Social Studies 11

The Government of Canada
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Introduction
The Federal System

Power in Canada is divided between two levels of government.
1. Federal
2. Provincial
Canada’s government has three branches.

1. Executive - To carry out and enforce laws.
2. Legislative - To make, change or repeal laws.
3. Judiciary - To interpret and apply laws.
The Government of Canada

Queen
Governor General
Prime Minister
Cabinet

Executive

Senate
House of Commons

Legislative

Supreme Court of Canada
Federal Court of Canada

Judicial
Parliament

- The Parliament of Canada has three components.

1. The Governor General
2. The House of Commons
3. The Senate
Constitutional Monarchy

Canada’s Head of State is Queen Elizabeth II.

- Her powers are mostly ceremonial and limited by the constitution.
- She is represented in Canada by the Governor General.
- She is represented in each province by a Lieutenant Governor.
The Legislative Part of Government
In Canada there is an overlap of power between the legislative and executive branches of government.

The prime minister and most members of the Cabinet are elected members of the House of Commons.
Responsible Government

- The government is formed by the political party that wins the most seats in an election.
- The leader of that party becomes the Prime Minister.
- The Cabinet is selected from the elected members of that party by the Prime Minister.
- The government is responsible to the people and must resign if defeated in the House of Commons.

24 Sussex Drive – Official Residence Of the Prime Minister
A Two House Legislature

Canada’s legislative part of government has an upper and lower house and is called bicameral.

1. An appointed Senate - upper house
2. An elected House of Commons - lower house
The House of Commons

- Members of Parliament are elected from ridings or constituencies located in each province.
- Numbers of MPs in the House of Commons roughly correspond to the population share of each province.
Political Parties

- Political parties are organizations of individuals who share common beliefs about public policy.
- The political party that wins the largest number of seats in an election forms government.
- The second largest party becomes the Official Opposition.
A majority government is formed when the governing party has more seats than the combined opposition.

A minority government has only a simple majority and could be defeated by the combined opposition.
The House of Commons

Press Gallery

Speaker
Clerk's Table
Mace
Sergeant-at-Arms
Hansard Reporter

PM and Cabinet
Government Backbenchers
Opposition Backbenchers

Visitor's Gallery
Visitor's Gallery
The Speaker

The Speaker is the moderator of debate in the House of Commons.

- He disciplines MPs who do not follow the rules.
- He announces the results of all votes.
- He is elected by all the members of the House of Commons.
Seating in the House of Commons

- The elected members of the government sit on the right hand of the Speaker on benches.
- Junior MPs are usually backbenchers.
- The PM and his Cabinet sit in the front benches.
- The Leader of the Opposition and his Shadow Cabinet as well as the other opposition parties sit on the opposite side of the Speaker.
Party Discipline

- Elected members of all political parties meet regularly in caucus to discuss policy and strategy.

- In the House of Commons party members are expected to show solidarity and support government policy.

- Failure to comply brings the risk of discipline and possible removal from the party.
The most important work of an MP will probably take place in a committee meeting.

There are several all party standing committees which study legislation brought to the House of Commons.

The committee of the whole is all of the House of Commons.
Question Period

- Each day the House of Commons sits an opportunity is provided for the opposition to direct questions to the government.
- The Speaker will oversee question period to ensure the rules are followed.
- All questions and other debate in the house is recorded and printed in **Hansard**.
The Passage of Time

- A sitting is one day that the house of Commons meets.
- A session extends from the official opening of Parliament (speech from the throne) to the end of planned legislation (prorogation) or an election (dissolution).
- The term of Parliament or the maximum life of a government is five years.
The Senate

- This is the appointed upper house.
- There are 105 Senate seats.
- Senators are appointed regionally by the Prime Minister.
- These are called patronage appointments and demonstrate the PM’s power to reward those who have been loyal supporters.
Senate Qualifications

- A Senator must be 30 years of age.
- He must own $4000 worth of real property.
- He may retain his seat until the age of 75 unless
  - bankruptcy is declared
  - or an infamous crime is committed.
Attendence in the Senate

- Regular attendance in the Senate has become a very controversial issue as some senators do not regularly take their seats.
- A senator can only be disqualified from office if he fails to attend once in two consecutive sessions.
The original purpose was twofold
1. To represent the regions as a balance to the power of Ontario in the House of Commons.
2. To act as a chamber of “sober second thought” with the power to veto laws passed by the House of Commons.
What does the Senate do?

- It has rarely exercised its power to block legislation.
- It can originate laws but not those which require the expenditure of public money.
- The Senate does improve legislation.
- Cabinet ministers can be selected from the Senate.
The Passage of Legislation

The passage of legislation is the primary function of Parliament.

- Most bills are introduced by the government into the House of Commons.
- A bill must pass three readings in the House of Commons and three readings in the Senate.
- When it is given Royal Assent by the Governor General it becomes law.
The Passage of Legislation

Bill Originates in Cabinet

- Introduced into House of Commons
  - First Reading
  - Second Reading
    - Committee Stage
      - Third Reading
        - To the Senate - Three Readings
        - Royal Assent
The Executive Part of Government
The Monarchy

- The Monarchy represents our connection with the past.
- It is symbolic of the democratic traditions and practices we have inherited from the parliament of Great Britain.

“The Queen reigns but she does not rule.”
The Governor General

- The **Queen** is the Head of State but her representative is the Governor General.
- The Governor General is appointed by the Queen on the advice of the PM.
- This is a position of great honor and dignity but little power.
- The Governor General plays an important but largely symbolic role in the legislative process.
The Legislative Role of the Governor General

- He reads the Speech from the Throne which has been written for him by the PM.
- On the PM’s advice he dissolves Parliament and grants permission for an election.
- Following an election he asks the majority party to form a government.
- He gives Royal Assent to legislation.
Carrying on the Government of Canada

During the six year term served by the Governor General he is ultimately responsible for the continuity of the Government of Canada.

In an emergency such as the death of the PM the Governor General would ensure that a new PM was found.
The Prime Minister

- The PM is the most powerful politician in Canada and for most Canadians the visual symbol of the government.
- Much of the authority of the PM rests with his power of appointment to cabinet and other important government positions.
- The Prime Minister’s Office is headed by the Principal Secretary or Chief of Staff who serves the PM.
The real executive power of the government rests with the PM and his Cabinet.

The selection of Cabinet Ministers by the PM is governed by many factors, including regionalism and political ability.

At least one Cabinet Minister is usually selected from the Senate.
The Cabinet II

- Cabinet Ministers head government departments or ministries.
- All Cabinet meetings are held secretly or in-camera.
- Cabinet ministers are expected to show complete solidarity with government policy.
The Civil Service

This is the bureaucracy of government staffed by thousands of employees throughout the country.

The civil service ensures that the day to day operations of every branch of government are carried out.

The senior civil servant in each government department is the Deputy Minister.
Provincial and Local Government
Provincial Government

- Structures and procedures for the government of each province are very similar to those at the federal level.
- Provincial political parties often have the same names as federal parties.
- Provincial and federal parties have separate leaders and organizations.
Provincial Government II

- The provincial cabinet is responsible to the Legislative Assembly of each province.
- Provincial governments remain in power only with the support of a majority in the legislature.
- Provincial premiers form cabinets in the same way as the Prime Minister of Canada.
- Provincial bills must be approved by the Legislative Assembly to become law.
Provincial Government

Lieutenant Governor

Premier and Cabinet

Legislative Assembly

The Electorate

Government

Opposition
Provincial Differences

- Provinces do not have an upper house and their legislatures are called unicameral or one house.
- In the provinces the Lieutenant Governor represents the Crown.
- Lieutenant Governors are appointed by the Governor General on the advice of the prime minister.
- Elected representatives in BC are called Members of the Legislative Assembly or MLAs.
Local Government

- Each province has a system of local government to look after the affairs of municipalities and districts throughout the province.

- Local governments obtain all of their authority and funding from the provincial government.
Local Government II

Local Governments look after the following matters:

- Elementary and Secondary Education
- Culture and Recreation
- Housing
- Land Use
- Utilities
- Local Transportation
The Judiciary
The Rule of Law

- Everyone is subject to the law.
- No person or institution is above the law.
- The courts maintain the rule of law.
- Judges of the courts are independent of the political process.
What is Justice?

- Hard to define because of different values in a multi-cultural society.
- Laws reflect changes in society but may not always be “just”.
- Law is a set of rules that maintain order in a society whilst protecting that society. These laws are known as “statutes” and are based on legislation that is passed either federally or provincially.
- Justice may appear to be related to law but is a less clearly defined entity.
The Sources of Canadian Law

1. The Common Law
   - Judgements based on previous decisions or precedents.

2. Statute Law
   - Laws passed by federal, provincial or local government.

3. The Civil Code System
   - Used in Quebec only - originates in France.
Canadian Law: Roots

- British Legal System
- Common law. Based upon a system where laws are the same from area to area.
- Case law or precedent is based upon similar cases and decisions being used as guides for new cases.
- Case law is more flexible as it adapts to situations.
- All of Canada except for Quebec.

- French Legal System
- France used the Civil Code pioneered by Napoleon and based upon Justinian’s Code.
- Civil Code used one document to judge all cases, regardless of location.
- Quebec adapted the Napoleonic Code to their province. Federal Laws still apply however.
Law in Canada

There are two kinds of law in Canada
- Criminal Law
- Civil Law
Classifying Canadian Law

<table>
<thead>
<tr>
<th>Administrative Law</th>
<th>Criminal Law</th>
<th>Civil Law</th>
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<tbody>
<tr>
<td>*Affects the relationship between the government and the public. *Administers regulatory agencies and Crown corporations.</td>
<td>*Focuses on the affect of criminal behaviour against the public good. The Criminal Code is written for this. *Also examines how the individual is hurt by this behavior. *Sets out procedures for trials, punishment. The Crown is always “Regina vs.” in court.</td>
<td>*Sue, sue, sue. *Examines the wrongdoing of individuals and organizations. *Known as “private Law” because it is between private interests.</td>
</tr>
</tbody>
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Criminal Law

- This is a federal responsibility.
- It is the same throughout Canada.
- A violation of criminal law is an offense against the state.
Civil Law

- Responsibility is shared between the federal and provincial governments.
- Civil law concerns itself with property and civil rights.
- Civil law deals with matters relating to the individual.
- Quebec has its own civil code.
Public and Private Law

There are two major divisions of law.

- Public law
- Private or civil law
Public Law

Public law deals with matters between the government and the citizen or between different levels of government and includes

- Criminal law - acts against society.
- Administrative law - individuals and the government.
- Constitutional law - powers of the various levels of government.
Private Law

Private law concerns disputes between individuals and is mostly within the provincial jurisdiction. It includes:

- Contract law - legally binding agreements.
- Tort law - wrongs by one person against another.
- Family law - relationships among family members.
This is the area of public law with the highest profile and is broken into two categories.

- **Summary conviction offenses** - less serious offenses.
- **Indictable offenses** - serious offenses such as murder, forgery and possession of a dangerous weapon.
The Police

- The police carry out an executive function to enforce the law.
- The national police force are the RCMP.
- Some provinces have their own provincial police.
- Municipalities sometimes have their own police or may contract the RCMP.
Judges

- Judges must be independent of outside influences including the government. The Act of Settlement in 1701 England guaranteed judges the freedom to be free from the aristocracy and monarchy.

- Two rules have emerged to make judges more effective: Conflict of Interest prevents judges from participating in trials where they may have undue interest or influence: Judges must be passive in court (more like a referee) so that they may be objective.

- Judges are free from government because they are: 1. Appointed for life. Can only be removed from the bench by the Parliament and Senate. 2. Judges cannot be prosecuted for decisions they make.
The courts are a shared federal and provincial responsibility. There are three courts at the federal level.

- Supreme Court of Canada
- Federal Court of Canada
- Tax Court of Canada
Fighting in Court: The Adversarial Legal System

- Resolves disputes with words not violence.
- Both sides make their presentations before a neutral party, the judge, who acts as referee.
- If the jury hears a case, they can only listen, not participate.
- Evidence is heard from both sides, then a decision is made.
- An accused can choose between a judge or a jury.
- In Europe, judges ask the questions as it is the court’s responsibility to find the truth, not the parties’ (inquisitorial system).
Court Structure in B.C.

- Provincial Court of B.C.
  - Criminal Division
    - 90% of Cases
  - Family Division
    - Youth Court
  - Small Claims Division
    - Civil Cases under $10,000
  - Traffic Division

- Supreme Court of B.C.
  - Divorce
  - Civil Cases over $10,000
  - Serious Crimes

- Appeal Court of B.C.

- Supreme Court of Canada
The criminal trial process may begin here with a preliminary hearing.

There are three divisions.
1. Civil (Small Claims Court)
2. Youth - 12-17 years of age
3. Criminal
Provincial Court Procedures: Criminal

- An accused makes an appearance before a judge.
- If a lawyer is not present, one is made available.
- The presumption of innocence allows the judge to set bail or conditions of release until trial.
- A trial date is set.
- For serious crimes, the accused selects either a judge or jury trial. For the latter there will be a preliminary hearing. This is to examine the validity of the evidence.
- Sometimes the trial will be moved to Supreme Court.
Appeal Court of B.C.

- At least 3 judges preside over a case.
- It hears cases that have already been tried in a lower court.
- The judges review the case then ask the lawyers to make presentations.
- There are no witnesses called or evidence presented. The case is not argued again.
- The decision is final, provincially, but the appeal can be taken to the Supreme Court of Canada.
Supreme Court of British Columbia

- This is the highest trial court in BC.
- The most serious criminal cases are heard here.
- This is the highest court of appeal in BC.
The Supreme Court of B.C.:

- The Supreme Court hears both Civil and Criminal cases.
- More serious criminal cases are heard such as: violent crimes, large thefts etc.
- Civil cases heard are for amounts over $10,000.
- The Supreme Court is in Vancouver but judges travel to other centers to conduct trials (assizes, French for “sitting”).
- Judges in court are referred to as: Your Lordship or My Lady. Outside of Court they are: Mr. Or Madame Justice.
National Courts of Canada

Federal Court
- Examines cases of Federal Employees.
- Judges travel across the country.
- Most cases are civil, interprovincial, taxation and Maritime Law

Citizenship Court of Canada
- Assesses citizenship applications and cases.
- Tries cases involving illegal immigration or violations.
- Holds citizenship ceremonies for new Canadians.

Supreme Court of Canada
- Located in Ottawa
- Reviews cases only. No retrial.
- All decisions binding on Lower Courts.
Federal Court of Canada

- Hears civil matters involving the federal government.
- Hears maritime and shipping disputes.
- Hears intergovernmental cases.
- Hears appeals on citizenship matters.
The Jurisdiction of this court relates only to tax and revenue matters.
Young Offenders Act

- This concerns 12 - 18 year olds.
- It focuses on treatment and rehabilitation.
- It ensures privacy for young offenders.
- Trials are heard by a judge who offers dispositions rather than sentences.

This Act has been described as very flawed and long overdue for replacement. It has been in place since 1984.
Youth Criminal Justice Act

- This was introduced into Parliament in the spring of 1999.
- It allows young offenders to be given stiffer sentences.
- Adult sentences can be imposed at age 14.
- Parents can be held liable for failing to properly supervise a young offender.

It is hoped that this policy will discourage young people from repeating criminal offences.
Supreme Court of Canada

- This is the final appeal court in Canada.
- This court may review any decision of any other court.
- It consists of nine judges.
Summary

- The judicial branch of government is independent of the other two branches of government.
- Laws exist to protect the members of society.
- All Canadians can expect to be treated equally before the law.
Introduction

- Each MP or Member of Parliament represents one constituency or riding.
- The number of constituencies in a province relates to population.
- One candidate only is elected “first by the post.”
- Most candidates will represent a political party but may also run as independents.
This act sets out the rules for the conduct of an election in Canada.

There are six stages.

- Dissolution
- Enumeration
- Balloting
- Tabulation
- Campaigning
- Nomination
Dissolution

- The Governor General, on the advice of the Prime Minister, dissolves Parliament.
- The Governor General fixes a date as suggested by the Prime Minister.
- The government may have been defeated in the House of Commons.
- The government might also be near the end of its five year mandate.
Enumeration

- The Chief Electoral Officer is the civil servant in charge of the election.
- He issues an election writ to begin the process.
- Returning officers in each constituency are responsible for compiling voter’s lists.
- Enumerators ensure that the names, addresses and occupations of voters are provided for each polling station.
Nomination

- **Candidates** are nominated at nomination meetings run by each political party.
- A candidate must be over 18 years of age and usually competes with several other candidates.
- A deposit of $1000 is made with the returning officer to be returned if half as many votes are won as the winner.
- Nomination papers with the signatures of 100 voters are also required.
Campaigning

- Campaigns begin when the writs are issued and last until the weekend prior to election day.
- Parties and candidates must convince voters that they represent the best choice for the country.
- The media play a very important role in an election campaign.
Balloting

- Balloting normally takes place between 8 AM and 8 PM.
- In B.C. during the last election polls opened and closed earlier to allow voting before the election results were reported in eastern Canada.
- Advance polls allow voters who will be absent on election day to vote early.
- An X is marked on the ballot opposite the candidate of your choice.
Following the election, ballots are counted.

The media, with the use of computer technology, usually predicts the results soon after the polls close in B.C.

A recount may be necessary if there is a 100 vote margin or concerns about procedures.
Concerns have been expressed about the fairness of our “first by the post” system.

A party may win an election with less than fifty percent of the popular vote.

Proportional representation allows additional candidates to be selected from a list according to the percentage of the votes cast.

This system is widely used in Europe.
Summary

- Elections are exciting events in the political life of a nation.
- Voter turnout at the federal and provincial level is usually large.
- Municipal elections with long lists of candidates are not as well supported by citizens.
- Election campaigns are expensive and complicated rules have been evolved to regulate party spending.
Conclusion

A study of the Government of Canada is complex and sometimes confusing. There are a great many new terms which must be learned before one can begin to understand how each part of government works and serves the citizens of Canada.
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