

## *Information, please*

**By Stanley Tromp, The Vancouver Sun, Oct. 4, 2004**

The federal Access to Information Act is in dire need of updating; the political will to do so is lacking

"It amuses me to see the profound change in attitude about access to information which occurs when highly placed insiders suddenly find themselves on the outside. And vice versa! ... For the most part, officials love secrecy because it is a tool of power and control, not because the information they hold is particularly sensitive by nature."

-- John Reid, federal information commissioner, 1999

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When the tenure of Prime Minister Paul Martin began, he promised to improve the quality of Canada's democracy, including the transparency of its federal institutions, to repair a "democratic deficit."

In fact, all federal party leaders professed support for these values. But will the reality match the rhetoric?

The best proof would be to reform our antiquated Access to Information Act, which allows citizens to request any government records for a \$5 fee, subject to exemptions for privacy, national security, financial harm and other factors.

During the past two decades, many initiatives were undertaken to improve the Act. With one notable exception -- the passage in 1999 of Liberal MP Colleen Beaumier's bill amending the ATI Act to prohibit illegal destruction of documents -- all have come to naught, routinely voted down by the government majority.

The federal government was a global pioneer on such legislation but has now been outpaced by other countries with better access laws, Leonard Asper, the president and CEO of CanWest Global, said last June. He noted that in 2000 a government committee on the ATI Act made more than 100 recommendations, including an amendment that would include Crown corporations as part of the law. Nothing was done.

Ken Rubin, a researcher for CanWest and this country's top open- government lobbyist for 30 years ("if I didn't exist, it would be necessary to invent me," he once quipped) says he doesn't expect much change in the ATI Act without people pushing hard for it. "The lead for reform might be taken at grassroots or provincial level. I think people forget how radical you should be. Some FOI lobby groups are too pragmatic." (The largest one, the Open Government Canada coalition, has regrettably collapsed.)

Yet today, with the new, diverse composition of Parliament, and as a minority government tries to stay in power, ministers and backbenchers with vision can make a difference as never before. We shouldn't forget that the ATI Act was first proposed in a private member's bill by NDP MP Barry Mather in 1965, and then by Conservative MP Gerald Baldwin in 1969, before being passed by the Liberal government of Pierre Elliott Trudeau in 1983.

Time is short to seize this historic opportunity, with the possibility of a brief parliamentary term before another election, and other topics higher on the agenda. One official in the Information Commissioner's office said, on the prospect of amending the ATI Act, "We only get a chance like this every 20 years, so people should act quickly."

There are four primary needs today:

1. Reform of the Access to Information Act. There are a number of good templates for reform, starting with the best of all: Open and Shut: Enhancing the Right to Know and the Right to Privacy. This is the landmark 1987 report of the standing committee on justice and solicitor-general on the ATI Act.

Also worth considering is former Liberal MP John Bryden's private member's bill C-462 of 2003, which unanimously passed second reading in the House, with Paul Martin voting in favour. (Yet Rubin thinks that John Bryden's bill is so flawed that passing it intact would be a step backwards.) Manitoba NDP MP Pat Martin plans to reintroduce the bill this fall.

2. Extension of the ATI Act to Crown corporations and other "quasi-governmental bodies" that have been created over the past two decades but are currently not covered. This likely would have prevented some of the abuses that led to the sponsorship scandal.

As many as 250 foundations, associations and other bodies have been created by the federal government as "instruments of governance," and most are, in the words of Canada's auditor-general, lacking "essential accountability mechanisms."

These bodies create or carry out public policy, spend billions of taxpayer dollars, and in some cases make decisions that have major effects on public health and safety; yet they remain unaccountable to Parliament, the auditor-general, and the taxpaying citizen. Some examples are Canadian Blood Services, the (nuclear) Waste Management Organization, Canada Pension Investment Board and Canada Health Info-way Inc.

A Canadian Press story in August 2002 reported the Prime Minister's Office was "working overtime" to draft amendments to extend the ATI Act to these entities, but the PMO's resolve wilted after intense lobbying efforts by some Crown corporations. Their resistance is self-serving, for the ATI Act contains ample protections against information release that could cause commercial or competitive harm.

All future quasi-governmental bodies should be covered by the ATI Act automatically as they are created. Legitimate concerns have been expressed about the application of the act to the journalistic files of the [Canadian Broadcasting Corp.](#) These concerns would be met by excluding these files from coverage, to rightly provide the same level of privacy that would exist for private sector journalists.

3. Officers of Parliament should be covered by the ATI Act. There is no valid reason for exempting their operational records (as opposed to the case files and adjudicative records). This could have prevented or at least revealed earlier the misspending of former privacy commissioner George Radwanski.

4. Adequate funding for the federal information commissioner. The commissioner's office is starved for funds and as a result has a 1,000 case backlog, i.e., almost a whole year for all its investigators. His financial condition has been worsened by the fact that he has been placed in the position of fighting 26 lawsuits mounted by the Prime Minister's Office and other departments, at a cost approaching \$1 million in legal fees. Many consider these lawsuits frivolous and vexatious.

Government transparency and accountability are basic principles that transcend political parties and ideologies.

Those MPs who help to foster them will establish a lasting legacy for their constituents.