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(Entered Confederation July 20, 1871)

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**3RD SESSION, 37TH PARLIAMENT**

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Morning Sitting

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THURSDAY, OCTOBER 10, 2002

The House met at 10:03 a.m.

Prayers.

[1005]

### Orders of the Day

**Hon. G. Collins:** I call Committee of the Whole. For the information of members, we'll be debating Bill 61.

#### Committee of the Whole House

##### DRINKING WATER PROTECTION AMENDMENT ACT, 2002

The House in Committee of the Whole (Section B) on Bill 61; J. Weisbeck in the chair.

The committee met at 10:07 a.m.

Sections 1 and 2 approved.

On section 3.

**J. MacPhail:** As my colleague from Vancouver-Mount Pleasant articulated at second reading, the vast majority of this legislation introduced by the Liberal government is a repeat of legislation passed by the previous parliament in the early spring of 2001. So 18 months later we're debating a piece of legislation that could have easily been in place, working and enforced over the course of the last 18 months. Yet here we are today debating nuances. My questions are really limited, because of course, we already debated this legislation. The only difference is changes in definitions to give any sort of independent oversight to drinking water protection. That's what this bill has done.

My questions will be limited — just for your information, Mr. Chair — to section 3 and section 12. Section 3 amends section 4 of the act that was in place, as I said, 18 months ago. This government did nothing to implement it. It amends section 4 of the act to eliminate reference to provincial drinking water coordinators, and it adds a new section, section 4.2, which compels the provincial health officer to report to the minister any situation that impedes the protection of drinking water due to the actions or inactions of a government agency. If the situation is unable to be resolved by the minister to the satisfaction of the provincial health officer, the matter must be taken by the minister to cabinet for a decision.

[1010]

Here we have a situation where this Liberal government has eliminated a provincial drinking water coordinator whose only responsibility is to protect drinking water and has replaced it with politics. Drinking water conflicts will be resolved at the cabinet table. Why? Let me start with why. Why politicize this?

**Hon. C. Hansen:** Mr. Chair, I'm not sure how the cabinet operated when she was sitting around that table, but I can tell her that the cabinet table today operates not as a political body but operates in the best interests of all British Columbians. The reason we have gone this route is that we want clear accountabilities. I think the member knows very well the instances that happened elsewhere. Walkerton is a very important case in point where there were not clear accountabilities.

The changes we are making to this legislation make sure there are clear accountabilities through the provincial health officer, who is the public official charged with health safety in communities throughout the province. He, in turn, has clear accountabilities through the minister to the cabinet, which is the most important decision-making body in the province. It is that body that is going to accept that responsibility around the issues of safe drinking water. We think that's the appropriate route to go.

**J. MacPhail:** I'll tell you the difference between previous cabinets under the NDP and this cabinet, political or not. We have a cabinet right now that's assuming they're the best people in the world to make decisions about protecting drinking water. That's what this legislation does. It changed the previous legislation, which had a person whose sole responsibility was to protect drinking water. What this government has done is say: "We're going to take those decisions to the cabinet table."

One of the first actions the previous government did was eliminate cabinet appeals on agricultural land reserve decisions, because they had been political. It was the only cabinet appeal process left — left over from the Social Credit government — that went to cabinet. The previous government, of which I was a part, eliminated that political process.

Here we are today reinstating cabinet appeals on matters of such great importance as the conflict between two provincial agencies over the protection of drinking water. That's what this does.

Let's see whether this government has been political at the cabinet table or not. Let's talk about just health issues and political decisions that this government has made at the cabinet table. Let's talk about smoking: banning smoking and secondhand smoke for workers. Let's talk about this government making political decisions at the cabinet table.

For the first time in the history of WCB in this province this government, at the cabinet level, took an unprecedented decision to overturn a WCB decision to ban secondhand smoke in bars and restaurants to protect the health of workers. This government went to a cabinet room and said: "Well, the WCB, an independent agency, isn't doing what we want, so we're going to overturn a WCB decision." Really — and this minister can stand up and say he's not political?

Let's look at Pharmacare. This government, behind closed doors, decides not to tackle the pharmaceutical industry and instead attacks seniors by imposing in-

come testing. No one in this province should be fooled by a minister who denies the politicization of decisions in this province.

Now we have the protection of drinking water. The protection of drinking water will be decided behind closed doors by the cabinet.

Let's take an example. The provincial health officer has an opinion that a watershed is threatened by permits issued by the Ministry of Forests or the Ministry of Sustainable Resource Management. The provincial health officer can't get the government agencies to agree to protect drinking water over and above everything else, can't get them to rescind their permits or amend the permits to protect water. Then the matter goes to cabinet. Perhaps the minister could say how that matter will be resolved to actually protect drinking water.

[1015]

**Hon. C. Hansen:** First of all, I would like to point out that issues around drinking water that require a protection plan to be put in place we expect will be quite rare, because the framework we have set up will actually lead to empowering the officials at the community and regional levels to be able to ensure the safety of drinking water. It is only in those areas where those issues cannot be resolved at a regional level that, in fact, it comes to the provincial health officer. He, in turn, has a clear route he can take to make sure a drinking water plan can be imposed on those who may cause harm to drinking water in the province. If the provincial health officer is not satisfied with the decision made by cabinet, then he has a responsibility to make public a report that outlines his concerns, so I think there are appropriate safeguards.

The section we are debating, section 3, has the effect of clarifying who has those accountabilities. Under the legislation as it previously existed, there were two officers reporting to two different ministers when it came to issues around the protection of drinking water. We have now ensured that there is one stream of accountability, that ultimately there is one accountability, and that's from the cabinet of the province. We believe that is the appropriate route. It is the best route to ensure that we have safe drinking water for all British Columbians.

**J. MacPhail:** So far, on every issue where it's environmental protection versus development of land to the benefit of mining and forest companies, this government sides with mining and forest companies. I have no confidence whatsoever that this new politicization of protecting drinking water by having cabinet make the decisions will in any way protect drinking water. What it will do is what this cabinet's done at every step of its mandate: give away to resource-based industry at the expense of the environment and now at the expense of drinking water.

The minister did not answer the question of how that conflict would be resolved at the cabinet table. Let me ask this, then: does the minister guarantee that mat-

ters of conflict where the cabinet decides about the protection of drinking water will always be made at open cabinet meetings?

**Hon. C. Hansen:** I can't make that commitment, but it is certainly a suggestion I will take forward, and I think it's a good suggestion. What certainly will happen when those go to.... The process as it has been structured is designed so that the interests of safe drinking water are paramount in any discussion that goes forward to cabinet. That is the way the drinking water protection plans would be structured, and it would put the interest of safe drinking water as the paramount interest.

**J. MacPhail:** Well, that's all very well and good, except that it will be the cabinet — Liberal cabinet people. The dominant point of view at this Liberal cabinet is always the Minister of Forests' or the Minister of Sustainable Resource Management's. It is never the Health minister or, ever, the Minister of Water, Land and Air Protection. No decision has been made by this government to date where health protection or environmental protection comes first.

Now we have a cabinet with that same dominant view that will be deciding on conflicts between the protection of drinking water and a cutting permit, for instance. We know this government's moving toward a results-based Forest Practices Code. What does a results-based Forest Practices Code mean, and what does it have to do with this? Well, the Forest Practices Code — until this government is going to make a radical change to it — was what governed riparian zones, for instance. Riparian zones are where logging comes up to a stream — a stream that may be a source of drinking water. Riparian zones were to be monitored and enforced through the Forest Practices Code to protect the water, because it was either salmon habitat, fish habitat, or drinking water.

[1020]

Now this government's changing it so that nobody will be protecting it. It will be up to the industry to make sure it doesn't log in a riparian zone. Good luck. Now, on top of that, on top of the results-based Forest Practices Code, we're going to have the cabinet deciding whether that permit will interfere with drinking water. We're not going to have anybody independent of the industry itself enforcing forest practices that don't harm drinking water. If the provincial health officer — which, by the way, is a position of greater integrity but not independent.... The provincial health officer reports to government. If the provincial health officer can't resolve the dispute, he or she has to go to the cabinet: "Please, Mr. Cabinet, Ms. Cabinet, will you resolve this conflict?"

The minister stands up and says: "If the provincial health officer doesn't like the decision we made, then it's his or her responsibility to take that public." It seems to me that everybody except the cabinet has a responsibility to be open and accountable for this situation.

Let me just give this example. Let me ask this of the minister: who can actually bring a complaint forward? The legislation says that.... It's my understanding that the legislation will be interpreted so that those who are directly affected by drinking water decisions are the ones that can bring complaints forward. Is that correct?

**Hon. C. Hansen:** To answer the member's question specifically, basically it is worded so that a person affected by a decision may bring that forward. That includes an individual citizen. It could include an organization. Certainly, it is meant to ensure that anybody affected by a decision has the right to bring that forward.

I would also like to just comment briefly on some of the member's other comments in her remarks. She talked about how, when issues came before cabinet on sustainable development or water, land and air protection or forestry, it was always health that lost. I challenge that. There has never been a case in this government where issues around water, land and air protection, issues around sustainable development or issues around forestry have in any way put health issues as a secondary issue. I challenge her on that.

She also comments on the independence of the provincial health officer. I would contend that the provincial health officer in this province is far more independent than the provincial drinking water coordinator that had been structured in the previous wording of the act. I believe that the provincial health officer has a sterling record of independence in looking at the health and safety issues of British Columbians as a paramount issue.

[1025]

**J. MacPhail:** I take that about the provincial health officer and sit down and say that the minister is exactly right, except that it's not going to be the provincial health officer making the decisions about the protection of drinking water. It's going to be the cabinet. For this minister to somehow stand up and say that his government, given a choice between protecting the environment and allowing land use based solely on resource industry needs.... To somehow suggest that there was one time when the environment won out is simply nonsense. Every piece of legislation that we have passed in this House has been to denigrate and downgrade environmental protection in order to give way to mines and forest companies.

In fact, just the other day we had the Minister of Energy and Mines standing up to claim exactly that. It hasn't done anything to encourage investment in mining in this province because of this government's lousy economic record. He stood up and said right during question period, one of those tough questions that go: "Minister, could you please tell us what a great job you're doing in mining...?" The minister stood up and said: "We've changed everything, so now mining has precedence over the environment." That's what he said, so I have no faith in this whatsoever.

Let me just actually get to the point about what the minister says about who can bring a complaint forward. I want to give him an exact situation about who

can actually bring forward a complaint or a matter to be investigated or challenged. I want to read an article about a watershed petition that was brought to the Legislature by the Sunshine Coast MLA. It was good that the member for Powell River-Sunshine Coast brought this petition forward, and I laud him for doing so. I'll read the article. It mentions the name of the....

"The Sunshine Coast MLA has presented a 5,000-name petition to the B.C. Legislature that calls on the province to stop logging in the Chapman Creek watershed and hand over control of the area to local authorities. The MLA presented the petition Wednesday afternoon after regional district chair Don Murray, Water First activist Dan Bouman and Sechelt Indian band representative Rick August flew to Victoria that morning to hand in the petition.

"The petition was started by the local Water First group and the Council of Canadians, which are both urging the Sunshine Coast regional district to push for control of the watershed. Murray said the group met with the MLA and discussed why they thought the petition was important. 'The number of signatures means up to one-quarter of the people who use the regional district's water system are in favour of banning logging in the watershed,' said Murray.

"The MLA has indicated previously that he isn't in favour of a ban on logging in the watershed, and neither does he support handing over control of the watershed to local authorities. 'If proper logging is done, there's no reason in the world logging can't take place within the watershed,' he said" — the MLA did — "in a recent interview with the *Coast Reporter*."

"Bouman said he didn't get any indication at the meeting that the MLA has changed his mind on that. 'I didn't feel he was terrifically encouraging.' Bouman said that while he appreciated the petition being presented by the MLA in the Legislature, 'We'd like a little more than that from him.' Murray, on the other hand, said the meeting left him optimistic that some kind of political solution might be possible between the regional district and the provincial ministries, two government agencies.

"Earlier this year, Sunshine Coast regional district politicians threatened to take the government to court over the chief forester's decision to allow logging in the local watershed after almost ten years of no industrial activity. The local government has long maintained that it, rather than the province, should have the final say on what happens in the watershed because of water quality concerns. About 85 percent of the drinking water for the Sunshine Coast comes from Chapman Creek."

[1030]

Here we have a real, live example of what's going to face the cabinet. We have two government agencies discussing protection of the drinking water source, and they don't agree. We have the local MLA siding with the group wanting to log in the watershed, which will threaten the drinking water. Let's look at that as an example. First of all, in the minister's view, who would have to bring forward this case to be ruled upon? Who are the parties or the party that's eligible to bring forward the dispute?

Mr. Chair, I'm sorry. I have spilled over into my questions on section 12 already, so the minister may want to.... He probably knows I've spilled over into my questions on section 12. We need a vote on section 3. My apologies.

[1035]

Section 3 approved on the following division:

YEAS — 51

Hogg	L. Reid	Halsey-Brandt
Hawkins	Whittred	Hansen
Santori	Nettleton	Roddick
Wilson	Masi	Lee
Hagen	Plant	Collins
Bond	Abbott	Neufeld
Coleman	Penner	Jarvis
Anderson	Orr	Nuraney
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Chutter	Trumper	Johnston
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Suffredine	Cobb	K. Stewart
Visser	Brice	Sultan
Hamilton	Sahota	Hawes
Kerr	Manhas	Hunter

NAYS — 1

MacPhail

**The Chair:** We'll just take a few moments for the members to go about their business before we proceed with section 4.

[1040]

Section 4, section 7, to section 11, section 39.1 inclusive approved.

On section 12, section 48(3).

**J. MacPhail:** Mr. Chair, before we took the vote on the right of cabinet to decide appeals, I was asking questions on section 12. Section 12 adds the ability of cabinet to set in regulations who may request a review of decisions made by a drinking water officer, and it restricts what decisions can be reviewed. My question was: give a practical example of who exactly can bring forward a request for a review of decisions.

**Hon. C. Hansen:** As I had mentioned earlier in response to an earlier question, what it says is that a person affected by a decision may request a reconsideration or review. Those decisions would include drinking water officers' authority in relation to assessments, hazard abatement and prevention orders and orders respecting contraventions, and may include a request to a drinking water officer respecting plan initiation.

**J. MacPhail:** Let's talk about advocacy groups, because one of the situations we have here is that the only

protected watershed in British Columbia is the greater Vancouver regional district watershed. So other watersheds will be subject to.... There could be conflict in watersheds. In fact, I think it is now happening all over the province, so there will be decisions required and reviews of those decisions. Does an advocacy group have to actually reside there and be affected by the decision in order to bring forward the case?

**Hon. C. Hansen:** If there was an individual who lived in an area that received water from a watershed at issue, then that person would have the right to pursue. They would be a person affected by it, regardless as to whether or not they're a member of an advocacy group. We're clearly stating that it is a member — someone affected by a decision that we had referred to earlier.

Just to put this discussion in a context, I also want to mention that if we start looking at all the examples over the last 20 years of water contamination in British Columbia, they are by far and away driven by micro-bacterial content in water coming from wildlife. The largest number of water contamination issues in the province have been as a result of wildlife. We have not seen an example of water being contaminated as a result of industrial activity.

I think what's really important in this legislation is that we are giving the power to the water protection officers, the medical health officers and the provincial health officer to look at those issues of industrial activity. If there is any question of the effect it would have on safe drinking water, then they not only have the ability to investigate; they have the obligation to investigate and make sure that drinking water is put first and foremost in those deliberations.

[1045]

Section 12, section 48(3) approved.

Title approved.

**Hon. C. Hansen:** I move that we rise and report the bill complete without amendment.

Motion approved.

The committee rose at 10:47 a.m.

The House resumed; Mr. Speaker in the chair.

### Report and Third Reading of Bills

Bill 61, Drinking Water Protection Amendment Act, 2002, reported complete without amendment, read a third time and passed.

Hon. C. Hansen moved adjournment of the House.

Motion approved.

The House adjourned at 10:48 a.m.