

# Politics and Government in Canada: Part Two

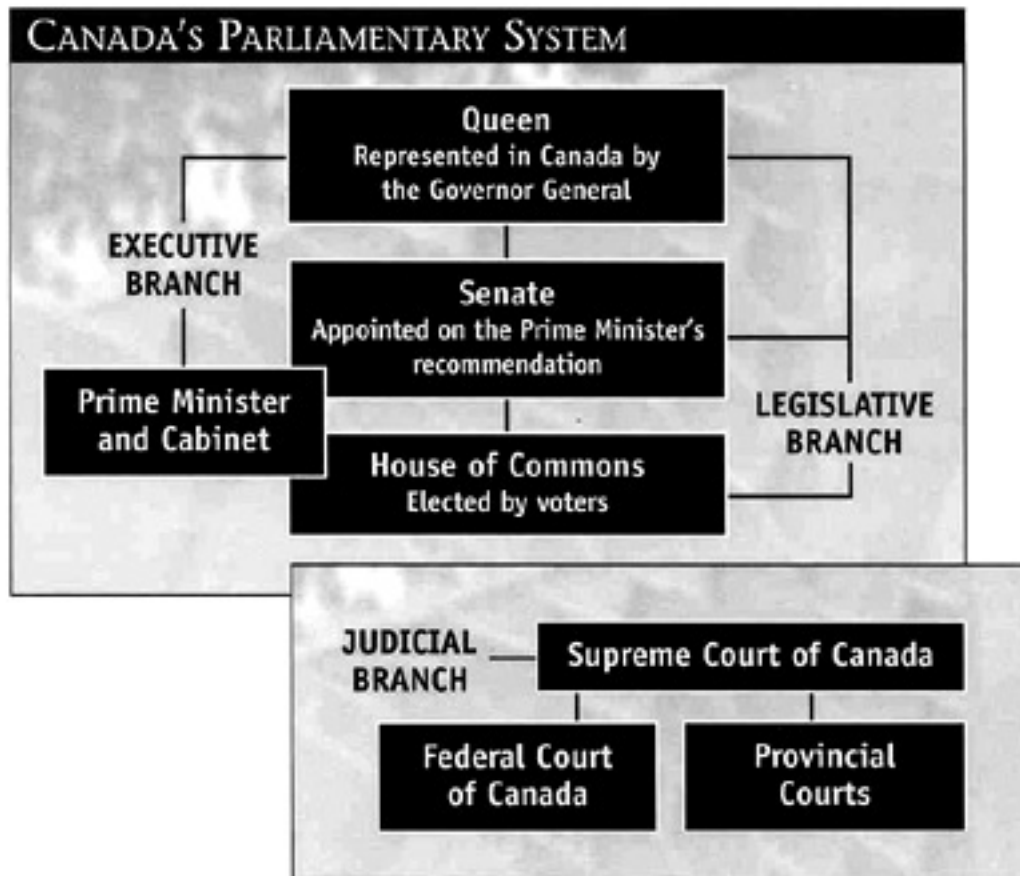
Socials 11 Exam Review

# What Kind of Government Does Canada Have?

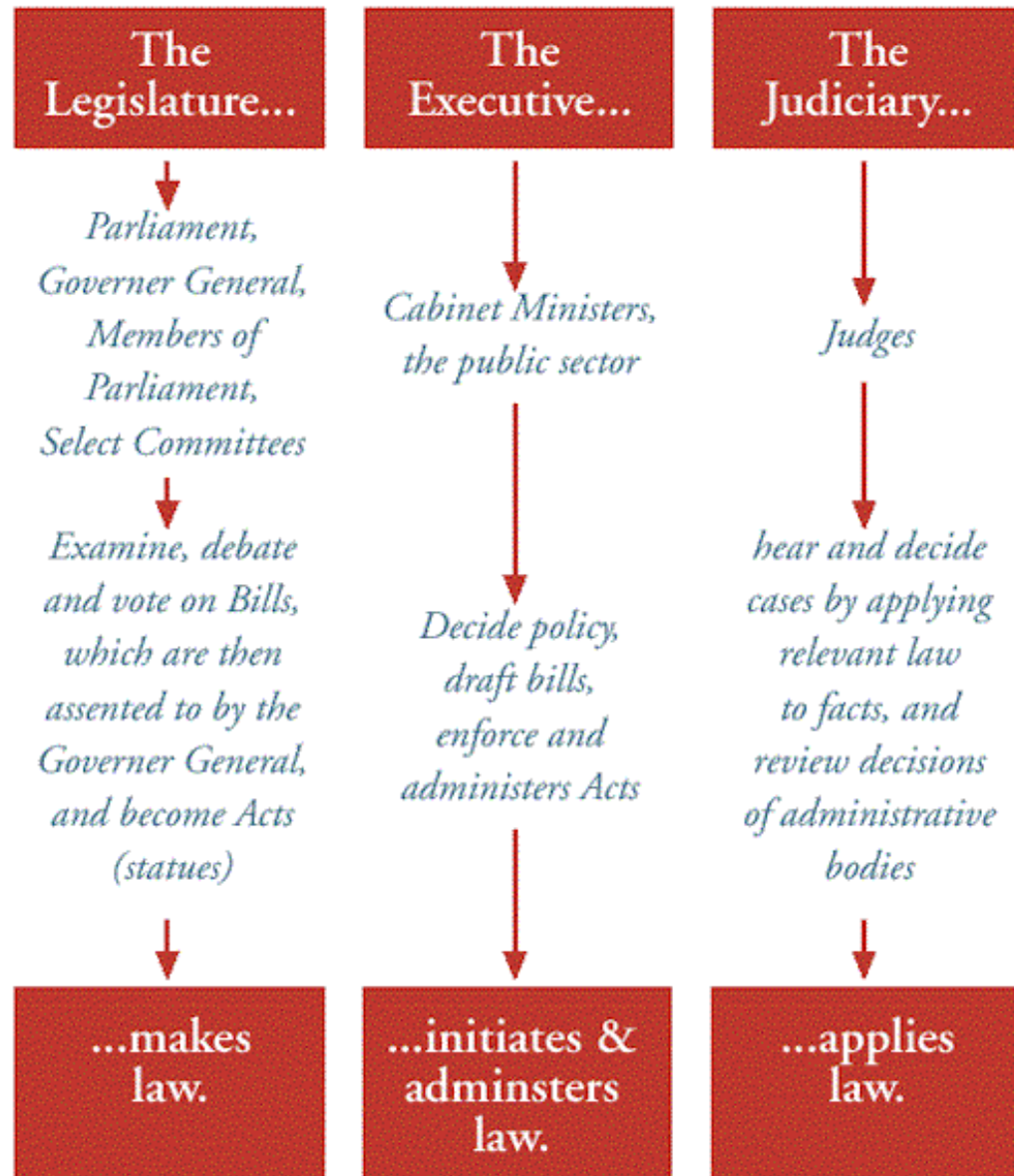
- Constitutional Monarchy—**Head of State** is technically the Queen of England, who rules in accordance with the Canadian Constitution and plays a non-partisan role
- **Head of Government** is the Prime Minister, who actually governs the country
- The Governor General (federal) and the Lieutenant Governor (provincial) represent the Queen in Canada (5 year term)
- Canada is a Parliamentary Democracy : people elect leaders to provincial and federal governments to be their representatives in Parliament
- Canada's government is based on England's system—the Westminster System

# The Branches and Levels of Government

- Executive, Legislative, and Judicial
- Parliament: Sovereign, Senate, House of Commons



# How do these branches work together?



# More about the Parliament

- House of Commons is made up of elected MPs
- They are responsible for passing laws, approving and monitoring expenditures, and keeping the government accountable to the people
- Senators are appointed by the PM and serve until age 75 (role is to give “sober-second thought”)
- A bill must be passed by both chambers and receive royal assent from the Governor General to become a law

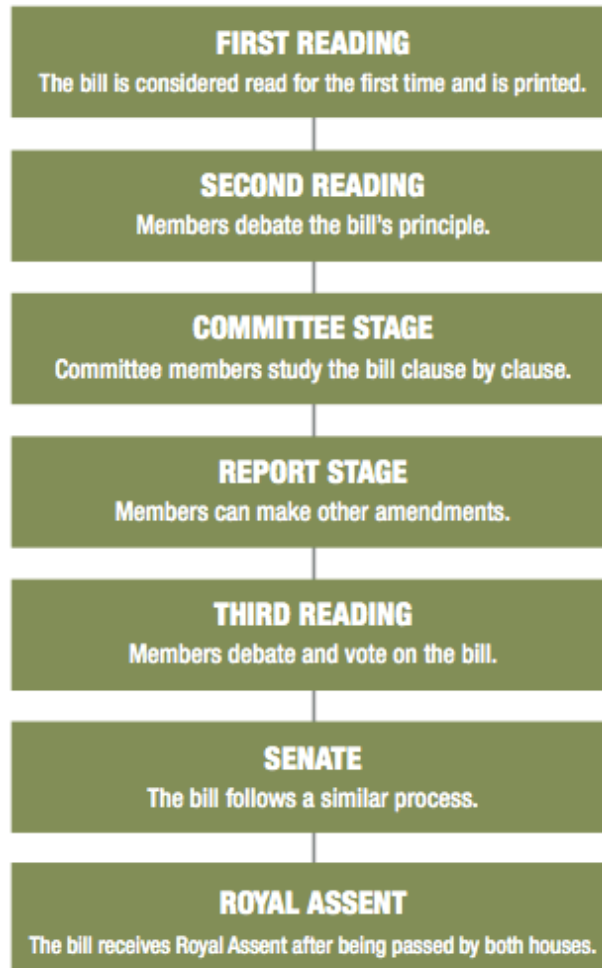


# Cabinet

- MPs who are appointed to form a small team that helps advise the Prime Minister
- They form part of the executive branch

# How a Bill Becomes a Law

<http://www.parl.gc.ca/procedure-book-livre/document.aspx?sbdid=37461d8b-10dc-48a4-99a8-8a843ba16e8a&sbpid=5>



[http://library.queensu.ca/gov/bills\\_federal](http://library.queensu.ca/gov/bills_federal)

- Usually a bill is introduced by Cabinet members (executive branch)
- A **Private-Members Bill** is a bill that is introduced by a MP who is not a cabinet member (could be from party in power, opposition, or independents)
- It is very hard to pass a private members bill because there are rules restricting how long you can talk about them and when you can bring them up.
- Usually each MP is required to vote according to their political party's beliefs.
- Sometimes there is a **Free Vote**, in which people can vote however they want to.



# Other functions of legislature

- An Order-in-Council is an order made by the Cabinet (through the Governor General)
- It could be an appointment or a regulation (such as on Employment Insurance, Fishing rules, etc).
- Usually made under authority conferred by an act of parliament.
- Why would it be useful for the Parliament to allow Orders-in-Council rather than legislating every decision or regulation?

# Other Functions of Executive

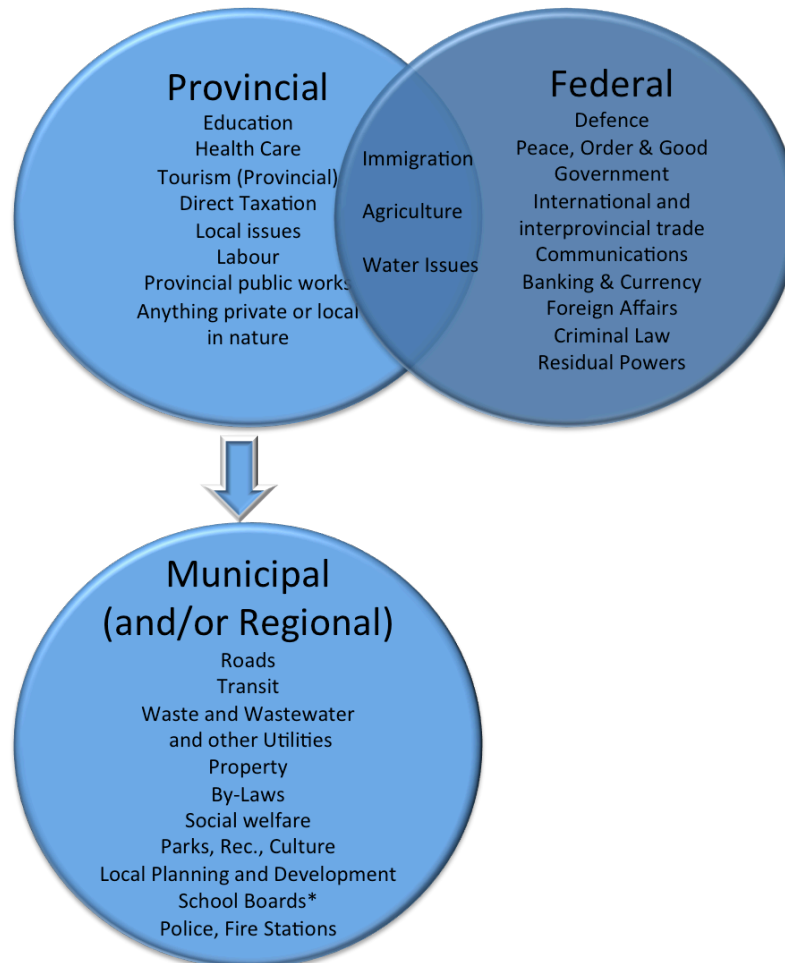
- Patronage: Political patronage is the dispensation of favours or rewards such as public office, jobs, contracts, subsidies, prestige or other valued benefits by a patron (who controls their dispensation) to a client. In return, the client supplies the patron with some valued service, such as voting for the patron's party or providing money or labour for electoral campaigning.
- While it has been largely eliminated at the lower levels of the political system, except in a few provinces, it still thrives at the top where the rewards are fewer but extremely valuable, such as appointments to the senate, to ambassadorships or to lucrative positions on various agencies, boards and commissions.
- These rewards are reserved mainly for an elite of party organizers, fund-raisers, pollsters and media specialists who are they key personnel in modern political parties and in the personal entourages of party leaders.

# Prorogation

- The Prime Minister can Prorogue the government—meaning ending a Parliamentary session until summoned by the Governor General
- This can be done when the leading party's agenda is complete, when there is a need for the government to stop and refocus, to avoid controversy or a non-confidence vote, or for any reason the PM deems necessary
- It is controversial—some people feel it should not be allowed or should be limited to a certain number of days
- Ex: In 2010 Harper prorogued government and said it was so government would not sit during the Olympics in Vancouver, but many said it was because his party was in the midst of a scandal regarding Afghan detainees

# Division of Powers in Canada

In Canada the reserved powers lie with the federal government; in the United States, the reserved powers lie with the constituent states.



# How can public policy be changed?

- Elections
  - Petitions
  - Protests
  - Lobbyists
  - Special Interest Groups (ex: Greenpeace, AFN, Canadian Federation of Students)
  - Court Actions
  - Media Campaigns
  - Any others?
- 
- Compare methods—which do you think are most effective?
  - Example: Aboriginal rights in Canada

# The Canadian Constitution

Founding Documents for Canadian Constitution include:

- Magna Carta (1215)—first constitution in Britain that promised protection of citizen’s rights and freedoms.
- Royal Proclamation of 1763—British Proclamation that outlined how colonies would be governed
- British North America Act (1867)—Established Dominion of Canada
  
- Constitution was not “repatriated” until 1982. Before then Canada was a dominion of Britain. With repatriation Canada become a country in it’s own right—not ruled by Britain.
- It defines the powers of the government in Canada
- At this time the Charter of Rights and Freedoms was added.

# Amending the Constitution

- To change the Constitution using the general formula, the change needs to be approved by 1) the federal Parliament, 2) the Senate, and 3) a minimum number of provincial legislatures. There must be at least seven provinces that approve the change, representing at least 50% of Canada's population. This is often called the 7 + 50 rule.
- Some changes must be approved with agreement of the federal government and ALL the provinces: changing the role of the King or Queen, changing the use of English and French in Canada, or changing the amending formulas themselves.
- Alberta and BC have passed laws to say they will not approve any changes without approval from voters in a referendum.

# The Charter of Rights and Freedoms

- Created in 1982 when Constitution was repatriated
- Lays out basic civil rights. Limits the power of governments.
- **Note: The Charter is about preventing governments from violating rights. It does not apply to individuals, businesses or organizations.**
- Fundamental Freedoms:
  - Freedom of conscience, religion, speech, expression, belief
  - Freedom of peaceful assembly
- Democratic Rights:
  - Right to vote



- Mobility Rights: Freedom to move around Canada and go outside of Canada
- Legal Rights:
  - Right to life, liberty and security of person
  - Freedom from unreasonable search and seizure
  - Innocent until proven guilty
  - Freedom from illegal imprisonment, cruel and unusual punishment
- Equality Rights
  - Equal treatment under the law (no discrimination)

- Language Rights:
  - French and English are official languages
  - Right for minority English or French language communities to be educated in their own language

### Aboriginal Rights (in Constitution)

- 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

# Notwithstanding Clause

- Provinces did not want to pass Bill of Rights because they thought it infringed on their authority by giving courts the upper hand (ability to strike down laws made by elected legislatures)
- So a “notwithstanding clause” was included
- Known as the “Kitchen Accord” because politicians came up with it in the hotel kitchen at night
- It permits governments (including the federal Parliament, and/or provincial/territorial legislatures) to override certain rights and freedoms that are guaranteed by the Charter
- Gives elected officials the ability to overrule the courts, should they determine that the need to do so exists
- Seven of the ten provinces and two of the three territories have never used the power of override; nor has the federal parliament.

# One example:

- In March, 2000, the Alberta Legislature amended the province's *Marriage Act* to include an opposite-sex-only definition of marriage as well as the notwithstanding clause in order to insulate the definition from Charter challenges.
- However, the provinces may use the "notwithstanding clause" only on legislation that they otherwise have the authority to enact.
- The Supreme Court ruled that the definition of marriage is within the exclusive domain of the Canadian Parliament, so the law was struck down.

# Aboriginal Rights (in Constitution)

- 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
- (2) In this Act, "Aboriginal Peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.
- (3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
- (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

# Example: How does the charter apply?

- Dallas recently started attending a new school. He quickly gained a reputation for getting into fights and taking risks. One of the other students started rumors that Dallas deals drugs. One day at lunch, Dallas found the principal searching his locker. The principal told Dallas that he was searching for drugs or weapons.

- The Charter does apply. In a famous court case called R. v. M. the Supreme Court of Canada decided that for the purpose of applying the Charter, “schools constitute a part of government”.
- Section 8 of the Charter protects individuals against ‘unreasonable search and seizure.’
- Schools must have reasonable grounds to search a student’s locker.

# Would these have happened with a Charter of Rights?

1884 - Indian Act outlaws cultural and religious ceremonies, like potlatches

1900 - Chinese Immigration Act sets head tax at \$100

1928 - Supreme Court rules that women are not "persons" under the law

1928 - Alberta government passes a law ordering sterilization of patients in psychiatric hospitals

1940 - Communist Party is outlawed under the War Measures Act

1942 - Japanese Canadians have their property taken away and are sent to internment camps

1960 - Status Indians were not allowed to vote until 1960.

Under the pre-Charter Indian Act, Aboriginal women lost their Indian status if they married non-Aboriginal men.



# How the Charter Has Impacted Canadian Society

- Creating a shared national value system (ex: multiculturalism supported by 86% of Canadians)
- Making it easier for French-Canadians to travel (because signs and services are bi-lingual)—thereby decreasing divisions
- Criticisms: Too individualistic, certain rights not included, too much authority for courts

# Ideas for follow-up activities

- Explore the political spectrum by: staging a mock debate between people of two different political views, looking at a single issue from the perspective of two different political views, making a propaganda poster to promote a certain political view, interview people of different political beliefs.
- Elections in Canada: Have a model government, create a political platform of your own, stage a mock election.
- Government system: Make an info-graphic to explain Canadian government to immigrants, analyze a Canadian news event that relates to politics or government
- Charter of Rights: Pick one of the rights and explore cases where it's been applied, take a controversial issue and see what the CRC would have to say about it.