

House likely to pass PM's No. 1 priority FAA this week

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By Bea Vongdouangchanh and Simon Doyle

But the Grit-dominated Senate's warning the PM's top priority bill won't be jammed through the Chamber of Sober Second Thought. Sixty-seven-and-a-half hours after compressed committee meetings over the last six weeks, the massive and controversial Federal Accountability Act is expected to pass easily through report stage and third reading this week in the House, but it's not expected to pass in the Senate before December, says the Liberal critic for Bill C-2 in the Senate.

"The Prime Minister obviously would like it as soon as possible, but it's going to take very careful consideration," said Manitoba Liberal Senator Sharon Carstairs, adding that she expected to pass it by Christmas.

Sen. Carstairs pointed out that long-time former deputy minister Arthur Kroeger, who testified at the House Legislative Committee on Bill C-2, criticized the speedy study of the bill in the Commons. "He said if you get through that by Christmas, you'll be doing well. Now, he was referring to the House of Commons."

The government has said passing the Federal Accountability Act is its No. 1 priority and earlier this year said it wanted to pass it into law by the end of the spring session; but Liberal Senators say they will not sit through the summer to pass it.

Opposition Leader in the Senate Dan Hays said he doesn't want to do what the House did, which is rush the bill. "I think, generally, the attitude is that this is a very complex bill and that a complex bill needs very careful study," he told *The Hill Times*. "I don't think you'll find the Senate, quite frankly, going through the manoeuvres that the other place went through, with shortening the witnesses to appear before it. I don't think that would be the wish of either the Conservatives or the Liberals in the Senate. That's just not the way we do business."

Sen. Carstairs said she expects the bill will get to the Senate this week and will most likely be sent to a committee next week, before the Red Chamber rises for its summer break. "I think most of us are anticipating that the Senate will sit a week longer than the House, and it would be my hope that we could send the bill to committee but that the summer would be spent working out our witness lists, quite frankly," she said. "I don't think there would be any desire on the part of any of the Senators to study it during the summer, but I think that they will come back and I anticipate we will begin that study."

The Senate will not strike a legislative committee as the House did to study Bill C-2 because there are not enough Conservative Senators to sit on it as well as other committees and work on other Senate obligations, Sen. Carstairs said.

Bill C-2 will most likely go to the Senate Standing Committee on Legal and Constitutional Affairs or the Senate Standing Committee on National Finance because it deals with public administration issues.

"I think that everyone just assumes we'll come back in the middle of September, the bill will be in committee," Sen. Hays said. "We'll have already developed our witness list to get to work as soon as we can."

Sen. Carstairs said she hopes the Senate will be able to hear from witnesses who testified in the House, but who were too hurried.

Meanwhile, the House Legislative Committee members studying Bill C-2 said they're glad the extensive work on the bill is complete.

"It was a long arduous task," said Conservative MP Tom Lukiwski (Regina-Lumsden-Lake Centre, Sask.), who sat on the committee. "I think it was a good bill going in and I think the changes we've made, thanks to the hard work of everyone on the committee makes it a stronger bill. It clearly is the strongest anti-corruption bill Canadians have ever seen. It effectively puts an end to patronage, it tightens up political donations, it puts in very very tough rules for lobbying the government and it puts in legislation that Canadians want to see."

With the compressed timetable, critics said the massive omnibus Bill C-2 covering everything from lobbying, whistleblower protection, access to information and the creation of new Parliamentary officers would not get sufficient scrutiny. In the end, it wasn't so bad, said the Bloc Québécois' Benoît Sauvageau (Repentigny, Que.).

"We wanted to study the bill more, to have a more significant, efficient bill," Mr. Sauvageau told The Hill Times. "It was not so bad in the end. The most important thing is to give a chance to the bill to be applied. In five years we can restudy the bill to make some corrections, some amendments to have another bill. So we won some amendments which is important to us. We lost some too, which is the game, it's normal."

For the NDP's Pat Martin (Winnipeg Centre, Man.), who worked alongside the government in most cases to get the bill through the committee as quickly as possible, said that there was adequate time to study the bill thoroughly. "Nothing's been put to a vote until all debate has been exhausted," he told The Hill Times. "It's just we're compressing the time-frame. We're not shortening the time-frame, just compressing the number of days it takes. When all the dust settles, we will have taken an enormous amount of hours hearing witnesses and working on the clause by clause. The amount of time we've spent on this is in keeping with the norm for a piece of legislation, so no one can make the case that they've been denied the ability to participate fully in the consideration of this bill."

Liberal MP Alan Tonks (York South-Weston, Ont.) said that he didn't think the quality of the bill was sacrificed through the rushed process.

"Of course we would've liked to have more time or a variety of additional witnesses in, but in cases where people made that case, for example, with First Nations people, their concerns were brought to the committee and amendments were passed anyway," he said. "I don't think the quality of the bill was undermined. Generally speaking, I think the committee was very sensitive to the fact that we were dealing with this very quickly and the quality of their deliberations balanced out the fact that we were dealing with it very quickly. It's a very broadly based but important piece of legislation."

The committee was scheduled to sit for 43 hours during the clause-by-clause deliberations, but completed the process last Wednesday night. The report is expected to be back in the House by this Monday for debate at third reading starting Tuesday.

The committee passed an NDP amendment to clearly define the roles and responsibilities of a Public Appointments Commission that Prime Minister Stephen Harper (Calgary Southwest, Alta.) said recently he would scrap until he could get a majority government.

The amendment, moved by Mr. Martin, stated that a Commission may be established by the Governor in Council to "oversee, monitor, review and report on the selection process for Governor in Council appointments and reappointments to agencies, boards, commissions and Crown corporations, and ensure that every such process is widely made public and conducted in a fair, open and transparent manner and the appointments are based on merit."

An earlier Liberal sub-amendment to change "may establish" to "shall establish" failed to the chagrin of some critics who called for the wording to be changed to force the government to comply rather than having a choice in establishing a Commission.

When the amendment passed, committee members applauded.

"Clarifying the issues around what has been called patronage appointments through the establishment of a commission that would establish a merit based criteria for appointments in the image of the same merit like in the public service commission is very progressive, it's accountable and transparent and I think it will serve Canadians well," Mr. Tonks said.

Another significant amendment passed last week was the exclusion of first nations auditing through the Auditor General's office. When AG Sheila Fraser testified before the committee, she said that her office would rarely use the extended powers to audit funding for First Nations communities because of "the policy of governments to encourage First Nations to move toward greater autonomy and self-government." The committee removed this provision from the act.

When it comes to Access to Information, however, critics said the bill doesn't go far enough. "The most important part, I think, is the Access to Information Act," Mr. Sauvageau said. "We don't know why the [Conservative government] is not hurried on this case than the rest of the bill. To us, the most important part of the bill is absent from the bill."

Some amendments were passed, such as including the Asia-Pacific Foundation and the Pierre Elliott Trudeau Foundation to coverage of the Act, and allowing draft reports to be disclosed after audits are complete but did not include notes or working papers which are still exempt for 15 years.

Mr. Martin told The Hill Times that he was able to get some of his amendments through by negotiating with the government. "There's no secret we negotiated extensively to advance our priorities," he said. "You know what? That is what a good opposition party does in a minority government--they exploit their opportunities to advance their agenda. We did that without apology."

Overall, the committee worked well together, Mr. Lukiwski said. "I was expecting more acrimony perhaps, at times, but, generally speaking, I believe that every member of that committee had a sincere desire to make the Accountability Act as strong a piece of legislation as we can possibly make it, but at times there were some heated moments and tensions but that just comes in being in close contact for such a long period of time," he said. "Generally speaking, all members got along well and all members respected one another and all members worked towards a common objective and that is to make the accountability act even stronger and I think we accomplished that as a committee."

Mr. Tonks said he found the committee process rewarding. "I think the bill is measurably improved through the committee process," he said. "Contrary to the perceptions in the beginning, I think the committee acted in good faith and worked well to bring a result that will serve Canadians well."

Light is dimming on open government: Information Commissioner John Reid

All of the promised reforms to Access to Information and the hype surrounding transparency in government after the Sponsorship Scandal, the 39th general election and a change in government, was all for nothing because there has been no progress to opening up the culture of secrecy in federal politics, says Canada's Information Commissioner.

"Somehow, while we were feeling pretty good about the future of accountability through transparency, it all seems to have fallen apart," said John Reid, at the University of Alberta's 2006 Access and Privacy Conference recently. "Or, maybe it was simply hijacked by bureaucrats who saw their culture of secrecy seriously threatened for the first time in decades."

Mr. Reid told the audience that without the ideal of the public's right to know, corruption will continue to breed in Ottawa political fish bowl. "I fervently believe, that all the fine initiatives to improve government accountability, which were put forward by Justice Gomery, by the parties during the election and by the government in response to the sponsorship scandal, require the nourishment of unfiltered knowledge about what goes on in government," he said. "There can be no true accountability, or true disincentive for corruption and maladministration without the bright light of transparency. It saddens me, as I near the end of my service as Canada's Information Commissioner, to report that the light of transparency has dimmed."

Mr. Reid said he was disappointed with the Conservative government because they broke a promise to include significant Access to Information reforms in the Federal Accountability Act, Bill C-2, and in essence strengthened secrecy rather than transparency. "Everyone recognizes that an oral culture has grown up in the federal government designed to avoid the rigours of independent audit, access to information, judicial inquiry and Parliamentary scrutiny," he said. "Above all else, this 'cancer' is destroying the health of the access law and the public's ability to hold governments to account. Yet the new government chose not to deal with it in Bill C-2."

When tabling the Federal Accountability Act, the Conservatives explained that Access to Information reforms would be addressed in a separate bill at a later date, after thorough study from the Access to Information, Privacy and Ethics House Committee.

"What are we to make of the government's stated purpose for delaying comprehensive access reform? How are we to view the government's decision to propose to add 12 new secrecy provisions to the Access to Information Act without the benefit of any public consultation while refusing to add even one new openness provision?"

Mr. Reid said that in his eight years as the Information Commissioner, he's learned that public officials don't understand that there should be a cultural shift from secrecy to transparency. "Parliament wanted members of the public to have the positive legal right to get the facts, not the spin, to get the source records, not the managed message, to get whatever records they wanted, not just what public officials felt they should know," he said. "Still, after almost 23 years of living the Access to Information Act, the name of the game, all too often is how to resist transparency and engage in damage control by ignoring response deadlines, blacking-out the embarrassing bits, conducting business orally, excluding records and institutions from the coverage of the Access to Information Act and keeping the system's watchdog overworked and under funded."

The government continues to resist reforms to Access to Information, Mr. Reid said, which is something he also mentioned in his Annual Report to Parliament released last Tuesday.

This year, the percentage of complaints from the public about refusals and delays for requests for information went up from 21.1 per cent last year to 24.1. Of the 12 departments that Mr. Reid reviewed, only five departments received a passing grade of C or better. Only two departments improved their grades from the previous year, Industry Canada which went from a D to a B and Public Works, which went from a D to a B. Transport Canada, which received a B last year, maintained a B this year.

Five departments received a failing grade for having more than 20 per cent of the requests coming in refused or significantly delayed: Agriculture and Agrifood Canada, Foreign Affairs and International Trade, Justice, Library and Archives Canada, and the Privy Council Office.

Although Library and Archives Canada received an F, the Information Commissioner noted that it has made considerable progress by investing \$850,000 in new resources and has eliminated a long backlog of requests. "It has entirely re-engineered its access to information request processes to ensure sustainability in the long term," Mr. Reid wrote. "LAC is making itself a model in government of how to make the access law work efficiently and effectively."

Mr. Reid also gave "kudos" to DFAIT for working on improving its F, by investing \$500,000 in new resources and developing a business plan to comply with the Access to Information Act.

In terms of the other failing departments, Mr. Reid wrote that "it is particularly discouraging that two important 'example setters'--PCO and Justice--have had failing grades against this year, despite past assurances to the Information Commissioner and Parliament that they would respect their lawful obligations."

--with files from Simon Doyle
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The week ahead in Parliament:
Federal Accountability Act expected to be sent to Senate

The House will begin debate at report stage of the Federal Accountability Act, Bill C-2, this Tuesday, making way for third reading and passage of the massive omnibus bill.

With the extended sitting hours, the House will work until midnight every night this week before it adjourns for the summer recess. It's expected that the FAA will be in the Senate this Wednesday or Thursday.

The House will also debate Bill C-17, the Judges' Salary and Benefits Bill, and Bill C-3, the International Bridges and Tunnels Bill.

Over in the Senate, the committees will be busy working on studies and examining bills.

The Senate Human Rights committee will hear from Chief Angus Toulouse, Ontario Regional Chief of the Assembly of First Nations as part of the committee's examination of Canada's international obligations in regards to the rights and freedoms of children. The Committee will meet on Monday at 4 p.m.

See:
http://www.thehilltimes.ca/html/index.php?display=story&full_path=/2006/june/19/legislati on/&c=1

Forwarded by Dave Banisar