Blurring the Boundaries of Private, Partisan, and Public Interests

Accountability in an Oil Economy

Lorna Stefanick

Accountability regimes are recognized worldwide as crucial components of a democratic state because transparency helps to expose corruption, ensures due process in law, and encourages the citizen engagement that is central to citizen participation. In short, transparency aids in holding governments to account. As one democratic theorist observes, “Governance without accountability is tyranny. Few principles are as central to democracy as this” (Borowiak 2011, 3). For newly emerging democracies, the concept of “open government” challenges previously accepted notions that the interests of society (as expressed through the power of the state) take precedence over the interests of individual citizens. Institutions such as the World Bank and the UN Development Programme identify transparency as a critical component of good governance in all countries (Shrivastava and Stefanick 2012).

Studies of resource-rich countries that suffer from the “oil curse” underscore the importance of transparency as a bulwark against corruption. There are widely differing forms of corruption in the Global North and South; the oil-curse studies focus on the Global South. Since regulatory capture by financial and industrial lobbies is also a form of corruption, it is important to examine the effect on accountability regimes of the neoliberal notion of “governing without government” (Rhodes 1996). The economic meltdown in 2008 highlighted the decreased capacity of the hollowed-out state to safeguard the public good in a global market arena. These deficiencies have resulted in calls for the reaffirmation of the state in defining, pursuing, and protecting collective interests. As Martin Painter and Jon Pierre (2005, 1) note:
The events of the last decade have failed to prove the superiority of the market over the state in terms of fostering economic development and growth. Capital markets across Western Europe have generated massive losses, with consequent problems in respect of welfare, pensions and employment, while unregulated international capital movements coupled with liberalized domestic regulatory regimes were in large part responsible for the Asian financial crisis.

The new decentralized governance structures wherein the state shares functions with quasi-state, private, and nonprofit actors are here to stay. However, these structures—and in particular, the role of the state within them—must be continually scrutinized in order to ensure that the collective interest is promoted.

Even though Alberta was an early adopter of mechanisms to support government accountability, it has not escaped criticism. During the nearly forty-four-year rule of the Progressive Conservative (PC) party in Alberta, the increasing shrinkage of the distance between the political and administrative systems in Alberta put a strain on democratic institutions. Ordinarily, this distance prevents the administration from becoming a tool to keep the government of the day in power. The merging of the political arm of government and the administrative apparatus that serves it is part of the legacy of the “business government” tradition in Alberta, which over the past few decades has been expressed by the merging of the interests of the oil industry with the public interest. Public sector accountability is compromised when a premium is put on market accountability, and a blended form of government is reduced to being an instrument for creating the most favourable climate possible for business interests. These trends are exacerbated by the ever shrinking role of the state and, in particular, by the reduction of government support for the creation and dissemination of information and knowledge that contributes to robust public policy debate.

This chapter evaluates democracy in Alberta through an analysis of accountability. It focuses on both political and administrative structures, and in particular, on the independent offices of the legislature that were established to be “watchdogs” of both the political and administrative arms of government. Embedded in the discussion is an analysis of the evolution of the administrative apparatus of Alberta’s public service, with reference to the ways in which the oil-based economy has shaped it. Institutional structures that provide scrutiny of public sector activities will only be as strong as the political will that
underpins them; both citizens and long-serving governments in a strong economy lubricated by resource rents become complacent about the need for democratic accountability, because it is assumed that interests of the governing party, the government, corporations, and the public are one and the same. While historians will no doubt have much to say about the toppling of the PC government in 2015 by the left-leaning New Democratic Party (NDP), a post-election survey overwhelmingly suggested that voting patterns did not reflect an ideological shift but were driven instead by a desire for change and by disappointment with PC leader Jim Prentice (Markusoff 2015). This chapter suggests that the anger expressed in the “Anyone but Conservative” sentiment evident in the campaign may have been fuelled by an implicit recognition that democracy rests on political accountability to citizens rather than to corporate interests.

Transparency, Democracy, and the Curse of Oil

A key dysfunction of political regimes that are not transparent is that secrecy can hide corruption. Corruption can be defined as “the misuse of public authority for private gains” (Shen and Williamson 2005, 327). Typically, corruption involves activities that are illegal. The United Nations Convention Against Corruption calls corruption “an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish” (United Nations, Office on Drugs and Crime 2004, iii). The United Nations goes on to note that corruption is found in all countries, but it is in the Global South that its effects are most damaging, particularly with respect to the alleviation of poverty.

Researchers have noted that weak institutions that are vulnerable to corruption act as a hindrance to socio-economic development in resource-rich countries of the Global South (Kolstad and Wigg 2009; Mehlum, Moene, and Torvik 2006; Robinson, Torvik and Verdier 2006). The political elite in these countries has control of resources and resource rents, which leads to control over patronage and the distribution of resources. The private sector also recognizes corruption as a dysfunction in countries rich in natural resources and has instituted initiatives such as the Extractive Industries Transparency Initiative (EITI), which focuses on revenue transparency. According to Ivar Kolstad and Arne Wiig (2009, 521), this initiative reflects the popularity of transparency as
a method of weeding out corruption. But, as they point out, an emphasis on transparency alone is insufficient, and, in particular, the emphasis of EITI on revenues is misplaced (529). Kolstad, Wiig, and Aled Williams (2009, 957) argue that negative behaviours are ameliorated by strong institutional structures that promote private sector efficiency and public sector accountability: the former helps to prevent private capture, while the latter prevents capture by government authorities. Regularized and transparent decision-making structures that produce administratively predictable outcomes provide strong protection from patronage.

While the obvious injustices associated with inequality and injustice may not be as visible in the Global North, this does not mean that corruption does not exist or that it does not constitute a problem with far-reaching implications. Corruption can be defined not merely as the abuse of power by a public official for the purpose of private gain but more broadly as patronage, or as “the distribution of rents for political purposes” (Kolstad, Wiig, and Williams 2009, 954). If corruption is defined even more expansively as a systemic dysfunction that causes certain interests to receive preferential treatment, which in turn creates or exacerbates inequalities, then the largest economies in the world may need the most scrutiny, given that preferential treatment within these economies results in economic, political, and social advantages that are felt around the globe. From this perspective, more insidious types of corruption exist in the realm of political practices, economic policies, and foreign policy that are not captured by the various corruption indices, which are slanted toward documenting the type of corruption that is most applicable to developing country institutions.²

While both efficiency and accountability are popularly used as normative markers of best practices in both the public and the private sector, little time is spent defining them. In his book *Accountability and Democracy*, Borowiak (2011) points out that while the notion of accountability is accepted as a *sine qua non* of democracy, its weakness is its conceptual ambiguity. He notes that accountability is a relational concept: “to be accountable is to be liable to be called to account, or to answer for responsibilities, positions, and conduct” (6). With respect to liberal democracies, Borowiak asks whether private sector efficiency requires accountability to anything beyond the market. Conversely, how is efficiency defined with reference to the public sector? From a neoliberal perspective, market efficiency replaces democratic accountability. And indeed, the blurring of boundaries that characterizes “governance” dictates that much of
the state’s policy capacity resides outside the domain of the state. But as Martin Painter and Jon Pierre (2005, 13) observe, “Private actors are not likely to support projects that do not directly cater to their interests, hence policy capacity in this approach is to some extent a capacity to formulate and execute certain types of policy rather than others.” Accordingly, governance without some measure of democratic accountability will result in a public policy process that becomes captive to dominant coalitions of nonstate actors.

Democratic accountability can be broken down into two forms: political and administrative. While much emphasis is put on political accountability, the structure and activities of the administrative apparatus are equally important; this arm of government not only runs programs but translates the decisions of elected officials into program policy. The two arms of government are necessarily connected, but Western public administration theory has long lauded the merit of keeping some distinction between the two. When considering the call of President Woodrow Wilson over a century ago to keep administration outside the sphere of politics, Donald Savoie (2003, 4) notes that “to separate the two realms would constitute a powerful counterweight to ‘centrifugal’ democracy, since it would create an apolitical public service.” An apolitical public service based on merit as opposed to patronage is important, because it provides the best chance that administration will be conducted in a fashion wherein all groups in society are treated equally, devoid of corruption and cronyism.

For the purposes of this analysis, democratic accountability can be seen as the public service being held to account by politicians, and politicians being held to account by the electorate. What is missing from this mix is that while the political and administrative components of democratic governance are held accountable to citizens, private sector actors have little accountability to the political community in which they operate, even though their actions arguably have far more impact on citizens in an era of globalization and a hollowing out of the nation-state. To say that private sector actors have no accountability to either governments or citizens is overstating the case: they are subject, of course, to regulatory regimes. But as mentioned earlier in this chapter, as well as in a number of other chapters in this volume, regulatory regimes can show evidence of regulatory capture, wherein industry co-opts the oversight mechanisms in order to promote its own interests. In the same way, the autonomy of legislative officers and public servants can be compromised by working in a political environment dominated by the same party year after year, where all-party legislative oversight committees are numerically dominated

Blurring the Boundaries of Private, Partisan, and Public Interests
by the governing party, and the interests of the political party and government become indistinguishable. This chapter makes this case with reference to Alberta, beginning first with the institutional and political context of Alberta’s officers of the legislature.

Democracy in Alberta: “Business Government” and Accountability

Alberta has had sovereignty over its internal affairs as defined in the Canadian constitution since the province was created in 1905. As in other Canadian jurisdictions, certain disadvantaged groups such as women and Indigenous peoples were not initially included in the franchise. Alberta stands among the first three jurisdictions in Canada to grant voting rights to women, despite the widespread belief that Alberta is the most conservative province in the country (Carroll and Little 2001, 39; Harrison, this volume). “Conservative” could refer to the market-based orientation of recent Progressive Conservative governments. But the vernacular usage of the term aptly describes the disinclination of Albertans to elect new governments on a regular basis. Prior to the NDP victory in 2015, Alberta had, in the first 109 years of its existence, seen only three changes in government. In the four elections in which the government changed, the new government won a decisive victory, and the number of seats held by the previous governing party was either reduced to less than half or the party was completely shut out of the legislature. Almost half of the elections in Alberta have produced very lopsided victories, with the winning party taking between 85 percent and 95 percent of the legislative seats (Elections Alberta 2015b).

But resounding electoral victories do not mean that there is a provincial consensus around how the public interest should be defined or how that interest should be promoted in policy. Even in elections in which the popular vote has been respectably close, the electoral results have been dramatically skewed in favour of the winning party because of the province’s first-past-the-post system. This electoral system gives the advantage to parties that have regionally concentrated support as opposed to those that enjoy widespread but diffuse support in a given constituency. The former will produce sufficient voter support to elect a representative in particular ridings, while the latter will relegate political candidates to the “also ran” category in many ridings. Diffuse support can produce no elected members in the legislative assembly, even though support is fairly evenly divided between the winning and losing parties.³
In Alberta, diffuse progressive support has traditionally given the advantage to right-of-centre parties whose support is concentrated in rural areas. The gap between the percentage of the vote the winning party takes and the seats awarded is wide, often as much as 30 percent. Doreen Barrie (2006, 57) notes that since 1905, the average of the popular vote received by the winning party “is right on 50%, not exactly a stampede towards a single party.” Yet the winning parties have been awarded massive electoral victories. Once in power, often for very long periods of time, Alberta governments have been remarkably effective in controlling the definition of what constitutes the public interest. It is thus not surprising that this unusual electoral history has produced ongoing concern about the ability of opposition parties (and, by extension, citizens) to hold the government members of the legislative assembly to account. C. B. Macpherson’s Democracy in Alberta (1953) notes the virtual absence of opposition to the Social Credit government. Macpherson explained the lack of legislative opposition in terms of social homogeneity, arguing that, in a society made up of petit bourgeois farmers, class and redistributational conflicts were downplayed. In so doing, he overlooked the many divisions that in fact existed in early Alberta society: Canadian-born versus immigrant, Anglo-Saxon versus other ethnicities, industrial versus agricultural workers, farmers versus ranchers, Protestant versus Catholic, urban versus rural centres, to name just a few. Putting aside Macpherson’s monolithic conception of Alberta society, however, his basic point is true: these long-serving governments, with large electoral victories, define the legislative debate, privileging some forms of conflict over others.

Ten years after Macpherson’s book was published, the Social Credit held 60 of the 63 seats in the legislature. Ideas were floated for creating entities outside the legislature that “could do some of the chores ordinarily reserved for the House Opposition” (Keen 1963). One novel idea was the creation of an Ombudsman Office that would investigate administrative wrongdoing in order to ensure government accountability and fair practices. Even members of the ruling Social Credit Party promoted the idea, though perhaps their enthusiasm was less a concern for robust legislative debate and more a reflection of a government that had been in power for over thirty years looking for new ideas to refresh its “brand.” Nonetheless, with the installation of the Ombudsman in 1967, the first independent officer of the Alberta legislature came into being.

With respect to administrative accountability, Alberta is unique in a number of other ways. As Edward LeSage Jr. (2000) and Trevor Harrison (this volume)
explain, Alberta has been strongly influenced by turn-of-the-century western Canadian progressivism, as well as by agrarian populism. According to LeSage, populists shared the neoliberal distaste for the state, seeking to minimize and control its activities. Populists, however, recognized the need for Alberta’s early governments to build the infrastructure necessary for commerce. Given the distaste for government activities beyond this basic function, the division between politics and administration was not critical, as it was thought best that the administrative arm remain under political control. In contrast, from the progressive point of view, the state was an instrument for social betterment. This meant that the division between the political and administrative apparatus was critical because an expert, merit-based administrative structure will act as a bulwark against patronage. Early Alberta was notable for an awkward truce between these two distinct political perspectives. “Progressivist and populist ideas do not mix especially well,” notes LeSage, “and, in Alberta, these idea systems were uneasily joined under the ‘business government’ notion, wherein government serves as the interpreter and steward of the general community will” (399). One of the characteristics of business government is longevity: the government has considerable time to both define and shape the will of the community while suppressing dissent from the common vision. Even when governments in Alberta have only a slim majority of voters supporting them, repeated re-election gives them both the confidence and the legitimacy to claim that they represent the public interest.5

From the perspective of accountability, the notion of public interest is important. Politicians are accountable to the electorate (the public). Through elections, political parties can claim that they have a mandate to define the public interest through public policy implemented by public servants. While the winning party will dominate the legislature, at the very least the opposition MLAs can ask questions, present alternative perspectives, and engage in debate about what constitutes the public interest. As pointed out by a provincial commentator, “For there to be effective accountability, the opposition must be able to scrutinize and publicize government actions on an ongoing basis, even if we don’t particularly like what the opposition had in mind” (Gunter 2009). Legislative officers provide an additional layer of scrutiny of both political and administrative activity. The functions of these officers differ, but ultimately it is their job to ensure that public and private interests are separated, that certain interests are not privileged during elections, that taxpayer money is spent appropriately, and that the administrative apparatus treats everyone the same
and, in doing so, respects citizens’ rights. In sum, these officers are vital to government accountability.

Administrative Accountability and New Public Management

There are six legislative officers in Alberta; all are chosen and report to an all-party standing committee. As noted, the Office of the Ombudsman was the first to be established, with the Chief Electoral Officer, the Ethics Commissioner, and the modern version of the Auditor General’s Office following in subsequent years. The Office of the Information and Privacy Commissioner was created in 1994, and in 2012 the Office of the Child and Youth Advocate was established. The all-party Standing Committee on Legislative Offices develops the list of candidates for these offices; members of the legislature elect candidates by majority vote. Given that the membership of this committee reflects the distribution of seats in the legislature, it comes as no surprise that there are complaints that officers reporting to a PC-dominated committee are not highly critical of government.

While legislative offices in Alberta meet the requirements of independence, wide scope of purview, and accessibility (see Rowat 1985, 183–85), what is distinctive about Alberta with respect to their functioning is the province’s enthusiastic commitment to neoliberalism in the early 1990s. Faced with a sluggish economy, large government deficits, and low oil prices, the PC government of Ralph Klein radically downsized government and adopted new public management (NPM) approaches to the public sector administration. While some aspects of NPM are attractive to parties of all stripes (value for money, efficiency and effectiveness, and outcome metrics), other NPM features are most consistent with free market, neoliberal political ideology. The NPM approach entails mimicking the private sector with respect to management practices, dramatically reducing or contracting out services to the private and nonprofit sectors, and decentralizing authority by transferring functions to regional authorities or community boards. In doing so, the government’s role shifts from being the provider of services to being the body providing supervision of service provision.

Like other government bodies, the resources of the legislative offices were cut in the 1990s. The Office of the Ombudsman is illustrative of the ensuing challenges. Reorganization and the rapid rate of change from the government providing services to overseeing service provision left most people (including
Ombudsman Office staff) confused as to who should be held responsible for maladministration. Moreover, privatization often meant that the Office of the Ombudsman lost the authority to investigate complaints because the issue was outside its jurisdiction. As Ombudsman Johnson observed in 1995, “The privatization of government services is occurring without protective measures such as appeal mechanisms and/or ombudsman services. The lack of safeguards in the system erodes accountability” (Alberta, Office of the Ombudsman 1995, 2).

For those complaints in which the office maintained jurisdiction, investigations became more complex and time consuming, yet resources and training did not keep pace. Moreover, NPM places less emphasis on process and procedures, favouring the promotion of “results-based management.” This is clearly apparent by the attention paid in annual reports to setting targets for the time taken to process complaints and then evaluating the success of the office in meeting these targets. As one long-time observer of Ombuds offices notes, “Results-based management has little regard for due process and for necessarily fair results. The challenges relating to attitude and practice are truly enormous” (Levine 2009, 295).

The difficulties for Ombuds offices in ensuring accountability with respect to privatized services and other by-products of NPM is a problem worldwide. However, the speed with which change happened in Alberta is unique. As will be illustrated in the next section, the confluence of neoliberal ideologies and NPM since the early 1990s, combined with the conflation of the governing party’s interest with that of the government, has worsened the already tenuous ability of Alberta citizens to hold their politicians to account. The end result not only has implications for the ability of citizens to access government information using enabling legislation; it also reflects a more generalized trend of controlling and suppressing information that contributes to policy deliberations. Moreover, merging interests create a culture of entitlement that supports activities, sometimes illegal, that would not be tolerated in jurisdictions where the division between government and party is more distinct.

Information Management and “the Message”: When Political and Administrative Interests Merge

In Alberta, the Information and Privacy Commissioner is the officer responsible for administering the legislation that ensures citizen access to information held by government. Critics have complained that the fees charged for access
to information in Alberta are exorbitant, while delays ensure that, in the case of journalists, the “scoop” will be lost. So, for example, in the months leading up to the 2004 provincial election, two reporters and the opposition Liberals requested the release of the flight logs of airplanes used for government purposes. At issue were allegations that the premier and other PC members of the legislative assembly were making inappropriate use of taxpayer-funded planes. The reporter’s request for information was filed in May 2004; the information was received three days after the provincial election in November (Simons 2007). The fee for the leader of the opposition’s request to examine the same Alberta government flight log documents for the years 1996 to 2003 was estimated to be $4,671. In contrast, the fee for examining the much larger flight logs of the federal government was $5 (Taft 2007, 74–77). Similarly, the Canadian Taxpayers Federation requested details regarding how much Alberta government departments were paying communications consultants, but since the bill exceeded $11,000 with less than half the departments reporting, the federation halted its investigation (75). The passing of amendments to the Freedom of Information and Protection of Privacy Act in 2006 gave the force of law to the trend of suppressing information. These amendments safeguard government internal audits from public scrutiny for fifteen years, as well as protecting ministers’ briefing notes for five years. A leading access-to-information expert described the changes to the act as “noxious” (Alasdair Roberts, quoted in Baxter 2006). While access-to-information legislation is a useful tool to cut through bureaucratic layers, it is not particularly effective if the information is, for all practice purposes, inaccessible.

Some argue that the biggest issue with Freedom of Information and Protection of Privacy (FOIP) officers promoting access to information is that they are embedded in the government bureaucracy (Taft 2007, 72). In this case, however, the fundamental problem is larger than that of individual FOIP officers having close working relationships with the departments they oversee: it relates to departments not distinguishing between public and partisan interests. In the case of the flight logs, the reporter complained to the Information Access and Privacy Commissioner that Alberta Infrastructure and Transportation had purposely delayed the release of the flight logs until after the 2004 election. During the subsequent public hearing, a memo that had been altered was entered as evidence, prompting the RCMP to launch a criminal investigation. In other provinces, the falsification of evidence before a quasi-judicial body might precipitate a scandal that could bring down the government. In Alberta, however, this did
not happen. As a reporter for the *Edmonton Journal* noted with considerable frustration, “We’ve so blurred the line between the Progressive Conservative Party and ‘the government,’ we can’t even see it anymore” (Simons 2009).

Shifting to the issues that are under the purview of the Chief Electoral Officer, it is apparent that a similar problem exists with respect to the strong ties between corporate and political elites in Alberta. The province limits donations to political parties from an individual or corporation to $10,000 per year and $30,000 in any campaign period. As is demonstrated in Kellogg’s chapter in this volume, this comparatively high limit has resulted in corporations donating hundreds of thousands of dollars to Alberta’s PC Party over the years; almost half of these corporations are oil companies. In contrast, parties such as the Alberta Liberals receive comparatively little support and are chronically struggling financially (Timmons 2013). The 2012 provincial election was an anomaly in that corporations donated upwards of a million dollars to the Wildrose Party when it appeared that this party might topple the PC dynasty. Unlike the Wildrose Party, which publishes the exact dollar amount and source of the donations it receives, the PCs give only a range (e.g., from $10,001 to $30,000). The ability to make large donations to political parties without publicizing the exact amounts not only strengthens the ties between corporate and political elites; it also weakens the ability of the public to scrutinize the relationships.7

Donations from corporations, however, pale in the face of donations to the PCs made by billionaire Daryl Katz and his associates. The high-profile Katz is the owner of the Edmonton Oilers; he was accused of circumventing Alberta’s Elections Finance Act, which prohibits donations over $30,000. Katz made a “bulk” donation of $430,000 to the PCs in one cheque, but an Elections Alberta report claimed that the money came from associates who “promptly and fully repaid” him (quoted in Walton and Wingrove 2013). In addition to this sum, representing almost a third of the total amount the PCs raised for the 2012 election, critics were concerned that the donation(s) violated conflict-of-interest guidelines, given that the Katz group was at the same time seeking $100 million from the provincial government in support of building a new arena for the Edmonton Oilers hockey team.

While Katz was eventually cleared of wrongdoing, the government passed the Election Accountability Act in response to these and other issues. The bill includes ninety recommendations from Alberta’s Chief Electoral Officer; these did not include a limit on the amount parties can spend on an election, nor did
the act prohibit donations from corporations or unions, as the comparable federal act does. The limit of $30,000 per individual donation remains and is among the highest in the country, compared to the federal limit of $2,400 per year, and $3,600 in an election year. The possibility of splitting a single donation still exists. As Bill Moore-Kilgannon of Public Interest Alberta puts it, “It’s still the Wild West when it comes to campaign-finance rules” (quoted in Wingrove 2012).

The same pattern of blurring of the lines is evident in donations made to the PCs by postsecondary institutions over a period spanning 2004 to 2010. These publicly funded institutions paid for employees or members of their Board of Governors to participate in PC Party premier’s dinners, golf tournaments, and policy conferences. This practice is illegal; Alberta law prohibits public institutions from directing taxpayers’ money to a political party. Forty-five other organizations, including a school board, a department of Alberta Health Services, towns, and municipal districts engaged in this practice over a period of eight years.

Nonetheless, Alberta’s Chief Electoral Officer Brian Fjeldheim did not pursue legal sanctions against any of the public institutions, prompting political scientist Duane Bratt to suggest that Fjeldheim’s behaviour called his non-partisanship into question. “I don’t want to say that he is working on behalf of the party,” Bratt said, “as opposed to working on behalf of Albertans but there are some indications of that, or at least [of] not wanting to exercise his full role” (quoted in CBC News 2012). Bratt went on to speculate that perhaps Fjeldheim felt “chilled” by the fate of his predecessor, Lorne Gibson, who was fired after casting doubt on the fairness of Alberta’s electoral process. After Alberta Justice did not pursue the prosecution in nine cases of illegal campaign donations, Gibson wrote two highly critical reports about the election processes in Alberta, which included a hundred recommendations for improving the province’s laws. Gibson later sued the government for wrongful dismissal (Wingrove 2011). While the lines might be blurred between partisan and public interests, there can be no mistaking that in this instance, the lines were very clearly drawn between what independent officers of the legislature are and are not allowed to say.

The same blurring of lines can be seen with respect to the membership of quasi-governmental organizations. In 2007, the Edmonton Journal detailed the “disproportionately large percentage of card-carrying, high-profile Tories” among those who sit on government-appointed agencies, boards, and
commissions in Alberta (Edmonton Journal 2007). A particularly egregious example was offered by the thirteen-member board of the Peace Country Health Region, each and every one of whom was a registered PC member. While these revelations did not appear to cause much concern in 2007, such partisan connections would become glaringly apparent in the 2015 election. A pivotal moment in the election was a press conference held by five CEOs four days before the election, at which they urged citizens to vote PC as opposed to NDP. Collectively, the group had donated nearly $95,000 to the PCs over the past five years, and several had garnered government contracts worth millions. One of the CEOs was Doug Goss, a trustee of the Stollery Children’s Hospital and chair of the government-appointed University of Alberta Board of Governors. Goss explained, “We want to make sure that people are thinking—thinking straight—when they enter into the ballot box on May 5” (quoted in Kleiss 2015). Another cautioned that if the NDP raised corporate taxes, businesses might cease corporate donations to charities and worthy undertakings such as the Stollery Children’s Hospital. The University of Alberta’s faculty association demanded that Goss be removed from the board in view of his partisan stance. After the election, Goss said he regretted his comments and promised to work with the new government. He reflected, “You kinda go, geez, that maybe didn’t come out quite the way it should have.” But he insisted that “as a private citizen,” he had a right to his opinions (CBC News 2015).

The preceding examples suggest an inability to distinguish clearly between public and private—to recognize that personal support (including financial support) for the party in power must not be allowed to influence the discharge of public office. This confusion is perhaps not surprising, given that, over the course of its extended reign in Alberta, the PC Party had become all but synonymous with “government” in the minds of most Albertans, especially younger ones who had never seen another party at the helm. Moreover, the provincial government defined the public interest as equivalent to corporate interests. Some analysts point to decades of government cutbacks to explain why citizens and public institutions are so deferential. Alvin Finkel (2012) describes this situation as a “culture of entitlement on the part of the governing party” that coerces various groups within Alberta into silence—a notable example being doctors who have reported that they were victims of intimidation after they engaged in advocacy on behalf of patients (see HQCA 2012, 154–57). While Premier Redford’s sudden resignation in 2014 was depicted as the public’s (and her caucus’s) rejection of what commentator Don Martin (2014)
called her “entitlement to perks,” as exemplified in her expensive travel habits, it should be noted that the PCs have a long history of the very behaviour she exhibited. As Martin observed, Premier Klein used government planes “like a personal shuttle because he could smoke aboard.”

The situation of postsecondary institutions in Alberta illustrates how reliance on government funding can silence opposition in a one-party system where critics can be ignored. In the spring of 2013, postsecondary institutions were anticipating a 2 percent increase in their operating grants but were instead hit with a 7 percent cut. Calgary’s mayor, Naheed Nenshi, abandoned the usual diplomacy of mayors when dealing with the government that funds them, calling on Mount Royal’s Board of Governors to push back on this “bad policy” (quoted in Dormer 2013). Edmonton’s mayor at the time, Stephen Mandel, chimed in his opposition, worrying that the cuts would “shackle the creativity of our brightest people” (quoted in Wingrove 2013). Six months later, the provincial government reinstated a third of the money it had taken away. As Finkel would no doubt have predicted, the response from university presidents over this dramatic reversal of a policy that created huge system-wide disruption was one of subdued gratitude that the money had been restored (see, for example, Gerein and Howell 2013). The same phenomenon was observed in the 2014 budget and again in the budget that Premier Prentice proposed in 2015. Both budgets saw continued cutbacks to postsecondary education. Stephen Mandel, now a Tory Cabinet minister, had nothing to say about the 2015 cutbacks. As columnist Paula Simons lamented, “At this point, universities, colleges and technical institutions seem so resigned to playing whipping boy, they’re just happy that no one’s hitting them harder” (Simons 2015).

What could be construed as even more dangerous to postsecondary institutions, and in particular to the creation and dissemination of knowledge that could be deployed to promote dissent, is the government’s desire to ensure that postsecondary institutions produce graduates whose skills will directly feed economic growth. In 2013, the government sent each of the province’s twenty-six postsecondary institutions a draft “letter of expectation.” In it, the minister of Enterprise and Advanced Education (since renamed Innovation and Advanced Education) directed the institutions to review their programs to determine whether they are “in demand by employers and students” and to enhance their collaborative work with “business and industry to maximize the responsiveness to community and regional economic and social needs” (Alberta, Enterprise and Advanced Education 2013, 2, 3). Two years later, the
minister of Finance said in his budget address, “We will work with the post-secondary institutions to preserve high-demand, high-value programs and, correspondingly, to identify and shed low-value programs that do not represent good return on investment” (Campbell 2015, 9). Such language clearly presupposes a particular definition of "value." Many within the postsecondary sector and beyond have interpreted these pronouncements as evidence of the government’s conviction that intellectual activities should be driven not by curiosity but by commercial potential.

The possibility that the government will dictate the direction of research and curriculum so that education serves economic interests is of concern not only to the academic community in Alberta but to those beyond its borders. As David Robinson of the Canadian Association of University Teachers put it, “It may sound romantic. . . . But I believe the university is the place where we are on a search for truth. Once we allow government control over that, we lose our way” (quoted in Simons 2013). This “truth” can be created collectively in a post-industrial society; in this way, education can be seen as a social right, one that allows citizens to participate in political decision making. With more involvement from citizens, governance becomes messy, leading some states to declare that this excess of democracy requires that the state exercise more control over both the creation and dissemination of knowledge and information (Harrison 2013).

The contraction of public space for debate is thus tied to the state’s control over information, leading scholars to fear that as the state knows more and more about us, we know less and less about the state (see Harrison 2013; Stefanick 2011). Those who protest the effort to keep them silent about matters that they feel should be subject to democratic debate have responded by revealing information that governments are seeking to hide. Individuals release information at enormous risk, but they often feel that they have no other choice, particularly when they are privy to information that reveals conflicts of interest.

Institutional Responses to Conflicts of Interest

Governments have responded in various ways to the charge that they are suppressing information that properly should reside in the public domain. Alberta created new political and administrative accountability positions and passed so-called whistle-blowing legislation. In 2012, Don Scott, the first occupant of the position of associate minister of Accountability, Transparency, and
Transformation, introduced Alberta’s Public Interest Disclosure (Whistleblower Protection) Act. The newly created Public Interest Commissioner (a second function that was given to the provincial Ombudsman) will resolve complaints made under the auspices of this act. The legislation imposes fines for those who punish or intimidate public sector employees if they report wrongdoing, to the tune of $25,000 for the first offence and $120,000 for the subsequent offences (O’Donnell 2012). While the associate minister claimed that this legislation fulfilled the promise to Albertans for more open and transparent government, it did not include any of the many amendments proposed by opposition MLAs, who deemed it weak and ineffective.

Most troubling to its critics is the total discretion the legislation gives to the commissioner to “exempt any person, class of persons, public entity, information, record, or thing from the application of all or any portion of this Act or the regulations.” According to Wildrose Party MLA Rod Fox, “This is the government saying ‘trust us,’ but from the pattern we’ve seen clearly over the past year, we can’t” (quoted in Byfield 2013). One of Alberta’s most famous whistle-blowers, Liberal MLA Dr. David Swann, cited his own case (that of going public with his concerns over climate change and air pollution) as an example of a situation that would not be helped by the new law (Larson 2012). Similarly, the nonprofit organization Federal Accountability Initiative for Reform (FAIR) issued a scathing report of both Canada’s and Alberta’s whistle-blowing legislation. The report’s author says the new Alberta legislation “has fallen far short of the government’s claims by ignoring modern best practice, copying outdated legislation from other provinces, and adding regressive measures that render the law essentially worthless” (Hutton 2013, 12).

Whistle-blowing often involves the reporting of conflict of interest; these matters fall under the jurisdiction of the Ethics Commissioner. In Alberta, many critics both within and outside the legislature have called for this legislative office to be abolished because of its ineffectiveness (Marsden 2013). Since the creation of the Ethics Office in 1982, there have been three commissioners. The first two commissioners appointed by the PC government were former Social Credit MLAs. In contrast, the third commissioner, appointed in 2003, has strong ties to the governing party. While the two previous commissioners conducted twenty-one investigations between 1993 and 2007, the commissioners have never imposed sanctions. More pointed criticism, however, is directed at the third commissioner, Neil Wilkinson. A newspaper columnist dubbed him

The criticism of Wilkinson began with his appointment. A former chair of the now defunct Capital Health Region, Wilkinson was appointed as commissioner shortly after his previous job (to which he was appointed by the PC government) was abolished. Two opposition members of the all-party committee that appointed Wilkinson had serious misgivings about his selection. MLA Laurie Blakeman reported that the previous appointment committee she had sat on had sought an appointment with whom all MLAs would be comfortable. Blakeman not only voted against the appointment, but she made an impassioned speech to the legislature underscoring her concerns about Wilkinson’s close ties to the PC Party: “I need to believe as a member of this Assembly, that I will be treated the same as any other member would be. I do not have that faith in this particular circumstance, and I’m saddened by that” (Alberta, Legislative Assembly 2008, 1518). Other critics pointed to Wilkinson’s lack of ethical, legal, and financial experience. Rachel Notley, then an opposition MLA, noted that “based on the criteria we had set out . . . he was not anywhere close to being at the top of my list in terms of the person that was most qualified” (Alberta, Legislative Assembly 2008, 1522).

Criticism of the commissioner’s bias ramped up after he took office. The most notable concern was Wilkinson’s investigation of a former cabinet minister who was appointed, shortly after he was defeated in the 2012 provincial election, to the department that he had overseen as a minister. PC MLA Evan Berger had served one term, including five months as the minister of Agriculture; soon after his failed attempt at re-election, he was appointed an advisor to the deputy minister who had served under him. Normally, ministers are required to observe a one-year “cooling-off” period before they have dealings with the departments with which they were involved during their years in government. As Don Braid (2012) from the Calgary Herald quipped, “I can’t recall another case of a defeated minister being directly hired by his own department while his office chair was still spinning.” When this appointment was investigated by Wilkinson, he concluded that Section 31 of the Conflict of Interest Act that prohibits activity that might “create a conflict between a private interest of the former minister and the public interest” did not apply in this case because the hiring had occurred “within the family, the government family. . . . They can move within the government family. In the family there’s no information to share. They know it all” (Bell 2012). While the former minister would have
had to wait a year before being hired by a private sector firm in a position that involved his old department, there was no prohibition on him being hired by his own department during that time.

Braid (2012) complained that this decision followed a familiar pattern; he also noted that the commissioner had not produced a single ethics investigation report since taking office. Opposition critic Shayne Saskiw, a Wildrose MLA, put it more bluntly:

The problem here is we don’t have anyone who is independent or non-partisan because this PC government sets up a system where you basically have to be their lapdog. . . .

He [Wilkinson] considers himself and (Conservative) MLAs to be insiders who are family.

He is obviously not committed to upholding the separation between government and political parties, which is fundamental to parliament democracy, and he seems to believe as long as you’re family you can do no wrong, so what else is he turning a blind eye to? (quoted in Dormer 2012)

While it could be argued that appointing a minister familiar with departmental issues and operations is efficient, the fact that the government did not anticipate or, at the very least, was not worried about the fallout from this symbolically nepotistic appointment speaks to its seeming invisibility.

A subsequent ruling created yet more controversy when Wilkinson found that PC MLA Peter Sandhu had violated conflict-of-interest guidelines by failing to disclose six lawsuits against his home-building company. Sandhu subsequently lobbied bureaucrats and politicians for legislative changes to the Alberta Builders’ Lien Act (Rusnell and Russell 2013). Wilkinson refrained from sanctioning Sandhu. When Wildrose MLA Rob Anderson described legislative officers in the Commonwealth as “corrupt,” Wilkinson lashed out at critics of his decision in the legislature, describing those types of comments as “hurtful” (Henton 2013). While Anderson later apologized for his remarks, it is useful to recall that the word corruption can be used to describe both illegal activities and systemic dysfunctions that cause some interests to be privileged over others. From this perspective, Anderson’s charge of corruption may have been well founded.

Wilkinson’s last investigation, the so-called Tobaccogate affair, also ignited heated debate. It revolved around the government’s decision to give Premier Redford’s ex-husband’s law firm a contract to pursue a $10 billion legal action against tobacco companies. Redford had vacated the post of Justice minister
shortly before the decision was taken. The Redford government successfully resisted efforts by Wilkinson to read a briefing note that would have shed light on the premier’s role in the decision, claiming that making the contents public could damage the lawsuit. Moreover, Redford had written a communication to other government members the previous year while she was in the Justice portfolio saying that “the best choice for Alberta will be the International Tobacco Recovery Lawyers.” Nonetheless, Wilkinson did not feel that Redford’s activities constituted a conflict of interest. He ruled: “There is absolutely no evidence, nor even a suggestion, that the decision to engage ITRL on the tobacco litigation furthered, or might further, the private interest of Premier Redford, her spouse, or that of her minor child” (Alberta, Office of the Ethics Commissioner, 2013, 15). While Don Braid was more charitable than most critics in suggesting that an “error in political judgment did not prove a failure either of ethics or honesty,” he mused that “perhaps she failed to see, like so many of ex-premier Ed Stelmach’s crew, that the cosy old Alberta PC world was already wheezing and dying” (Braid 2013).

The suggestion that the Alberta PC Party was dying—or, indeed, even wheezing—was debatable prior to the election of 2015. But the bad optics of this situation once again underscore that long-serving governments that do not spend time on the opposition benches have little incentive to put much energy into creating institutions and practices that promote accountability beyond the symbolic level. The suspicion that the PC government has much to hide and little interest in transparency was underscored shortly after the 2015 election by whistle-blowers from within the public service. They complained to the Public Interest Commissioner and to the Information and Privacy Commissioner that ministerial documents were being illegally destroyed and that streams of shredded paper were flowing out of the legislature beginning the morning after the election (Giovannetti 2015). Indeed, in Alberta, it appears that, contrary to the tenets of NPM, the reflexive instinct is to centralize, control, and act upon information that is kept out of public forums where actions or policy can be debated. Governments that have been under the control of one party for extended periods of time are particularly vulnerable to this form of democratic dysfunction.
Changing existing ideas about what is in the public’s best interest and who is its champion is not unique to Alberta or to Canada. Not only do economic power and governance flow across sovereign boundaries in a globalized world; so, too, do ideas about leaving accountability to market forces. For decades, market efficiency was offered as a solution to political and administrative inefficiencies, including their extreme form—corruption. Democratic nation-states are increasingly unable to regulate global capital markets; if market accountability trumps political accountability, this is not seen as a problem. But as the 2008 financial crisis demonstrates, it is not only accountability within the market that is critical: so is accountability of the market. Actors who enter and exit contracts maintain accountability within the marketplace. Governments were compelled to intervene in 2008 because the scale of actors exiting the market created devastating social and political effects. As Borowiak (2011, 128) argues, “Proposals for enhanced government oversight can be seen as attempts to save the market system by re-embedding market accountability with the structures of political accountability.” No one really anticipated the demise of the PC government in the 2015 election, despite the fact that Albertans consistently complained about government arrogance and polls accurately predicted that the NDP would win the election. The assumption was that, as Canada’s “most conservative” province, Alberta had so firmly embraced neoliberal logic that very little appetite existed for demanding political accountability to citizens through the election of a left-leaning government. As such, even those critics who were most optimistic about citizen agency predicted that the inadequacies of market accountability would continue to allow political agency and administrative authority to be used for the short-term interests of the dominant industry rather than the pursuit of long-term collective goals.

While Alberta’s PC government could point to such new positions as the associate minister of Accountability, Transparency, and Transformation as evidence of its commitment to accountability, its record was questionable with respect to providing access to information, providing an environment for legislative officers that would encourage scrutiny, and separating the public interest from political and economic interests. Like the Social Credit before it, these new positions reflected a desire to refresh a dated image rather than commitment to serious change. The government’s complacency was largely due to the longevity of its regime, which resulted in the conflation of the interests of the
governing party with that of the government. The lack of electoral risk over an extended period allowed the state to diminish accountability regimes and control public perceptions of its performance through various political and administrative mechanisms. While this trend is arguably independent of the oil economy, it is certainly symptomatic of a resource- or staples-based economy.

The adoption of the neoliberal features of NPM exacerbated problems of accountability in the public service through the out-sourcing of public services, taking them out of the jurisdiction of legislative oversight. Government spending cuts also resulted in the downsizing of the government’s intellectual capital that has traditionally produced fulsome public debate about policy direction. Without this, governments ceded control of the definition of the public interest to private sector interests. Encouraging publicly funded academics to seek private sector funds to undertake research that could serve commercial ends exacerbated the influence of the private sector in defining the public interest.

These trends combine to produce a politicized public service where policy emanated from the PC executive with little regard for input from public servants, legislative officers, opposition MLAs, or the public. The dominance of PC members on the all-party committee that oversees these officers promoted circumspect oversight of political and administrative activities; robust debate was not encouraged, dissenting voices were ignored. Electoral success and a strong oil-based economy gave the governing party the legitimacy to claim that its neoliberal logic is effective in promoting the public interest. Moreover, the business government tradition in Alberta legitimized the PC government both defining the public interest and executing policy to support it; the public interest was defined in market terms with reference to the commodity producers that fuel the economy. In twenty-first-century Alberta, there can be no doubt that the most important commodity is oil and that the interests of the oil industry are often conflated with the public interest. The oil economy creates great wealth but has a dark underbelly that is giving rise to troubling political and income inequality. While other chapters in this book discuss the problem of regulatory capture by industry, this chapter applies the concept of regulatory capture to the public service; institutional structures that are supposed to be apolitical identify closely with the interests of the PC Party. When the dominance of the governing party in both the administrative and political arms of government is combined with the dominance of one industry in the economy, accountability suffers and democracy is diminished. Whether a new government without strong ties to corporate interests will be able to chart a new course
for Alberta remains to be seen. What is certain, however, is that, with a change in government after almost forty-four years, there is hope for the health of democracy in Alberta.

Notes

1 In 1967, Alberta became the third jurisdiction in the world to establish an administrative Ombudsman, and it established an access-to-information regime a decade before the United Kingdom, Switzerland, and Germany. While provinces in Canada followed Alberta’s lead, the federal government still remains without an Ombuds office. (“Ombuds” has been proposed as a gender-neutral alternative to “Ombudsman.” I use the latter when referring to the Alberta office.)

2 For example, a study of Atlantic Canadian retail gasoline price ceilings found that price ceilings were enacted to protect the public. However, these price ceilings became “focal points” that allowed gasoline companies to collude in order to sell their products at high prices (Sen, Clemente, and Jonker 2011, 534). This type of corruption in a Global North economy is not captured in the UN Convention Against Corruption or in the various corruption indices.

3 The best example of this phenomenon is the election in 1940. Liberals, Progressive Conservatives, and the United Farmers of Alberta worked together under the banner of the “independent movement” to run only one candidate against the Social Credit candidate in individual ridings. This resulted in a very close election, although this is not reflected in the seats awarded: the Social Credit captured 42.90% of the popular vote and the Independents 42.47%, with 11.11% going to the Co-operative Commonwealth Federation (CCF). The remaining 3.52% of the popular vote was divided among eight other parties (Elections Alberta 2015a). These shares of the popular vote translated into thirty-six seats for the Social Credit but only nineteen for the Independents, one each for the Liberal and Labour parties, with the CCF and the other parties shut out completely (Elections Alberta 2015b). Even though more people in Alberta voted against the Social Credit by a significant margin, the result was a Social Credit government with a strong majority.

4 The 2015 election was an anomaly in that the left-leaning NDP won in many rural northern constituencies (Elections Alberta 2015d).

5 Voter turnout in Alberta general elections steadily decreased between 1993 and 2008, from 60.2 percent to 40.6 percent (Elections Alberta 2015c), although it rebounded in 2012 to 54.4 percent, probably in the face of the threat posed by the Wildrose Party. Despite the fact that, in 2008, only 501,063 people—out of a provincial population approaching 3.6 million at the time (Alberta, Treasury Board and Finance 2013)—actually cast a ballet in support of the PCs, and despite the fact that the party’s share of the vote declined from 52.72 percent in that year to 43.97 in 2012 (Elections Alberta 2015a), party leaders continued to assume that their policies reflected the will of the people.
The use of government planes would come to the fore again in 2014, culminating in the resignation of the premier halfway through her tenure and a pledge from the new premier to sell off the fleet of planes.

Corporate donations became a campaign issue in 2015, with both the Wildrose and the NDP parties promising that if they were elected, they would prohibit donations to political parties from corporations and unions. Shortly after being elected to office, the NDP made good on this promise.

Some of the notable public sector whistle-blowers in Alberta include Dr. John O’Connor, who raised concerns about the incidence of cancer downstream from the bitumen sands, former MLA Dr. Raj Sherman, who leaked information to the media about poor emergency room patient outcomes, and Health Canada’s Steven Villebrun, who exposed the misuse of public funds (Hutton 2013, 20).

It is noteworthy that in 2013, the Government of Alberta spent $1.7 million of public money promoting its “Building Alberta” brand on such things as roadside signs—which featured the name of Alison Redford, premier at the time, and the PC Party colours (Wood 2014).

References

Alberta. Enterprise and Advanced Education. 2013. “Letter of Expectation Between the Minister of Alberta Enterprise and Advanced Education (as Representative of the Government of Alberta) and the Board of Governors of the University of Calgary (as Representative of the University of Calgary).” http://eae.alberta.ca/media/letters/U-of-C.pdf.


Blurring the Boundaries of Private, Partisan, and Public Interests


doi:10.15215/aupress/9781771990295.01


———. 2013. “Edmonton Mayor Calls Cuts to Universities ‘Short-Term Thinking.’” *Globe and Mail,* 2 April.