

## Open Government Testifying to what's wrong with the Accountability Act

**Still, there ought to be a law against rushing through witnesses and passing a watered-down, weak and pro-secrecy Accountability Act.**

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Last week, I testified as a private citizen at the Bill C-2 Commons Committee as to why the Accountability Act, as currently structured, is a fatally flawed bill unworthy of a yes vote of thanks and trust.

I provided the following three underlying factors and examples why Bill C-2 was far removed from making Ottawa more accountable, namely:

One, Bill C-2 enhances the culture of entitlement in Ottawa though the Harper government claims it would be eliminated.

Examples given: Bill C-2 creates a new powerful and expensive class of unaccountable senior chief executive officers in Crown corporations.

Some 14 orders in council have already created a "Public" Appointments Commission under the Prime Minister's control. That's even before Bill C-2 is enacted.

As well, Bill C-2 greatly increases and entrenches the amount of secrecy protection at Ottawa's disposal.

For example, the bill gives powerful Crown corporations like EDC, Canada Post and AECL special no-questions-asked exemption privileges. It narrows the type and number of records publicly available excluding whole categories of records such as data about overseas nuclear reactor sales.

Moreover, the Accountability Act permits senior officials to easily change minimal operating directives for public officials' conduct. That's not the same as having spelled-out statutory obligations in the form of a public service ethics, disclosure and employment duty code.

For example, in the bill, as-yet undetermined managerial directives can be disguised as "codes." Under the whistleblowing provisions, this can mean suppressing employees from speaking out, and under the access service provisions, mean allowing individual senior managers to decide what records are "reasonable" to withhold or release.

It's been an interesting experience as an individual trying to get across a different approach to accountability and transparency than Bill C-2 puts forward. It's meant meeting Treasury Board President John Baird and all three opposition parties' critics and discussing my approach with others like Democracy Watch and the Information Commissioner.

Individual presenters at a Parliamentary hearing get little time to make submissions and can only hope that the questions thrown their way are sincere and part of a dialogue. I was fortunate in having as a fellow presenter on the same panel, CBC investigative reporter Dave McKie. His examples on the difficulty in getting backup adverse drug reaction reports complemented my call for the public's right to immediately have health, safety and environment reports.

Starting this week, amendments will be proposed by MPs to hopefully improve the Accountability Act a bit. But with a short time-frame and a complex bill, there is unlikely going to be many changes proposed that get agreed to by all members on the Bill C-2 Committee on a non-partisan basis, and then agreed to by both Houses.

That's a shame because Bill C-2, as structured, makes Ottawa a more tightly controlled place open to powerful influences.

It doesn't have to be this way. For instance, in a 2005 Federal Court decision, where I was the original requester, Canada Post was told its confidential claims for briefing materials to the Minister of Transport (those records I just received) were excessive and unwarranted.

Such claims, Mr. Justice MacKay concluded were "purely speculative" despite the serious losses Canada Post claimed it would suffer. He also dismissed Canada Post's argument that its data should be viewed as similar to security intelligence information. Canada Post claimed piecing together bits of their information too could reputedly help competitors and needed secrecy protection.

But now under Bill C-2 provisions, a respected Trial Judge's ruling will be tossed aside and Canada Post could well get all the extra secrecy protection that it lobbied for.

Last week, Prime Minister Stephen Harper also put forward another accountability proposal for fixed elections every four years beginning in October 2009.

But, wait a minute, under his government's Accountability Act, he wants more information about government operations permanently forever kept secret. And Bill C-2 doesn't even provide for a sunset review by Parliament of its various provisions before Mr. Harper's October 2009 election.

Some of the suggestions I made in my testimony to improve Bill C-2 include adding under Canada's Access to Information Act coverage of the records of the Prime Minister and Cabinet ministers. As well, no secret extra deals would happen for those like Crown corporations EDC and Canada Post now coming under the Access to Information Act.

The move to drastically narrow, rather than broaden, the type and number of records available and to exclude whole categories of records under Bill C-2 would be turned back.

Changes would be needed, too, to have full audit data immediately released instead of hidden for years, to have poll results released right away rather than six months later, and obtain data on the real activities of lobbyists engage in instead of placing it beyond public access.

Bill C-2's provisions giving the office of the Information Commissioner less independence and no new tougher enforcement powers only helps senior officials. This needs reversing, too.

You give your best effort and experience as a Parliamentary committee witness on the Hill

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