

## Outline of a Model and System of Responsible Federalism

Following the insurrections of British Upper Canada and French Lower Canada against their abusive colonial governments, they were united in 1840 under one legislature and one government to create the Province of Canada.

The people were determined to set up a government that would be responsible for its exercise of the powers of the state. What they achieved, in addition, was a system permitting them to determine through parliament those interests they wanted governed in common, including the priorities, the policies and the measures of their administration.

An injustice arose due to the operation of this federalism within a unitary state. The following is inspired by the corrective proposed by Confederation.

### **The Political Structure**

Parliament is bicameral. The members of the Lower house are elected by universal suffrage. The Upper House is constituted to represent and protect the local wishes and interests of the people in harmony with those represented in their local legislatures by appointing Senators so that all local political parties are fairly represented. Both Houses have an equal number of members.

Both Houses are equally representative of the will of the people. The Lower House represents and protects the will of the people to govern themselves in common. The Upper House represents and protects the will of the people to govern themselves in accordance with the moral and material values and resources particular to their local culture and geography. Both Houses possess the same powers and privileges.

All of the powers of the state are legally vested in the Head of State (hereafter, the Governor), but it belongs to the people to govern themselves as they will. The Governor must ensure that the well-understood wishes and interests of the people shall be the rule of government.

To ensure that the powers of the state are exercised by authority of the people, that is, with the consent of the governed, the Governor must sanction the exercise of the powers of the state in council by and with the advice of those possessed of the authority to speak on behalf of Parliament.

### **Conciliation of the will of Parliament**

To form the government, the Governor chooses a member s/he believes can command a majority of Parliament. This leader chooses a member of the other House to negotiate a common political program and the representative composition of their coalition Cabinet. These two leaders then compose the mandate they seek from Parliament with the Governor. The Governor presents the

coalition Cabinet and the mandate they will honour upon the approval of the majority of the members of Parliament.

### **The inherent checks**

Responsible federalism cannot be maintained if the powers of the State can be abused by its administrators. This constitutional structure wherein the powers of the State are legally vested in one person and the authority to exercise those powers is constitutionally balanced between two political actors provides a self-correcting mechanism to prevent abuse.

This constitutional structure harnesses the fears and ambitions of each of the three chief political actors to guarantee legitimacy, efficiency, and harmony in the government of the people.

It harnesses our human nature in a number of ways. First, jealousy and justice oblige each of these political actors to guard their legitimate jurisdictions against any subterfuge to wrest control of them.

Second, if they cannot reconcile their differences and cannot agree to disagree, the people may be called upon to support the contentions of one or the other through a general election on the question. The consequences of losing the election are such as to constantly temper their ambitions to those they truly believe uphold the legitimate constitutional interests of the people.

Third, the desire to leave a mark forces these political actors to find common ground. This desire also provides the key to the maintenance of Responsible federalism in that the Governor may influence the course of government, but to guard against any accusation of abuse of power, s/he must ensure and always be able to prove that the First ministers undertook the responsibility for every act of State.

The effect of these inherent checks is to align the ambitions of the administration with those of the people.