

SENATOR JOSEPH A. DAY
FEDERAL ACCOUNTABILITY ACT – BILL C-2
THIRD READING SPEECH

Honourable Senators, to begin I would like to thank each of you who has risen to speak on Bill C-2, the Federal Accountability Act. Debate in this chamber has been rich and I believe it has contributed to a greater understanding amongst all Honourable Senators of the potential impact that this enormous piece of legislation could have.

I do not intend in this Third Reading speech to discuss in detail the amendments to Bill C-2 proposed by our Committee. I feel that the Committee's report and the speeches delivered in the days previous have succeeded in doing just that. I do wish to thank you for accepting the committee's report in its entirety – including the nearly 50 amendments of the government, the 100 amendments of the Committee and your Committee's observations.

I would like to focus on the broader aspects of this proposed legislation and some of the challenges which were faced by the Legal and Constitutional Affairs Committee during its study of this Bill. That is not an easy task with respect to Bill C-2. To borrow an expression, we've been in amongst the trees of this C-2 legislation for so long it is difficult to stand back and view the forest.

Let me attempt to do so. Let's stand back and look at what prompted Bill C-2.

To begin I would like to quote from Justice John Gomery's book of recommendations.

“The vast majority of public servants try, in good faith, to do their jobs properly and effectively, and the Canadian government system consists of solid political institutions with a long and distinguished history of public service. The Sponsorship Program involved only a tiny proportion of the annual expenditures of the Government. Its mishandling was an aberration. The majority of the expenditures of the federal government are well handled, and citizens usually get value for money from them...” “..... It is not the Commission’s intention to recommend radical solutions, a transformation of our parliamentary system, or a complete overhaul of the doctrine of ministerial responsibility. Rather, we propose to clarify that concept and, where mismanagement has occurred, to strengthen the capacity of those charged with holding people to account to do their job.”

In the other place, second reading debate of Bill C-2 began on April 25, and ended on April 27. Following second reading the bill was referred to the House of Commons Legislative Committee on Bill C-2, where the Committee held 28 meetings, over 61 hours, hearing from more than 70 witnesses between May 3rd and June 6th. Witnesses in the other place were given very little time to present their positions. As a result, we were informed that some potential witnesses refused to attend. In addition, Report Stage debate and Third Reading took place in **ONE DAY!**

IS THIS ACCOUNTABILITY??

The Federal Accountability Act as it was provided to the Senate was not good legislation. The government has often bragged that Bill C-2 was drafted in the first 6 weeks after the election. This was before cabinet was established..... This was while new M.P.'s were moving into their offices and hiring staff..... This Bill would have been directed by the unelected transition team or the campaign workers of the Conservative government!

Our Committee heard testimony time and time again from Officers of Parliament directly affected by Bill C-2 who were not consulted by the government. John Reid, the Information Commissioner **was not consulted**, Dr. Bernard Shapiro, the Ethics Commissioner **was not consulted**, Jennifer Stoddart, the Privacy Commissioner **was not consulted**. In her appearance before our Committee Ms. Stoddart expressed her frustration, **“We were not consulted and we did not see this text. Generally speaking, we are consulted for certain bills that could have an impact on privacy. But in this case, we were not consulted and we did not see the draft of the bill.”**

The following words delivered by Arthur Kroeger during his appearance before our Committee express his concerns with the way in which this Bill was drafted;

“If the legislation had been written by a government with more experience in office, it may not have some items in it that it does...” “..... There is the other problem that some of the contents of the legislation were, I think, developed during an election campaign, and there is always a risk of a bit of overkill for the sake of achieving a public effect during an electoral contest...”

There has been a lot of rhetoric about Bill C-2 and expectations have been raised, but Honourable Senators, the Federal Accountability Act **will not have the impact** that the Federal Government and Minister Baird suggest it will have. To quote Justice Gomery in a recent CBC interview;

“If the proposed legislation is intended to prevent another AdScam, it is beyond comprehension why the Conservative bill ignores virtually all of the recommendations of this inquiry.”

Sharon Sutherland, Professor of Public Studies at the University of Ottawa appeared before our Committee to speak among other things, about the tone in which Bill C-2 was drafted;

“Insofar as the bill creates a mood, there is a theme of punishment, of new crimes or crimes relocated from one statute to another, or repeated in statutes, or summary convictions, or of **naming, blaming, and shaming.**”

I read you this quote because I feel that the reference to **naming, blaming and shaming** is very telling of the current culture prevailing in the young government. We need to evolve from this culture of distrust to a culture based on honesty and respect.

Probably the most serious underlying issue of Bill C-2 relates to the trust of the Canadian people. The public puts its trust in this Chamber and in the other place to make decisions after thorough study and debate. Without this trust the entire parliamentary system is endangered. As I stated in this Chamber on Report Stage debate, the notions of

true accountability and transparency in government are of utmost importance. All of us support these objectives.

This week in the chamber we have heard Honourable Senators add to a culture of distrust by suggesting that the lengthy study of Bill C-2 was part of an overall plan by the Liberal Party to stall this Bill for political gain. In an effort to prove his point one Honourable Senator depicted an elaborate scheme of dishonesty and delay. The Honourable Senator's accusations are baseless, and they are insulting to each Honourable Senator who took part in the study of this important Bill.

The practice of attempting to achieve political gain by questioning the goodwill and trustworthiness of a political colleague, a parliamentary committee, or a political party is counter productive and simply wrong minded.

Unfortunately, and at a very high price, I feel that this practice is occurring more frequently than ever before. Often throughout our Committee's study of Bill C-2 allegations were voiced in the media by the Prime Minister, members of his Cabinet, and even some Honourable Senators in this Chamber which suggested that our intentions were not honest. Accusations of stall and delay were frequent but were completely without merit. **By attempting to discredit the work that was being done by our Committee the government has potentially weakened the public's perception of the entire Senate.** This does not serve the Senate well and it does not serve the Canadian people well.

In the latter stages of our Committee's study of this Bill we had the opportunity to hear testimony from one of Canada's most colourful and well respected members of the Privy Council, the Honourable Eugene F. Whelan. Mr. Whelan requested an appearance before our Committee to discuss the Public Appointments process, but for the purposes of this speech I would like to refer to a statement he made regarding public trust;

“Today, there is a very wide feeling in our country, that there is no accountability and, therefore, no credibility. In turn, no one trusts anyone, especially those in government and the elected politicians. We are listed at the bottom of the totem pole. Why? Are we, the politicians, really that bad?”

As I listen to news reports and read publications from across the country I find myself pondering the same question. Are politicians in Canada really that bad? And my answer continues to be the same, **NO WE ARE NOT.**

To conclude his argument regarding the current climate of distrust Mr. Whelan stated the following;

“This old politician has been around for a long time and has seen a big part of our world. If there is a better life, a better administered country, I want you to tell me, because I am an average Canadian and I want the very best. If there is a better country, show me the way and I will go there.”

Well Mr. Whelan, I do not believe there is a better country. Canada is a world leader in human and civil rights. We as Canadians are respected for our good governance, our respect for the rule of law, and our enormous potential as a fiscally accountable and dependable trading partner.

This is not to say that as a country we cannot grow stronger with the help of good legislation. We can, and if Honourable Senators in this Chamber accept Bill C-2 as amended I feel that significant improvement will have been made.

The other major challenge faced by the Committee during its study of Bill C-2 is linked closely to the climate of distrust to which I have just referred. Throughout this study Honourable Senators, the role and the relevance of the Senate itself has been called into question by the Prime Minister and members of his Cabinet.

As an expression of the Prime Minister's frustration with the amendments that have been proposed to Bill C-2 Mr. Harper stated the following:

“The behaviour of the Liberal party is arrogant and anti-democratic. And that's really the problem: They haven't accepted the decision of the electorate.”

In conjunction with these statements the President of the Treasury Board, the Honourable John Baird called a news conference with the sole purpose of denouncing the work of the Senate Committee.

“We have got to go over the heads of the backroom boys in the Liberal party and speak to Canadians directly to get this bill passed.”

Honourable Senators, I find these statements appalling. The electorate granted the Conservative Party of Canada a **minority government**. Canadians want and expect our political parties to work together. Throughout the study of Bill C-2 the government has resorted to bullying and badmouthing instead of acting as a responsible and effective **minority government**.

I would also like to comment on the Honourable Senator Nolin's speech at Report Stage. Senator Nolin was a participant in the study of Bill C-2 and he demands respect for his 13 years of experience on the Legal and Constitutional Affairs Committee. Despite this experience, I have great difficulty with my colleague's suggestion that our Committee ignored its duty of restraint.

It is the responsibility of a Senate committee to scrutinize legislation which it has been referred. Due to the size of Bill C-2 and the speed in which it was drafted, the Committee's scrutiny resulted in a large number of amendments by the Opposition in the Senate, as well as a large number of amendments by the Government itself. Many of these amendments were consequential, but it was impossible for the Committee to ignore the overwhelming amount of testimony received that deeply criticized aspects of the Bill.

This testimony is part of the public record and I urge those of you who have difficulty with a specific amendment within Bill C-2 to refer to the testimony. I would also urge the Committee's critics or critics of the Senate generally to read the Committees observations. On several issues Committee members decided to write a critical observation about concerns which had been raised during testimony rather than to propose an amendment.

If the Senate is to remain, as it has since Confederation, as a valuable component in the Parliamentary system, it must act independently and it must be able to act independently. If the Senate has concluded through testimony and rigorous debate that the administration of the day has acted against the best interests of the people, than it is our responsibility as Senators to make amendments to that proposed legislation.

Today the Senate is under unprecedented scrutiny. The Conservative government has expressed a desire to reform this Chamber in a number of ways, and I believe that the Senate must be willing to adapt, but it must not abdicate its responsibilities.

It would have been easy during our study of Bill C-2 to succumb to the political pressure. We could have treated the study of this Bill as it was treated in the other place, but if we had done so we would have fallen into the hands of those who criticize us.

I do not expect that the debate over the role and the relevance of the Senate will conclude in the near future. It is for this reason that we must be more vigilant and effective than ever before. Our Committee's must not be deterred by the media, or politicians in the other place who are intent on discrediting this institution. Public opinion will be won as long as we continue to perform our duties as a chamber of sober second thought.

Joanna Gualtieri, Director of the Federal Accountability Initiative for Reform, and well known Whistleblower, appeared before our Committee to express her thoughts regarding the Whistleblowing legislation, and to speak of the important role of the Senate. And I quote;

“We genuinely believe that the Senate's finest hour will be found in being proponents of accountability. That will be done by getting back to the drawing board and doing this right. We have waited a long time for whistle-blowing protection. The public service and Canadians are dependent on you to implement this correctly.”

With the work that we have done, this legislation is now in a form that the government can accept. There are no amendments that fundamentally alter the stated policy initiatives. Whether this Conservative government is interested in accepting the bill as amended will depend on its true purpose for the legislation. Does the government seek better policy, or is it only interested in the politics? We will know soon.

In any event, we in this chamber can be proud of our work. We have been given poor legislation and we have improved it. We have been invited time after time to let the debate deteriorate to a political squabble but we have resisted. We have risen to the occasion by doing what the Senate of Canada does best, STUDY, UNDERSTAND, and where warranted IMPROVE the legislation.

Whatever comes of this bill, we in this chamber can be content that we do have a significant role to play. This bill more than most has allowed us to demonstrate that important role. This has indeed been one of our finest hours.

Congratulations Honourable Senators....