought for capital gain.

Two years was not a long time to hold a house and avoid tax, but the aim was to slow the market, not stop it or – a real risk – reverse it. Too many households with sky-high debts stood to lose their equity if house values fell. Key expects the two-year test will be extended over time. 'When that happens it will be more of a capital gains tax and I think most people will be able to live with that.' He was in favour of a stamp duty as well, a percentage of the purchase price. 'Almost every country has one. [But] it never got to caucus – it was seen as another tax.'

John Key would never again be as powerful as he was for precisely six months, from the 2014 election until March 2015. National needed only ACT's solitary MP, David Seymour, to have a majority in Parliament and could have proceeded with the reform of the Resource Management Act (RMA) that Peter Dunne and the Maori Party had blocked through the previous terms. But, mindful perhaps of his strictures on arrogance, Key did not take the opportunity. He declared he would not reform the RMA without wider support. Probably he would not have had time to pass the legislation before March in any case, when the voters of Northland dealt him a blow.

Northland's National MP, Mike Sabin, resigned in February for reasons that have not been made public. A by-election was called for March and Winston Peters, capitalising on his Northland roots, stood and won. Key blamed National's loss of the seat on the peculiarities of