



The Institute for Public Sector Accountability
'res ipsa loquitur'

Accountability Now

May 2006

Accountability Now was prepared by Marcel G. Latouche MBA, FCCA President & CEO of
The Institute for Public Sector Accountability.

The views expressed in this paper are those of the author/s and do not necessarily reflect the opinions of the Institute's members or Board of Directors. Quotation with the appropriate credit is permissible.

Table of Contents

EXECUTIVE SUMMARY	3
INTRODUCTION	4
WHAT IS ACCOUNTABILITY?	5
TRANSPARENCY	6
PREVIOUS REPORTS	7
TURNING A NEW LEAF	7
OUR CONCERNS	9
A GROWING BUREAUCRACY	9
ACCESS TO INFORMATION	10
BUDGETARY MATTERS	10
PENALTIES.....	11
PUBLIC COMPLAINTS.....	11
APPOINTMENT COMMISSIONER	11
ELECTORAL REFORM	12
SWITCHING PARTIES	12
RECOMMENDATIONS	14
CONCLUSIONS	15

Executive Summary

Over the past two years Canadians have been subjected to a litany of scandals in government at every level. To mention the Adscam is synonymous to corruption at the highest level of government, and we must not ignore other instances of influence peddling in Ontario's computer contracts and municipal fraud in Calgary. It is therefore with great pleasure that the Institute for Public Sector Accountability acknowledges the efforts of the Conservative government in their dedication to eradicate the lack of accountability at the Federal level.

While we support many of the proposed legislation to close existing loopholes that resulted in a culture of entitlement in Ottawa, we also acknowledge that we have some reservations in its recommendations and implementation. This report does not cover all the facets of the proposed Bill but reviews only what IPSA believes are the more immediate problems and offers solutions to them.

- We briefly reviewed the Bill
- We look at accountability and transparency and what we believe they should be in the public sector
- Furthermore we examine some of the areas of the proposed Bill which deserve immediate attention.
- The report looks at the possibility that the Bill may increase, instead of reduce bureaucracy.
- We also looked at the possibility of electoral reform
- Finally we offer a number of solutions to improve the Bill in the long run.

The report, once again, is in no way an extensive analysis, but is our point of view on how the federal government of Canada should proceed to make itself more accountable. We also hope that once the bill is passed into law it will serve as an example for other levels of government, where they have not yet taken steps to do so, to implement similar legislation. In so doing provide Canadians with accountability and transparency, and alleviate the lingering scepticism that exist in the role of politicians and governments.

Introduction

In the recent past, the political arena has been plagued by a number of scandals which have done nothing but erode the confidence of the electorate in their respective representatives. From municipal electoral fraud to major awards of contracts to cronies and the lack of true accountability in the political arena, Canadians have been left with a very bad taste in their mouth. The 2005 Transparency International Corruption Perception Index 2005 ranked Canada in 13th place, compared to 7th in 2002. In a recent poll it was found that politicians have now reached the bottom of the barrel with only 12% support. It seems that this decline has no bounds, as they consistently record the same result. The fact remains that the public perception is not helped by the actions of politicians at every level. Furthermore it seems that the lack of accountability prevails at all levels of the political spectrum. While it seems to be more prevalent at the municipal level it is less challenged, than at the provincial and federal levels. Nevertheless the public is always the victim of the lack of accountability in the public sector, and the result is less efficiency, more taxes and of course more scepticism in the system.

The political arena needs a complete review of its current processes and the system cries out for reform at all levels. As an advocacy group whose 'raison d'être' is accountability in the public sector we welcome and strongly support the Conservative federal government in its approach towards creating a more accountable government in Canada. The 16 objectives stated in the Government's Federal Accountability Act and Action Plan – "Turning a New Leaf" is a badly needed piece of legislature. IPSA seeks to have accountability in government at all levels and we support the use of the federal government's effort to permeate itself down to both the provincial and municipal governments. Canadians can no longer just hope for more accountability, they demand it and should get it without any restrictions attached.

What is Accountability?

Accountability is defined by centipedia.com: “as the aspects of responsibility involving giving a statistical or judicial explanation for events. Judgment may follow. In politics, and particularly in representative democracies, accountability is an important factor in securing good governance. Accountability differs from transparency in that it only enables negative feedback *after* a decision or action, while transparency also enables negative feedback *before* or *during* a decision or action. Accountability constrains the extent to which elected representatives and other office-holders can willfully deviate from their theoretical responsibilities, thus reducing corruption.”ⁱ

With the increasing number scandals and debacles in both the public and private sectors, there has been a decline in the public faith in our existing systems. The private sector with its Enron, Nortel, Worldcom and other financial woes have brought to the fore the lack of accountability in the private sector. In the public sector too name a few, scandals like the Adscam, and the Human Resources Department ‘boondoggle’ have marred the federal government, and other occasions of more debacles at the provincial and municipal levels of governments, have showed that the public sector is not immune to the deficiencies of accountability.

As mentioned above both the public and private sectors have proven that they lack accountability in their processes, however, in the case of the private sector, governments have been very quick to impose new laws, rules and regulations to ensure that institutions within the private sector adopt more transparent reporting and be made more accountable to the public. Ironically, governments when faced with similar problems have been very slow to look at their own systems and make the necessary changes to ensure that they also increase the level of accountability in their processes. While there have been attempts to change the processes, few governments have undertaken a comprehensive reform, until now, when the newly elected federal Conservative government has decided to put into place legislation that will cover a broad spectrum of the way that government affairs shall be conducted at the Federal level.

Transparency

Very often the root cause of the lack of accountability has been the lack of transparency. The public has limited access or knowledge of the workings of government, and as such very little scrutiny is undertaken. In politics the scrutiny is usually done by the opposition party or parties, but unless there is possible political gain these parties acquiesce to the continued existing process. In so doing the system perpetuates itself until such time as the system falls apart completely and is no longer able to obfuscate the lack of accountability.

Transparency in government demands that access to information is wide spread, so that the public can scrutinize the workings of government. To be effective democracy demands that the public be informed of the doings of their representatives, and that includes both the political and the administrative branch of the system.

The advent of the internet in the information age, allows the public to gain access to more information than ever before. To increase public participation and scrutiny in the public sector, governments should provide access to more information. While access to information is not the only solution to accountability, it is also one of the most fundamental and democratic means of ensuring that governments are accountable to its electorate. However, with this possible amount of information flowing freely, we must also ensure that transparency does not infringe upon other rights. Good transparency demands that we also have a strong element of privacy added to any regulation allowing for more access to information.

One of the problems of transparency and accountability in government is the tendency to assign blame to organizations, political parties or individuals; as a result it often leads to the reluctance to adopt more open government so as to reduce the risk of criticisms.

Previous Reports

As a result of the problems faced by the former Liberal government a Commission under Judge Gomery was set up to investigate the Sponsorship Program and Advertising Activities. As a result of the inquiry a report was produced and addressed many of the issues which have contributed to the scandal. While we believe that the findings and recommendations are badly needed we also find that it could have gone further in its recommendations.

Another report tabled under former Treasury Board Chair the Hon. Reg Allcock, looked at the problems of accountability in government. While recognizing that there were some glaring deficiencies, the real problems of accountability in government were not addressed fully.

Both reports are comprehensive but while the Allcock report focussed its recommendations on the reigning in of civil servants, the Gomery report focussed on reigning in politicians. Both reports were well intended, but we prefer the new Conservative report because it addresses both the responsibilities and roles of politicians as well as civil servants.

Turning a New Leaf

The government's Federal Accountability Act (Bill C-2) addresses many of the issues which have plagued previous governments, and goes even further. While many of the recommendations are worthy of consideration we have examined those that we think are of greater importance and also those that deserve a further examination because they may either be too onerous to implement or they lack in the degree of implementation.

Reforming financing of political parties and banning secret donations to political parties:

The content of the proposed legislation will go a long way to create more transparency in the financing of political parties. We hope that the new legislation will ensure that all donations from whatever sources will be made available to the public. Canadians have a right to know who and how much is being given to every political party. Disclosure of Union as well as corporate and individual donations must be enforced.

Toughening the Lobbyist Registration

While this recommendation goes a long way towards clarifying the lobbyist and those who influence or seek to influence governments, it may become too onerous on the sometimes positive contributions that could be made by such organizations. The establishment of a Commissioner to monitor and enforce compliance with the Act is a welcome course of action.

The problem with current legislation is that many lobbyists count among their ranks former ministers, ministerial staffers, and senior public servants. While IPSA would not want to curtail the continued livelihood of these qualified individuals, we believe that they are too close to the issues and can still influence other civil servants still in the employ of the government. A five-year ban for these individuals is strongly supported. In addition we advocate that all lobbyists disclose publicly the names of contacts, and amounts spent on each lobbying campaign,

Ensuring truth in budgeting with a Parliamentary Budget Authority:

We hope that this recommendation will have teeth and be implemented as soon as possible. Previous budgets have very often seen the underestimating of revenues and the overestimating of expenditures. The result of this budgeting culture has been large surpluses, and in government large surpluses can only mean that there is over taxation.

IPSA recommends a complete revamp of the current budgeting system and that we believe that not only a line-by-line concept be adopted but that a zero-base budgeting concept be adopted to remove any redundancies that may exist within the budget. This could be done on a rotating basis every three years for selected departments and programs.

Strengthening the power of the Auditor General

The Auditor General's role has been that of a 'watchdog' within the federal system. The work done by the current Auditor General has been nothing but exemplary. We support increasing the powers of the AG, but we would also go further than the report recommends. While the inclusion of Crown Corporations will now fall under the AG we would also like to see audit of Non Governmental Organizations extended. In fact what we propose is that any institution or organization that takes money from the government should be made accountable. The audit of NGOs could be done on a randomly chosen and/or rotating basis. Too often grants and taxpayers money have been spent on futile undertakings which deserve greater scrutiny.

Whistleblower Legislation

While we understand that there may be some reluctance on the part of civil servants to inform on misdeeds in the system because they are afraid to lose their jobs. We believe that the strengthening of the protection of well-meaning civil servants who come forward to expose abuse in the system is a welcome recommendation. We don't necessarily agree with the payment of a 'bounty' but we support the establishment of strong legislation that will protect those who decide to come forward. There are a few civil servants who may be willing to play the political game and follow the lead of their political masters, as we have seen in the past, but those who are reluctant to do so should be protected. A whistle blowing legislation with teeth, will in our opinion enhance and improve accountability.

Our Concerns

IPSA has some reservations, which we believe must be addressed to make the implementation of the Act more realistic.

A growing bureaucracy

In order to make the Act work, there are nine new positions proposed. Our concern is that it may increase bureaucracy instead of curtailing it. While we agree that we need to keep a watch on elected officials, and bureaucrats, so that federal laws can be enforced we also believe that the creation of a new hierarchy in the civil service is not necessarily the best route to take. The Act has not included many of the promised legislation, because we suspect that the existing bureaucracy, like the Privy Council, has already exercised its powers to reduce the implications of the new Act.

We do not suggest that the bureaucracy hinders the enforcement of federal laws, but we suggest that it can slow down the process, and this new Act does not address the bigger issue, which is the prevailing culture in the public sector.

The problem of increasing costs in the public sector is directly linked to the prevailing culture that strongly believes that services are best provided by the public sector. The other link to possible problems is the building of internal empires within the civil service. The creation of new positions only contributes to more bureaucracy which requires more civil servants. Creating nine new positions is not, in our opinion, going to change the culture, but rather is more likely to perpetuate it. The worst part is that it may costs us \$164m.

Access to information

The Act addresses the issue of polling, but it does not address the access to information in a more concrete way. To be able to make informed decisions, citizens need to have access to information. Too often the current system does not allow for access in a timely way or there are too many barriers under the guise of being classified so as to make the information exempt from scrutiny. The establishment of a parliamentary committee for further study is not what we expected. IPSA believes that the Act should have given the Information Commissioner the power to release information. The Act, to be successful, must ensure that we have more access to information, which will in effect remove the cloak of secrecy which has plague previous governments.

Budgetary Matters

One of the concerns of this new government has been the budget process. In the past it has been inferred that there have been consistent under estimation of revenues and over estimation of expenditures in the budget. The result has been increased surpluses, and the creation of 'special reserves'. This can only mean that Canadians have been overtaxed. We do not believe that there is a need for a new parliamentary budget officer.

The new proposed position is only an advisory role to provide neutral financial advice, and presumably ensure that estimated costs of government initiatives are as accurate as possible. However, IPSA believes that the new position may not be the answer to the existing problems. Instead we advocate not only a line-by-line budget system, but the establishment of zero-base budgeting.

The civil service in many cases still operates under the belief and culture that all approved budgeted expenditures should be spent by year end. More importantly the culture supports that all costs should only be paid for by increased taxation. The culture encourages the creation of new departments and new sub-departments, which increases the labour costs of government. Unfortunately this course of action is strongly supported by Unions who have a vested interest in the process.

Penalties

The new Act brings in legislation for penalties for infringements of the rules. The proposals are most welcomed, but in our opinion they do not go far enough. A penalty of \$500 for breaking some ethics rules is preposterous. In most cases it seems that a breach of rules normally costs the taxpayer more than \$500. While we propose a minimum of \$5,000 for the penalty, we believe that the penalty should fit the crime. We therefore propose that a formula based on the costs of the infraction be instituted to calculate the penalty; for example the penalty could be 10% of the loss incurred.

Public Complaints

Any breach of rules and regulations by either civil servants or politicians does have an effect on the taxpayer. Errors of omission or commission usually have to be made up by unforeseen expenditures which can only come from taxation. Since these breaches affect the taxpayer - the public, directly or indirectly, we feel that members of the public should be allowed to make complaints to the Ethics Commissioner. The Act does not provide for such a mechanism. While we acknowledge that it may open the floodgates for complaints by members of the public, we believe that accountability can only be improved if the injured party is allowed to make his/her case in the same manner as members of parliament.

Appointment Commissioner

In Canada it has been the power of the Prime Minister to appoint some 2,000 positions. Very often these appointments have been done under the suspicion of 'patronage'. In many cases it seems to be that the friends and supporters of the Prime Minister in power have benefited from these appointments.

IPSA is wary of the process used in the United States for the appointment of several positions and how they are scrutinized and subjected to Senate committees prior to a vote. While we think that the system has some merit, but recent appointments to the Supreme Court has shown that a political process cannot be truly bi-partisan and too many politicians use committee examinations as a political platform. However having expressed our views on the American system, we must acknowledge that we were impressed by the process used in the appointment of the Hon. Justice Marshall Rothstein. We believe that a similar process could be used for future appointments made by the Prime Minister.

The use of an all party committee, with a deciding vote by the Appointment Commissioner would go along way to eradicate the perception of patronage from future appointments. While the Act proposes that a new 'Appointment Commissioner' will have the power to keep an oversight in some of these appointments, it still remains that there still will be too many positions left unscrutinized.

Electoral Reform

The new Conservative government proposal to look into the idea of instituting fixed dates for federal election is in our opinion a very good step towards accountability. However we believe that the change does not go far enough. If we seriously believe that Canadians deserve better, we should introduce limited terms for elected officials. In fact we suggest that a two-term limit should be put into place. After the second term the elected official must step down, and can only be re-elected after having sat-out for one term. This will also encourage renewal at the leadership level. Since the two term restriction will apply to all elected officials, the system may increase the size of the selection pool and prevent anyone seeking the leadership to escape the wrath of the current leader.

The problem with the current system whereby a politician believes that his elected position is a fulltime one is that it encourages many of the unethical behaviour that the public is so cynical about. To stay in power, it seems you must curry favours with those who support you; therefore resulting in increased 'pork barrel' expenditures, which may provide the incumbent with future votes. With the introduction of limited term of office, there will be fewer reasons to 'buy' future votes because the incumbent will be out anyway, at least for one term.

Switching Parties

When The Hon. David. Emerson, elected under the Liberal banner, switched to the Conservative party to become the Minister of Trade, the public and most importantly the opposition has asked for new rules to prohibit such moves by future elected officials. IPSA feels that it is not ethical for politicians who get elected under one political banner to switch to another party. However political history has shown that this practice is more prevalent than one would believe. Remember Sir Winston Churchill switched parties twice, and did not prevent him from becoming one of the greatest Prime Ministers of the United Kingdom. The recent Emerson, Stronach, Martin, Brison, et al, change of parties is only important to the political party who lost one of its elected members. The electorate is the true aggrieved party, especially those who voted for the incumbent, and they should have an opportunity to decide the fate of the turncoat in a by-election.

In Canada, recent surveys have shown that the majority of the Canadian electorate does not really understand the difference between the political right and the political left. It leads us to believe that politicians of either belief do have the same problem, except that in their case their ignorance is for political gains. Look at the recent announcements for the leadership of the Liberal party. The list of those seeking to lead the Liberal party is a mosaic of the entire political spectrum, from former Conservatives, to far left NDP, passing through traditional Liberals. With such a rainbow of candidates can the electorate really have a clear view of what a party stands

for? No wonder that the electorate is confused. Will those who are unsuccessful in their bid to become leader of the party follow in the steps of Belinda Stronach, or David Emerson and switch parties for political gains?

In this type of political environment we do not believe that an emphatic rule will make much change to the political spectrum. While we must have new rules in place we must also allow an elected official to vote according to the wishes of the constituents, and behave according to his political conscience - if it still exist. As an example, could it be said that Emerson went to the Conservative party because as the minister of Trade in the Liberal government his negotiations for the Softwood lumber was not acceptable to the Liberal caucus, because it was politically a good thing to use the U.S stance as a wedge for political gains? In the end the new agreement that the Conservatives agreed upon, looks very similar to the one negotiated by the Liberal's and yet was never finalized. We are not defending The Honourable Minister's decision to switch party, but his decision looks as if it helped to solve a problem which has affected the lumber industry and an important sector of the Canadian economy for close to 20 years.

To bring some sense of accountability in this very difficult situation, which in most cases is based on strategic political decisions, we would like to offer an alternative. That any switch by an elected official should not be rewarded with a position of higher office than previously occupied for at least the electoral term. In other words an elected official, who switches party, may not get a cabinet post, or parliamentary secretary position or any other position that may improve his or her financial status until the electorate passes judgement through an election or by-election.

Recommendations

IPSA believes that the Federal Accountability Act is a major step towards increasing accountability at the federal level. However as analyzed above we still have some reservations that this Act does not go far enough and can and should be improved. We therefore propose the following immediate additional recommendations:

- **Political Donations**

We advocate that the rules be extended to include the disclosure of all political donations, including volunteer labour and that such disclosure be made accessible to the public. Require the disclosure of individuals names as well as their employers.

- **Lobbyist Registration**

We need to strengthen all rules applying to the lobbying industry. Public disclosure of names, contacts, and amounts spent on each campaign is advocated.

- **Powers of the Auditor General**

Increase the powers of the AG to audit all departments, institutions and all organizations that receive money from the federal government. This will include NGOs as well as Crown Corporations.

- **Budgets and Reserves**

We suggest that the concept of Zero Base Budgeting be implemented, at least on a rotating departmental and periodical basis. We believe that there are many areas of savings left unexplored, and which contributed to the excess surpluses of the past decades. As suggested by the Gomery report, we would also like to see separate annual reports on special reserves created by the government.

- **Electoral Reform**

We advocate the introduction of term limits for elected officials. We also suggest the introduction of a public register for all political donations, with names of individuals and the names of their employers where applicable. We also advocate that any elected official, who changes party allegiance during the term of office, should not be rewarded by a higher office than previously occupied.

- **Information Commissioner**

Give the information Commissioner more powers to order the disclosure of information, except in matters of national security, and personal privacy. Ensure that public officials are forced to create records to document their actions and decisions, without exemptions entrenched in other Acts.

We support The Information Commissioners' call for more transparency. More importantly we support the proposal that bureaucrats should not be allowed to block or shield information from the public.

Conclusions

In general we congratulate the new Conservative government for its bold actions to bring transparency and accountability to government. There are many new and good proposals in the Act, but there are also glaring omissions that need to be addressed sooner rather than later.

The introduction of the Act, should not only be viewed as a political promise being kept, but should be regarded as a stepping stone for greater accountability and transparency in government. In fact its goals should be to bring democracy to a different pinnacle and not to be used to score political points.

To ensure that democracy is well served we made a number of observations and a few recommendations which we believe are of prime importance. We understand that it is somewhat difficult for a new government to make drastic changes, especially when in a minority situation, but we believe that given the right approach to the search for accountability this government can achieve a lot more, because the electorate is ready for it.

Politicians and bureaucrats should not have any means of shielding or blocking information, unless they are in the interest of national security. We therefore urge the government to lift the veil of secrecy and obfuscation wherever possible. No stones should be left unturned in order to bring back the public's confidence in its government. This government has a great opportunity to do so and should not squander it.



Canada is one of the most democratic countries of the world. Its diversity and cultural richness are the basis for our prosperity. However in recent past there have been too many instances of government mismanagement, which if left unchallenged can and will endanger our democratic system.

In the 21st century we can no longer manage our public institutions with 20th century models. It is time to re-examine the role of government in our society and seek new ways for the delivery of public services. We need more transparency and accountability in the public sector. There is a need for a new vehicle to allow citizens to express their opinions and provide new ideas to maintain our prosperity.

The Institute for Public Sector Accountability (IPSA) is a non-profit organization founded to promote transparency and accountability in the public sector. **IPSA** is dedicated to the enhancement of democracy.

Vision:

Through research, analysis, evaluation and the publication of papers and articles, IPSA will inform and provide new ideas and add a new voice to the democratic process.

Mission:

- **To inform the public on issues related to the public sector**
- **To be a voice to make government more transparent and accountable**
- **To educate the public on matters concerning public policy**
- **To promote dialogue between the public, politicians, and public sector**

administrators

How can you help?

The Institute for Public Sector Accountability is a not-for-profit organization, and we cannot enhance democracy and promote your ideas without your help. We invite you to support us and make a donation. Please contact our President and CEO at (403) 238-3865 for more information.

Web site: www.theipsa.org

E-mail: ipsa@shaw.ca

