

Constitution and precedent are on coalition's side [CA] ^[1]

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EXCERPTS

As Canadians live through the current political uproar in Ottawa it is important that they understand the constitutional rules of our parliamentary democracy.

The first rule is that when we hold an election we do not directly elect a prime minister. We elect a House of Commons. It is this elected chamber of Parliament that decides who governs the country.

The second rule of parliamentary government is that it is the leaders of the party or coalition of parties that have the confidence of a majority in the House of Commons who have the right to govern.

Immediately after an election the incumbent prime minister remains in office no matter how badly he or she may have done at the polls. In 1993, Kim Campbell was still prime minister of Canada even though she her party had elected only two MPs. It was obvious that a Campbell Conservative government would not have the confidence of the newly elected House of Commons so she tendered her resignation to the Governor General. The Governor General then called on Jean Chrétien, whose Liberal party had won a majority of seats in the House of Commons, to form a government.

The situation is not always so clear. After the 1985 provincial election in Ontario, the incumbent premier, Frank Miller, whose Conservatives had won the most seats but were nonetheless in a minority position in the Legislative Assembly, formed a government and prepared to meet the newly elected Legislature. But when it became clear that Liberal Leader David Peterson and NDP Leader Bob Rae, whose parties between them had a majority in the Legislature, had signed an agreement whereby the NDP for two years would support a Liberal minority government so long as it pursued certain legislative priorities, Miller submitted his government's resignation to the Lieutenant Governor.

These precedents and many, many others illustrate the basic point that in parliamentary democracies we elect parliaments not prime ministers, and that the Governor General (or the presidential head of state in a republican parliamentary system) must be advised by ministers who are supported by a majority in the elected house of parliament.

Now let's apply these rules of parliamentary democracy to the situation Canada now faces. After the Oct. 14 election, Stephen Harper remained Prime Minister, formed a new government and prepared to face the House. Although his party had improved its seat total it was still in a minority position in the House. This meant that to continue in office Harper would have to win enough support from the opposition benches to secure the confidence of the House.

For a few days it appeared that Harper would reach out in a conciliatory manner and garner the parliamentary support he needs in order to have the right to govern.

But, to put it mildly, on Nov. 27 just a few days into the session, through his finance minister's economic update, he made an abrupt U-turn. Instead of seeking support from the opposition, his government presented an in-your-face, take-it-or-leave-it position.

The opposition parties & all three of them & decided not to take it. Instead, they announced that they would use their collective majority in the House to vote no confidence in the Harper government and support an alternative coalition government.

The no-confidence vote is to take place next Monday. If the government loses that vote, the rules of parliamentary democracy give Harper two options. He can tender his government's resignation to the Governor General and clear the way for Madame Jean to ask Stéphane Dion to form a Liberal-NDP coalition government. Or he can ask the Governor General to dissolve the 40th Parliament so that we can elect the 41st Parliament.

The first option & resignation & would be entirely constitutional. It involves no "usurpation" of power but is an honourable way out of the present impasse.

If Harper were to take the second option, the Governor General would have to consider carefully whether to grant his request for a

dissolution. Her primary concern must be to protect parliamentary democracy. A steady diet of elections & four in four years & is not healthy for parliamentary democracy.

If there is an alternative government available that has a reasonable prospect of being supported for a period of time by a majority in the House of Commons, she would have reason to decline Harper's request. Harper would then have to resign, and the Governor General would commission Dion to form a government.

If this happens, again there would be no "usurpation" of power but a proper application of the rules and principles of parliamentary democracy. It has been very disturbing to hear over the last few days, from people who should know better, wild unparliamentary theories about our system of government. Elections are not simple popularity contests in which the leader whose party garners the most votes gets all the power.

I am greatly concerned that there is so little public knowledge of the constitutional rules that govern our parliamentary system of government. These rules are not formally written down in a legal text or taught in our schools. Maybe the most important lesson to take from the situation we are now living through is to begin to codify as much as we can of this "unwritten" part of our Constitution and to ensure that it is well taught in our schools.

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