

COMMONS IN CHAOS

Deadlock is not a crisis, experts say

Clarkson's intervention unlikely, professor says

BY GLEN MCGREGOR
AND JOANNE LAUCIUS

Despite a request from Conservative leader Stephen Harper, Gov. Gen. Adrienne Clarkson is unlikely to intervene in the dispute over confidence that is gripping Parliament, says a leading constitutional expert.

Mr. Harper yesterday suggested that unless the government resigns or the Governor General steps in, his party will continue to vote to adjourn the House of Commons, as it has done the past two days.

The work stoppage "could go on until the government or the Governor General is forced to admit that the government's lost its mandate to govern the country," Mr. Harper told reporters after the adjournment vote.

But such a move by a governor general would be without precedent. By tradition, he or she acts only on the advice of the prime minister, says Edward Ratushny, a law professor at the University of Ottawa.

"It would be a remarkable thing for her to step in and call an election," Mr. Ratushny said. "It's almost inappropriate for Harper to suggest that."

Madame Clarkson is watching the developments in the House closely, however, and has been consulting with her own handpicked team of constitutional experts.

There were reports that Madame Clarkson met with the prime minister this week, although the Prime Minister's Office would say only that the two regularly discuss Madame Clarkson's schedule.

There has been a marked increase in communication with these advisers in recent days, according to a Rideau Hall insider, but no sign that she is about to intervene.

If Prime Minister Paul Martin believes his government has lost the confidence of the House, he would visit Rideau Hall and ask the Governor General to dissolve Parliament. But if Mr. Harper visited Madame Clarkson with the same request, as has been suggested, she would meet with him only as a courtesy, if at all,



The political bickering that has shut down business on Parliament Hill for two days pales in comparison to the strife that plagues other countries, says political science professor Edward McWhinney. 'We're at an impasse,' he says. 'We're not at war with anyone.'

Mr. Ratushny said.

"There's no reason for her to see him. If she wanted to be polite and see him, she could say 'thank you very much' and send him on his way."

Only once in Canadian history has a governor general declined to act on a prime minister's advice.

In 1926, Liberal Prime Minister Mackenzie King asked Lord Byng, the governor general, to dissolve Parliament and call an election. But Byng refused, and when King resigned his government, Byng instead asked Arthur Meighen, leader of the Conservative party, to govern. The Meighen government collapsed shortly after and King was returned to power in a general election.

The King-Byng affair is unlikely to be repeated, however, as Mr. Harper shows no sign of being able to form a government with the 99 seats his party holds.

"Harper has been so vocifer-

ous in insisting on an election," Mr. Ratushny said. "He has never, ever suggested that they should be allowed to govern. I don't see that happening."

There have been similar situations in other constitutional monarchies, most notably in 1975, when Australia's parliament was log-jammed over a corruption scandal and the Senate refused to pass the government's budget bill.

Governor general John Kerr dismissed Australian Labour Party prime minister Gough Whitlam, and made Malcolm Fraser, leader of the Liberal Party, a "caretaker" prime minister.

His appointment lasted just under two hours — long enough for the Senate to pass the budget before the government fell in a confidence vote. Mr. Fraser won a majority government in the following election.

Meanwhile, constitutional experts say that while recent events on Parliament Hill may

be attention-grabbers, there's no suggestion that it adds up to a constitutional crisis.

"We're at an impasse. We're not at war with anyone. The economy is booming," said Edward McWhinney, a lawyer and political scientist who was a Liberal MP for Vancouver-Quadra for two terms in the 1990s.

"The country will stagger on. We don't have civil wars," he said. "We're not in Iraq and everyone seems happy with that. Where is the crisis? Public reaction has been more along the lines of a plague-on-both-your-houses."

He believes that even if there is another minority government, the impasse will end.

"If people get so angry that they decide to vote, I think there will be a clearing of the air."

Errol Mendes, a professor of constitutional and international law at the University of Ottawa and the editor-in-chief of

the *National Journal of Constitutional Law*, said the next week will be one of "a tempest in a very small teapot."

The situation would be a crisis only if the government refused to have a confidence vote, said Patrick Monahan, dean at Osgoode Hall Law School at York University. But in this case, a limit has already been set and the matter will be settled next Thursday.

"From time to time there are battles and deadlocks. We have a clear way to resolve this. If Martin loses the vote, he is going to resign."

But recent events have not been without fallout, said Mr. Mendes. That includes eroding respect for politics.

"This country needs the best and the brightest to lead this nation," he said. "The young have already turned off. I don't see them getting interested in politics."

WITH FILES FROM THE CANADIAN PRESS

Human trafficking bill reaches House

Justice Minister Irwin Cotler finally succeeded yesterday in tabling a bill prohibiting human trafficking that has the support in principle of all political parties, but which might not survive in the contentious atmosphere on Parliament Hill that is making a federal election appear likelier by the day. The bill proposes amendments to the Criminal Code that would prohibit human trafficking, prohibit benefiting from such trafficking and prohibit the withholding or destroying of identity, travel or immigration documents to facilitate trafficking. "What we are dealing with here," Mr. Cotler said later at a news conference, "is what might be called the new global slave trade." Mr. Cotler cited United Nations figures estimating 1.2 million children are trafficked each year and RCMP data suggesting about 800 people come to Canada annually through trafficking.

Commons paralysis bad news for birds

Add hundreds of thousands of sea birds to the potential casualties of the current mess in Parliament. Tommy Banks, Liberal chairman of the Senate environment committee, has rebuffed pleas from environmentalists to fast-track a bill that would protect sea birds from oil pollution. The bill, probably the most significant environmental legislation of the current Parliamentary session, would die if the government falls next week. A previous version died with the last election call.

Child-care deal off in New Brunswick

Paul Martin ran into a pre-election snag yesterday as he was forced to cancel a visit to New Brunswick after Premier Bernard Lord said the child-care deal the prime minister had hoped to sign was no longer on the table. Mr. Martin and Social Development Minister Ken Dryden were scheduled to visit Newfoundland and Labrador and New Brunswick today to sign agreements for child-care funding, part of the federal Liberal government's five-year, \$5-billion national child-care plan.

Tories step up fight to stop same-sex marriage bill

MP plots to put an end to 'Las Vegas of the North'

BY TIM NAUMETZ

A Conservative MP described Canada as the new "Las Vegas of the North" for quickie gay marriages yesterday, after a government official disclosed that about 1,000 U.S. gay and lesbian couples have crossed the border into Canada over the past two years to legally wed.

The official, senior Justice Department counsel Lisa Hitch, told a special committee studying the government's same-sex marriage bill that provincial governments estimate about 3,000 gay and lesbian couples have been legally married in Canada since an Ontario court decision legalized gay marriage in the province as of Oct. 10, 2003.

Following the Ontario ruling, seven other provinces and two territories have been forced to recognize gay and lesbian marriages because of similar court rulings, all based on equality provisions of the Charter of Rights and Freedoms.

Only the state of Massachusetts recognizes gay marriage, and U.S. President George W. Bush has expressed support for a constitutional amendment banning same-sex marriage.

Conservative justice critic Vic Toews called for the introduction of residency requirements for civil marriage ceremonies in Canada, in part because Americans who oppose gay marriage want the cross-border marriage traffic to stop.

"My concern is we're being used as the Las Vegas of the North for the gay community," said Mr. Toews. "This simply should not be."

The Manitoba MP, a former provincial attorney general and one-time Crown prosecutor, compared the development to a decades-past trend that had Canadian couples going to Las Vegas for hasty marriages because legal and medical requirements were

not as strict. "These quickie marriages in Las Vegas, guys used to fly down, get that done, guys and gals, and there were concerns in Canada about these kinds of things happening, people were upset that these things could be recognized in Canada," he said. "The Americans now are having the same kind of concerns."

Ms. Hitch said the Justice Department has asked Canadian border officials to warn gay and lesbian couples coming to Canada their unions may not be legally recognized in their home states.

Mr. Toews and Justice Minister Irwin Cotler exchanged barbs during the committee meeting, the first full public session of the special legislative committee since the same-sex legislation, Bill C-38, passed second reading in the House of Commons last week by a 164-137 vote. Thirty-five Liberals sided with the Conservative party to oppose the bill, while the Bloc Québécois and the NDP supported it.

The Conservatives oppose the bill so strongly they exempted the C-38 committee from a boycott of parliamentary business protesting the government's failure to resign over non-confidence in the Commons.

Mr. Toews accused Mr. Cotler of attempting to trick Canadians into believing the bill guarantees churches will not be forced to solemnize gay marriages.

The legislation includes a clause saying freedom of religion provisions in the Charter will allow churches to continue to refuse gay marriages if they wish.

Mr. Toews noted the Supreme Court of Canada ruled marriage is under provincial jurisdiction, and therefore the reference in the federal bill has no legal meaning. "What is being perpetrated here is a fraud on the Canadian people," said Mr. Toews.

Gay marriages are still not legally recognized in Alberta, New Brunswick, Prince Edward Island and the Northwest Territories. The federal bill would change that.

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