

The Most Important Questions to be Resolved

1) How can the mandate and composition of the coalition Cabinet be approved by a majority of the united houses of Parliament?

In the Province of Canada, the Governor General chose a leader of the House of Assembly he believed could command a majority of Parliament. This one would choose a leader of the section of the Assembly representing the other Canada to negotiate the representative character of their coalition cabinet and the common political program it would pursue upon the approval of a majority of both Canadas in the united Assembly.¹ Applying this democratic mechanism to a constitutionally balanced bicameral Parliament would seem necessarily to require a double majority. This principle was considered in 1856–1857 during the struggle to repair the injustice resulting from the *Union Act*: Forcing the majority leader of one section of Parliament to make a coalition with the majority leader of the other section, regardless of commonality, was rejected as unworkable.² Can a political process be found to make this democratic mechanism work?

2) How should the Governors General be appointed and supported to best perform their constitutional duties?

In the model of Responsible Federalism, the Governor General plays a significant and extremely delicate role, in contrast to her largely ceremonial role today.

The Governor General is the guardian of the constitution, the custodian of the people's power, "ultimately the sole protection of the people's constitutional liberty."³ It belongs to the Governor General to ensure that the government remains constitutional, respectful of the law, and in the service of the people.

The Governor General must constrain the First Ministers' exercise of power, subordinate the FMs' ambitions to the will of Parliament, uphold the freedom and responsibility of the people's representatives, thwart the FMs' schemes to purchase support, to reward their friends, to obscure fault, to engross power.

In this contest, the people are aware that the FMs are invested with the people's authority to act while the GG has none. Prima facie, any independent action by the GG is perceived by the people as an abuse of power. And the FMs can wield all the resources of the state to convince them.

¹ Vincent Pouliot, *Federalism through Parliament in accordance with the Constitution Act, 1867*, p.10 / <https://www.cpsa-acsp.ca/documents/conference/2018/812.Pouliot.pdf>

² Morton, W. L., *The Critical Years: The Union of British North America 1857 – 1873* Toronto, McClelland and Stewart Ltd., 1964, p.14

³ *Eugene Forsey, Freedom And Order*, Toronto : McClelland and Stewart, [1974] pp. 29-30

What system of appointment would ensure the support the Governor General requires to effectively perform the functions of their office?

3) How can the check giving the people the ultimate control of their government be renewed?

In the model of Responsible Federalism that evolved in the Province of Canada wherein both First Ministers were elected as members of the House of Assembly, if they could not reconcile their differences and could not agree to disagree, recourse could be had to the people to decide the question through a general election.

In the federal model proposed by Confederation, one First Minister is elected as a member of the House of Commons. The other First Minister is an appointed member of the Senate. If a conflict of power arises between the Senate and the House of Commons, how can the people be called upon to decide the question?

4) How can the rules of Parliament be amended or applied to restore the influence of the representatives of the people in the legislative process?

The legislative process in the Province of Canada in the model of Responsible Federalism was developed to permit the people's representatives in the House of Assembly to fully debate the principles underlying the bills presented to Parliament by forming a "committee of the whole" of Parliament and operating within the rules set out for such a committee. Once the principles underlying the bill are approved by Parliament, the legislative process would then continue during its third reading in which case they would discuss its details line by line. The scrutiny of Parliament ensured that a bill presented to Parliament was considered in all its dimensions. The bills were often completely reorganized to better fulfill their objectives.

In a Parliament constituted to ensure Responsible Federalism, both houses of Parliament are equally entitled to scrutinize the desirability of a bill and influence the vote of Parliament. How must the rules of Parliament be reformed or applied to permit the influence of our representatives in Parliament?

Conclusion

The model of Responsible Federalism is unique in that it confides the government in a triumvirate composed of a Head of State, the governor general, and two chief advisers. The Governor General is entrusted with the people's power and is charged with the responsibility to exercise this power in accordance with the well-understood wishes and interests of the people. Parliament is vested with the people's authority, that is, the will to exercise this power. But Parliament is divided into two houses, one whose role is to represent and protect the will of the people to govern themselves in common throughout the country and the other whose role is to represent and protect the will

of the people to govern themselves in their respective local jurisdictions in accordance with the moral and material values and resources particular to their local culture and geography.

Clearly, the people have as much right to govern themselves locally as they do to govern themselves in common throughout the country. So, naturally, the leaders of both houses, each possessed of the authority to advise the Governor-in-Council of the wishes and interests of the people represented in their respective House, possess the same moral authority to demand the exercise of the powers of the state as they wish.

The chief advisers — and no one else — are authorized to express people's wishes and interests to the Governor-in-Council. However, the Governor General's responsibility is to exercise the powers in accordance with the *well-understood* wishes and interests of the people. Her responsibility goes beyond exercising the powers as her council advises. She naturally possesses the moral authority to ask her chief advisers to engage in further debate in Parliament to ensure that the consequence of the advice they proffer is well understood. And recourses have been worked out to ensure that disagreements among the triumvirate over jurisdiction are settled by authority of the people either within parliament or through elections.

This constitutional framework establishes a perfect balance wherein each of the three principal political actors has the means to lawfully ensure respect for their legitimate jurisdiction, thus creating a self-correcting mechanism to prevent the abuse of powers.

Underlying this balance is a very simple democratic mechanism. The Governor General chooses one she believes can command a majority of Parliament. This one chooses a leader of the other House to negotiate the representative composition of their coalition cabinet as well as the priorities, policies, and measures the administration will implement upon the approval of Parliament. This mechanism establishes the federal jurisdiction and the responsibility towards both houses for its implementation. It guarantees Responsible Federalism.

We submit that the result of this system is to align the ambitions of these three chief political actors and their administration with those of the people.

The task at hand now — the task that led to the establishment of the Institute of Responsible Government — is to fully conceptualize the adaptation of these checks and balances to the proposed parliamentary model of Responsible Federalism and to verify its expected operation through iterative simulation.

This can only be done by a multidimensional community of engaged researchers spanning the social sciences. I hope there will be sufficient interest among political scientists to put this ambitious research program into practice.

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