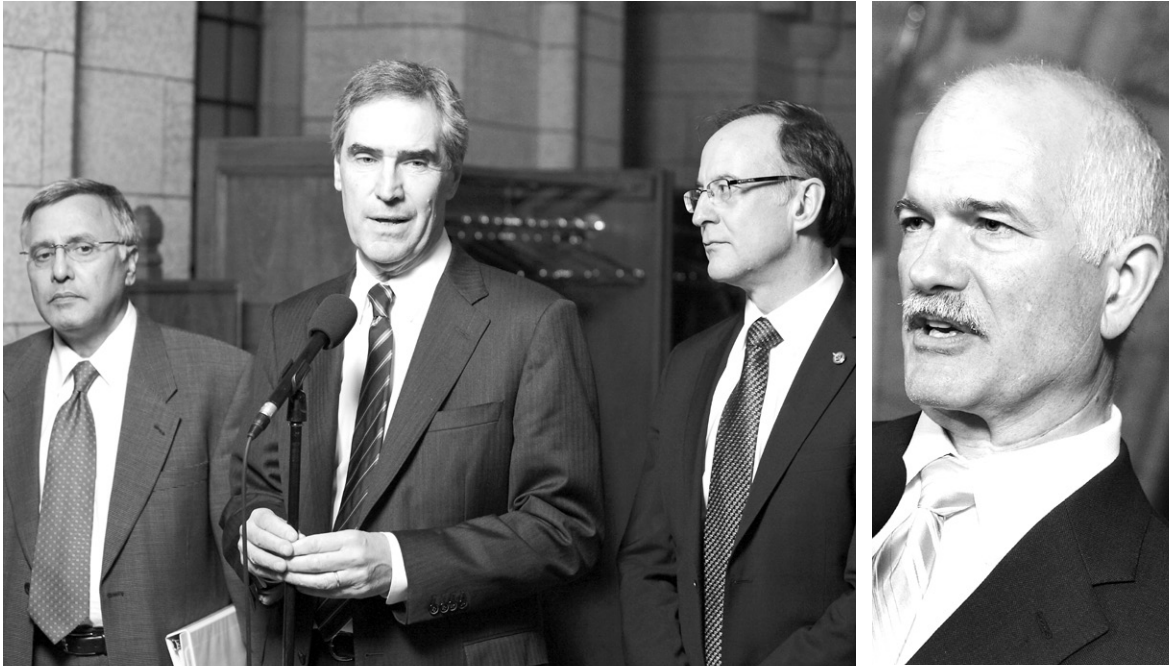


NEWS: PROROGATION



Photographs by Jake Wright, The Hill Times

Prorogation politics: Liberal Leader Michael Ignatieff, pictured with Liberal MPs Ujjal Dosanjh and Rob Oliphant last week on the Hill; NDP Leader Jack Layton. The parties are working together to change the rules on prorogation.

Grits, NDP working together try to change prorogation rules

Democratic Reform Minister Steven Fletcher calls prorogation controversy 'inside baseball.'

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reform critics met in Grit House Leader Ralph Goodale's (Wascana, Sask.) office to discuss plans to either table legislation, or change the Standing Orders in the House of Commons to limit the Prime Minister's ability to prorogue Parliament. Also in attendance were Liberal democratic reform critic Marlene Jennings (Notre-Dame-de-Grâce-Lachine, Que.), her NDP counterpart David Christopherson (Hamilton Centre, Ont.), and NDP House Leader Libby Davies (Vancouver East, B.C.).

Currently, if the Prime Minister wants to prorogue Parliament all he has to do is ask the Governor General, who by convention is obliged to heed his advice. The opposition parties' proposal would require a Prime Minister to give advance notice of his intent to suspend Parliament and would seek a full debate on the issue, which would then be voted on in the House of Commons. It would also prevent a Prime Minister from proroguing to avoid a confidence vote.

They acknowledge that in order for their initiative to be legally binding it would require changing the constitution, an arduous process that would need the consent of the provinces. But they say that although any law would not withstand a court challenge, if it were adhered to for long enough the combination of convention and political pressure would effectively accomplish the same thing. The other option is to put forward a motion to change the Standing Orders, the rules that govern the House of Commons.

But Mr. Fletcher (Charles-St. James-Assiniboia, Man.) said the government's position is that prorogation, which has been used 105 times since Confederation, is a legitimate power and therefore the Con-

servatives will oppose any proposals to change the rules around the Prime Minister's power to prorogue.

"This is just some theatrics by the opposition parties and it is a valuable Parliamentary convention and it prevented the catastrophic coalition of the Bloc, the Liberals, and the NDP. So no, the government will not support something like that because it just goes against hundreds of years of tradition," Mr. Fletcher said.

Prime Minister Stephen Harper (Calgary Southwest, Alta.) prorogued Parliament last year to escape a confidence vote on which his government would have been defeated, which depending on the Governor General's decision would have led to either an election or a coalition Liberal-NDP government propped up by the Bloc Québécois. Then on Dec. 30, under much less dramatic circumstances, Mr. Harper prorogued Parliament again; critics say to escape scrutiny on the Afghan detainee issue.

The last time the Prime Minister prorogued Parliament public opinion was on his side, with Facebook groups and rallies popping up across the country to protest the prospect of a coalition government led by former Liberal leader Stéphane Dion (Saint-Laurent-Cartierville, Que.). This time, however, the prorogation has been political poison for Mr. Harper; in addition to mass public protests on Jan. 23, the Conservative lead over the official opposition Liberals has completely evaporated and the two parties are now neck-and-neck.

Mr. Christopherson said he thinks the public's reaction to the suspension of Parliament will be what makes the law stick in the long run.

"If a Prime Minister is hell-bound for leather that they're going to ignore all the rules constitutionally we may not be able to stop

them, but the Speaker of the House ultimately finding a Prime Minister in contempt of their own Parliament is a public relations nightmare. And at the end of the day in democracy the other court of final opinion after the Supreme Court is still the Canadian public," he said.

University of Toronto political science Professor Nelson Wiseman, author of the book *In Search of Canadian Political Culture*, said if the opposition parties' proposal was passed into law and is then adhered to in Parliament then it would have teeth. He noted that in British Columbia the prerogative of the premier to ask the Lieutenant Governor to call an election is still constitutionally enshrined, but because the province has adhered to its fixed election date law for two elections now it would be politically detrimental for him to call a snap election.

Prof. Wiseman said he is skeptical this would be the case at the federal level, however, because the opposition parties "rolled over" when Prime Minister Harper ignored his own fixed election date law by asking the Governor General to dissolve Parliament in 2008. Citizens' organization Democracy Watch subsequently took the federal government to court over the matter, however the judge ruled that the Constitution trumped the law.

Prof. Wiseman said getting a law passed, or changing the Standing Orders, or the House rules, would just be the first step to changing the way that a Prime Minister goes about proroguing Parliament. In order for it to work it would require sustained political commitment by the political parties.

"This is just pandering to the current reaction. ... The leaders and the parties have to commit themselves, but what evidence is there that they're willing to?"

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OPINION: ANTI-SEMITISM

MPs shouldn't throw out the civil liberties baby in effort to eliminate anti-Semitism racist bathwater

The B.C. Civil Liberties Association is skeptical about whether the focus of these hearings on hate speech laws represents a useful step toward the dual and related goals of fighting racism and defending civil liberties. These goals, we believe, ought to be advanced together.

By TOM SANDBORN

VANCOUVER—Some Canadian Parliamentarians have recently joined an informal grouping of legislators engaged in an international campaign to combat anti-Semitism. Further to that absolutely worthy end, the Canadian Parliamentary Coalition to Combat Anti-Semitism is holding hearings in Ottawa. Part of their exercise aims at tightening up our nation's existing hate speech laws (<http://www.cpcca.ca/>).

The B.C. Civil Liberties Association (www.bccla.org) is unequivocal in its denunciation of anti-Semitism and other forms of racism. But we are skeptical about whether the focus of these hearings (which are not an official government of Canada enterprise) on hate speech laws represents a useful step toward the dual and related goals of fighting racism and defending civil liberties. These goals, we believe, ought to be advanced together.

Too often, in our view, legitimate revulsion against the vile effusions of modern anti-Semites is yoked with calls for censorship. Yet censorship weakens Canadian freedoms without reducing public attention to racist views and rhetoric.

It is often pointed out, correctly, that the United Nations Universal Declaration of Human Rights in 1948—and even the formation of the United Nations itself—was largely inspired by a world-wide revulsion at the crimes of the Holocaust, and a global determination that nothing like them must ever be permitted to happen again.

No sane mind can be in doubt of the central facts: about six million Jews were systematically sought out by the Nazi regime, and methodically murdered in ways that multiplied the horror of the crime.

All decent people agree on the noxiousness of anti-Semitism. But reasonable and decent citizens can and do differ about what the law should do about it. The pre-Nazi Weimar regime in Germany, for example, took the approach many favour today—legal sanctions against racist publications. Tragically, that tactic did not prevent the rise of Nazi power or the nightmare of the Holocaust. Nor, in our respectful submission, can similar censorship attempts today create safety for targeted groups

through legal restrictions on racist speech.

The CPCCA adopts a definition of anti-Semitism from parallel efforts in England. They argue that there has been a marked increase in anti-Semitic events both in Europe and North America recently. The definition of anti-Semitism from the London Declaration that reads, in part, "We are alarmed at the resurrection of the old language of prejudice and its modern manifestations—in rhetoric and political action—against Jews, Jewish belief and practice and the State of Israel."

The B.C. Civil Liberties Association has long argued against "hate speech" laws, which do more to damage democratic debate than they do to protect those vulnerable to the acts of bigots. The definition employed by the CPCCA suggests the possibility that strong or even offensive speech could be made illegal because it was construed as criticizing the state of Israel or its policies. Yet that speech is clearly protected by the Charter of Rights. Despite protests by the CPCCA that it does not intend to outlaw "legitimate" criticisms of Israel or Israeli policy, there is reason to be very cautious about throwing out the civil liberties baby when trying to eliminate the racist bathwater.

Having government determine what is "legitimate" and what is not, rather than leaving that to the sound judgment of the Canadian public, smacks of paternalism.

It is laudable that a group of Canadian Parliamentarians are trying to address the complex issues of anti-Semitism. But the BCCLA urges those Parliamentarians not to repeat the mistakes of the past. We can best defeat racism by actively promoting better arguments in favour of racial amity, not by enlisting the state to shut up those we fear. Our association has asked to appear before the CPCCA to outline these views. It is unclear whether we will be given that opportunity. However, we believe all Canadians should engage in this important debate, and offer this essay as a small contribution to that larger end.

Tom Sandborn is a member of the executive board of directors B.C. Civil Liberties Association.
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