GET READY FOR THE QUIZ!
QUIZ for Lesson 4

Questions
1. What is the final step in a bill becoming a law?
2. MP’s sit in which “chamber” or “house”?
3. If a tie occurs in the House of Commons, who casts the tie breaking vote?
4. After which reading does a bill go to committee?
5. What is the purpose of the Senate? (two specific phrases)
6. How many MP’s are there?
7. How many Senators are there?
8. List two of the four powers of the Prime Minister.
9. The Cabinet operates on the basis of two conditions. Name one.
10. Who is the top non-elected person in a government department?
Lesson #5: The Constitution & Charter

LESSON OUTLINE & OBJECTIVES (don’t copy)
• In today’s lesson we will examine the core document behind our government, the Constitution; including examine the Charter of Rights and Freedoms.
• You will learn:
  – Development & role of the Constitution & Charter
  – The division of Federal and Provincial powers
  – How to Change the Constitution
  – The main sections of the Charter
  – The impact of the Charter on Canada.

Big Questions:
1. What is the Constitution and how does it define government?
2. How do we amend the Constitution?
3. What rights are protected in the Constitution?
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The Constitution

• Defines the political structure & relationship between gov’t & people
• The Rule of Law is a key principle in the Constitution
• It establishes 2 levels of gov’t (federal & provincial)
• It establishes the three branches (Legislative/Executive/Judicial)
• Canada’s constitution is a combination of documents & conventions
• Conventions are long held traditions or practices (like precedents, just not written down)
  – The US constitution is mostly document
  – The British constitution is mostly convention
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History of the Constitution (*discuss, do NOT write*)

- **The Royal Proclamation of 1763** - established British ownership, Br. Laws & Church of England
- **Quebec Act of 1774** - Established primacy of English Criminal Law, but allowed for French Civil Law
- **Constitution Act of 1791** - Divided Quebec into Upper & Lower Canada
- **Act of Union 1840** - Reunited the 2 colonies, established Responsible gov’t
- **British North America Act 1867** - Established the Dominion of Canada
- **Canada Act 1982** - Ended the power of the British Parliament to legislate for Canada.
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The Canada Act of 1982

- PM Trudeau wanted to bring home (patriate) the constitution.
- He also wanted to include a Charter of Rights (entrenched rights).
- This caused conflict between the provinces and federal gov’t.
- Many debates and public conferences strained federal-provincial relations and put the initiative at risk.
- During one conference, a late night meeting between Minister of Justice Jean Chrétien and Saskatchewan Attorney General Roy Romanow in an unused kitchen unit, resulted in a compromise that would be acceptable to a majority of provinces.
- This compromise is known as the “Kitchen Accord”
- Rene Levesque refused to sign the agreement.
- In 1982, in a large ceremony, the Queen made the BNA Act of 1867 part of the new Canada Act.
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How to Change the Constitution

- To change the constitution, there needs to be agreement of:
- $2/3$ of the provinces representing at least $50\%$ of the population
- a simple majority in both the House and Senate.

Key Elements of The Constitution

- “Peace, Order and Good Government” (POGG)- the goal and purpose of Canadian Government
- Sections 91 & 92- divide power between the Federal and Provincial Governments
- The Charter of Rights and Freedoms- entrenched rights
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The Charter of Rights and Freedoms

• The Charter of Rights and Freedoms is part of our constitution and guarantees basic rights & freedoms for all Canadians.
• Before the Charter, many rights were already in law (1960 Bill of Rights)
• Now the Charter is hard to change & rights are considered “entrenched”
• The Charter is unique to Canada, and is a strong statement about how we value individual rights and freedoms.
• It has become a model for many other nations.
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Limits to the Charter

• Provinces argued that a Charter would make the Courts more powerful than the elected representatives of the people.
• They negotiated an “escape clause”
• Section 33, the “Notwithstanding” Clause, can be used by any legislative body to override the Charter in some areas.
• If used, it must be reenacted every 5 years.
• It has been used 15 times in Quebec, once in Alta. & once in Sask.
• The most controversial usage was to protect Bill 101 in Quebec, outlawing signs in English.
• The rights in the Charter are also subject to “reasonable limits”.
  – Ex: laws against pornography & hate propaganda are reasonable limits because they prevent harm to individuals and groups.
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Important Sections of the Charter

Section 2: Fundamental Freedoms
- Freedom of conscience and religion
- Freedom of thought, belief & expression, & freedom of the press.
- Freedom of peaceful assembly (ex: protest groups)
- Freedom of association (ex: trade unions)

Sections 3-5: Democratic Rights
- Rules that guarantee Canadians a democratic government.

Section 6: Mobility Rights
- protects the right of Canadians to move from place to place.

Sections 7-14: Legal Rights

“Everyone has the right to life, liberty, & security of the person, & the right not to be deprived thereof except in accordance with… fundamental justice.”
- rights that protect us in our dealings with the justice system.
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Section 15: Equality Rights
- every individual in Canada – regardless of race, religion, national or ethnic origin, colour, sex, age or physical or mental disability – is to be considered equal. Governments must not discriminate on any of these grounds in its laws or programs. The courts have interpreted Sec 15 to include sexual orientation. Affirmative action programs, however, are allowed.

Sections 16-22: Official Language Rights
- Section 16 establishes English and French as Canada’s official languages, as well as the official languages of New Brunswick.
- Sections 17, 18, 19 and 20 all deal with the equality of the French and English languages in particular situations (parliament & government services).
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Section 23: Minority Language Educational Rights
- requires provincial governments to provide education to Canadians in the official language of their choice (under certain conditions).
- This is only when there are a sufficient number of eligible children to justify providing schooling in that language.

Section 25: General (Aboriginal Rights)
- rights in the Charter must not interfere with the rights of Aboriginal peoples.
- This section recognizes the rights granted by the 1763 Royal Proclamation.

Section 27: General (Multiculturalism)
- “This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians”

Section 28: General (Gender Rights)
- both women and men are equally protected under the Charter
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History & Impact of the Charter

1982-1985: All Quebec legislation included “Notwithstanding” language, as a protest against the Canada Act of 1982.


1988: ruled Quebec’s Bill 101 unconstitutional, Quebec responded by enacting the Notwithstanding clause.

1996: Quebec changed Bill 101 to comply with the Charter.

1998: Alberta’s exclusion of Homosexuals from equal rights protection was found unconstitutional (Vriend vs Alberta)

Some opponents of the Charter say that the Supreme Court has become more “Activist”, while supporters argue that the Charter has been a strong tool to ensure rights for all Canadians.
Lesson #5: The Constitution & Charter

• CONSIDER THE FOLLOWING QUIZ QUESTIONS:
  1. In what year was the constitution patriated?
  2. The Constitution is a combination of document & what?
  3. What is the central principle of the constitution?
  4. Which province refused to sign the constitution?
  5. What does POGG stand for?
  6. What sections divide responsibilities between Federal and provincial governments?

• STUDY FOR YOUR TEST
• COMPLETE ANY MISSING ASSIGNMENTS