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# Labour votes out its controversial Three Waters entrenchment clause

Thomas Manch . 19:28, Dec 06 2022

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Labour has reversed its controversial entrenchment of public ownership of water assets, less than two weeks after voting for the clause in a Three Waters bill.

Local Government Minister Nanaia Mahuta on Tuesday asked Parliament to remove a clause in the Water Services Entities bill that Labour voted for less than two weeks prior. The clause, which had sparked outcry from constitutional law experts, “entrenched” the public ownership of water assets by insisting that any future law change requires the support fo 60% of Parliament, or a public referendum.

Such a super majority requirement has previously been reserved for constitutional matters in the Electoral Act, such as the voting age. Labour on Sunday acknowledged it made a “mistake” in passing the clause, put forward by the Green Party, that would entrench a policy that lacked cross-party support.

National Party deputy leader Nicola Willis said Labour MPs had “sought, under urgency, in the dark of the night, to entrench a policy position against all constitutional norms, against all democratic norms”.

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"It took a Labour-led Government with its majority to abuse those principles, and today in the house they attempt to turn back the clock. Well, New Zealand will not forget," Willis said.

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Labour has been unwilling to detail how it made the “mistake” since conceding the clause caused concerns, but Prime Minister Jacinda Ardern has suggested Cabinet ministers and MPs were unaware of the exact contents of the Green Party supplementary order paper Labour voted for.

Mahuta, speaking to her order paper on Tuesday night that would reverse the entrenchment, said Labour had tried and failed to get support from National and ACT for the conventional 75% entrenchment.

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ROBERT KITCHIN/STUFF

Local Government Minister Nanaia Mahuta has asked Parliament to reverse Labour’s Three Waters “mistake”.

The party had accepted this and not put an entrenchment clause in the debate, she said. But the standing orders allowed a lesser entrenchment to be set, as long as it was supported by the same majority it required – hence the “mistake”.

“We want to ensure that we are fixing a mistake ... the mistake that is being fixed is that it is inappropriate, as far as we can see, to take piecemeal approach to using an entrenchment clause for this particular purpose.”

Attorney-General David Parker said Parliament should not be able to “bind” future Parliaments to maintaining certain laws through such an entrenchment clause.

“There would have been a serious constitutional mistake made if this Act was passed with this provision in place, but it is not going to be because a week after the mistake was made, we are fixing it.”

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Labour, National, and ACT all voted for the order paper that removed the entrenchment clause. The Green Party, which supported entrenchment, voted

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Green Party local government spokesperson Eugenie Sage, who put forward the entrenchment clause Labour supported, said her party believed the public ownership of water assets was of constitutional importance.

“Water is essential to life. We could not vote without having water.”

The Government had proposed Parliament’s standing orders committee reconsider the rule that allows entrenchment clauses beneath 75% of Parliament to be set.

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