

## PM'S USE OF PARLIAMENTARY PROROGATION CHARTS NEW TERRITORY

The Prime Minister's actions risk setting a precedent that weakens an important condition of democratic government, say academics.

By Cynthia Münster

Prime Minister Stephen Harper has stepped into new territory with the use of prorogation as a tool of avoidance, says Ned Franks, one of the country's leading experts on the role of Parliament.

"The interesting thing to me is that Harper has gone into new territory with the use of prorogation and what often happens with these things is once somebody does it, somebody else does it too, I can see that happening," said Prof. Franks.

In a CBC interview Mr. Harper said the reason for prorogation is "to recalibrate" the government's agenda and described it as a "fairly standard procedure." He has said that the government is focusing on the upcoming budget and Throne Speech.

On Dec. 30 of 2009 Mr. Harper (Calgary Southwest, Alta.) telephoned Michaëlle Jean and requested the Governor General to prorogue Parliament until March 3, 2010. Mr. Harper is expected to appoint five new Senators before Parliament returns, and in addition to approving legislation supported by the Conservative caucus in the House of Commons, the government is also hoping that having a majority in the Upper Chamber will help bring about Senate reform. Prorogation means Senate committees will be reset, allowing the government to capitalize on its Senate majority.

Prof. Franks, a retired Queen's University political science professor, said that beyond the concerns over this use of prorogation, he has some overarching concerns about Parliament and the ability of people working in it to get work done.

The calendar allows for up to 135 sitting days in Parliament, about 20 per cent less than the British Parliament's 160 days. But more often than not, our Parliament "doesn't sit as many days as even its minimalist calendar says it should," getting closer to 100 days a year, said Mr. Franks. Only 30 per cent of government legislation is getting through in a year, said Mr. Franks, partly because of it being a minority government and opposition delaying it, however, prorogations re-setting the agenda don't help either. He pointed out that 80 to 90 per cent of the British government's bills get through in a year.

Furthermore, Mr. Franks said that "committees have become battlegrounds instead of useful instruments in examining issues in a bipartisan and if not non-partisan manner." He said Question Period has lost its value and has become "a nasty and

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trivializing experience,” and debates on legislation are so uninteresting that they’re never or very rarely reported in the media. This all leads to a lack of interest in Parliament as an institution and a devaluation of its purpose.

However, Donald Savoie, a professor at the University of Moncton and an expert on the machinery of government, who has been very critical of the centralization of powers in the Office of the Prime Minister that has occurred over the last decades in Canada, recently told *The Globe and Mail* that the government does need “a fundamental rethink” right now so it makes sense for Mr. Harper to prorogue Parliament.

“The issue is much broader and more serious. Harper did what the Constitution allows him to do and what prime ministers would likely do under similar circumstances,” Prof. Savoie told *The Globe and Mail*.

Last week three polls showed the prorogation decision wasn’t sitting well with Canadians and that Mr. Harper and his party’s popularity dropped accordingly.

A Canadian Press Harris-Decima survey released on Thursday showed Mr. Harper’s popularity dropping seven points since last November to 44 per cent, EKOS released a poll on Thursday that had the Tories at 30.9 per cent support and the Liberals at 29.3 per cent support (the poll had a 1.7 per cent margin of error) and a Strategic Counsel poll released on Wednesday had the Tories at 31 per cent support, 10 points down from October and also at a margin of error (2.3 per cent for this poll) difference with the Liberals’ 30 per cent support.

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Last week, more than 175 political scientists signed an open letter condemning the Prime Minister’s use of prorogation as a tool to “evade democratic accountability” for the second year in a row.

The letter describes Mr. Harper’s request for prorogation as “nakedly partisan” as it was used to avoid defeat in a confidence motion in December 2008, and again this time, when it effectively annulled the work of the Parliamentary committee that was looking into the issues of whether Afghan detainees handled by the Canadian Forces had been tortured at the hands of Afghan authorities.

“Given the short-term, tactical, and partisan purposes served by prorogation, and given the absence of any plausible public purpose served by it, we conclude that the Prime Minister has violated the trust of Parliament and of the Canadian people. We emphasize moreover that the violation of this trust strikes at the heart of our system of government, which relies upon the use of discretionary powers for the public good rather than merely for partisan purposes,” stated the letter.

“The Prime Minister’s actions risk setting a precedent that weakens an important condition of democratic government—the ability of the people, acting through their elected representatives, to hold the government accountable for its actions.”

The government introduced 70 bills in the last session of Parliament, and passed 34, meaning 36 bills, including much of the Tories' crime and justice legislation and free trade agreements with Colombia and Jordan, died on the Order Paper.

The government could introduce a motion to restart its legislative agenda right where it left off but the opposition may not support that. They may vote to take up previous work on legislation and committee work on a piece-by-piece manner, said Mr. Franks.