

# Should the GG be able to fire a PM?

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The prospect of a minority government has many pundits speculating about how the Governor-General might exercise her power.

Will she let Paul Martin hang on or turn to the newcomer, Stephen Harper?

The answer, of course, is that Madame Clarkson should do nothing. As the Queen's representative in Canada, she retains several prerogative powers, but deciding close elections is not among them.

Win, lose or draw, the first decision belongs to Mr. Martin.

Constitutional convention allows him to remain in office if he feels able to command the support of a majority in the House of Commons. His recent statement that the party with the most seats should govern is laudable, but technically incorrect.

Also wrong is the suggestion that the Governor-General will "call upon" Mr. Martin to form a government. It's the United States where a re-elected incumbent must again be sworn in, not here.

Mr. Martin doesn't need to be asked to form a government because he already leads one. His job is not vacant until resignation, death or dismissal. By convention, a prime minister resigns upon defeat in a general election. On the other hand, in a minority situation, even if in second place, the incumbent prime minister has the right to present a Throne Speech and take his chances in the House of Commons.

The Governor-General does not decide who won the election. She possesses a far greater power: the ability to fire a prime minister.

Though rarely exercised, dismissal of the first minister is a royal prerogative now belonging to the Queen's representative in Canada.

Constitutional experts agree this authority still exists and could, in appropriate circumstances, be used.

The "reserve power" to dismiss a prime minister who acts unconstitutionally is supposed to be a last resort to uphold democracy and the Constitution. For example, Her Excellency could fire the Prime Minister if he failed to resign following a clear election defeat, failed to summon Parliament, or refused

## CLARKSON WILL NOT DECIDE

### WHO WON THE ELECTION

to resign or advise dissolution following loss of a confidence vote.

In theory, it should never become necessary to use this authority, which brings with it dismissal of the entire government. In practice, the power to fire a first minister has been used and abused, both in Canada and elsewhere.

It is true that no Canadian governor-general has ever dismissed a prime minister and the last sacking of a British prime minister occurred in 1783 at the hands of mad King George III. However, five provincial premiers have been dismissed by lieutenant-governors. Often the spurious claim was that the government lacked sufficient support in the legislature, when the facts showed otherwise and there was never a vote of non-confidence.

Two modern Australian examples prove the dismissal power remains alive. In 1932, the premier of New South Wales was dismissed because his state government defied federal legislation and pursued an independent, contradictory plan to fight the Depression. Australia's prime minister was dismissed in 1975, during an impasse between the House of Commons and Senate. Each dismissal was probably an overstepping of the governor's authority, but the decisions stood.

Certainly the authority to fire a first minister is on the minds of the vice-regal appointees who possess it today. Two lieutenant-governors mention dismissal on their Web sites. David Lam, the former British Columbia lieutenant-governor, acknowledged he would have dismissed premier Bill Vander Zalm had the latter not resigned over conflict of interest.

What are the implications for Messrs. Martin and Harper? Provided they observe the constitutional conventions, nothing. In grey areas, however, Her Excellency might feel justified in acting.

For example, what happens if Mr. Martin decides to hold on to power but delays in reconvening the House? Upon being reduced to a minority, previous prime ministers have waited two or three months, no longer, to meet Parliament. Should foot-dragging be seen as an attempt to avoid a confidence vote, it could trigger dismissal.

Similarly, the Governor-General could fire a prime minister who had no realistic chance of obtaining the confidence of the House, but nonetheless refused to resign and insisted on facing Parliament.

A valid 21st-century question is whether the incredible power to sack a prime minister should be wielded by an unelected official. Perhaps someone has to do it, but the prerogative of dismissal has been misused more often than exercised appropriately.

Mr. Martin gets to make the first move. It's what happens next that is interesting.

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