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Going to the polls?

Harper threatens snap vote on Violent-crime bill. But Tories' own fixed-election law might handcuff PM's plans

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Prime Minister Stephen Harper is prepared to ask the governor-general to pull the plug on the minority Parliament and trigger a spring election if the Senate does not pass the government's violent-crime bill by March 1.

The House of Commons began debate yesterday on a government motion calling on the Senate to pass the Tackling Violent Crime Act by the start of next month. If the Commons passes the motion and the Senate does not comply, the prime minister could ask Gov.-Gen. Michaëlle Jean to dissolve Parliament, said a Harper spokesperson.

"It's a confidence motion, so that's still an option," said Carolyn Stewart-Olsen, the prime minister's press secretary.

It is the strongest statement yet Harper is willing to force an election if the Senate does not yield to his government's agenda.

But some constitutional experts say such a move would conflict with a federal law passed last year setting fixed-election dates. Under the law, which was introduced by the Harper government, the next federal election is slated for October 2009, unless the opposition parties defeat the government before then.

"One could make a very strong argument to the governor-general to refuse his request because he's violating his own law," said Errol Mendes, a professor of constitutional and international law at the University of Ottawa.

An attempt to force an election would also violate the constitutional principle of Senate independence, Mendes noted. The Commons has no authority to compel the Senate to pass legislation, he said.

"Confidence motions are basically about the government of the day retaining the confidence of the House, not the Senate. It has nothing to do with the Senate, which is why there has never in the history of Canada been a motion such as this."

Government officials beg to differ. Conservative House leader Peter Van Loan has said the fixed-election law doesn't prevent the prime minister from asking the governor-general to dissolve Parliament.

"There is nothing in the law that takes away the Crown's traditional and usual prerogatives on this matter," he told reporters at a news conference to announce the motion last week.

The motion will be put to a vote as early as today, and is expected to pass. If the Senate then refuses to pass the bill by March 1, the two chambers of Parliament would be at a "clear impasse," Van Loan said last week.

It is not unprecedented for the governor-general to refuse a prime minister's request to drop the writ. The most famous case was in 1926, when then-Governor-General Lord Byng refused a request by William Lyon MacKenzie King. Byng instead asked Conservative leader Arthur Meighen to form the government, but Meighen's government was quickly defeated.

But today, some constitutional experts believe Jean would have little choice but to drop the writ if approached by Harper.

"I don't see any constitutional problem at this point in time for the governor-general on the question of dissolving the House," said Ned Franks, professor emeritus of politics at Queen's University in Kingston, Ont. "The Parliament's gone on for two years and, historically, if a minority government has lasted that long, the governor-general doesn't raise any squawks."

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