

NOTES

Canadian Politics: Critical Approaches, 8th Edition

Week 2

September 12th, 2016

Ch. 2 - Institutional Foundations and the Evolution of the State

THE CANADIAN STATE: FROM COLONY TO FULL STATEHOOD

Overview

- encounters between aboriginals and European settlers and the creation of a new civilization
- the emergence of political rule
- Canada as a country of evolution, no revolution (1837)
- anti-Americanism (essential to confederation)
- severing ties with the UK

From the Beginning

- Canada was first settled by aboriginals who crossed the frozen bering strait from Asia to the Americas at the end of the ice age, around 10-30 thousand years ago.
- the pop. of aboriginals is estimated to be somewhere from 30M to 100M.
- aboriginal societies were diverse and complex. Societies being highly egalitarian in sub-arctic territory to highly stratified and slave owning on the prairies.
- extensive lines of trade

Colonization of a New Civilization

- Canada being a white colonial settler society
 - first settlements included the Norse viking in 11th century Newfoundland
 - French and Italian settlers came in the **1550's**.
 - the french endeavours were motivated by the Vatican's decree that all new lands would be divided between Portugal and Spain. The French were evidently very unhappy as they were a Catholic country as well (political motives). Exploration was also motivated by the desire for a christian renewal.
 - "New France" was established by the french in the **1600's** -> permanent settlers.
- the fur trade brought the French and the aboriginals together, leading to a new type of civilization, a mixing of technologies and practices. Colonial thought grew to believe aboriginals as inferior but in the early days of settlement, the french relied heavily on the knowledge of the aboriginals for survival in this new frigid and foreign land. The arrival

of the French transformed the aboriginal societies due to disease and the adoption of European technologies (metal pots, muskets, gunpowder). Disease and death transformed the relationship of power between bands and opened vast pieces of territory (500 000 to 2 million deaths).

Métis people: European traders and Aboriginal women

-following the French, British settlements were established in **1670** known as Rupert's land administered by the **Hudson's Bay Company** with a trading monopoly.

From a French Colony to a British Colony

-boundaries were very poorly defined.

-strife caused by wars in Europe were effecting the new world concerning territory

-**The treaty of Utrecht (1713)** resolved the war of Spanish succession and passed Nova Scotia and Newfoundland into British control.

-**The Seven Years War** from **1754-1763** (9 years long) brought a European conflict onto the new world (first real world war). The Acadians were then expelled from Nova Scotia as the British did not trust any of the French. The British later conquered New France in **1759** on the **Plains of Abraham**, becoming part of British North America. France was then left with only Saint Pierre and Miquelon (Caribbean) in their control.

-with the growth of the crown in Canada began the struggle to keep French language and culture alive in Québec.

-the war ended with the **Treaty of Paris** in **1763**, in the end granting the British Québec, Prince Edward Island, Cape Breton, and New Brunswick.

- Constitutional Developments -----
- 1759 British Conquest of Québec**
 - 1763 Royal Proclamation**
 - 1774 Québec Act**
 - 1791 Constitutional Act**
 - 1837 Rebellions**
 - 1840 Act of Union**
 - 1848 Responsible Government**
 - 1867 British North American Act**
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Consolidating British Rule in BNA: The Royal Proclamation of 1763

-at the time no country wanted control or responsibility of Canada

-**The Royal Proclamation** of **1763** was the first document establishing the rules of gov. in what come to be known as British North America (first distinctly Canadian constitutional document, laying down the rules for governing the BNA colonies)

-New France was renamed Québec.

- the french language and Catholicism (minorities) receive protection.
- established rules for any new settlements west of the Appalachian Mountains.

Terra nullius; land could be claimed by a colonial power provided it was not occupied when the colonial power discovered it, if land was occupied settlers would need the Crown to negotiate with the aboriginals in the form of treaties. The proclamation recognized aboriginals as nations with their own rights who had title to land (they did not have individual property rights).

Creating Government: The Québec Act (1774)

-came to be as a reaction to the attempt by the British to impose laws similar to their own. Although most of the pop. was french speaking, the British attempted to appoint a gov. that was english and take control of the majority of the non-agricultural economy.

-these early governors quickly saw these laws as unfair and opted for a more tolerant approach, leading to **The Québec Act**.

-the first act to establish a colonial gov. recognizing the rights of french speakers.

-a council would comprise of appointed (fr./eng. and catholic/protestant) members to advise the governor of Québec.

-implemented civil law (instead of common law), tradition in private matters, the catholic church, and expanded Québec's frontiers.

-the binational and bicultural characterize of what would be Canada was recognized.

***1776** American colonies declared independence

The Effects of the American Revolution: The Constitutional Act of 1791

-Québec was asked to join the American revolution against Britain but refused. United empire loyalists viewed the Crown as a central authority, a guarantee for order.

-the constitutional act was a reward for not joining the americans and a reaction to pressure from loyalists (americans loyal to the Crown who moved to Canada after independence) as they were accustomed to living with an elected assembly.

-constitutional act said Canada would have (1) a governor, (2) an executive council, (3) an appointed legislative council, and (4) a locally elected assembly, but real power lay with the colonial governor despite elected assemblies.

-divided Québec into Upper Canada (Ontario) and Lower Canada (Québec)

-Upper Canada; exclusively english, providing criminal law, Lower Canada; appointed council was english and elected assembly was french.

-all provinces had achieved **representative government**; a set of political institutions that included an elective legislative assembly, although still not democratic. The elected assembly represented and articulated the will of the people but had no power over the governor and appointed councils.

Governor: Appointed by London, had absolute authority over upper and lower Canada, and all other colonies. Could veto the laws passed by the legislative council.

Executive Council (Cabinet): gives constitutional advise to governor.

Legislative Council (Senate): upper house, members were appointed for life. Voted on bills passed by the locally elected assembly (lower house).

Elected Assembly: created bills to be voted on at the legislative council.

The Rebellions of 1837 and 1838

-Caused by the resentment against the power of the colonial governor

-leading the rebellions were:

-**William Lyon Mackenzie** (upper Canada) who asked for american assistance, fought against the Family Compact.

-**Louis-Joseph Papineau** (lower Canada) fought against the **Château Clique**; wealthy British merchants inhabiting the legislative council and supported the assimilation go the French.

The Durham Report of 1839

-**John George Lambton**, Earl of Durham investigated why the Rebellions had happened. He made two recommendations;

1. Responsible government

-cited politics as the cause of the rebellions.

-**responsible gov.** should be implemented with respect to local affairs that the executive branch can govern so long as it enjoys the confidence of the majority of the elected assembly, as well as the executive would be drawn from the assembly. Division of power; on local matters, the governor would follow the advice of colonial authorities and in matters of imperial concern the governor would act as an agent of Britain.

-this would also be the model for all other white settler colonies (Australia, New Zealand)

2. Uniting Upper and Lower Canada

-Durham also argued that the rebellion, specifically in Lower Canada, was due to race not politics. His solution was to unite them both, attempt to assimilate the french "a people with no literature and no history".

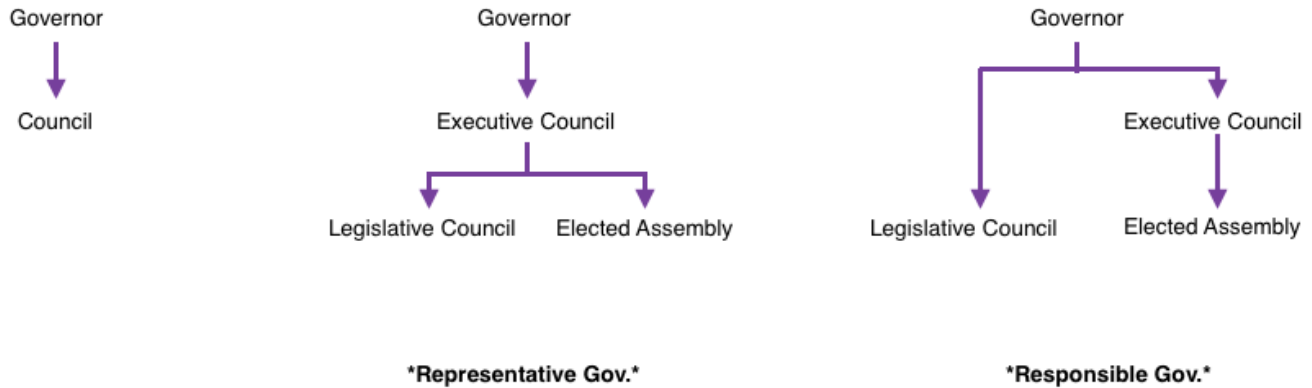
-this led to the **Act of Union of 1840**, creating Canada (Canada east and Canada west because of the distinct legal systems)

-the use of french was banned in the legislative assembly. French Canadians opposed this act but Montreal businessmen were content because they felt like it would overcome obstacles of economic development. The ban on the use of french was overcome due to responsible gov. (not representative of the populous)

-Giving the same number of seats to the east as the less populous West was seen as unjust.

-First real Canadian gov. was formed in **1848** with **Robert Baldwin** and **L-H Lafontaine**, who won on the principle of responsible gov.

-----Evolution of Canada's Pre-Confederation Political Institutions-----



Responsible gov. was still very undemocratic as the vote for assembly members was restricted to privileged white men.

Why Confederation

The creation of responsible gov. was motivating the uniting of BNA colonies for political, economic, and military factors.

1. Economic Factors

- the UK discontinued colonial trading preferences as the renewal of the **Canadian-American Reciprocity Treaty** of **1854** was unlikely.
- hoping for a new fur trade agreement
- uniting BNA as a country would create a new large internal market, railway construction would link atlantic Canada with central Canada.

2. Political Factors

- a central gov. concerned with common problems could overcome bulwarks facing decision-making in the provinces.
- potential American retaliation for UK decision to support confederation states during the Civil War.
- the UK became disinterested in providing military protection for its colonies (Canada specifically as the important colonies were in Asia). Confederation would allow autonomy to ports as well as a central gov. would deal with common problems such as military support.
- UK's concerns over American incursions into Western Canada and its valued relationship with USA.

Towards Confederation

-the **Charlottetown Conference of 1864** originally intended to create a Maritime Union between Nova Scotia, New Brunswick, and Prince Edward Island.

-the **Québec Conference of 1864** (1) laid out the terms of confederation and (2) **George-Etienne Cartier** convinced french-speaking delegates that confederation was in their best interest (they will have control over their own political affairs)

-the **London Conference of 1866** saw delegates meet with British governors and thus the **BNA Act** was crafted and thus Canada was created (Queen Victoria assented the **BNA Act** on **July 1st, 1867** but Canada wasn't yet sovereign, only semi-sovereign).

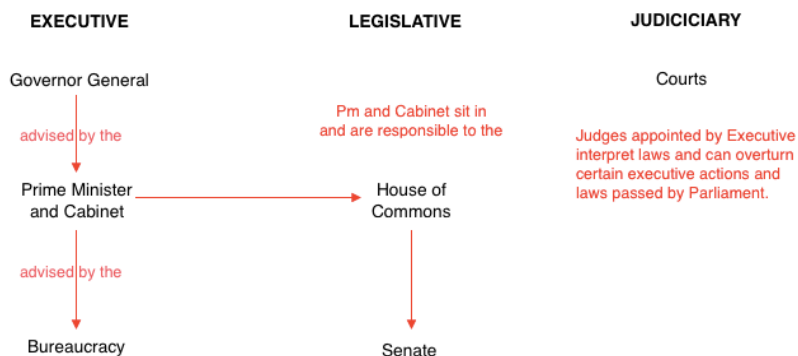
-**BNA Act** stated that the colonies adopted a constitution similar to that of the British (federal and provincial gov. based on a parliamentary system with 2 parts)

1. **legislative**; elected lower house, house of commons, unelected upper house (senate appointed by PM)
2. **monarch/crown**; queen and her representative the governor general

-Approval from both parties was necessary for legislation. A bill must pass through both houses as well as the Crown to become law. **Supremacy of Parliament**: power lay in the advisors of the crown known as the ministers (the core of the system in **1867** was the PM and the Cabinet). **Cabinet Ministers** had the power but if the **House of Commons** declares a lack of confidence in the **PM** and **Cabinet Ministers**, they must either resign making way for another group to take their place or call for a reelection.

-Because the C. ministers have seats in legislative branches (**Senate** and **House of Commons**) and they are the source of most legislation, they normally get their way with legislation and the Queen (this is a **fusion of power**; combination of executive and legislative power)

— — — — — Outline of Canadian Political Institutions — — — — —



judicial independence: expected to operate independently from executive branch

judicial review: power to declare laws invalid. Can appropriate to itself the power to invalidate laws that violate the federal-provincial division of power

After Confederation: The Dominion of Canada

-Canada was a semi-sovereign state, it did not have complete control of its affairs (**until 1982**).

-the **BNA Act** stated the desire to continue with the British tradition of parliamentary gov.

-the **BNA Act spelled out the division of power and minority group rights (denomination schools)**

-the UK could still **disallow**; refuse to declare valid, legislation that Ottawa passed, the highest court of the land was still the **JCPC**, and could still exert some control over foreign policy (**WW1 and WW2**).

-After the **BNA Act in 1867**, Canada was still not completely independent. The British still had control over:

1. appointing gov. general
2. power of gov. general to reserve Canadian legislation for the approval of the British cabinet
3. disallow legislation
4. amend BNA act
5. arbitrary extension to Canada of imperial legislations
6. paramountcy of any British legislation in conflict with Canadian status
7. Canadian incapacity to pass legislation with extraterritorial effects
8. final court appeals
9. control of foreign/trade policy

-**Sir John A. Macdonald's** vision of Canada was to have a strong central gov. (largely out of fear of ending up like the USA)

-even though the USA was a federal country, federalism in Canada was seen as a continuation of the British colonial tradition. The provinces already have their power so let it be. This decision led to Canada being a very decentralized country to **Macdonald's** dismay.

-----Provinces Entering the Confederation-----	
(BNA Act) 1867	Québec, Ontario, New Brunswick, Nova Scotia
1870	Manitoba
1871	British Columbia
1873	Prince Edward Island
1898	Yukon
1905	Alberta, Saskatchewan
1948	Newfoundland
1999	Nunavut

Severing British Ties: The March Towards Full Statehood

- Canada's contribution in **WW1** led to demands for a greater say in its foreign policy.
- 1919**, Canada gained new international status as a result of both accomplishments on the battlefields and subsequent demands for recognition at the conference table, becomes an individual member of the **League of Nations**.
- the **Imperial Conference of 1926 (Balfour Declaration)** "autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations". Also declared that the Governor General would no longer be an agent, but only a personal representative of the Crown.
- the **Statute of Westminster of 1931** eliminated London's ability to legislate for its dominions constitutionally, even if the laws ran contrary to British laws, unless a request by the dominion asking London to do so was made. Although Canada was officially independent, Canada still shared a head of state, **BNA Act** amendment still had to be passed by British parliament, and the **JCPC** was still the final court of appeal for comical cases.
- WW2** marked closer relations with the USA, as the UK turned its attention towards Europe.
- the **Canadian Citizenship Act of 1947** set up citizenship difference from being simply British subjects.
- the **Supreme Court of Canada** becomes the highest court of the land in **1949** (previously the JCPC, which was very unprofessional)
- 1957**, the bombardment of Egypt in defence of the Suez Canal represented the first major international incident in which Canada found itself at odds with Britain.
- Canada adopts its own flag without the union jack in **1965**
- "o Canada" replaces "God Save the Queen" as the national anthem in **1967**
- the passage of the **Constitution Act in 1982** sees Canada becoming a fully sovereign state, as it no longer has to ask London to amend its constitution.

-----Constitutional Developments-----

- 1919** Member of the **League of Nations**
 - 1926 Balfour Declaration** - Imperial Conference confers autonomy on Dominions
 - 1931 Statute of Westminster** confirms independence from Britain
 - 1949** Supreme Court of Canada becomes final court of appeal
 - 1982** Made-in-Canada constitutional amending formula
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Principles of the Canadian Constitution

- Constitutional Monarchy**; the power of the monarch and the Governor General is limited at best, but the monarchical system underlines a great deal of operation of government in Canada, largely in the form of the Crown, which can be defined as the sum total of residual or discretionary powers still left in the hands of the monarch.
- Responsible government**

- Federalism
- Judicial Review
- Rule of Law
- Democracy

Week 2

September 15th, 2016

Ch. 17 - The Canadian Constitution and Constitutional Change

Ch. 19 - The Charter of Rights and Freedoms

THE CANADIAN CONSTITUTION

Overview

- what is a constitution?
- sources of the constitution
- the evolution
- quebec in relation to constitutional change
- from the BNA Act to mega-constitutional politics
- pre and post Charter Canada

The constitution is not one single piece of paper by that name but instead the whole body of fundamental rules and principles according to which a state is governed. More specifically, the constitution provides for the basic institutions of government and the relations among them, the relations between national and provincial governments, and the relations between governments and citizens.

What is a Constitution

- provides a framework for what society will look like
- it establishes the relationship between states and citizens, and branches of gov.
- defines the roles that gov. play (2 or more lvls of gov.)
- places limits on what gov. can do
- framework for action within the state
- the constitution as meta-norms (highest norm) and is a living document (reads depending on the context and the society).

Compact Theory and Confederation

-Canada struggled with finding a way to amend the **1867 Act**. The federal and provincial gov. wrestled with the problem without agreeing on an acceptable balance between rigidity and flexibility. In **1949** a partial domestic amending formula was adopted that became the **BNA Act Amendment (#1)** which added a clause **s. 91** to the effect that in matters of concern to the national gov. alone, the federal Parliament could make constitutional amendment, with 5 exceptions, one of them being that any amendment affecting the provinces would still have to be made by the British Parliament. The basic question regarding such amendments was whether they should require the unanimous approval of the

provincial govts. before being sent to London. Every gov. in Quebec supported this compact theory in order to protect its rights and powers.

-did compact theory guide the confederation? fr. and eng. Canadian politicians did come together to discuss forming a new country...but

Was the Confederation a Compact?

-NO. The provinces never had foreign powers due to being a colony. A pop. consensus for confederation did not exist, the provinces were never consulted on changes to the **BNA Act** on matters affecting Ottawa.

-the idea was ultimately rejected by the **Supreme Court of Canada**.

-**John A. MacDonald** was not a fan of a compact confederation as he feared that theoretically it would be able to change the dynamic of power in Ottawa.

Components of Canada's Constitution

1. the **BNA Act of 1867**
2. formal amendments
3. British statutes and orders in council (**Statue of Westminster 1931**)
4. organic Canadian statutes that fundamentally altered Canada's political institutions (general laws, bill of rights)
5. the **Constitution Act, 1982**
6. judicial decisions (interpretation of division of power)
7. conventions (unwritten constitutions, political practices, customs) e.g. Ottawa asking the provinces in order to change the constitution.

1. The **BNA Act of 1867**: Creating Canada's System of Government

-it was the first constitution providing an outline of a Canadian gov.

-joined NS, NB, ON, and QC together to form the new Dominion of Canada.

-similar to the UK, Canada has a constitutional monarch, parliamentary gov.

-the principle of federalism required a division of powers, the powers of Ottawa and the provinces to be enumerated. **s. 91** (federal), **92** (provincial), and **s. 93** (provincial education) cover federal gov. and provinces.

— — — — — **Main Provisions of the Constitutional Act, 1867** — — — — —

Part III: **Executive Power**: Queen, Governor General, and the Canadian Privy Council (note that the PM and Cabinet are not explicitly mentioned)

Part IV: **Legislative Power**: Senate and House of Commons

Part V: **Provincial Constitutions**: Lieutenant Governor; Ontario and Quebec legislatures

Part VI: Distribution of Legislative Powers **s. 91**, federal powers; **s. 92**, provincial powers; **s. 93**, education; **s. 95**, concurrent powers.

Part VII: Judicature: **s. 96**, federal appointment of superior court judges;

Parliament may set up a general court appeal, but note that the Supreme Court of Canada is not explicitly established.

Part VIII: Revenues, debts, assets, and taxation, including provincial possession of their own public lands.

Part IX: Miscellaneous: **s. 132**, treaty powers; **s. 133**, official languages

Part X: Admission of other colonies

2. Formal Amendments to the BNA Act

- Constitution Act, 1871**: established new provinces
- Constitution Act, 1907**: established a new regime of federal-provincial grants
- Constitution Act, 1915**: established a new distribution of Senate seats
- Constitution Act, 1930**: transferred ownership of natural resources to Western provinces
- Constitution Act, 1940: s. 91(2A)** added unemployment insurance to the list of federal powers
- Newfoundland Act, 1949**: joined Newfoundland to Canada
- Constitution Act, 1951: s. 94A** allowed Ottawa to legislate with respect to old-age pensions
- Constitution Act, 1960**: set a mandatory retirement age of 75 for provincial superior court judges

3. British Statues and Orders in Council

- 1970 Rupert's Land and North-Western Territory Order**: transferred Hudson's Bay Company lands to Canada
- 1871 British Columbia Terms of Union**: joined that province to Canada
- 1873 Prince Edward Island Terms of Union**: joined that province to Canada
- 1880 Adjacent Territories Order**: added Arctic Islands to Canada
- 1931 Statue of Westminster**: declared Canada to be totally independent of Britain
- 1949 Amendment**: incorporated Newfoundland and Labrador.

4. Organic Canadian Statues

- they are laws passed by the parliament of Canada that are special or quasi-constitutional statues. Includes the three Canadian statues that carved provinces out of the Northwest Territories: **1870 Manitoba Act** and the **1905 Saskatchewan and Alberta Acts**. Some argue that many other Canadian laws are of constitutional significance, such as the the **Supreme Court Act**, shiv fleshes out the provisions of the **1867 Act** with respect to the judicial branch of gov. Other key statues include the **Federal Court Act**, the **Parliament of Canada Act**, the **Bill of Rights**, the **Canadian Elections Act**, the **Indian Act**, the **Citizenship Act**, the **Emergencies Act**, the **Canadian Human Rights Act**, the **Yukon Act**, the **Nunavut Act**, and the **Constitutional Amendments Act**.

5. Constitutional Act, 1982

- Canada Act**, passed by the British Parliament, that finally terminated all British authority over Canada. This process is referred to as the "patriation" of the Canadian Constitution. The **1982 Charter of Rights and Freedoms** was also established, guaranteeing fundamental, democratic, legal, egalitarian, and linguistic rights and freedoms against gov. intrusion.

6. Judicial Decisions

-the largest body of judicial decisions consists of the judgments of the **British JCPC**. The **JCPC** interpreted the **1867 Act** in such a way as to minimize federal powers and maximize those of the provinces.

7. Constitutional Conventions

-unwritten rules of the constitutional behaviour that are considered to be binding by and on those who operate the **Constitution** but are not enforceable by the courts. Conventions develop from traditions and through constant recognition and observance become as established, rigid, and sacrosanct as if they were written down. This includes the very position of the **PM** and **Cabinet**, the dominant role of these offices even without written words give formal powers to the **Governor General**, and the principle of responsible gov.
-that the cabinet must resign or call elections if it loses the confidence of the **HoC**.

Group Rights and the BNA Act

-the **BNA Act** accorded group rights (religions)
-at the time, Canada was a conservative country founded on principles of Edman Burke.
-**s. 93**: denominational schools to protect religious minorities
-**s. 133**: linguistic rights guaranteed the use of fr. and eng. in the courts, the **House of Commons**, and the **Senate**.

The BNA Act as a Vision for a Centralized Canada

-**John A. Macdonald's** vision for Canada was not only a centralized gov. but was also about anti-americanism.
-**s. 91** contained powers that were central to nation building at the time (military, currency)
-**s. 92/93** containing provincial powers were understood as being local concerns and therefore unimportant to public life.
-the introduction to **s. 91** states: "Ottawa could make laws for the peace, order and good gov. of Canada" (**POGG Clause**) was left intentionally vague
-Ottawa still had powers of reservation and disallowance. **Disallowance** allows Ottawa to strike down any provincial laws while **reservations** allow the lieutenant governors to refer provincial bills to the governor general. (for the consideration of the powers of the federal gov., the residual powers automatically fell to Ottawa, unlike in the USA where it fell to that states.

Why Macdonal's Vision Failed

-the provincial rights movement was led by Québec and Ontario
-Ontario resented federal encroachment on economic policy
-Québec was concerned with the preservation of the French language Catholicism.

-federal and provincial responsibilities has conflicted with one another, Ottawa's trade and commerce v. the provinces property (regulating businesses) civil rights (contracts).

-interpreting **s. 91** and **s. 92** was left up to the courts. The UK's JPCPC tended to rule in favour of the provinces.

-the Citizens Insurance Company of Canada v. Parsons (1881) - labour laws are a provincial matter

-Russell v. the Queen (1882) - limited the use of the **POGG** clause to emergencies

-**Québec's quiet revolution (1960s)** instigated successive rounds of constitutional talk. Québec perceived that it needed new powers for its modernization project, which focused on nation-building.

-with the exception of areas that only concerned the federal gov., Ottawa still needed approval from London to amend the BNA Act. No amending formula existed because Ottawa and the provinces couldn't agree on one.

-**Pierre Trudeau's** view of the place of French in Canada, Québécois nationalists, rights (individualist/liberal), and Ottawa's role in the national life - **P. Trudeau** wanted a central federalization. Wanted French Canadian Nationalists (displeased with Anglophone's rules, politics, and society) to feel at home anywhere in Canada.

The Fulton-Favreau Formula (Prior to P. Trudeau)

-crisis of relations between fr. Canada and eng. Canada in the **1960s**

-Québec felt that it lacked the necessary powers for provincial and nation building, the **FF Formula** spoke to Québec's sentiments about constitutional change.

-**theses changes needed unanimity among the provinces**

1. giving Québec veto on legislation that concerned the province
2. other fields would require a 7/50 rule; 7 provinces with at least 50% of the national pop. would have to agree to amend the constitution

-Québec withdrew consent because

1. patriating the BNA Act was a nation building project headed by eng. Canada
2. rigid amending formula threatened Québec's nation-building aspirations insofar as obtaining future power as a 7/50 is very difficult to obtain.

The four key packages of "mega-constitutional change" were the **1970 Victoria Charter**, the **1982 Constitution Act**, the **1987 Meech Lake Accord**, and the **1992 Charlottetown Accord**.

Victoria Charter of 1971

-created in response to the failure of the FF Formula

-**Confederation of Tomorrow Conference of 1967** established by Ontario kicked off mega-constitutional change.

-what did Québec want? accommodate soft Québec nationalists in order to avoid the end of Canada but P. Trudeau rejected this idea. P. Trudeau was apposed to accommodating the nationalists, he wanted to take them head on by patriating the constitution

-Contents of the Victoria Charter

1. amending formula
2. required Ottawa consult the provinces for Supreme Court appointments
3. contained a **Bill of Rights**
4. enshrined equalization payments (subventions)
5. provided new language rights
6. transformed powers for federal and provincial legislatures

-Ottawa pledged it would abolish the reservation and disallowance if the provinces would agree to a bill of rights. (had to do this as provinces saw the bill of rights as threatening to parliamentary sovereignty)

Why the **Victoria Charter** Died

-Quebec's premier **R. Bourassa** initially agreed to the **Victoria Charter** but nationalist sentiment compelled him to remind Québec's consent to the Charter as it felt the province was not provided with sufficient control over the social policy field.

-court cases involving aboriginal rights began to force Canada to recognize that aboriginals were part of the political landscape; neither the **Victoria Charter** or the **FF Formula** acknowledged them.

The Politics of the Constitutional Act of 1982

-the "no" victory in **Québec's 1980 referendum** saw P. Trudeau make good on his pledge to occasion constitutional change.

-P. Trudeau's refused to accommodate Québec's demands of a distinct society status and asymmetrical federalism. (Ottawa was fed up with the provinces)

-Constitutional talks routinely broke down

-reference re; resolution to amend the constitution, referred to as the **Partition Reference** - stated that "a substantial degree of provincial consent" was required, yet conventions would not be enforced. This meaning that Ottawa could unilaterally amend the **BNA Act** but it would violate the convention of provincial consent.

-the Patriation Reference led Trudeau to return to the bargaining table, with with 3 problems:

1. Québec wanted financial compensation if it opted out of federal programs
2. Alberta, Saskatchewan, and Manitoba were unhappy with the Charter of Rights and Freedoms since they felt it gave additional powers to the judiciary
3. the amending formula

Week 3

September 19th, 2016

Ch. 17 - The Canadian Constitution and Constitutional Change

Ch. 19 - The Charter of Rights and Freedoms

THE CANADIAN CONSTITUTION CONT'D

Overview

- what is a constitution?
- sources of the constitution
- the evolution
- quebec in relation to constitutional change
- from the BNA Act to mega-constitutional politics
- pre and post Charter Canada

"The Night of the Long Knives"

-Québec became isolated from the constitutional process. eng. Canada had been negotiating with Ottawa throughout the night of **November 4th, 1981** and struck a deal while René Lévesque slept. Known as the kitchen accord, opt out clause was replaced for **S. 33 (notwithstanding clause)**. Québec obviously refused to sign but because of the **Patriation Reference**, Québec wasn't needed.

-the Constitution Act was signed **April 17th, 1982**

-In protest, Québec attached s. 33 to every piece of legislation

Changes to the Constitution Act of 1982

1. equalization payments became enshrined (everyone is entitled to a floor of services in every area of the country)
2. aboriginal rights were recognized
3. amending formula patriated the constitution
4. **s. 92A** gave provinces greater control over natural resources
5. Charter of Rights and Freedoms codified individual rights in Canada
6. official languages acts became constitutionalized
7. the right to schooling in either language where numbers warranted

Part V of the act provides the formula for domestic constitutional amendments depending on the subject matter of the amendment:

1. unanimous consent of federal and provincial legislatures (**s. 41**)
2. consent of Parliament and seven provincial legislatures representing at least (**s. 38-39, s. 42**)
3. consent of Parliament and one or more provinces affected (**s. 43**)
4. consent of Parliament alone (**s. 44**)
5. consent of a provincial legislature alone (**s. 45**)

The constitution act did not respond to any of the demands for constitutional change emanating from Québec.

The Meech Lake Accord

-the new PM Brian Mulroney sought to reconcile with Québec for the constitution after he won the **1984** general election.

-**B. Mulroney's** desire originated in his recruitment of soft nationalists as Tory candidates

-Québec's PM **R. Bourassa** expressed an interest in a constitutional negotiation, this came the **Meech Lake Accords**, which stayed with the tradition of elites negotiating constitutional matters (constitutional matters were always affairs between elites)

-what did Québec want?

1. to be recognized as a distinct society
2. provide greater control of immigration
3. provide the role in selecting its 3 Supreme court judges
4. the opt out clause from federal programs without penalties
5. veto on constitutional matters affecting the province

-an agreement is reached very quickly with Quebec and acquired unanimous provincial consent (including the constitutionalization of the Supreme Court of Canada) and everything is good, but success is fleeting. Every pro-meech accord political lost their election. P. Trudeau was very angry with the Accord, voicing his displeasure in La Presse and The Star, saying it would make Ottawa impotent and ruled by "political eunuchs", he was alarmed that it would give the provinces even more powers and recognize that french was centralized in Québec. The distinct society clause would allow for the potential for QC to challenge federal powers. Many groups were offended by the "distinct society clause" including aboriginals because of their role in founding Canada and ethnic minorities who felt underplayed in their contributions to building Canada. Women's groups feared gains made by the Charter would be lost under the Accord. The left criticized the spending clause's emphasis on national objectives (more flexible) rather than national standards (rigid requirements). There was overall public dissatisfaction with the elite driven process. Opposition was fuelled by the rest of Canada as it felt like this constitutional change only benefited Québec.

The Collapse of the Meech Lake Accord

1. Newfoundland premier **Clyde Wells** opposed further decentralizing the federation and the distinct society clause
2. Wells delayed the vote on the Accord, ensuring that Newfoundland's legislature would miss the **June 23rd, 1990 deadline** Ottawa had imposed on its passage of joint federal and provincial legislature.
3. Manitoban Elijah Harper filibustered the province's vote on **Meech** in reaction to its exclusion of aboriginals from the process, preventing the legislature from adopting the motion.

Aftermath in Québec

-liberal's **Allaire Report** demanded radical decentralization

-the **Bélanger-Campeau Committee** supplemented the **Allaire Report** by suggesting that secession should be an option if satisfactory constitutional change did not occur. A referendum would be held in **1992**.

Aftermath in Canada

-citizen's forum on national unity headed by Keith Spicer, the 1st commissioner of official languages. Known as the **Spicer Commissions**, it was a series of town hall meetings that often ended up only bringing grievances rather than addressing the central issue of national unity.

-the **Spicer Commission** reported that English Canadians would recognize Québec as a distinct society but that it must not be at the expense of special powers that would weaken Ottawa, Aboriginal self-governance, and settlement of Aboriginal land claims. Western Canada was resentful towards official bilingualism as they wouldn't be able to participate in politics or get jobs in Ottawa.

The Charlottetown Accord

-B. Mulroney appointed former PM, Joe Clark, as his minister for constitutional affairs

-“**Shaping Canada's Future Together**” contained the constitutional amendments that would be presented to Québec as a collective response from the rest of Canada (it would give the provinces almost all powers, leaving only exclusive power of defence, customs and excise, and management of national debt to the federal government).

-**the contents of the Accord:**

1. The Canada Clause (QC distinct society and enumerating other fundamental values and characteristics of the country)
2. a tripartite Senate (effective = some senate powers would be reduced, but others strengthened, elective (except in QC), equal = each province would have six senators)
3. Aboriginals self-gov. with its own powers (works like a province)
4. new division of powers
5. a social Charter (recognized right to collective bargaining, health care, social services, education, and protection for the environment)

-the Accord was signed but was put to a referendum in 1992 (it was put to a vote because AB and BC laws required it, **Meech Lake** had been highly criticized for the lack of public input, and public approval would lend legitimacy to the agreement)

-the first time the constitutional reform was put to a popular vote (historically only elite)

Why it failed

-55% voted no (majorities voted no in QC, NS, western provinces, and YK)

-even though it was not legally binding, voters rejected the referendum

-poor understanding of the contents by voters

-voters took out their frustrations on federal and provincial politicians because of the economic recession

-P. Trudeau's speech at the 11th Cite Libre dinner; "a mess that deserves a big NO"

After the **Charlottetown Accord**: A National Unity Crisis (Again)

-national exhaustion with the constitution

-the new liberal gov. of Jean Chrétien promised to shift the focus from constitutional affairs to the economy in **1993**

-the Parti Québécois returns to power in **1994** and promises to take Québec out of the federation. Referendum on sovereignty was held **October 30th, 1995**.

Ottawa promised a constitutional campaign because the "yes" campaign was gaining ground, Québec would be recognized as a distinct society, given veto, and greater decentralization.

-50.6% voted No (60% of french speakers voted yes)

Addressing the Constitution Without Addressing the Constitution: After the **1995**

Referendum

-a resolution for Québec to be recognized as a distinct society.

-reform party MP S. Harper introduces the Québec Contingency Act that does not pass the 1st reading.

-unanimity was required to pass a constitutional amendment providing Québec with a veto, it did not achieve unanimity.

-Decentralization occurred by stealth rather than amending the constitutional act.

Satisfying Quebec Without Constitutional Change

-Plan A/Plan B executed by inviting Stephane Dion and Pierre Pettigrew to the Cabinet even though they were not elected MPs

-Plan A = accommodate Québec through existing federal agreements

-Plan B = set out rules and conditions for Québec's secession if Plan A failed

Plan B and the Supreme Court

-Ottawa uses its powers of referring question to the Supreme Court to ask if Québec could secede from Canada and how.

Reference Re: Québec Secession

1. Québec couldn't unilaterally claim secession because of four interrelated principles: federalism, democracy, rule of law, and protecting minorities.

2. Québécois did not meet the definition of an oppressed or colonized people under international law because they can participate in Canada's political affairs.

3. Ottawa could not ignore a yes vote in the event that a clear majority preferred secession under conditions of democratic legitimacy

4. Yet, Québec could unilaterally secede anyway and its success depended on the international community recognizing its status as a sovereign state.

Ottawa's Response: **The Clarity Act of 2000**

-outlawed Québec's unilateral secession by setting out the regulations to a yes vote. A clear majority must vote yes, Ottawa would not respect a referendum that asked a question suggesting certain ties with Canada would continue, and negotiations would not occur where Québec avoided certain issues.

The National Assembly's Response: How Clear is the **Clarity Act**?

-stating that a "clear majority" was not defined, no guide was given for what Ottawa sees as an acceptable question.

-S. Dion and P. Pettigrew claimed that generalities were necessary in order for Ottawa to be flexible.

-**the Unity Bill** introduced by NDP PM Craig Scott in **February 2014** addressed these shortcomings.

Ch. 17 Conclusion

Canada has one of the oldest constitutions in the world. Although it has been altered incrementally over its long existence by formal amendments, judicial interpretation, and constitutional conventions, its basic provisions remain intact. For 40 years after the start of Québec's Quiet Revolution, the issue of mega-constitutional change was never far from the top of the Canadian political agenda. The incomplete success of 1982 led to the dismal failures of 1990 and 1992, and an abandonment of the effort after 2000. For the time being, therefore, we have resorted to less formal means of achieving some of the stated objectives.

The Charter of Rights and Freedoms

Civil Liberties; the rights and freedoms that individuals enjoy beyond the reach of the government or the state. Such rights and freedoms are an integral part of the democratic political system and represent territory into which the government is not allowed to enter as it makes and enforces public policy for a society.

What Are Rights:

1. freedoms which people have by virtue of being a human being
2. gov. cannot withhold them
3. enforced by judiciary
4. includes political, civil, legal, and economic rights
5. negative rights (by virtue of a gov. refraining from action; freedom of assembly) and positive rights (by virtue of a gov. acting; the right to vote)

Political liberties: fundamental freedom of speech, press, assembly, and religion

Legal rights: procedural rights of a person suspected or accused of committing a crime, liberty encompassing that person's right to legal counsel, a presumption of innocence, bail, and a fair trial.

Equality rights: freedom from discrimination on the basis of gender, race, religion, or age.

Economic rights (more controversial in Canada): the right to own property (recognized in law and the Bill of Rights, but not in the Charter)

Rights in Pre-Charter Canada

-rights were conventions, inherited for being British subjects within parliamentary supremacy. Civil liberties depended on politicians voluntarily respecting them or protecting them in legislation.

-groups rights for linguistic and religious minorities

-federalism was used to protect rights by ruling *intra vires* (within jurisdiction) or *ultra vires* (outside jurisdiction) e.g. Saumur v. City of Québec. It allowed the courts to engage in judicial review in the sense of invalidating federal or provincial legislation that violated the division of power.

-the convention of the rule of law used by the courts to invalidate laws e.g. Roncarelli v. Duplessis

The Canadian Bill of Rights (1960)

-introduced by PM John Diefenbaker

-the apparent aim was to allow the courts to invalidate legislation that they found to conflict with the Bill of Rights.

-3 key problems with the bill:

1. courts were unsure if it gave them any powers of review as it only applied to the federal gov. not provincial.
2. it was a legislation that could be amended by a simple majority
3. the War Measures Act suspended it

The Bill was more useful in clarifying legal rights and was referred to in several cases to fill in gaps in such definition as what was meant by the "right to counsel", the "right to an interpreter", and the "right to a fair hearing."

What Led to the Charter of Rights and Freedoms

-Historical memory of injustices e.g. the internment of the Japanese during WW2, provincially discrimination of: Asians in BC and Jehovah's Witnesses in QB, and violations of freedom of press in AB.

-P. Trudeau's vision for pan-canadian nationalism was combatting Québécois nationalism through the introduction of codified individual rights, remedying the Canadian **Bill of Rights'** shortcomings, entrenching Canada as a bilingual country, and countering decentralization tendencies in the federation.

Understanding the Charter

-Applies to the federal, provincial, and territorial govts. and the powers that all in their jurisdiction **s. 32.**

-changing the charter requires following the amending formula

- the courts are responsible for enforcing the Charter and ensuring that legislation complies with it. They can find a law that violates the Charter if necessary.
- economic rights are absent
- rights are not inalienable under the Charter
- the Charter's reasonable limits clause contained in **s. 1** preamble "the Canadian **Charter of Rights and Freedoms** guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". e.g. hate speech

Examination of Provisions

s. 1 Reasonable Limits Clause

defined with in R. v. Oakes (1986).

The Oakes Test

-used to determine if something is resonate or not, if we can justify it or not.

1. there must be a pressing and substantial objective
2. the means must be proportional
 1. the means must be rationally connected to the objective
 2. there must be minimal impairment of rights
 3. there must be proportionality between the infringement of the rights and the objectives

s. 2 Fundamental Freedoms

- freedom of conscience and religion
- freedom of thought, belief, opinion and expression, including freedom of the press and other media communication
- freedom of peaceful assembly and association

s. 3 and s. 5 Democratic Rights

guarantees that every citizen of Canada has the right to vote in federal and provincial elections, that no Parliament can continue for more than 5 years from the previous election, except in times of real or apprehended war, invasion, or insurrection; and that each Parliament must sit at least once every year. e.g. all prisoners were awarded the vote in federal elections under **s. 3**

s. 6 Mobility Rights

every citizen of Canada has the right to enter, remain in, and leave Canada, and every citizen or permanent resident has the right to take up residence and pursue the gaining of a livelihood in any province.

s. 7 to s. 14 Legal Rights

s. 7 outlines that everyone has the right to life, liberty, and security of person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. **s. 8** establishes the right to be secure against unreasonable search and seizure. **s. 9** grants the right not to be arbitrarily detained or imprisoned, and **s. 10** reads that, on arrest or detention, everyone has the right

to be informed promptly of the reasons, the rights to contact a lawyer without delay, and the right to be informed of that right. **s. 11** includes a variety of rights available to a person charged with an offence; to be tried within a reasonable time. **s. 14** provides that a party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

s. 15 Equality Rights

1. every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination.
2. does not preclude any law, program, or activity that has its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged.

s. 16 to s. 22 Official Languages of Canada

constitutionalize the federal and NB official languages acts and reaffirms the limited official bilingualism of Québec and Manitoba

s. 23 Minority-Language Education Rights

requires provinces to provide anglophone and francophone minorities with education in their own language, where numbers warrant.

s. 24 Enforcement

makes clear that the courts have the power to interpret the Charter and to invalidate laws or government actions that conflict with it.

s. 25 to s. 30 General Provisions

relates to specific groups in society

s.32

clarifies that all legislation in Canada must be consistent with the charter, as must all the actions gov. executives - ministers, public servants, police officers, and so on.

s. 33 The Notwithstanding Clause

-allows legislators to override the rights listed in **s. 2** (fundamental freedoms), **s. 7-14** (legal rights), and **s. 15** (equality rights)

-the provinces originally sought to have **s. 33** cover the entire constitution, but P. Trudeau insisted that it could not be applied to the democratic, mobility, and language rights.

-For the sections it covers, a federal or provincial legislature merely has to expressly declare in a statute that the act or a provision thereof shall operate notwithstanding a specific provision of the Charter.

-**s. 33** has to be attached to a piece of legislation, stating which section the constitution is will operate notwithstanding of, and then the legislation must be renewed every 5 years or it is voided.

The Effects of s. 33

- helps keep Canada's tradition of parliamentary supremacy
- seeks to keep judiciary from unnecessarily wading into political waters
- Alberta and Saskatchewan were the only eng. Canadian provinces that attached s. 33 to legislation (back to work legislation) but Québec is the only province to use it appropriately; attached to its french-only sign laws

The Legacy of the Charter

- the Charter is popular and politicians will likely face consequences if s. 33 is used
- the role of judiciary has increased as they have been called on to address difficult and controversial political issues (policy areas politicians don't want to be associated with, moral decisions, abortion, assisted suicide)
- became a pan-canadian symbol
- historically marginalized groups have been able to advance their causes, especially aboriginals. They are nonetheless bypassing legislatures for the courts.
- judges are involved in high profile cases, meaning that the appointing of judges has now become a highly public process.

Criticisms of the Charter

Right	Left
Morton, Knopff, Flanagan, Manfredi	Mandel, Panitch, Swartz, Jhappan
University of Calgary	York University
<u>Special interest groups</u>	<u>Legalization of politics</u>
Leads to judicial activism (interpretation des lois)	Americanization of politics
Court party (links between special interest groups and activist judges)	the charter allows conservative judges to reinforce the status quo, thereby limiting progressive change
The Charter diminishes the link between Ottawa and the provinces, replacing it with a link between Ottawa and individuals	The Charter allows conservative judges to reinforce the status quo, thereby limiting progressive change. Access to justice become costly.

What Actually Happened

- most laws brought up on Charter challenges are not struck down by the courts.
- the courts generally ask parliament to put the offending legislation in line with the Charter
- a rights culture has emerged

- the gov. vets legislation to ensure that it is not vulnerable to a Charter challenge
- a dialogue between the legislation and the courts have developed the legislature, and the courts have developed as Parliament refers bills to the Supreme Court from time to time (politicians have exploited the judiciary's new role for political gain)

Ch. 19 Conclusion

The protection of civil liberties in Canada historically occupied an intermediate position between the parliamentary sovereignty of Britain and the judicial review of the United States. The adoption of the Charter of Rights and Freedoms in 1982 had a profound effect on the operation of the whole of Canadian political system in transferring power from politicians and legislatures to judges and courts. However, the reasonable limits and notwithstanding clauses in the Charter are unique to Canadian responses and reasserts the involvement of politicians in the process of defining rights and freedoms.

Week 3

September 22rd, 2016

Ch. 18 - Federalism

FEDERALISM

Overview

- federalism as a political and social concept
- how federalism works in Canada
- sources of change for Canadian federalism
- the evolution of federalism in practice

The provinces are autonomous within the powers given to them by the Constitution, but the territories are constitutionally subordinate to federal gov. In the **1930s**, the courts federal legislation aimed at alleviating the Depression, ruling that only the provinces could pass such laws. In the postwar period, though, Ottawa introduced a multitude of national programs within the provincial jurisdiction and through financial inducements persuaded the provinces to join them. Later, though the **1990s**, the federal gov. cut back on such transfers, to considerable provincial and public complaint. Early in the **21st century**, health care, the environment, finance, and justice constituted some of the most fertile ground for further federal-provincial interaction, involving both conflict and cooperation

What is Federalism

- acts as the constitutional division of powers between two or more level of gov.
- each level of gov. is sovereign, no level is subordinate to another (*intravires/ ultravires*)
- federalism as a way of life by reconciling particularism and universalism. We see this in Canada having 2 types of communities (fr./eng.) but universalism comes in

because by accommodating particularism you thus become communal, which brings you to universalism.

Types of Federalism

-symmetrical federalism: equal treatment is accorded to subnational govts. by the constitution and the national gov. (all the same jurisdiction, everyone gets the same powers)

-asymmetrical federalism: special treatment is reserved for one subnational jurisdiction but not others.

Why Federalism in Canada?

-the **Confederation Settlement**, incorporated into the **BNA Act** had to respect the powers that the provinces had had as part of British colonialism.

-the multinational character of BNA because of the presence of fr. and eng. speaking communities (Québec has different social and cultural norms than the rest of Canada)

-yet, the English and French conceptions of federalism differ. The English saw confederation as a union; something fundamentally unbreakable - work through your problems. The French saw confederation as a partnership; "lets get together and as long as this works we will keep it going... when it stops working then we will go our own ways". This is why the role of Ottawa differed in fr. v. eng. Canada

-in short; the provinces already had their power and multiculturalism

The Features of the Confederation Settlement

1. a division of powers between the federal and provincial govts.
2. establish a division of financial resources where Ottawa could levy direct and indirect taxes (tariffs) and the provinces could only levy direct taxes (taxes people pay directly to the gov.)
3. federal controls over the provinces (disallowance, **POGG**, **reservation**; reserve provincial legislation for the consideration of the federal Cabinet, which could then approve or reject it)
4. provincial representation in central institutions
5. **s. 93** (religious group rights) and **s. 133** (fr./eng.); cultural guarantees

Sources of Change in Canadian Federalism

1. Constitutional amendments (changing divisions of power e.g. **s. 92A**; resources amendment of the BNA Act)
2. judicial decisions (whatever the courts decide effects what is considered a provincial and federal power)
3. Financial arrangements (Ottawa can't legislate in provincial affairs, but it can use its spending to make shared cost programs e.g. Ottawa will fund health care but certain conditions must be met)

Dividing Canada's Jurisdictions

the BNA Act enumerated the powers of the federal and provincial govts.

- s. 91 guaranteed federal powers (residual powers and 29 powers including trade, commerce, and national defence)
- s. 92 guaranteed provincial powers (16 enumerated powers; health care)
- s. 93 outlines provincial control over education (denomination schools)
- s. 95 established concurrent federal and provincial powers (agriculture and immigration)
- s. 132 gave Ottawa powers to enlarge Empire treaties (this voided the division of powers, Ottawa could do whatever it wanted)
- The federal gov. also had the power to levy any mode or system of taxation, which included both direct and indirect taxation.

From a Centralized Federation: How Macdonald Attempted for Centralization

- the power that Ottawa enjoyed during the BNA Act reflected Macdonald's vision of a centralized federation where the provinces would be subordinate to the federal gov.
- The BNA Act's POGG clause
- federal powers of reservation and disallowance
- s. 91's residual clause; any powers that don't appear fall to Ottawa
- s. 92(10C) and Ottawa's declaratory power; Ottawa can take over public works deemed of national importance (Old Toronto Harbour Commissioners)
- the PM appointed the Senate so it could vote in Ottawa's favour
- Ottawa's financial powers were dominant, largely because the dominance of "laissez faire" thinking led gov. to shy away from direct taxation. You just didn't level taxes; you levelled indirect taxes (tariffs)
- the development of the grant system as a means to further federal control over the provinces. Provinces became financially dependent on Ottawa who could cut provinces off if they were acting undesirable.

But It Didn't Work...We Got a Decentralized Federation Instead

- the JPC's decision narrowed the scope of federal powers and expanded the breadth of provincial powers.
- widening the scope of provincial powers, especially civil and property rights, reduced what the residual clause might have covered
- narrowing the scope of federal powers reduces Ottawa's ability to transcend the division of powers
- Ottawa's grants to the provinces after Confederation ironically built up their capacities to directly challenge it.

...Or Not

- the supreme court of Canada has tended to broaden the scope of federal powers since it became Canada's highest court in 1949
- the decisions in R. v. Crown Zellerbach Canada Ltd. (1988) and Oldman River Society v. Canada (1992) widened the POGG clause to include issues that are distinct and that cannot be addressed by the provinces on their own (a province can't deal with water pollution or green house gasses on its own).

-the rise of national shared-cost programs and Ottawa's use of its spending powers means that Ottawa. The provinces now have more sources of revenue to draw on as they have built up capacities but now public policy is important and very expensive, making them dependent on Ottawa's help.
-emergency federalism prevails during a national emergency and until it subsides, Canada is governed as a unitary state (WW2).

Why Macdonald's Visions Died

1. The JPC's decisions dealt only with cases brought against federal laws, not provincial laws
2. The role of the provincial rights movement led by Ontario and Quebec. Ontario resented Ottawa's incursions into the economy, Québec was worried about cultural and religious issues.
3. Business interests challenged federal laws because they felt that the provinces would provide a more relaxed regulatory environment than Ottawa. Many business interests would be more open to dealing with provinces one-on-one rather than dealing with Ottawa e.g. more relaxed laws in New Brunswick compared to the laws on the federal level.

Fiscal Federalism: Its Origins and Evolution

-Ottawa established the grant systems as a means to centralize the federation; most grants were unconditional.
-provinces were provided with unconditional grants until the introduction of conditional grants in **1927** for old age pension.
-both levels of gov. finally started direct taxing as a result of WW1, though in an uncoordinated fashion until **1940**.
-WW2 established federal-provincial tax agreements where Ottawa would collect federal and provincial income and corporate taxes and distribute it accordingly
-the provincial portion of the federal tax would vary
-only Québec collects its own personal and corporate income taxes
-Alberta collects its own corporate taxes
-tax agreements were exchanged for Ottawa's role in funding joint programmes through grants
-conditional grants attach conditions for spending the money. Any transfer payments for health care have to be spent under certain conditions.
-Block grants cover a policy area without detailed conditions or strings
-since the **1940's**, conditional and block grants serve as a means for Ottawa to enter provincial jurisdiction. The only other way for Ottawa to enter provincial jurisdiction is to change the Constitution. No constitutional provision prohibits Ottawa from sending money to individual provinces for specific purposes. The grants have primarily been used to establish and maintain Canada's social policy architecture.
-opt outs became permitted in the **1960s** as a response to Québec's demands for new powers. If a province opts out, Ottawa will still send money so long as the province maintains a similar programme (e.g. university funding in Québec) or provide the province with tax points.

-Ottawa's 50 cent dollars (referring to Ottawa's share of a program) for shared-cost programmes with the provinces.

The Evolution of Spending Envelopes

-Ottawa funded shared cost-programs based on provincial needs until the 1970s
- the Canada Assistance Plan (CAP) established in the **1960s** funded social assistance on a 50/50 basis (conditional grant).

-federal funding for health care was determined by the **Medical Care Act** (doctor visits) and the **Hospital and Diagnostic Services Act** until **1977**, when both were rolled into the **Established Program Financing** (EPF), which became a block grant, in order for Ottawa to get a handle on costs.

-The **Canada Health Act** (CHA) transformed the EPF back into a conditional grant because of the public outcry over the double-billing by doctors. The EPF was very inefficient and Ottawa became very concerned over debts and deficits in the **1990s**. Under the CHA, five principles must be met and dollar-for-dollar reductions in transfer payments for extra-billing: (1) comprehensive, (2) universal, (3) portable, (4) accessible, (5) publicly

-the EPF and CAP were rolled into the Canada Health and Social Transfer (CHST) in the **1996-97** fiscal year.

-The provinces agreed to Ottawa reducing its share of the costs in exchange for loosening the spending conditions, except for the health care portion of the CHST envelope (Canadian symbol, only policy field where Ottawa is visible)

-the CHST contained cash payments and tax points. Poorer provinces found this problematic because they lacked the tax base that better off provinces had (fiscal policy had an effect on federalism).

-the CHST was split into the Canada Social Transfer and the Canada Health Transfer in **2004** for reasons related to accountability and transparency.

-equalization payments was introduced in **1957**. Unconditional grants are provided to have-not provinces. This serves to establish a national floor for service provisions. 33 provincial taxes are considered to determine eligibility based on a province's per capita revenue. If a province's per capita revenue falls below the national average, they get an EQpay based on per capita shortfall x a province's population (territories are federal, they don't count). Resource revenues are excluded because it distorts per capita revenue (commodities are too volatile).

Summary: Divisions of Power

1867: **POGG**

1940: unemployment insurance became a federal power

1949: federal Parliament was allowed to amend the Constitution unilaterally

1951: old age pensions was made a concurrent power

1964: federal presence concerning pensions was expanded

1982: Constitution Act, **s. 92A** increased provincial powers in natural resources, decreased gov. powers with Charter of Rights and Freedoms

Summary: Finance

1867: federal power to levy taxes, assume provincial debt, grants 80c per capita
1907: provinces levy their own direct income taxes, conditional grants appear
1927: old age pension conditional grants
1938: Rowell-Sirois Commission
1940: costly unemployment insurance was transferred to federal power
1942: taxation agreements
1952: shared-cost social program; postsecondary education (50/50 block grant)
1957: equalization payments and shared-cost social program; hospital insurance
1966: shared-cost social program; Canada Assistance Plan (CAP)
1968: shared-cost social program; medical insurance
1977: health insurance becomes a block grant (removed conditions and gave less money)
1995: P. Martin federal budget; post-secondary education, health insurance and CAP were combined into one block grant (CHST)

Summary: Federal Controls

1867: reservation, disallowance, declaratory power
1943: last time disallowance was used (112 total times)
1961: last time reservation was used (70 total times), last time declaratory power was used (470 total times, usually on local railroads)
Today: convention that Ottawa not use these powers

Evolution of Federalism in Canada

Quasi-federalism 1867-1896

-Ottawa was superior to the provinces immediately after confederation
-courts gave broad powers to federal level, POGG clause, finance by predominantly under federal control, and J. A. MacDonald used reservation, disallowance, and declaratory power.
-ended with the JCPC's decisions that weakened Ottawa's role and strengthened the province's power

Classical Federalism 1896-1914 and 1920-1940

-powers enumerated to the federal and provincial legislatures were strictly interpreted
-the two levels of gov. were equal in status and independent
-the courts favoured the provinces, they had more money to spend, and the federal gov. made little use of its powers.
-the JCPC and the provincial rights movement led by Québec and Ontario opposed Ottawa's incursions into provincial jurisdiction
-classical federalism comes into question by the **1937 Rowell-Sirois Commission** as a result of the **Great Depression**. It disliked shared-cost programs, preferring each level of government operate independently.

Emergency Federalism 1914-1920 and 1939-1945

-WW1 and WW2, the most centralized

-the courts permitted the federal gov. unlimited powers under the emergency doctrine and **War Measures Act**. The federal gov. increased its financial resources with personal and corporate taxes.

Week 4

September 26th, 2016

Ch. 18 - Federalism

FEDERALISM CONT'D

Overview

- federalism as a political and social concept
- how federalism works in Canada
- sources of change for Canadian federalism
- the evolution of federalism in practice

Post-1945 era was marked by federal-provincial taxation agreements on the revenue side and a host of shared-cost programs in terms of expenditures.

Co-operative Federalism 1945-1960

-Although neither level was subordinate to the other, they are closely intertwined, rather than operating separately. (1) federal-provincial objectives were harmonized, (2) public pressures to establish minimum standards, (3) the two levels of gov. compete for tax revenues, needing coordination, (4) maximizing jurisdiction, leading to overlap. Remained relatively centralized during this period.

-Ottawa and the Provinces collaborated in policy fields, the legacy of WW1 proved that Ottawa could handle aggregate demand

-Ottawa took on an agenda-setting role, as it couldn't legislate, and used its spending power to help provinces meet their obligations.

-WW2 ended the debates about Ottawa inserting itself in provincial matters because of its emergency powers.

-focused on social change e.g. urbanization and industrialization

-a strong national gov. was required to handle macroeconomic management and social policy.

-the **Green Book Proposals** led to Ottawa assuming responsibility and achieving national programmes through cost-sharing.

-50 cent dollars.

-Ottawa would retain control over tax fields and make compensating grants to provinces.

-Ottawa established a national floor that would be flexible enough for provinces to tailor programmes to the needs. Wherever you were in Canada there was a base line of services you could expect to receive. There were myths that co-operative federalism had stiff policies, but this was not true. They were very flexible in that they recognized each province had their own needs even though there were national standards.

-The practice of **executive federalism** arose during this time; the processes of intergovernmental negotiation that are dominated by the executives of the different governments within the federal system, is established and still stands today. In executive federalism, legislatures, political parties, and the public play no role in policy formation and federal-provincial disagreements are resolved at **first ministers' conference** among the PM, ministers, and senior civil servants. These meetings become a key feature as they are where meaningful decisions are made. Political parties and the public were not given much of a role in decision making and conflicts were worked out in the conferences rather than the courts

-federalism becomes an administrative matter, leading to bureaucratic federalism due to the executive nature of the federation. Which is typically more successful than conferences as the officials involved often share certain professional norms, and once they reach a consensus, these experts may be able to "sell" it to their departmental ministers.

-Quebec is the lone the objector to co-operative federalism because the Catholic Church and business interest groups objected the broad social policy. Quebec wants more power to do what t wants and thus **The Quiet Revolution** ends co-operative federalism.

Competitive Federalism 1960-1984

-greater bitterness between Ottawa and the provinces and a deepening of regional tensions that were suppose to be resolved by co-operative federalism

-province-centered views vs, ottawa-centered views

-block funding replaced conditional grants

-the federation was experiencing pressures from below as a result of the **Quiet Revolution** and the rise of the **Parti Quebecois**

-the wealthier provinces (Alberta) resented equalization programmes, which gave their money to have-not provinces. Both Ottawa and the provinces had their own distinct set of economic problems because of the recession of the **1970s**. The province's capacity to challenge Ottawa caused contention around national standards die to the co-operative federalism.

-in **1973**, oil shocks pitted oil-dependent provinces against oil-producing provinces

-intergovernmental debates became bitter, focuses on administrative details rather the policy content. Central agencies and ministries are developed to deal with intergovernmental affairs because of how problematic relations became between Ottawa and the provinces.

-the key shift during the time was a change to block grants, giving money to specific policy areas without specific conditions.

-Ottawa continued to act unilaterally and politicians turn to the courts to reemphasizes the division of power. Competitive federalism ends due to economic problems and Quebec's rise of sovereignty

Constitutional Federalism 1984-1992

- Brian Mulroney**, the new PM (only one to win by pop. vote), denied to reopen the constitutional debate because of his strange coalition made up of alienated Westerners and Quebec soft nationalists
- decentralization, 1987 Meech Lake Accord and 1992 Charlottetown Accord
- Canada would be governed as a collaborative partnership (respect the division of powers and extract Ottawa from provincial spheres). This did not work as Ottawa and the provinces had so much overlap. By opening the Constitution, **B. Mulroney** opened up new divisions of power.
- eng. Canada viewed the gov.-citizen relations as the basis for federal decisions, whereas fr. Canada viewed the federal-provincial relations as a basis for federal decisions.
- B. Mulroney's fiscal policies and decisions eventually led to disputes between Ottawa and the provinces.
- the **1992** referendum in the **Charlottetown Accord** rejected the notion of asymmetrical federalism, thus ending constitutional federalism.

Collaborative Federalism 1993-2003

- marked by **Jean Chrétien** and his liberal gov.
- J. Chrétien's** goal was to improve the machinery of federalism without reopening the constitution. There was a feeling on constitutional exhaustion throughout the country as well as internal pressures to eliminate the deficit.
- cuts to federal transfer payments to the provinces eliminated many of the strings and powers Ottawa held over the provinces (greater decentralization).
- an agreement on internal trade in **1995** sought to reduce barriers between the provinces, strengthening east-west ties.
- the **Social Union Framework Agreement of 1998** prevents Ottawa from establishing national programmes with the consent to the provinces. Prior to the eras of co-operative federalism, Ottawa was able to take on an agenda setting role - which led to this framework. Ottawa now cannot establish national standards on its own, requiring province collaboration.

Paul Martin Era (Renewing Federalism) 2003-2005

- P. Martin** pledged to renew the federation after the era of debts and deficits. Once entering an era of surplus, only then could Ottawa reassert a presence in provincial affairs.
- in concert with other Premiers, Quebec's Premier J. Charest established the **Council of the Federation** (a way for provinces to focus their energy in speaking with one voice when approaching Ottawa)
- P. Martin was seeking to re-establish a national role for Ottawa, in particular through the establishment of national day care, funding municipal projects (**New Deal for Communities**), and addressing quality of life issues for Aboriginals (**Kolowna Accord**).
- the equalization formula would be revised, but this caused objections from the provinces so it was dropped and forgotten

Open Federalism 2006-2015

- reflects PM **Stephen Harper's** views of the role of Ottawa
- respected provincial jurisdiction (classical federalism), limited federal spending power, redressing the fiscal balance by giving provinces the ability to tax on their own.

- responded to Quebec wishes, alienating the West

How Open Is Open Federalism?

- the effects of the economic meltdown of **2008** led the conservative gov. to enter into provincial jurisdiction as well as attempts to centralize certain policy fields like HST.

- the provinces, especially Ontario, Québec, and BC objected to Ottawa's criminal justice policies because of the mandatory minimum sentencing and the impact that greater incarceration would have on provincial finances.

- after the **2011** election, QC became less and less important for the conservatives as it resulted in the first gov. that did not need QC to govern

J. Trudeau, Where Does Federalism Stand? 2015-Now

- PM **J. Trudeau** noted that he was interested in renewing inter-gov. relations. His **2015** electoral platform included addressing issues were within the jurisdiction of the provinces (public transport, reforming the senate).

- J. Trudeau revived the first minister meetings from co-operative federalism

- it remains unclear which direction J. Trudeau will take as there was no mandate letter for intergovernmental affairs (which J. Trudeau appointed himself the head of). Mandate letters for other ministers did indicate a return to co-operative federalism. There is an understanding that federal and provincial jurisdictions have a significant overlap.

Ch. 18 Conclusion

Federalism in Canada is both based on and reinforces regional, economic, and ethnic cleavages. In the beginning, the Canadian federal system was highly centralized, but this original design soon proved to be inappropriate for the society in which it operated. When the cleavages became difficult to overcome, and as "province-builders" competed with the "nation-builders," Canada was gradually transformed into a very decentralized federation. Both in the courts and in negotiations with Ottawa, the provinces successfully fought for more powers and more financial resources. Although federalism often seems to be an unending source of inter-gov. discord, as well as a convenient excuse at both level of gov. for not responding to demands, the importance of the continuing maze of co-operative federal-provincial interaction cannot be overestimated. In this respect, the original division of powers between the two levels of government has almost become irrelevant, although in his preference for more limited state intervention, S. Harper appeared to take it more seriously, and we will continue to see how the federal relationship with the provinces develops under J. Trudeau

The Crown

The Queen aka Head of State

Governor General aka Monarchy's Representative
The Executive
PM in the Cabinet
Cabinet Ministers In the Cabinet
Gov. Departments (Finance, Justice, Health)
The Legislature (Parliament)
Senators in the Senate
Members of Parliament in the House of Commons
The Official Opposition
The Courts
The Supreme Court of Canada
Provincial/Territorial Courts

Week 4
September 29th, 2016

Ch. 21 - The Executive; Crown, PM, and Cabinet
Ch. 23 - Parliament

THE PARLIAMENTARY SYSTEM OF GOVERNMENT

Overview

- the relationship between the legislature and the executive
- Canada as a constitutional monarchy
- the role and functions of the executive
- the cabinet
- the roles and function of the legislature

Canada's Parliamentary System: Responsible Gov.

- responsible gov. as the corner stone of parliamentarism i.e. the executive is answerable to the legislature and it can govern only as it enjoys the confidence of a majority in the HoC
- the origins of responsible gov. lays with the rebellions of **1837** and **1838** against the **Family Compact** and **Chateau Clique**.

Features of Parliament in Canada

- the relationship between the executive and the legislature are fused.
- the executive, drawn from the legislature, is comprised of the Prime Minister (PM) and the Cabinet. All members of the Cabinet serve at the pleasure of the PM (can be summoned and dismissed as the PM so chooses). The executive is not popularity elected (you don't vote for the PM directly, you vote for the representative in your riding). The executive governs, whereas the legislature does not. The PM (head of gov. not head of state) is the leader of the party that won the most seats in the HoC.
- the Governor-General is the British monarch's representative; Queen Elizabeth II, who is the head of state. The heads of state in a parliamentary system are seen as being above politics, and as such, lack substantial powers.

How Parliamentary Gov. Works

-members of the legislature seek to become part of the executive, which governs. This is achieved by showing loyalty to the PM, by constantly supporting the gov. of the day it improves the legislatures chances, thus propping up the current gov. is in their best interest.

-they are mutually dependent; meaning that the executive can be brought down by the legislature if there is a lack of confidence.

-party discipline ensures that the legislature remains loyal to the executive (the gov. whip is in charge of making sure they vote in line with the party)

The Crown

the idea of the crown is centered around the head of state and it represents the entirety of the executive power exercised by or in the name of the monarch (symbolic value). The crown also represent the entirety of the Canadian and is a metaphor for the country. Queen Elizabeth II is the Queen of Canada and as head of state, she reigns according to the Constitution. The crown is a symbol and metaphor for the country, not a personal embodiment. The powers that the Queen possesses are actually exercised by the PM and the Cabinet, reflecting the dual nature of the executive i.e. the formal and the symbolic executive powers are vested in the Queen while the effective executive is comprised of the PM and Cabinet.

The Governor General

-the governor general is the monarchy's representative in Canada and they perform the Queens powers and duties, which are ceremonial and symbolic.

-the PM selects the governor general, who normally serves for 5 years alternating between Anglophone and Francophone.

The Queen's Sources of Power

1. s. 9 of the Constitution Act of 1867 declares the power vested in the Queen and s. 15 makes her the Commander in Chief.
2. Letters Patent invented the office of the Governor General and provide it with national authority (constitutional force)
3. royal prerogative, which is also referred to as prerogative powers; meaning the residual authority of the Crown when the monarchy is absolute

Prerogative Powers

-since they are conventions, they are exposed to parliamentary restrictions e.g. declaring war. The triumph of democracy ensures that the Queen or her representatives will always act on the advise of the gov. as refusing royal assent would be unconstitutional. Prerogative powers include appointing the PM and dissolving Parliament and calling an election (on the advice of the PM)

The Executive

-sets priorities, makes decisions, resolves crisis, sees that policies get implemented, writes and implements bills (it is the gov.). Only the PM and the Cabinet can recommend money bills to Parliament and all international acts + foreign policies are the prerogatives of the Cabinet (Money bills are the constitutional purview of the Cabinet as constitutional guarantees).
-the Cabinet's power is also derived from specific acts of Parliament, as every minister has the power to make decisions of one kind or another e.g. changing a regulation
-the PM is the head of the gov. and the head of Canada's executive (the Cabinet). The role of the executive is not codified for it is guided only by conventions. Executive authority is vested in the Governor General and they are advised by the Privy Council (non-partisan, public service support to the Prime Minister and Cabinet and its decision-making structures). The Governor General acts on the advice of the Privy Council, which makes it de facto executive authority in Canada.

How The Cabinet is Formed

1. the Governor General calls on the leader of the winning party to form a gov. after an election
2. the leader is named the Right Honourable
3. the PM advises the Governor General to make other appointments to the Privy Council (for the purpose of assisting with the exercise of gov.) Ministers with portfolios who fully participate in the life of the Cabinet and become responsible to the gov., the legislature, and Canadians for the actions and decisions of their department.
4. the PM can recommend ministers of state i.e. junior ministers, who do not have a portfolio who may not always participate in the Cabinet (not responsible for their department)
5. Sworn in and exercise executive authority

-certain posts in the Cabinet have been designated for certain individuals e.g. fishery and oceans typically to go people from Atlantic Canada, finance goes to Toronto or Montreal.

-ministers are rarely experts in their portfolio, if you appoint an expert they are more likely to regularly challenge the PM
-the principle of the individual ministerial responsibility prevails for every minister i.e. you are responsible for your department's mistakes. Individual ministerial responsibility has lost all meaning as resignations are rare except in cases of gross incompetence or a conflict of interest. Generally when you mess up the PM sanctions the minister by demoting or dismissing the minister.

Who Gets to Join the Cabinet

Candidates are selected based on; (1) party and cabinet politics (2) provincial representation (3) talent (4) occasional ordinary citizen e.g. S. Dion and M. Fortier

What Happens in the Cabinet

-the Cabinet gov. was inherited from the UK. The principle of **collective ministerial responsibility**: meaning that all members of the Cabinet have to carry out the gov's. policies (regardless of how the individual feels about a policy, one must publicly support it). The principle of **Cabinet solidarity** requires all Cabinet members to support all decisions and actions made by the cabinet because (1) they are heads of departments and (2) they execute the collective governance of Canada. All decisions that are arrived at in the Cabinet must be publicly supported or else a minister must resign (without this discipline, it gives the opportunity to the opposition party to throw into question their confidence of an effective gov.)

-The PM tends to observe and only intervenes towards the end of the discussion to summarize salient points and to state the emerging consensus, or to make it known that he/she in the Cabinet arriving to a specific desired outcome. (no votes are held in the Cabinet because of solidarity; the PM states what he wants and it's the Cabinet's responsibility to make it happen).

-No votes are taken in the Cabinet in order to also avoid the development of minority/majority blocs, which would take away from the principle of collective ministerial responsibility. Cabinet secrecy acts to encourage member to speak freely and openly. Not all ministers are equal in the PM's eyes, perhaps due to knowledge, experience or agenda, but they all must feel like they are equally contributing to a positive part of the process (solidarity)

Making Decisions: The Role of the PM in the Cabinet

-the PM is the dominant executive authority, *primus inter pares* (first among equals) rings hollow, it is true in principle but not in practice.

-the PM has authority because (1) the PM leads the governing party (2) the PM can select and dismiss the Cabinet, which reflects a PM's personal style, ambitions (3) the PM chooses the size and structure of decision-making (how many/few ministers, merging portfolios), therefore reflecting his/her ideals, knowledge, and visions of what constitutes "good gov." (4) the PM has the power to appoint an entire range of public officials who may dovetail (senior civil servants) with his/her personal ambitions (5) the PM is the only one who can liaise with the Governor General directly (6) the PM is the chief communicator for the gov. in domestic and international affairs.

-no limits on (1) presidentialization thesis (the idea that overtime, power has been vested in the executive/PM, especially in majority gov.) i.e. the PM acts like a president and (2) a majority gov. eliminates controls.

Limits to the PM's Powers

-Finance (easy to get things done with lots of money, promises become difficult when there isn't), hostile media, provincial opposition, advocacy groups (brings to light what is going on in the gov.), international influence (existence of supranational agreements), limits to social change.

Assisting the PM (and the cabinet): The Role of Central Agencies

- the Prime Ministers Office (PMO) is a partisan office staffed with the PM'd personal appointments
- the Privy Council Office (PCO) is the only non-partisan office staffed with career civil servants who provide administrative support and policy advice to the cabinet. The role of the PCO serves is to bring about horizontal coordination among gov. policy and programmes and that Canadian institutions are calibrated to Canadians' needs. The PCO's head, the Clerk of the Privy Council and Secretary to the Cabinet, is the highest ranking civil servant and acts as (1) the deputy minister to the PM, (2) supports the cabinet as its secretary, and (3) is the head of the civil service.
- the Department of Finance plays the role of the macroeconomic advisor to the PM and the cabinet on all policy and programmes matters (growth rate, jobs, effects of spending).
- the Treasury Board Secretariat is the microeconomic advisor to the Cabinet on internal gov. spending and personal management (resources, available spending, gov. finances).
- the Department of Justice ensures that the Cabinet's decisions are in line with the charter

Decision Making in the Cabinet (not on the exam)

(1) The Departmentalized Cabinet System

-prevailing until the 1960s, the departmentalized Cabinet system was characterized by decentralized decision-making and largely autonomous ministers. Collective oversight from the Cabinet was absent, only the PM and his closest advisors received information. The PM alone was responsible for co-ordinating, planning, timing, and introduction new gov. initiatives. The probable with autonomous ministers was that they were influenced and controlled by bureaucrats.

(2) The Institutionalized Cabinet System

-a need for coordination in the Cabinet led to the rise of an institutionalized system. Priorities and Planning Committee (P&P) was introduced to establish and articulate the Governor General's policy agenda i.e. selecting 5 key policy areas that will define the term. The Cabinet committees were established to make recommendations for gov. action in a broad jurisdictional field and its activities co-ordinated with the P&P. The P&P is the only committee that is chaired by the PM because you don't want people feeling the PM is favouring certain groups over others. These Cabinet Committees would enable for (1) greater variety of information and (2) get ministers more involved in policy making. You don't want bureaucrats telling ministers what to do began the process of power ruling into the executive, leading to more centralization over the decades.

(3) P. Trudeau's Cabinet System

-central agencies are introduced into the decision making process (PMO, PCO, Finance, and Treasury Board). Trudeau Believed that giving a role to central agencies would help the Cabinet optimize time and resource management and approach decision-making with a more technocratic attitude towards problem solving.

The chance of a policy or program getting passed in the Cabinet is whether or not the minister knows the routes that need to be taken to maneuver through gov. PM J. Turner and B. Mulroney sought to revive the principle of individual ministerial responsibility by dismantling P. Trudeau's machinery of rationalism. PM K. Campbell sought to expedite decision-making by reducing the size of the Cabinet and Cabinet Committees by eliminating P&P altogether. J. Chrétien sought to create a more horizontal style of decision making in the Cabinet by reducing the size of central agencies staff. In practice, J. Chrétien established a "court gov." where the PM monopolizes key strategic matters with a few select ministers and senior advisors, shifting from a Cabinet gov. to a Prime Ministerial gov. i.e. the Cabinet becomes less important for decision making.

Parliament in Canada

Composed of the the Official Opposition, the House of Commons, and the Senate. Canada follows the Westminster model, which it inherited from the UK. The basic principle of a parliamentary system means that the people are not sovereign, parliament is i.e. people cannot involve their rights to oppose House of Commons' policy.

The Official Opposition

-they play the role of the gov. in waiting, the formal title being Her Majesty's Loyal Opposition. The party with the second most seat in the HoC forms the official opposition and their job is to oppose and hold the current gov. accountable. It also acts as an alternate gov. position to issues like the budget.
-the official opposition is permitted to speak first after the gov. and is allotted a greater amount of time during question period, as well as greater amounts of office space and funding for research.

The House of Commons (Lower House/Chamber)

-commonly referred to as "parliament", the HoC is the most visible aspect of Canadian politics because it is the central link between citizens and gov. Commonly, Canadians believe that the HoC is where political power lies, though it actually resides in the executive.
-serves a representative function, MPs are elected
-of the 338 seats distributed on the principle of representation by population, MPs are divided into 3 groups:
1. Cabinet Ministers (the gov.)
2. Backbenchers (those who support the Cabinet)
3. the Opposition

-the **Constitutional Act of 1867** requires Parliament to meet at least once a year. A typical session lasts a year and usually runs from mid-september to mid-december and early-february to mid-june.

Key Roles of the House of Commons

1. pass laws that are generally formulated by the executive
2. represent the constitution
3. scrutinize i.e. responsible gov.
4. review the gov.'s financial initiatives (budget day is the biggest event)

Key Actors in the House of Commons

-the MPs

-the Speaker, who is (1) impartial, enforces standing order (2) elected by secret ballot

-the House Leaders, selected from each party, they work together to establish HoC business and speak for their parties when the leaders are absent

-Whip, who ensures that MPs toe the party line and present key votes

-the Clerk, who is a permanent official and advises the speaker on procedure

The MPs

-increasingly bilingual but generally white, male, highly educated, and come from higher status professions with an increase in backgrounds in business. The number of visible minorities had increase but a large gender balance remains. There is however a high turnover rate as few seats are safe (Vanier, Ottawa is forever liberal, all other seats are an unknown).

The Role of MPs

-they represent and respond to their constituents, most work that an MP does takes place outside of the HoC, in Standing Committees.

-**Standing Committees** are where MPs are the most effective. They are set up around substantive policy areas to analyze spending and legislation e.g. the Standing Committee on Aboriginal affairs. They hear a range of opinions and arguments from MPs, senior civil servants, experts, and advocacy groups. Since 1986, Standing Committees have had the power to investigate any aspects of the departments they are assigned to, finance being the most important. Being appointed to the Standing Committee of Finance is the most important because it provides pre-budget consultations.

-the chair of a Standing Committee is appointed by the Prime Ministers Office (PMO), drawn from the gov. side whereas the vice-chair is drawn from the Official Opposition in order to increase the effectiveness of the Standing Committee.

-SCs clerk provides administrative and procedural supports, policy analysts are assigned from the staff of the Library of Parliament,

-Cabinet members do not sit on Committees but Parliamentary Secretaries do

A Typical Session in Parliament

- a Speech from Throne is prepared by the PM and read by the Governor General in the Senate then debated in the HoC
- the budget, which is the gov.s annual financial statement, is announced by the Minister of Finance and then debated
- the presentation of estimates i.e. the spending proposals for the next fiscal year, is presented by the Minister or member of Finance and then debate
- Official Opposition days

a question period allows the opposition to grill the gov. for 45 minutes, (aides will brief Cabinet Ministers on what kind of questions to expect and how to respond) in which Ministers will often given vague answers, the speaker will then permit supplementary questions. Backbenchers may also ask question during question period. Members' statements precede during question period, and after question period is over, regular business is discussed, the HoC generally empties, and the Deputy Speaker replaces the Speaker.

Ending a Parliamentary Session

1. HoC can elect to adjourn i.e. take a break form the session
2. the gov. elects to prorogue Parliament, which kills any legislation that was tabled but not passed
3. the PM asks the Governor General to dissolve the session

Prevalence of Party Discipline in MPs

-party discipline is the glue that hold the Parliamentary gov. together. Backbenchers and Opposition MPs can revolt if they feel that the party discipline has become too rigid e.g. J. Chrétian and S. Harper, which is why we have party caucuses to act as a means of listening to MP concerns. Party members may speak freely every Wednesday morning and "free" votes are permitted from time to time. Regional and provincial caucus meeting take place prior to general caucus meetings, gov. caucus meeting are the only ones that the PM and the Cabinet attend in order to inform backbenchers about the gov.s upcoming plans and sometimes have a dialogue with them.

Types of Bills

- most bills tend to originate in the HoC, with the exception of money bill (only the Cabinet had that power).
- Gov. bills (originating in the Cabinet) are introduced by a Cabinet Minister and numbered C-1 through C-200. All gov. bills are subject to party discipline, if you vote against them you will get in trouble.
- MPs can introduce private members' bill which are numbered C-201 and up. Private members' bill are of a general public policy nature as they cannot introduce a bill concerning revenues. MPs can introduce a bill concerning expenditures but a Royal Recommendation (spending that has been recommended by the Governor General) must be obtained by the MP and then introduced to the HoC before the third reading. Private member bills (1) are not subject to party discipline and (2) rarely become law unless the gov. embraces it

e.g. reintroduction the long form census. The most common private bills are those concerning individuals or corporations which take up little time and effort.

Passing Bills

-all bill must go through 3 readings.

1. 1st reading introduces the bill, which may or may not be briefly explained
(gov. bill may go straight to committee after 1st reading if the minister consents)
2. 2nd reading debates the bill's principles (where all the work and action happens). If this bill passes 2nd reading, it is approved only in principle but its details cannot be amended. The opposition has an interest in exposing the bill for as long as possible in the 2nd reading if it is controversial. Public opinion can be harnessed by the opposition to discredit the bill, as well as filibustering can delay the bill's passage.
3. Committee stage scrutinizes and takes the bill apart, this is where the bill is clarified. The main concern at this stage is improving the bill's clarity and refining its sections if components are too vague
4. Report stage, where MPs who were not involved at the Committee stage can introduce amendments
5. 3rd reading is for a finale overall appraisal, where the MPs whether the bill will be sent to the Senate where it will go through the same process.

Once the bill is passed by both chambers it receives royal assent in a special ceremony in the Senate where the Governor General nods.

The Senate (Upper Chamber/House)

-seen as the house for sober second thought, the Senators are appointed by the PM from Canada's 6 regions (ON, QC, the West, and Atlantic Canada each have 24 seats, NF had 6, and the territories each had 1 seat). QC Senators are the only ones awarded a specific district of their province. The Senate's legitimacy has been diminished as the Senators are appointed and the tendency by party loyalists have been to delay legislation instead of rejecting it. To become a Senator you must be: at least 30 years old, reside in the territory or province to which you are appointed, and own personal property worth the sum of \$4000 above any existing debts or liabilities.

-the purpose of the Senate is second thought and to focus on the technical aspects of legislation for the purposes of improving it. Just as MacDonald intended, it has served as a more conservative voice in Canadian politics.

The Role of The Senate

-to introduce bill (excluding money bills), deal with private bills so that the HoC can expedite their passage, study public problems (social investigation), and reform policy areas that concern Canadians. The Senate is aware of its

reputation and it has tried to raise its profile by televising Senate Committee hearings.

Problems with the Senate

-the Senate lacks democratic legitimacy because they are appointed, normally partisan. Also, Senators are not subject to the same accountability that MPs are.

Attempts at Reforming the Senate

-P. Trudeau sought to change the Senate into a federation in 1978 where 1/2 of its Senators would be selected by the provinces. The Supreme Court ruled that this requires a constitutional amendment that demanded the consent of all the provinces.

-A tripple-E Senate originating from Alberta was proposed, but was part of the rejected Charlottetown Accord.

-debates include total abolition, appointing Senators by committee, removing party affiliations, bill C-7.

Independent Advisory Board for Senate Appointments

-an independent and non-partisan advisory board that was established Jan. 2016 whose mandate it to provide a non-binding recommendation to the PM on Senate nominations (made public). An open application process has been established to allow Canadians to apply for appointment to the Senate. The board has 5 members; a federal Chair, 2 federal members, and 2 *ad hoc* provincial and territorial members for the province or territory where a vacancy is being filled.

Week 5

October 3rd, 2016

Ch. 24 - The Judiciary

THE JUDICIARY

Overview

- the role of the courts
- its evolution
- judicial traditions
- the politics in selecting the judiciary

The Role of the Judiciary

interest laws, settle disputes, pass judgments based on existing laws, impartiality (judicial independence guaranteed by security of tenure, you son't want judges making decisions due to political or public pressures), embody the coercive aspects of the state in an adversarial system.

The Role of the Judiciary in Canadian Politics

-Judges has historically been treated with great esteem by the Canadian public. In addition to they legal functions, judges have headed **Royal Commissions** and other commissions of inquiry. Judicial review of laws has been present since Confederation, refuting the supremacy of Parliament.

-Constitutional law has the most significant impact on Canadian politics
-Cabinet members are expected to avoid contact with judges, and judges are expected to refrain from making speeches which could compromise they impartiality.

-federally appointed judges can serve until the age of 75 and provincially appointed judges can serve until the age of 65-70

-judges can serve as long as the exhibit “good behaviour” (not committing a crime). The removal of judges is very difficult, the **Canadian Judicial Council** along with other systems deals with complaints.

Legal Systems in Canada

Common Law

-present throughout the eng. speaking and officially bilingual provinces

-precedent provides a predictable legal framework despite the presence of written laws, which are not as clear in practice as they are on paper

-judges rule on the arguments presented before them

Civil Law

-present in Québec since the **Québec Act of 1774**, the Fathers of Confederation elected to continue allowing the province to have its civil code

-elaborate written legal codes guide decisions i.e. the Civil Code, judges are more involved in delivering a verdict

-Judges play a fact-finding role to see what law applies when, where, why, and how

Types of Law in Canada

Civil Law

-regulates the relationship between private parties and it lies within the sphere of provincial powers due to **s. 92(13)**

-all civil laws are decide on the “balance of probability”

-civil laws vary from province to province

Criminal Law

-federal responsibility and is therefor uniform across the country

-any criminal act is considered an act against society as a whole

-the burden is on the state to prove that the accused committed a criminal act

-Provincial Attorney Generals and Crown Attorney Generals inmate all criminal proceedings

-**s. 92(14)** places the administration of justice in provincial hands because cases can have criminal and civil elements e.g. impaired driving

Public Law

-refers to elements of laws related to gov. e.g. constitutional law, administrative law, and tax law

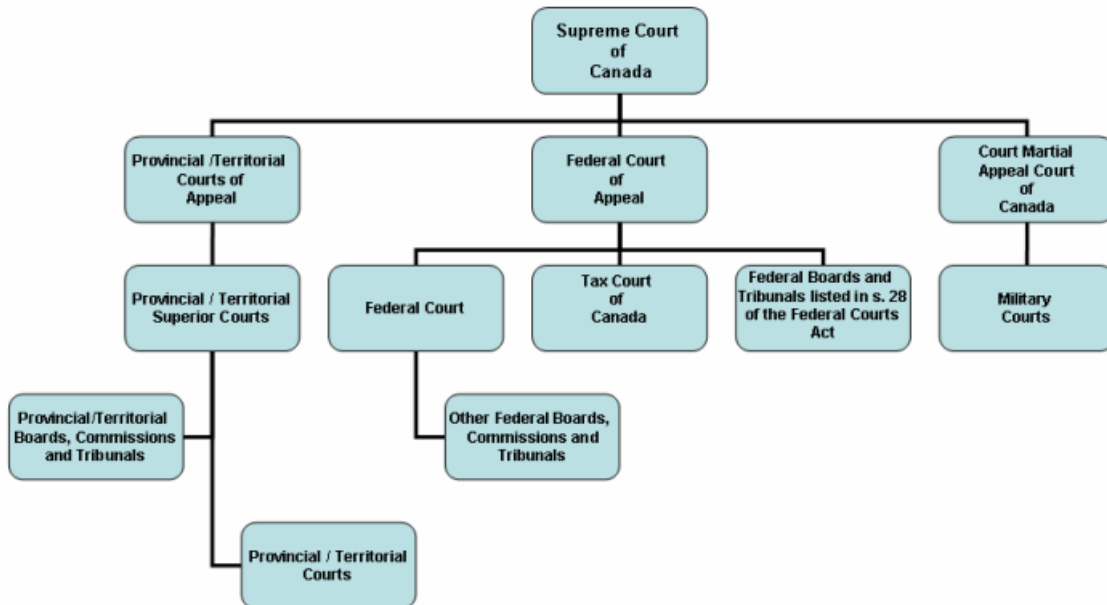
Private Law

-refers to laws governing private interest e.g. wills, family law, torts

Canada's Law Problems: Money

-the cost to access justice is high in an adversarial system, which leads most cases to take plea bargains. Legal aid is provided, but resources are tight and the quality of representation tends to be poor. Plea bargaining and pre-trial conferences are sought to lessen the costs, but there is no reason to suggest that the outcome will provide justice.

Understanding Canada's System of Courts



-the **Constitution Act of 1867** says little about the courts other than allowing Ottawa to create any new federal court and a general court of appeal (**s. 101**)
-provinces already have their own system of courts in place. All criminal and civil cases enter provincial and territorial courts. Provincial and territorial courts of appeal hear all appeals and they seek to address any incorrect applications of justice i.e. they focus on legal issues not factual issues. Provincial courts of appeal can be asked to make a reference on provincial legislation by provincial cabinets. All lower courts must follow a court of appeal's decision.
-the Federal Court of Canada was created in **1971** relieving the Supreme Court of Canada from hearing routine appeals from federal administrative appeals and regulatory tribunals, and to create a more coherent body of federal

administrative law (more unified body of administrative law). In **2003** it was restructured and split into two: the Federal Court (hears trials involving certain federal laws) and the Federal Court of Appeals (hears trials appeals from federal court, tax court, federal tribunals, and applications for the judicial review from certain federal tribunals)

The Supreme Court of Canada: A Brief History

Created on **April 8th, 1875** as a general court of appeal under PM A. Makenzie, the Supreme Court (SC) became Canada's highest court in **1949**. Before **1949**, the JCPC was Canada's highest courts and all Supreme Court decisions (1) could be appealed to the JCPC and (2) were bound by the JCPCs decisions, also appeals from the provincial courts could bypass the SC entirely and go straight to the JCPC. Appeals involving criminal cases to the JCPC were abolished in **1888**, but rules *ultra vires* (**1926**). National frustration with the JCPC's remoteness from Canadian society and needs, Justice L. Duff, and the Statute of Westminster contributed to the SC becoming the highest court of the land. Appeals involving criminal cases to the JCPC was abolished in **1933**, appeals involving civil cases to the JCPC was abolished in **1949**.

The Role of the SC

1. hear appeals from the provincial and territorial courts in civil and criminal cases (the SC selects which appeals it will hear)
2. receives appeals from the federal court on administrative law matters
3. asked by the federal Cabinet to make a reference, usually of a constitutional nature (a debate exists over whether a reference carries the same weight as case)

Features of the SC

-9 members are chosen based on regional representation; 3 from QC and ON, 2 from the West, 1 from Atlantic Canada, and based on profession experience; 7 from provincial courts of appeal, 1 from the federal court, 1 without judicial experience (representing the "practicing law").

-3 sessions lasting 2 months each are held each year and adjournments occur to write decisions. 2 cases are heard per day and each side has 2 hours to make their oral arguments. Occasionally, "intervener status" can be granted to provincial gov.s or interest groups who are not involved in the case but are interested in its decisions and may take part in the proceedings. Once the arguments are completed, the SC judges "reserve judgment" and meet to discuss the case. Law clerks who are outstanding law school graduates assist the SC judges to pore over precedents and other relevant material to a case. The most recent appointed is always asked for his/her opinion first and if a consensus exists, the Chief Justice asks one member to record the decision. If there is a split, 2 or more judges are asked to prepare statements of their point of view.

-decisions normally take 6 months to write, made by either (1) depositing a decision to the registrar or (2) announcing it in court.

Selecting Judges

- SC, federal court, and provincial/territorial superior court judges (**s. 96**) are appointed by the federal Cabinet, with the PM exclusively consulting with the Governor General on the selection, they must be qualified lawyers with a least 10 years' standing experience.
- provincial Chief Justices are chosen by the PM and are almost always from the existing branch. Provincial court judges are appointed by provincial Cabinets and they must be a member of the Bar for at least 5 years.
- the Provincial Attorney General consult's with the local judicial council or its equivalent.
- political patronage has dominated the criteria for selecting judges, largely explaining why lawyers are active in political parties. Problems with qualification, suitability, and partisanship has subsided as greater thought has been put into the selection of judges. **The National Committee on the Judiciary of the Canadian Bar Association** was P. Trudeau's attempt, as minister of justice in **1967**, to improve the selection process trough the informal practice of submitting names to the Canadian Bar Association.
- the Commissioner for Federal Judicial Affairs maintains a record of the individuals who are interested in a federal judicial appointment. The Commissioner submits a name to a committee set up in a province/territory whenever there is a vacancy. The Committee ranks the candidates as "highly recommended", "recommended", and "not able to recommend" and are made up of a selection of 96 judges but the Federal Minister of Justice makes the final decision, irrespective of the rankings. The ranking system was eventually abandoned to increase partnership and make the judiciary more ideological.
- Recent concerns include the addition of a member of the Police community will increase partisanship and create a more ideological judiciary, as well as the concern over the principle of judicial independence if the judiciary does become more ideological.

Selecting SC Judges

- in **1949**, the quality of judges was extremely poor, but since the Minister of Finance, D. Abbott, was appointed in **1954** political patronage has ceased to be a problem.
- judges must be fully bilingual
- SC nominees will have to take questions from MPs and Senators from all parties prior to being appointed
- the PM has the authority to deny or approve SC judge appointments.
- Provinces have historically resented they lack of involvement in SC judge appointments. Although the **Meech Lake** and **Charlottetown Accords** sought to have SC judge appointments made from lists provided by the provinces, we know that both Accords failed. The issues with provincial involvement is that it would put into question judicial independence, but efforts have been made to widen consultation for SC judge appointments.

-**Irwin Cotler** hoped to formalize the selection process by submitting a list of 6 candidates to a committee of 9 people which would have a representative from each recognized party in the HoC. The committee would have an unranked shortlist of 3 candidates who the Minister of Justice could choose for recommendation.

-the Harper gov. expanded the consultation process to include multi-party *ad hoc* committees. The **2006** appointment of M. Rothstein involved asking questions. The **2011** appointments A. Karakatsanis and M. Moldaver were based on a 6 person shortlist that a multi-party committee unanimously approved.

-the most recent controversy has been over the proposed **2013** appointment of M. Nadon, the the SC ruled did not meet the requirements of **s. 6** of the Supreme Court Act i.e. a person from Québec must be a sitting judge on the Québec Court of Appeal or Superior Court or a current member of the Barreau Du Québec. The appointments of C. Gascon, S. Côté, and R. Brown did not involve parliamentary screenings.

Current Issues in the Canadian Judiciary

-the new application process for the SC may ignore the convention of replacing retiring judges with another from the same region.

-Provinces are concerned that SC judges are federally appointed, as they are the ones who settle federal-provincial disputes.

-judges have admitted to feeling pressures by political correctness, political criticism, media criticism, etc.

-ethnocultural representation, class background, gender imbalances

Week 5

October 6th, 2016

Ch. 20 - The Policy Making Process and Policy Instruments

Ch. 22 - The Bureaucracy

THE BUREAUCRACY AND THE POLICY MAKING PROCESS

Overview

- understanding policymaking
- the nature and role of the bureaucracy
- departments, crown agencies, and administrative agencies
- the politicization of the bureaucracy
- control and the reflection of society

What is Public Policy

-it is a course of action undertaken by the public officials that seeks to address a specific problem that has gained public attention (problems that have entered the public domain). Issues have to become politicized in order to be placed on the public policy agenda, addressed by politicians (whether the actual gov. addressees it or not is another process).

-public policy also involves public officials carrying out steps, activities, and decisions because they believe that an issue is worthwhile enough to be in a collective realm.

Why Public Policy Has Become Important

-prior to **1900**, the night-watchmen state prevailed. A negative state with a laissez faire ideology meant the state role was limited to internal and external security and enforcing contracts.

-the emergence of the positive state after the **1900s** was driven by political and social change, WW1 and 2, and the Great Depression

-the turn against the gov. and the rise of neoliberalism suggests a retreat from the state during the **1970s and 1980s** (less of a retreat and more of a transformation as escaping the state is impossible)

-the public sector still runs central to our lives and it encompasses a broad range of workers beyond administrators working in office towers. Many of the work(ers) goes unnoticed.

Policy Cycles and the Making of Public Policy

1. Initiation Phase

-the gov. decides to address an issue that 1) becomes so politicized that the gov. has to address it e.g. 2006 income trusts or 2) the gov. decides it was a pressing matter and the bureaucracy is being asked to provide information on it.

2. Priority Setting

-the gov. decides whether or not to take action and if it does, the appropriate policy instrument will be chosen to achieve an objective. Policy instruments are designed to occasion or transform behaviours and a range of options are at the gov.'s disposal (plain cigarette boxes)

3. Policy Formulation

-the details of a policy are worked out as the Cabinet asks the bureaucracy to proceed with consultations with departments at the federal and provincial levels, advocacy groups, experts, and more before discussing the contents of the bill that may get introduced into the HoC. -more complex issues can lead the Cabinet to White Papers that announce the gov.'s intentions while also leaving substantial room for the public to discuss a policy's details. White Papers are approved in the Cabinet, then tabled in the HoC, and are then finally released to the public for discussion. At no point is legislation ever introduced.

4. Legitimation

-the bill is introduced to Parliament and scrutinized by the legislature - in particular, the opposition introduced amendments to raise concerns about the bill - before passage and then royal assent. Most bills do not contain the regulatory aspects of the intended policy as that is the domain of the bureaucracy

5. Implementation

-the bureaucracy begins the process of formulating a policy's regulatory aspects i.e. statutory instruments, because ministers so no possess the technical expertise to do so.

6. Interpretation

-the policy may be subject to a court challenge and the judiciary is asked to interpret the policy, especially when a Charter challenge is raised.
Policies are not developed in a bureaucratic and gov. vacuum, expertise outside the gov. are often drawn upon.

The Political Environment

-advocacy groups try to convince gov.s on a course of action. Politicians find creations with advocacy groups convenient because they 1) represent a constituency to help them get re-elected and 2) they offer expertise.
-policies are often developed in policy communities and policy networks

Policy Networks

-a narrow set of actors that are formalized and focus with great interest on a policy field. Gov.s tend to consult with these networks to tap into their expertise, often using them for reasons related to civic engagement and bringing the third sector (voluntary sector) into the policymaking process

What is Bureaucracy

organized hierarchy, implements policies (they don't propose them), reservoir of expertise and bureaucrats as masters of politicians (they know the processes), advises politicians, rules-based, permanent positions, impartial, diminished salaries due to ministerial control

The Organization of Canada's Bureaucracy

-all gov. departments are created by Acts of Parliament, which sets out their responsibilities. It is a pyramid-like organization with the ministers at the top and front line workers at the bottom.
-The Deputy Ministers (heads of the departments, directly in contact with and assists the Ministers) are career civil servants who are appointed by the PM on the advice of the Secretary to the Cabinet.
-Deputy Ministers are assisted by Associate Deputy Minister who are 1) seen as Deputy Ministers in waiting and 2) assigned to specific projects and initiatives.
-Departments are divided into several units and are headed by Assistant Deputy Ministers.
-the units themselves are further divided and Senior Managers support the Assistant Deputy Ministers by supervising the unit's daily and routine operations.
-units that directly serve the public perform "line functions"
-the principle of individual ministerial responsibility always prevails, Ministers, not bureaucracy, speak for the department.

The Deputy Minister

-their job is to liaise with Ministers (the Minister oversees everything, making sure the department does what it should). A Deputy Minister is the administrative head and Chief Manager of the department. They are responsible to the Minister and the PM because he/she commands the implementation of daily duties and reports to the Minister to ensure the department fulfills its duties to all those interested and affected by its work.

-A Deputy Minister is the one who orchestrates the department, leads manager and staff, makes sure they have the necessary material and HR resources to do their jobs. This job is to make the Minister look good in the eyes of the PM, by running the department well. A Deputy Minister is expected to develop the Minister's policy agenda, keep them out of trouble by maintaining a well-run department, dealing quickly with problem, and maintaining good communications.

-notwithstanding the close ties of the Deputy Minister and the Minister, a Deputy Minister is relatively insulated from the power and authority of the Minister as he/she steers the organization while being an advisor and administrator for the Minister.

-Deputy Ministers must be loyal to their department

-Deputy Ministers work closely with the Privy Council Office

Relationship

-The Deputy Minister provides the Minister with expert, non-partisan advice on the departments operations, strategic directions, and the feasibility of proposed policies. If ministers may propose something impossible, the Deputy Minister must speak up.

-tensions often emerge between the DM and the M e.g. Statistics Canada - the long form census. If a policy will compromise the departments functions, the DM may refuse and then resign if they disagree. Weak Ministers can be taken advantage of, but Ministers can also ignore Deputy Ministers. Ministers are expected to know their limits are non-experts and refrain from being involved in a department's daily activities, Ministers should thus focus only on strategic initiatives.

-a new gov. can pose problems for the DM-M relationship from perceived differences in style, priorities, or ideology. DMs are revoked if a new gov. thinks he/she will slow down policy implementation or the perception that the sitting DM may be too close to the previous gov. (B. Ray was fucked over by not changing DMs)

General Bureaucracy in Canada

-public service

-organized along defending authority

-classified according to six existing occupational categories; expected to be impartial, experts, permanent, anonymous, and salaried

-remaining in public service until retirement

-the hiring process should be done by the Public Service Commission (PSC) but it has delegated authority to the Deputy Ministers in individual departments

-merit is the chief criteria for winning competitors has been replaced by competence

Development of the Merit Principle in Bureaucracy

-patronage determined employment in the civil service as the bureaucracy was seen as a right of gov. The nature of party policies after Confederation made patronage easy.

-merit emerged in the **1880s** with Board of Civil Service Examiners, which assisted Ministers and Deputy Minister with selecting staff even though the former still exercised full authority over hiring and firing.

-all Canadians should have an opportunity to work for the civic service yet, the **Civil Service Amendment** only applied to the Inside Service i.e. jobs located in Ottawa, and the Outside Service was exempted from it.

-1/6th of all jobs were in the Inside Service

-cronyism and corruption during WW1 led to the hiring reform

-PM R. Borden's **Civil Service Act of 1918** subjected the entire federal civil service to the principle of merit. Borden created the PSC, which sought to nurture, promote, and maintain a professional civil service free from partisan interference and patronage and to provide Canadians with the highest standards of service.

-codified rules and procedure have made the selection process seem fairer, but the hiring process is very cumbersome. The Public Service Modernization Act of **2003** led to the elimination of merit and replaced it with "competence" i.e. whoever meets the advertised qualifications

The Politicization of the Bureaucracy

-historic ties between the bureaucracy and the Liberal Party. Liberals traditionally drew on the Public Service for Policy ideas. No new visions of the role of gov. have been provided since the **1980s** other than permanent fiscal restraint and accountability.

-a preference for short-term planning over long-term planning

-a significant expansion of communications operations since the **1980s**

-political entrepreneurship sees politicians preferring to push their goals and priorities forward.

-the Chrétien Liberals initiated the widespread use of communications in Ottawa

-Ministers have a Director of Communications and a Press Secretary

-communications have become the domain of political staff and public servants.

Spin operations are highly developed and intended to respond to Web 2.0 and the 24/7 media. Branding a gov. has implications for the work of Public Service, it has become associated with the work of the gov. of the day. "Canada's New Gov." may be replaced by "Canada is back". Departments have since become extensions of the PMO. There is a much higher control on what is otherwise routine decision-making in the Public Service e.g. the audit culture in the Public Service. The highest control in practice occurred under the Harper gov.

Delivery Units

- the Trudeau gov.s delivery units will enable the PMO to more extensively monitor the Public Service
- first used in the UK and in Ontario, delivery units will enable the PMO to more extensively monitor the public service sector
- one is assigned to departments to communicate the priorities of the PM, building a closer relationship between the PMO and the departments. Each delivery unit reports back to the PMO on the progress of the PM's goals.
- delivery units are expected to get more involved with departments when the goals are not being met (centralization)

Consequences of Politicizing the Public Service

- Ottawa's management culture had changes; emphasizing managing up at the total expense of managing down
 - Managing Up:** focuses on process, protecting the PM/Ministers, and managing media.
 - Managing Down:** focuses on implementing programs, citizen satisfaction, and internal management of financial and human resources.
- Deputy Ministers are now expected to serve the gov. of the day, overtaking the traditional role of being the administrative head of the department. The deputy's role now consists of blame avoidance and crisis management.
- Senior Officials have become more concentrated with managing interdepartmental issues to halt potential controversies that could damage the gov.
- Bureaucracy has become reactive that than proactive

A Representative Bureaucracy

- does the bureaucracy need to reflect the pop. it serves? **John Porter's** The Vertical Mosaic highlighted, among other things, ethnocultural power and inequalities in Canada
- white, english speaking, able bodied males have historically been in positions of power, which therefor tend to self-reflect

1. Bilingualism

- Canada is a bilingual and bicultural country
- the **Royal Commission on Bilingualism and Biculturalism** - the bi and bi commission - recommended 1) making fr. and eng. Canada's official languages and 2) making the city of Ottawa a bilingual city as a way to create a more equal partnership between the two solitudes. This led to the **Official Language Act of 1969** that required the federal gov. to serve citizens in the official language of their choice.
- the political consequences include backlash against bilingualism because of the preference it gives to french speaking applicants. Yet, francophones are more likely to be bilingual than anglophones, owed to the overrepresentation of the former in the federal civil service.

2. Equity

- the idea of equal pay for work of equal value
- “women’s work” had been undervalued because the jobs were filled by women but job requirements for men’s work and women’s work have often been similar (tailor vs. seamstress)
- sec.11** of the **1977 Canadian Human Rights Act** endorsed pay equity. Ottawa had to pay \$1 billions in pay equity, but nonetheless fought employees represented by the **PSAC**. After losing the appeal in **1998**, Ottawa negotiated a settlement that was between \$3.3-3.6 billion

3. Employment Equity (Promoting the Hiring of Minorities)

- merit principle, visible minorities receive equitable minorities
- introduced with the idea that a public service that represents the public will be more effective. Representation makes gov. more responsive, representatives can be ambassadors for they groups.
- a recognition of historical injustice, that society has squandered much of human talent

Funding Departments

- estimates provide proposed funds for department. How much money is needed to cover costs of the existing and new programs at the department with regard to pre-established guidelines.
- gov. programs are automatically funded by statues (statutory appropriation). If nay changes to a departments funding occurs, the statues must be changed.
- estimates also provide information on departmental plans and priorities and departmental performances
- the Cabinet decides the estimates on the advice of Finance, TBSm and PCO
- all decisions and any new spending policy proposals must originate in the Cabinet
- once estimates are approved by the Cabinet, they are introduces into Parliament but the president of TBS

Spenders vs. Guardians

- Finance and TBS are characterized as guardians because they control the purse strings. They are the most powerful departments because of they funding (the size of the department does not correlate with its power)
- spenders include all other departments, who are always looking to increase their budget
- there is a constant battle between spenders and guardians as programme and policies have had to be increasingly in line with Finance and TBS’s directives (J. Chrétien redefined politics and created a battle ground)

Crown Corporations (Via Rail, Post Office)

- crown corporations are gov. owned operations, but stay at arms-length from the gov.
- they operate like a private corporation but are established to perform a public service, the point is not turning a profit. They may compete with private

corporations and are not expected to submit to bureaucratic guidelines (Petro Canada). They are not subject to the rules governing the public service, but they are required to follow general policy guidelines

-the Cabinet will appoint a CEO or president for the Crown Corp. (partisanship is strong factor in such appointments). The CEIO is required to answer to administrators who then address serious issues in parliament, however the Minister is not responsible for the actions of the Crown Corp.

-the Crown Corp. must submit a yearly report to parliament and must present a corporate plan to the Ministers

-the **Financial Act** classifies types of Crown Corp.s and the greater the self-sufficiency, the greater the autonomy (if you make a lot of money, the gov. leaves you alone)

-an increasing number of Crown Corp.s have been privatized over the last 30 years, purely for ideological reasons (Air Canada). Privatizations have been the most controversial when the Crown Corp. is being purchased by a single person of foreign firm.

Administrative Agencies

-regulatory in their functions (CRTC), they make quasi-judicial rulings based on Cabinet policy guidelines and existing gov. regulations

-divorced from regular gov. departments to minimize political interference from Ministers

-agents of parliament are the most independent administrative agencies because they are not attached to the executive (Office of the Auditor General)

-agents of parliament are often the only source of information for the sitting MP's, but not entirely.

Keeping the Bureaucracy in Line

they have a lot of power and knowledge and have been known to control and take down politicians

1. the executive can step in and make a proposal whenever the bureaucracy is being obstructive
2. financial control (TBS) and personal control (PCS)
3. the HoC can scrutinize estimates and grill ministers (Auditor General reports, Public Accounts Committee, standing committees, standing joint committees)
3. the judiciary can overturn a bureaucratic decision
4. watchdog agencies: ombudsmen, commissioner of official language, information commissioner

-----Midterm on Subject Matter Above-----

Week 6

October 13th, 2016

Ch. 3 - Regionalism

Course Book - "The Political Economy of Regionalism and Federalism"

REGIONALISM

Approaches to Regionalism

“regionalism” as a contested concept

-How do we know a region when we see one?

1. geographical approaches focus on biophysical environments
2. regions as social creations that are fluid and can be independent of existing borders
3. state-based approaches examine the structure of decision-making and how some regions benefit more than others
4. political economy approaches focus on dependences that lead to the creation of a core and periphery i.e. centuries of commerce and control within a state formation
5. political psychology/behaviour approaches examine how attachments to local communities develop and the ways in which these attachments contribute to political battles

Coming to Terms With Regionalism as a Force in Canadian Politics

- the historical decay of Central Canada’s dominance after confederation
- empirical approaches in Canada have looked at objective characteristics like geography and opinion polls to gauge the extent of regionalism
- relational approaches seek to understand historical social relations and conflict and why Ontario is a region but Alberta, Saskatchewan and Manitoba are “the west”

Provinces or Regions

- provinces are the building blocks for federalism
- provinces are the only political actors with recognized authority in federalism (concerns have to be concerns of the province), yet provinces can become regions as they may have a set of common concerns around language, perceiving that other regions have been privileged at their expense, or develop a bad relationship with Ottawa.
- no reason to assume that the concerns of one region will automatically become the concerns of other regions and have national importance e.g. dismantling the Canadian Wheat Board monopoly
- interregional battles can occur without Ottawa being a factor e.g. the Churchill Falls conflict between QC and Newfoundland
- regions can emerge within regions, causing intra-regional controversies

Do Canadians Feel Canadian

- 70% of Canadians live within 150km of the border with the USA (most of Canada is uninhabited). Eng. Canadians have large cultural similarities with the American (Windsor and Detroit)

- about 60% of the pop. resides within the Windsor-Quebec area. 6/10 metropolitan areas are contained in that corridor (TO, MTL, Ottawa, Misusage, Brampton, Hamilton)
- except in P.E.I., north-south economic ties are much stronger than east-west
- questions often emerge about identifying with Canada. Quebec is the only province where the majority of citizens feel closer to their province than they do with country. Ontario exhibits the lowest degree of provincial identify. Among eng. speaking provinces, Atlantic Canada shows the highest degree of provincial identity.

Why do Regional Identities Emerge?

- language is a key factor in fr. and eng. Canada
- Quebec's historical concern over being an island of fr. in a sea of eng. nationally and continentally
- the West holds resentment over Ottawa's real or perceived pandering to QC and official bilingualism.

Economic Aspects of Regionalism

- economic disparities have persisted throughout Canadian economic history. The uneven development is a feature of Canada's economic landscape, due to the nature of its stable-based economy.
- Toronto is the centre of common and control
- Ontario has been Canada's most prosperous province and it has been viewed as the primary beneficiary of Ottawa's economic policies. Ontario benefited from its geographical probity to America's rust belt and MacDonald's national policy in **1879** (Montreal privileged from the construction of the Transcontinental Railway component in that national policy, and Atlantic Canada's industrialization was halted as a result)
- the **Manitoba Act** of **1970** allowed Ottawa to control the West's natural resources on the basis of national interest. The national policy tarries forced Westerners to purchase more expensive and lower quality farm implements from Ontario.
- banking regulations tended to favour Central Canada (branch banking rather than community-based banking). The money deposited in local branches were sent off to headquarters in Montreal and Toronto and lent out to ON-QC based businesses. Westerners who were seeking larger loans had to travel to either Montreal or Toronto.

Political Aspects of Regionalism

- the Toronto-Montreal-Ottawa triangle acts as Canada's political, economic, cultural, and communication core
- historically, Ottawa has been seen as legislating in favour of central Canada, Ottawa, and QC, reinforcing its dominance
- Western alienation has been the most salient political expression of regionalism. The creation of Petrol Canada in **1975** irritated Alberta, even though it was popular in the rest of Canada. In **1980**, NEP saw Ottawa imposed new

federal taxes to retain a greater share of the petroleum. NEP was viewed as an intrusion by Ottawa on provincial jurisdiction. This led to revolts, party reform, and the NDP rise of power (regionalization of support for political parties). There were concerns that Western Canada supported the conservatives and Eastern Canada supported NDP/Liberal.

- the **Farmers' Revolts of the 1920s** and Canada's protest parties emerged in the West as a response to Ottawa's preference for central Canada, real or not.
- Western alienation has led to demands for Senate reform to counter central Canada's dominance in the HoC.

Part One of Ottawa's Efforts to Reduce Regionalism: Transportation

- the railway represents Ottawa's easiest efforts to establish east-west ties and combat the north-south pull. They act as a symbol of national unity because it was part of the confederation settlement and the national policy.
- CN Rail, CP Rail, VIA Rail
- the railways as a symbol of national discord
- the **Crow Rate** was established in **1897** because of high freight rate (the shipment of grains from West ports to Montreal ports). The **Crow Rate** subsidies were eventually reduced in **1975** and abolished in **1995**.
- the trans-canadian highway has not enjoyed the same symbolism that the railways have had.
- the Minister of Transportation C. D. Howe created the trans-canadian airlines in **1937** to establish a national airline (renamed AirCanada in **1965**).
- oil and gas pipelines became a new form of transportation to foster pan-canadianism. The trans-canadian pipeline was completed in **1958**, used to ship natural gas across the country (national unity project).
- the unsuccessful keystone XL Pipeline and Energy East
- "dutch disease" and manufacturing provinces vs. oil producing provinces

Part Two of Ottawa's Efforts to Reduce Regionalism: Communications

- the creation of the CBC as a national broadcaster (private broadcasters had only served major markets). CBC is headquartered in Toronto, contributing to Toronto becoming the communications capital of Canada. Major eng. broadcasters like CTV and CanWest are also headquartered in Toronto.

Part Three of Ottawa's Efforts to Reduce Regionalism: Equalization Payments

- equalization payments began in **1957** and constitutionalized in **1982** located in **s. 36**
- sought to reduce interregional disparities
- equalization payments serve to establish a national floor for social provisions
- 33 provincial taxes are considered to determine the eligibility based on a province's per capita revenue (resource revenues are exiled because of its distorting effect on per capita revenue e.g. Alberta oil boom).
- if a province's per capita falls short of the national average, Ottawa provides the equalization payment based on (per capita shortfall)(provincial population).

- levels include have, intermediate, and have-not provinces. Have-not provinces can spend their annual grants as they see fit.
- issues of regionalism have erupted between Ottawa and the have-not provinces like NS and HF, regarding grants from offshore petroleum reserves.
- the richer provinces have begun resenting the poor provinces since Ottawa had reduced its fiscal role in the federation e.g. ON and AL co-operating in the mid **1990s**.
- ON has used its have-not status to point out that it puts more into federal coffers than it gets back.
- there is a stigma attached to residents in have-not provinces

Part Four of Ottawa's Efforts to Reduce Regionalism: Regional Development Agreements

- since **1935**, Ottawa has been identifying areas which require economic assistance. All of the country except southern ON was covered until recently. Among other things, these programmes seek to stimulate economic activity and reduce wage disparities across Canada.
- the Department of Regional Economic Expansion was created in **1969** and then renamed the Department of Regional Industrial Expansion. Eventually the department was wound down and replaced by Regional Development Agencies (Crown Corporations)
- the grants are provided to firms in targeted areas. Typically rural areas, but all parts of the country now have regional development agencies, including southern ON.
- Ottawa has focused on assisting provinces with strategic infrastructures as a form of regional development (capitalized on certain provincial capacities).

Current Trends in Canadian Regionalism

- a population shift has occurred. In **2012**, more people were now living West of ON than East of ON. AL, BC, and SA, have all seen pop. growth from 2006-2011.
- the North has re-emerged politically, even though it only accounts for 0.4% of the total pop. The creation of Nunavut in **1999** signalled greater autonomy from the territories from Ottawa.
- climate change and questions about resource development have emerged

Week 7

October 17th, 2016

Course Book - "A Geography of the Canadian Economy"

Course Book - "Staples, De-industrialization, and Foreign Investment: Canada's Economic Journey Back to the Future"

THE POLITICAL ECONOMY OF CANADA

Overview

- Harold Innis and the Staples Approach

- the pull of the American Economy
- Canada's stunted economic development
- current problems in Canada's political economy

Harold Innis and the Staples Approach

- staples are raw materials
- Innis as a political economist, must see Canada as a fundamentally new culture and the distorting effects that staples have had on its overall political, social, and economic structure (arising from the over reliance on staples of the Aborigines and Europeans)
- Canada established as a purely economic entity

Innis's Views on the Effect of Staples

- the gov. have only ever been interested in infrastructures that encourage further resource extraction.
- the countries that are reliant on staples get locked into the international economy, making them vulnerable to the actions of outside forces, and are prone to boom-bust cycles e.g. the wheat boom of the early 20th century (no control, up to the international markets). International market will determine how rich or poor Canada will become.
- the political dominance of central Canada is promoted as a result of staples i.e. the centres of commerce and control in the economy
- public debts for private gains i.e. mega projects for resources
- staples and the continuation of regionalism
- junking workforces once a staple become exhausted or international demand for a staple disappears

The Weakness of a Staples Economy

- the structural imbalances occur in the Canadian economy as a result of higher commodity prices
- "dutch disease", currency
- resources are a one-time profit only (non-renewables). Eventually the non-renewable resources disappear e.g. the white pine in the Ottawa Valley
- marginal sources are only profitable when commodities reach a certain price e.g. tar sands
- new innovations can threaten the demand for staples
- declining markets create subsidies in other, wealthier, jurisdictions e.g. the agriculture sector in the USA and the EU.

Features of the Canadian Economy

- a dependence on the American market, 75% of all exports (a north-south geo-economic orientation). Only P.E.I. does more trade with other provinces than with the USA.
- Canada as a branch plant and staples economy (foreign corporations)
- the high rate of foreign ownership of the Canadian economy

- the corridor stretching from Windsor to Quebec City contains 60% of Canada's pop. and is the most industrialized region
- the economy is highly regionalized
- the most job growth has taken place in the service sector, which is mostly low paid and low productivity jobs.

Creating a National Economy: The National Policy

- J. A. MacDonald National Policy of **1879** sought to industrialize Canada, build a transcontinental railways, and settle the West through immigration
- organize the economy of an east-west axis where Western Canadian staples would be shipped to central Canada for 1) exporting to international markets or 2) processing

Why Pursue the National Policy

- J. A. MacDonald presented the National Policy as a means of keeping Canada out of the USA's orbit, the reality was there was no alternative. America rejected free trade because of the American market closure.
- the business interest in Toronto supported the National Policy because of the recession of **1873-1875**.
- a transcontinental railway would preserve Montreal's role as a national entrepôt
- came from the idea of Canada's empire industrializer because of the UK's weakness in the sectors associated with the Second Industrial Revolution

Why the National Policy Failed

- the tariff wall encouraged diseconomies of scale
- the way was paved for turning Canada into a branch plant economy (didn't care which country was building factories)
- the settlement of the West did not fully occur until **1914** and most settlers ended up leaving for the USA because the land was so unworkable
- ON's manufacturers were more concerned about serving provincial markets than national markets because of the insufficient demand in the West until the second decade of the **20th century**
- a north-south pull had been in full swing even with the promise of the east-west connection

Canada's Foreign Economic Relations: The Era of British Dominance

- locked into the market because of the staples economy, Canada was initially orientated toward the UK (linkages remained with the British Empire after confederation)
- eng. Canada's anglophilia
- American historical preference for protectionism
- the nature of British investment i.e. portfolio investments convenient for the nature of the Canadian economic growth after Confederation
- Canadian's rejected the free trade deal with the US in the **1891** and **1911** elections, both of which were lost by Wilfrid Laurier's Liberals
- central Canadian manufacturers benefited from the National Policy

Why Canada Became Tied to the US

- the National Policy tariffs caused an influx in the investments from the US, which preferred direct investment, in already industrialized Ontario
- the branch plant economy
- imports from and exports to the USA eclipse those of the UK
- the UK increase protectionism in the 1920s and abandoning of free trade during The Great Depression (trade lost due to political reasons)
- WW2 further integrated production between Canada and the USA
- the ISA's commitment to a multilateral, non-discriminatory post-war trade system
- the Canada-USA auto-act of **1965** continentalized the auto industry
- the Royal Commission on the economic union and development projects for Canada i.e. the MacDonald Commission; argues for free trade with the USA as a means to revive Canada's economy
- 1988 Canada-USA Free Trade Agreement** (Mulroney had to convince Reagan)
- 1993 North American Free Trade Agreement (NAFTA)**, which entails bureaucracy because the trucks must provide proof that the goods being carried originated in North America.

Consequences of Being a Staples Dependent, Branch Plant Economy

- stunted NAFTA's economic potential (no R&D based in Canada)
- Canada's \$ is a commodity currency
- a high ecological cost associated with resource extraction e.g. strip mining and oil sands, the use of glyphosate in NB forestry industry, Mount Polley (mining gold with cyanide in central BC)
- most innovation has flowed to intensifying resource extraction
- low levels of R&D due to being a branch plant economy and a contraction in the overall manufacturing sector
- highly educated persons are not utilized e.g. 4% of PhDs are employed in Canadian private sector, while 42% are employed in the USA's private sector
- well paying administrative jobs are usually located in American head offices
- successful Canadian companies are usually bought up by larger foreign firms e.g. Best Buy purchasing Future Shop; Sapporo purchasing small and medium sized breweries like Unibroue and Sleeman's.
- innovation in Canada tends to be rare due to the business culture that is informed by the dominance of resource companies
- international success stories are few and far between and are short-lived e.g. RIM (Research in Motion; Blackberry)
- Canadian business people are keener on being managers rather than innovators e.g. Conrad Black

How Ottawa Has Responded to New Economic Pressures

- the political preferences have been to protect lower wage, lower productivity jobs from international pressures rather than letting them die and be replaced by better paying, more productive jobs
- tax cuts as a way to stimulate investment
- Canadian businesses rank at the bottom of OECD countries on R&D spending and the businesses outside of the financial sector are currently hoarding \$550 billion
- Canada has fallen out of the top ten R&D spenders since 2008, and is now being outspent by Russian, Taiwan
- the health of Canadian manufacturing sector is dependent on the health of the Canadian \$ e.g. the boom of the **1990s**
- the now defunct Science Council of Canada did seek out ways to promote science sectors. Canada has not had a science and technology strategy between 2007-2016
- new bilateral trade agreements with South Korea and the EU
- current preferences rest with tapping new markets for resources rather than nurturing value-added industries in manufacturing that are essential for participating in the global economy

Week 7
October 20th, 2016

MIDTERM (Mark: 50%)

Week 9
October 31st, 2016

Ch. 8 - Class
Course Book - "Hollowing out Corporate Canada? Changes in the Corporate Network Since the 1990s"

CANADA'S CLASS STRUCTURE

Overview

- capitalist societies and stratification
- Canada's class system
- the weakness of class consciousness in Canada
- the effects of class on Canadian society

Capitalism and Class

- stratification and hierarchies are featureless of any capitalist society
- capitalist markets are arranged on the basis of exchanging money for goods and services, they are inherently unequal
- class acts as a determinant of one's life chances (if your parent's are poor then you are poor, it is very difficult to work upwards). Creating your own destiny is not exactly true in capitalism. Research has found that the more equal a society; the more social mobility, the USA being one of the least socially mobile countries

-the legal infrastructures underpin the relationship that exist within capitalism, especially as it related to the relationship between capital and labour (private property = legal code)

What Class Analysis Does

- class analysis examines the relationship that exists between groups of people at the workplace and how this plays out in wider social and political relations. Marxist ideologies, interests are fundamentally determined within the class system
- it raises questions about the role of the state in capitalist democracies; how much and when does the state work on behalf of capital interests.
- instrumentalism vs. structural concepts of the state and the ways in which it works on behalf of capital
- power as a relational concept (fluid and always changing among groups)
- social relationships and how the distribution of resources structures people's life choices
- the development of class consciousness and how class come into being i.e. a class in itself (objective characteristics; income level etc.) **vs.** a class for itself (objective characteristics become subjective characteristics and turn into political action). How does (or doesn't) class turn into political action? By becoming more aware of your relationship in the workplace and social construct.

Class Politics in Canada

- class cleavages (division and opposition) as a political force is less pronounced in Canada than in Europe, yet compared to the USA, class cleavages as a political forced are more pronounced in Canada.
- the CFF and the NDP serve as vehicles to advance socialist politics in Canada, but it has largely remained weak
- Europe's experiences resulted from the end of feudalism and the dispossession of the peasantry as a result of the creation of private property (legal act)
- class formation in Canada was affected by the absence of feudalism
- the working class were recruited from bankrupts businessmen and immigrants
- independent producers have figures prominently in Canadian social and political history. Formative events is Canadian history saw independent producers playing important roles e.g. **The Rebellions of 1837 and 1938** and Prairie radicalism; regionalism, dismay with dominant central Canada
- Canada's industrial base is geographically concentrated in the Windsor to Montreal corridor, while much of the country engaged in staples production. Explaining the importance of the independent producer in Canadian political history
- the nature of industry that extracts resources lends to the independence of independent producers (loggers, fishers)
- bankrupt small businessmen (particularly farmers); a social system of upset farmers pushing socialism
- working class has never made up the majority of a society

Explanations for the Weakness of Class Consciousness in Canada

1. false consciousness and the corporate concentration of media
 - media ownership is concentrated; assumes people have no agency; people find it hard to let go of particular values

2. organizational weakness that
 - a) have been absorbed but not represented by the Liberal Party (appealing to labour votes but does not legislate)

 - b) is wracked by internal divisions

 - c) the effects of Canadian unions' historic affiliation with American unions

3. linguistic divide and regionalism overdoing all other forms of politics in Canada
 - a conscription crisis based on language; eng. prefers conservatives, fr. prefers liberals

Distribution of Wealth in Canada

- unequal divisions of wealth which can be mitigated by gov. transfers
- the highest quintile possesses 52% of all market income while the lowest have 1.1% of market income
- gov. transfers change the picture of highest/lowest quintiles; helps with inequality
- the highest quintile has 44% of post-transfer income and the lowest has 4.9% of post-transfer income (wealth distribution after social entitlement)

Canada's Upper Classes

Canada's upper class can be divided into 4 categories

1. wealthy Canadian families (Irvings, McCains, Westons, Rogers)

2. CEOs who do not own a company but their income is derived from stock options which are not taxed as income (the average CEO compensation was \$8 million, the average Canadian income is 44,366)

3. dependent branch plant managers who have little autonomy from head officers and are fewer and fewer (foreign companies)

4. corporate elite (stock interlocking, internalization of capital)

Political Values of Canada's Upper Classes

- no single peak business groups (associations): one body to represent the views of a particular class
- the Business Council of National Issues and its successor, the Canadian Council of Chief Executives, acts as the main advocacy group for big business and staples (tend to sound more liberal/NDP, while small businesses tend to sound more conservative)

- Canadian Manufacturers and Exporters represent the manufacturing sector, much of which is foreign owned
- Canadian Chamber of Commerce
- Canadian Federation of Independent Business
- although capitalists compete with each other, there are common interests. Maintaining a regulatory and tax environment that is friendly to business. Maximum control over the private sector i.e. balance budgets, lower taxes, smaller nations dept. Believes gov. intrudes on private affairs (evidence shows that Ottawa is actually more receptive to the demands of businesses)
- businesses may not always want to shrink the state if state action works in their favour (state subsidies)
- the former NDP leader, David Lewis wrote "Louder Voices" which exposed "corporate welfare bums". Historically, strong links existed between business and the Liberals/Conservatives
- the corporate elites may sometimes favour social programs e.g. the origins of workers' compensation (getting injured on the job, don't have to go to court for compensation anymore; gets rid of legal costs)
- gov. activity may reduce the operation costs of business e.g. public utilities; businesses need water and electricity; cheaper when supplied by the gov.

Why Does Business Usually Get What it Wants

- the Canadian state relies heavily on the private sector for its revenue
- politicians usually come from their ranks
- advantages in lobbying (more resources, bigger voices)
- links between business and Liberal/Conservative parties
- centralization of media control skews the nature of public debate (in NB, the Irvings family own all newspapers in the province)

...yet there is no guarantee that business will always get what business wants, due to public outcry, changing of gov e.g. income trusts (companies wouldn't have to pay corporate taxes) got shut down. States do occasionally have broader concerns, and the gov. cannot look beholden to a single group.

Canada's Middle Classes

1. traditional middle class

- self-employed professionals, successful farmers, small business people
- tend to have high incomes
- don't work for others (owners, employers)
- represented by professional organizations
- usually vote Liberal or Conservative because they don't agree with NDP wealth distribution

2. new middle class

- civil servants and salaried professionals
- do not own anything but sometimes dispose of others' labour (managers)
- undergoing a process of proletarianization that sometimes causes its members to view themselves as working class e.g. teachers, lawyers (because of the degradation of working conditions)
- support gov. benefits
- usually vote Liberal or NDP
- represented by unions

Canada's Working Class

- manual, routine, repetitive work
- blue collar work but as well service sector work (cashiers) which now make up the majority of working class jobs
- working class politics have usually been focused on provincial politics because the division of powers provide the provinces with jurisdiction over wages and labour laws. The provinces have also been the most hostile to labour, not the federal gov. The nastiest strike in Canadian history have involved the provincial gov. attacking labour and their rights (wood workers strike in the **1950s**)
- belonging to unions does improve the position of labour vis-à-vis business (across entire sectors, even those which are non-unionized)
- collective bargaining agreements establish the rule of law within the workplace
- declining union membership in the private sector is largely a result of the loss of manufacturing jobs
- the public sector unions have kept unions membership rates up (70% of total public sector is unionized)
- the **Canadian Labour Congress** acts as labour's main advocacy group. No competition in labour voices as oppose to the upper class.
- union membership rates; in 2005-05, female member outnumbered male union members (the shedding of manufacturing jobs)

Poverty in Canada

- the effects of a class system
- inequality has increased over the past 3 decades
- poverty has a variety of measures, including the **Low Income Cut-off (LICO)**
- overall, poverty has declined since **1969**
- the most recent statistics show that 13.5% of Canadian live in poverty
- 2.5 millions (12%) Canadians are estimated to be facing food insecurity. Nunavut (46.8%), Northwest Territories (24.1%), and Nova Scotia (15.4%) have the highest rates of household food insecurity.
- food banks are now a permanent part of social services for the poor
- provinces have embarked on reducing poverty, but there has been no federal commitment to ending it
- federal measures to improve the income of low wage earners have been introduced e.g. the Working Income Tax Benefit is gradually reduced when net income exceeds 11, 525

-child poverty is unnecessarily high; 19% of children live in poverty and the rates increase for disabled, aboriginal, visible minority, and immigrant children. Rates become more acute at the local level e.g. 29% of children in Toronto and St. John live in poverty. 1.2 million (17.2%) of Canadian children go to school hungry due to poverty

-in **1989**, the MPs unanimously voted to eradicate childhood poverty, which increased by 50% during the **1990s**, but it dropped by **2009**

Key Dimensions of Poverty in Canada

- a lack of affordable housing
- Canada is the only developed country without a national housing strategy
- dualization of labour markets
- poor outcomes in education among children living in poverty
- poor health outcomes because of 1) the high costs of dental care and prescription medications and 2) the non-medical determinants of health
- poor transportation

Mitigating Inequality in Canada: The Emergence of the Welfare State

- welfare states manage the risks that emerge during one's lifetime
- the first welfare state measure was the introduction of old age pensions in **1927** as a result of Mackenzie King's bargaining with the independent labour MPs for their support to keep his gov. alive
- the rise of the CCF and the Great Depression were both influences to developing a social safety net (exerted influence even though they are weak)
- the welfare state grows when the liberals are a minority gov.
- the passage of unemployment insurance in **1941** was a result of a constitutional amendment; **s. 92**
- the use of federal spending power to establish a national health insurance scheme, which started with covering hospital stays in the **1950s** (redistributes income, non medical determinants of health)
- the 50 cent dollar
- National Health Insurance** expanded in the **1960s** as a result of the **Hall Commission's** recommendations and the Pearson minority needing the NDP's support to stay in power (hospital stays and surgery only, not doctor visits; which is where the problems are prevented)
- Pearson also established the **Canada Assistance Plan (CAP)**, which paid for half of the provinces' social assistance plans

Erosion of the Canadian Welfare State

- further erosion occurs in the **1980s** as UI's eligibility requirements are tightened
- welfare state retrenchment that began under Mulroney were part of a bigger package to remake the Canadian state
- the Liberals under J. Chrétien ramp up the transformation of the Canadian state in the name of deficit reduction

- cuts to provincial transfer payments, and except for the health component of the spending envelope, the elimination of conditions attached to federal monies (only health care has string attached)
- the EPF and the CAP are rolled into the **Canada Health and Social Transfer**
- the UI is transformed into **Employment Insurance (EI)**
- eligibility for EI is based on hours worked and the unemployment rate in administrative regions
- EI excludes 70% of the workforce from everyone receiving unemployment benefits
- the social deficits that occurred were being addressed once the deficit was eliminated
- increase health care funding and the **Early Learning and Child Care Initiative**
- economic meltdown has been invoked to justify a new round of eroding the welfare state
- new categories of EI claimants - frequent claimants, occasional claimants, and long-tenured workers - were established to push people into "suitable" jobs depending on how much they used EI
- health accord reduces Ottawa's financial contributions to provincial health budgets

Week 9
November 3rd, 2016

Ch. 9 - Urban/Rural Location, Religion, and Age

Ch. 11 - The Canadian Political Culture

Ch. 12 - Political Socialization, the Mass Media, and Public Opinion Polls

CANADA'S POLITICAL CULTURE

Overview

- what is political culture?
- features of Canadian political culture
- sources of political information
- understanding why Canadian think what they think

What is Political Culture

- patterns of beliefs and values about politics
- values as individuals ethical principles in the world of politics
- how individuals view the state
- political cultures affects the stability of structures, institutions, and democracy
- a political culture has to have faith in democracy, but not necessarily in gov. (skepticism is important for a responsible gov.)
- pop. culture can act as a map that simplifies how people think and feel about politics

-surveys/polls and the historical operations of gov. provide clues to a country's political culture

Interests That Affect Political Culture

1. material interests

-money, taxes, comfort

2. ideal interests

-ideas about the world and ideals of how they want to see the world formed around them

-matters of left and right and how the political world is interpreted, defined, and explained

-material and ideal interest depend on a number of axes and identities (people are full of contradictions, circumstances, identities e.g. worker, parent, child; one identity can become stronger during certain times). These interests are a reflections of how people see themselves, engendering political identities that people may act on. Age (younger people tend to lean more left), where one lives, and their religiosity affects one's interests.

Political Socialization: How do People Know What They Know

-people need to acquire their knowledge from somewhere. People's socialization is always ongoing and it is not unusual to experience shifts on the political spectrum.

-political socialization and the intergenerational transfers of political cultures

Sources of Political Socialization

1. Family

-the first shaper of attitudes and beliefs - social circumstances, daily conversations, and coaching

2. School

-can affect feelings of attachments to one's state and its symbols e.g. standing for the national anthem every morning

3. Peers

-they provide political perspectives and information

4. Organizations

-seeking to influence opinions

5. Media (the most significant influence)

-serves to inform people of current controversies and political personalities

-had an agenda-setting role, but its influence is only short-term

Political Culture in Canada

-democracy is a key value for Canadians. Democracy's components include popular sovereignty, political equality, political freedom, majority rule, and minority rights; but to what extent is democracy valued by Canadians?

Canadian's (counter-revolutionary) Values

- the legacy of the United Empire Loyalists and Canada as a counter-revolutionary country has shaped Canada's political values
- Canadian collectivism **vs.** American individualism
- Canadian particularism (multiculturalism, retain your own identity) **vs.** American universalism
- Canadian deference to authority **vs.** American suspicion of authority (the way people interact with public space can determine what the political culture is like)
- Canadian egalitarianism (health care is sacred) **vs.** American inequality
- Canadian diffidence **vs.** American assertiveness (revolting against the Crown)

Why Canadians Have These Values and Americans do not

- the historical role of the state in public life (informs authority, less suspicion of state actions)
- recognition of multiculturalism and, more importantly, the extent of provincial powers (nature of Canadian federalism)
- Americans' greater emphasis on material success as a result of the Protestant work ethic
- the legacy of the role of the Roman Catholic and Anglican churches in Canada reinforced the respect for authority, tradition, and hierarchy in Canada (head of state and the head of the church is the Queen, effectively no actual separation of church and state)
- the presence of toryism (**E. Burke**) and collectivism, and its shaping effect on Canadian society, emphasis on stability groups (no individual rights) opened the door for CCF/NDP
- stronger class consciousness in Canada oppose to in the USA
- historical inferiority complex

Are Canadian Values Changing?

- the fear of Canadian values converging with American values is unfounded, actually diverging
- has Canada become a more conservative country or is it a matter of Western Canada finally getting its chance to govern the country?
- the effects of the Charter have contributed to the decline of deference to authority
- Canadian diffidence has been replaced by louder patriotism

Political Sub-Cultures in Canada

- regional and territorial identities e.g. Western alienation
- ethnic sub-cultures
- Quebec's linguistic differences
- persistence of ethnic identities within provinces e.g. Ukrainians in Manitoba

-class sub-cultures articulate trust in gov. and which values each class holds dear

The Role of the Media in Canada

- media as a source of information
- the relationship between politicians and the press will effect how the former is represented to the public (perception is everything)
- a shift from the party press to the critical press as fewer and fewer ex-journalists become politicians
- news management by politicians has become very important because communications strategies are key components of a memorandum to Cabinet
- visual media has become vital to the image of politicians e.g. St. Laurent portraying himself as a king, grandfatherly figure
- as in other countries, Canada has witnessed a concentration of ownership in all forms of media
- the **Kent Commissions** called for divestment of newspaper ownership
- owners have been known to fire columnists and to reject stories that do not align with their ideological perspectives e.g. Asper family
- the central problem with concentration of ownership is that diversity of voices is reduces
- privileged of right wing views, especially on talk radio stations. Most media comes from TV or radio, not newspaper
- Canadians obtain most of their political information from TV
- central problems with TV is that it often provides a superficial treatment of controversies
- sound bites and sensationalism to get viewers
- news is more shallow than ever before; with 10 second sounds bites on 24 hours news cycles. News has changes to infotainment and the range of views being provided is far more narrow today. Yet, at the same time, the rise of the internet has lead to a fragmentation of audiences
- social media, blog, alternative media
- traditional media is narrowing views, while a greater diversity of views is available in alternative media

Confirmations Bias: he tendency to attend to information that confirms our beliefs and to ignore information that contradicts our beliefs. Audiences will select their personal interests and ignore every else, reading your point of view only. This causes a fragmentations of audiences, leading to niche news.

- a digital divide between high and low income earners (Canada has one of the highest costs for internet access)
- traditional media i.e. newspaper, are generally the domain of politicians

Opinion Polls

- most political opinions are poorly informed, most people have no idea what they are talking about

- people tend to form an opinion first then seek evidence to confirm their positions (not the same as an argument)
- nonetheless, public opinion does affect gov. action (puts pressure on gov. decisions)
- professional polling firms have emerged to measure public opinion on specific issues (previously there were only 2-3; now there are a slew of companies, which are very niche specify companies)
- the reliability of polls are dependent on how closely they match up with what has actually happened, public opinion is very unreliable and spontaneous

How Opinions Polls Actually Effect Gov. Decisions

- the effect of polls on the gov. is not as clear as many would like to believe
- polls may have signal divisions that live the gov. in a difficult place
- the gov. may appear to be responding to polls, yet it might have just been a case of ideology (they were going to do it anyways)
- the gov. may also ignore polls altogether e.g. if it is not apart of they platform
- just because the public wants it, doesn't mean they will get it
- the public sector may have a deeper understanding of issues, which can cause them to ignore enormous opposition to policy e.g. GST; tremendous opposition, but it makes sense from a policy perspective, having a deeper understanding despite public outcry and disapproval)

Week 10

November 7th, 2016

Ch. 13 - Elections and the Electoral System

Ch. 14 - Political Parties and the Party System

Ch. 15 - The Election Campaign, Voting, and Political Participation

PRACTICING DEMOCRACY: VOTERS, ELECTIONS, AND POLITICAL PARTIES

Overview

- the evolution of elections
- elections and political participation
- role of political parties
- evolution of party systems
- the structure of parties
- voter behaviour

What Elections Do

- elections are the chief means of political participation for the majority of Canadians (it is how most people participate politically, after the elections no one cares anymore)
- selecting representatives
- legitimation functions (claim to have pop. support by gov.)
- generate support for the political system (voter turn out is a sign of dissatisfaction, not in democracy but in the current state of it)

-national integration

Selecting Representatives

- votes are for your riding
- the country is divided into single member districts, an MP represents a single constituency
- voters are entitled to 3 hours off work to vote
- alcohol was once forbidden on election day in P.E.I., and is still prohibited in NS

The Act of Voting

- the secret ballot was introduced in **1974**, crucial to democracy
- voting orally was previously common practice
- historically, the right to vote had been limited to males over 21 years of age with a certain amount of property
- the extension of franchise occurred during WWI in which the vote (federally) was extended to women in the war and female relatives of men serving over seas
- women were granted the federal vote in **1918**
- the **Dominion Act** of **1920** eliminated property franchise
- Asian franchise was granted in **1948**
- Inuit franchise was granted in **1953**
- Aboriginals had to revoke their Indian status to vote, until **1969**
- federally appointed judges and the mentally disabled are given franchise in **1988**
- prisons were allowed to vote beginning in **2002** (mass franchise), regardless of the length of sentencing
- British subjects were allowed to vote in Canadian elections up until **1975**
- franchise is now extended to everyone except the Chief Electoral and Scrutineers

Voters' Lists

- compiled door-to-door until **1997**
- a national register of electors compiles a list through a range of sources e.g. tax returns
- one must be on the list in order to vote, if not, you must have a gov. issued ID, take an oath, and have an elector from the polling station vouch for them
- getting 18 year old to register with the voter list has been reoccurring problem

Creating Constituencies/Ridings

- they are redrawn every 10 years
- it is decided how many seats they should have, and where the boundaries should be set
- drawing boundaries was the prerogative of _____ until **1964**
- regular concerns with gerrymandering
- the **Act** of **1964** established a new system of establishing electoral boundaries, a more fair process

- an independent commission is assigned for each province
- districts are redrawn after each decennial census
- the Senatorial Clause states that no province may have fewer MPs than Senators, which is why P.E.I. is given 4 seats
- the Grandfather Clause states that no province may have fewer seats in the HoC than they did in **1985**
- its members are comprised of a judge appointed by provinces and police community two other members (appointed by the Speaker of the House, who is neutral), thus chances of partisanship are erased (not as political before the **1964 Act**)
- the biggest problem is caused by sparsely pop. rural areas (overrepresented compared to urban areas) and very densely pop. urban areas (underrepresented)
- pop. distributions; a tolerance of +/- 25% is permitted to deviate from the average pop. (a way to deal with pop. demographics)

Becoming a Candidate

- 95% of all candidates are mounted by political parties
- candidates are listed alphabetically and then followed by their party affiliation
- formal nomination papers must be filed, enforced by 100 people on the local voter list
- one must pay a \$1000 deposit, which is returned once financial statements are filed
- officials candidates of registered parties must obtain the party's endorsement to use the party name on the ballot

Nominations

- must can gone uncontested, unless a seat is vacant. Generally decreed that incumbents may run again
- all parties are declared open
- issues have arisen over candidates being disqualified
- new ridings are set aside for incumbents
- problems arise when a candidate overwhelms the constituency office with new members in order to win
- nominated candidates are often under representative of Canadian society. Women, ethnocultural minorities, and the working class are underrepresented.

Paying for Democracy

- financing elections is very expensive
- parties had bagmen (political fundraiser), Senators with connection to the corporate sectors, who were assisted by corporate volunteers.
- prior to **1974**, Canada had no laws governing party and electoral financing and the extent of corporate connections and \$ raised through them was unknown
- the largest scandals were the **1872 Pacific Scandal** (J. MacDonald; rail road company contracts), the **1930 Beauharnois Scandal** (dame contracts), and the **Rivard Scandal** (drug dealer gave money to the Liberal party), all of which

prompted the Pearson gov. to appoint a commission to investigate finance reform

-change was promoted by 1) the **Watergate Scandal** in the USA and 2) the minority gov. of **1972** and **1973** (Liberals relying on the NDP to survive the minority)

-the **Federal Elections Financing Law** of **1974** aimed to increase the equality, transparency, and participatory nature of elections

-provinces had been ahead of Ottawa in electoral finance reform as only individuals could donate in provincial elections

-Ottawa followed suit in **2004** after the J. Chrétien gov. was beset with scandal and ethical issues

-corporate and trade union donations were restricted, affecting the Liberals the most

-individuals were allowed to contribute a \$1000 max. per year. Today, individuals are allowed to donate \$1525 per year to a party, riding association, and candidate

-parties must disclose the identities of people who contribute more than \$200

-a 1.75\$/vote subsidy was introduced under J. Chrétien to compensate parties restricted on corporate and union donations. The per vote subsidy was phased out from **2012-2015** under Harper

-the **Federal Accountability Act** in **2006** banned corporate and union donations to elections, nominations, and leadership candidates

-third party advertising had been another controversy in financing elections

-the **Federal Elections Financing Law** of **1974** disallowed third party advertising but it was successfully challenged in **1984** by the NCC. \$5 million in third party advertising is credited with the reelection of the Tories in **1988** (free trade election), which reignited the debate. The **Royal Commission** was struck in **1988** in which it recommended putting a spending ceiling on third party advertisements (**The Lortie Commission**), legislating took 9 years and was passed in **1997**. It was quickly challenged in the courts by NCC. The **Elections Act** aimed to limit it, up to 150,000 (3,000 per riding), adjusted for inflation annually based on a 37 day campaign. The NCC challenged the Supreme Court, which did not find any violations of rule or law; **s. 1** justifies limiting advertising to 150,000 during an election cycle.

-Harper v. Canada (2004) **s. 1**

-third party advertising generally benefits the right rather than the left.

Current Controversies in Financing

-spending is unrestricted outside election periods, you can spend as much as you want before the election (lack of visibility)

-cash-for-access fundraising and sidestepping lobbying rules

-the problems with cash-for-access is that setting up an event with high ticket prices, Ministers are used as the focal point of the event (buy a ticket, talk to a Minister). Ministers allocate funds and make decisions. Very exclusive.

- buying time with Ministers sold at events e.g. \$150 a head event with Finance Minister Morneau in Halifax and \$500 a head event with Justice Minister Wilson-Raybould in Toronto
- Open and Accountable Gov.** says that Ministers and parliamentary secretaries “must ensure the political fundraising activities or considerations do not affect, or appear to affect, the exercise of their official duties or the access of individuals or organizations to gov.” but it is a non-binding ethical guideline
- Conflict of Interest and Ethics Commissioner** Mary Dawson has called for stronger rules in the wake of cash-for-access
- the **Conflict of Interest Act** does not cover political activities even though it bars Cabinet Ministers from organizing fundraisers
- it is unclear if cash-for-access violates the **Lobbying Act** i.e. creating an obligation and if attendees registered lobbying activities. Historically, the Liberals received this money from the corporate sector. When they lobby, only the CEO’s name appears as registered, therefore they simply get an employee to do it for them (sidestepping lobbying)

Winning the Election

- during an election campaign, parties must figure out who is the target, whether the leader will be featured, and what kind of campaign - offensive or defensive - will be conducted (run on your record or run from your record)
- an election platform is present, which gives a glimpse of what the party might be like once elected
- the leaders’ tour as free advertisement
- leaders’ debates are often the most important, even after an election a party’s fortunes can turn e.g. the **1984** and **2011** elections

Winning the Riding

- single-member plurality or “first-past-the-post” (FPTP)
- the candidate with the most votes will win the riding
- plurality, not the majority of votes
- door to door campaigns are the most important (good managing of volunteers)
- the use of technology to identify voters and target constituencies
- the Conservatives have been at the forefront of using technology to identify voter (with FPTP, distribution of votes is very important)
- local candidates do not affect outcomes unless the race is very tight

Week 10

November 10th, 2016

Ch. 13 - Elections and the Electoral System

Ch. 14 - Political Parties and the Party System

Ch. 15 - The Election Campaign, Voting, and Political Participation

**PRACTICING DEMOCRACY: VOTERS, ELECTIONS, AND POLITICAL PARTIES
CONT'D**

Overview

- the evolution of elections
- elections and political participation
- role of political parties
- evolution of party systems
- the structure of parties
- voter behaviour

Pros and Cons of FPTP

PROS	CONS
<ul style="list-style-type: none">-quick calculations-simple-clear representative for each riding-forces national parties to make appeals to the entire country (cannot rely on only a few regions)-produces a single party gov.	<ul style="list-style-type: none">-false majorities (Liberals winning with 39% of the pop. vote)-seats do not reflect the pop. vote; distorts seats (1984 election was the only to win the pop. vote and seats in the HoC)-parties image, strategy, and policy are affected

Reforming the Electoral System

- proportional representative (PR) as a solution (not perfectly proportional) gets the legislature to reflect the pop. vote
- the Pepin-Rebarts task force reported that PR should be considered as a means to increase national unity (better reflection, greater engagement)
- the provinces have led the way in examining ways to reform the electoral system
- referendum of STV was held in conjunction with the **2005** provincial elections. 57% of BC favoured STV
- OCAER wanted to find solutions to voter dissatisfaction with FPTP, suggesting MMP. Map proposed voter would cast a ballot for local candidates and for the political party. 70 riding seat, 30 list seats. List seats would be used to balance out, based on pop. vote and then used to ensure that it is more representative of voters' preferences
- referendum was held in conjunction with the **Oct. 2007** election in which MMP was supported by only 36.9% of ON voters. The reason being a lack of information on MMP was to blame for this outcome

Electoral Reform and Real Change

- the real change platform promised that "**2015** will be the last federal election conducted under the FPTP voting system"
- a pledge was made to study alternatives to FPTP
- legislation governing electoral reform was promised within the first 18 months of forming gov.
- the Minister of Democratic Institutions, **Maryam Monsef**, is in charge of electoral reform

- a special committee on electoral reform was established to examine alternatives to FPTP and consult citizens
- principles guiding the **Special Committee** seek to improve citizen participation, the effectiveness and legitimacy of the electoral process, and maintain accountable local representation
- Special Committee** is comprised of member from all 5 parties reflecting their share of seat in the HoC
- chaired by Liberal Francis Scarpaleggia and co-chaired by

Electoral Reform Consultations

- PM J. Trudeau stated that the appetite for Canadians, as they now have a gov. they are more satisfied with, the motivations to change the electoral system is less compelling; before reaffirming a deep commitment to electoral reform
- M. Monsef and J. Trudeau have both noted they preferences for ranked balloting
- NDP and Conservatives are concerned that ranked balloting would rig the electoral system in favour of the Liberals (NDP and Conservatives tend to both put Liberals as their second choice)
- of the 426 citizens who expressed a preference at won halls held by the **Special Committee**, 88% preferred PR
- Trudeau's town hall in his riding of Papineau also expressed a preference for PR
- Conservative members of the **Special Committee** have called for a referendum. Liberal support for such a referendum is unclear (if there is broad support)
- empty language has thus far dominated the Liberal gov. commitment to the electoral system

Holding Elections

- s. 50** of the **BNA ACT** and **s. 4** of the **Charter of Rights and Freedoms**
- constitutionally, no federal or provincial gov. in Canada may sit for more than 5 years
- if there is a war or insertion, a minimum of 2/3 of the HoC may vote to extend the life of Parliament
- however, the PM may request the Governor General to dissolve Parliament
- the sitting gov. is advantages because it can select the date of the election
- a vote of non-confidence requires an election to be held (responsible gov.), in which the sitting gov. is disadvantages as it cannot select the date of the election

Fixed Election Dates

- Bill C-16** amend the **Canada Elections Act** in **2007**
- elections are to be held 4 years from the date of the previous election, the idea was stopping the sitting gov. from acting opportunistically. Ultimately fixed election dates are unenforceable because of the **Constitution** and the power of the Governor General
- Conacherr v. Cabana (2009)**

Administering Elections

- the Chief Electoral Officer impartially administers the elections and the position is filled by a resolution of the HoC
- the Chief is assisted by returning officers who organize elections at the riding level and divides into political stations
- Elections Canada select returning officers
- the **Lortie Commission** proposed a system of staggered hours so that polls would close relatively simultaneously; the West is unhappy as the election is decided before their votes are even counted.

The Origins of Political Parties

- political parties are central actors in democratic politics
- originated in the assemblies in the **16th-18th century**
- parties are congregations of like minded individuals who seek to do good following certain principles (ideologies)

What They Do

- give direction to gov.
- act a recruiting grounds for future executives and legislators
- aggregate interests along ideological lines e.g. party families, to bundle proposals or “issues” in order to get citizens to vote for them
- missionary parties** seek to appeal to voter based on ideology i.e. right v. left
- broker parties** seek to appeal to a wide range of interests in society in order to win elections, but they generally lack any solid ideology (just want to win)

Political Parties in Canada

- Canada is the only country with viable conservative, socialist, and liberal parties (viable meaning presence in gov. and the HoC)
- argument that Canadian political parties are characterized by brokerage politics, suggesting that the Liberal and Conservatives have no ideology and each seek to satisfy as many interest as possible because Canada is so fragmented
- in response to brokerage parties, arguments are made that ideological parties don't characterize Canada because the Liberals and Conservatives are bourgeois parties (more concerned with being liked)
- while the brokerage perspective underplays ideology, which gives meaning to politics, the ideological perspective underplays the weakness of class consciousness in Canada
- the Liberal and Conservative party (in its various guises) have moved from cadre parties (no central office, left to their own devices) to mass parties (head offices, well organized) i.e. patronage
- the NDP has historically been seen as a programmatic party because of its emphasis on social democracy

-all 3 parties have now shifted to being _____ parties because their aim is to win elections

The Liberal Party of Canada

-contains two wings of liberalism

1. **Welfare Liberalism**: advocates for positive action in order to provide individuals with equality of opportunity

2. **Business Liberalism**: believes in minimizing the role of the state so that individualism can prevail and individuals can be self-fulfilled (**2006** race: P. Trudeau v. Paul Martin)

-roots lie in the alliance between the Clear Grits - ON's reformers who obtains the moniker because of their tenacity in advocating for reform - and QC's Parti Rouge (the rebellions), evolving into the Liberal Party of Canada

-characterized as a generally unprincipled party by the Conservatives and the NDP

-with the exception of the **20__** elections, the liberals share of the pop. vote declined from **1993** to **2011**

-the sponsorship scandal under former PM J. Chrétien led to its precipitous decline from **2003** to **2011**

-the **2015** rebound explained by a combination of J. Trudeau's media presence, an extremely mismanaged NDP campaign, and a tired conservative gov.

The Conservative Party

-informed by conservative ideology that advanced individualism, a minimalist state, and accepts inequality as a natural, inevitable, and deserved

-originally called the Liberal-Conservative Party, referring to the alliance struck between reformers and conservatives

-evolved into the Conservative Party over time and then adopted the name the Progressive Conservative Party (PCs) in **1942**

-the PCs had been decimated in the **1993** elections but its presence continued to split the right wing vote

-Reform Party/Canadian Alliance emerged out of the grievances that had accumulated in Western Canada since the **1970s** i.e. the NEP and satisfying QC's constitutional demands

-reform founded in the **1987** and then emerged as the Canadian Alliance as a result of its founder, Preston Manning, seeking a united alternative to the Liberals.....

.....Missed end of topic

Week 11

November 14th, 2016

Ch. 16 - Advocacy Groups, Social Movements, and Lobbying

INTEREST GROUPS AND SOCIAL MOVEMENTS **missed class**

Week 11

November 17th, 2016

Ch. 4 - Aboriginal Peoples

Course Book - "What Now? Federal Responsibilities Towards Aboriginal People Living in Cities"

ABORIGINALS AND THE CANADIAN STATE **missed class**

Week 12

November 21st, 2016

Ch. 4 - Aboriginal Peoples

Course Book - "What Now? Federal Responsibilities Towards Aboriginal People Living in Cities"

ABORIGINALS AND THE CANADIAN STATE CONT'D

Policy After Confederation

- Canada followed colonial policy after confederation
- the BNA Act codified assimilation and enfranchisement
- Gradual Enfranchisement:** involved letting band councils and making them responsible for minor public health and policy matters

Indian Act

- the passage of the **Indian Act** in **1876** ensured that Ottawa would have a consistent Indian policy (all provinces had different policies, now there is one uniform policy)
- embraced two opposing policy objectives: protection and assimilation
- provided protection for aboriginals (emphasis on their identity)
- reserves were distinct territories that were established from the exclusive use of aboriginals but the land title was vested in the crown (they cannot sell their land)
- regulates ALL aspects of life on reserves
- s. 91(24)** of the **1867 Constitution Act** gave Ottawa the authority over "Indians and land reserved for Indians"
- the **Indian Act** of **1876** is the key documents governing the relationship between Ottawa and Aboriginals, it is seen as having quasi-constitutional status
- the **Indian Act** represented Ottawa's policy of protection and assimilation, reflecting a colonial mentality
- assigned Indian agents to reserves until **1950**, all administrative matters concerning a reserve flowed through Indian agents. This ended because Ottawa

felt that agents were developing too close a relationship with reserves, Ottawa thus established financial agreements in its place.

-informed pass system until **1940s**, not legislated in response to the **1985** Rebellions. This system would record who left the reserves, say when and where they could go, and the times of departure and expected return (South African Apartheid)

-INAC is responsible for administering the **Indian Act** and for Status Indians. INAC only provides funding for status Indian on reserves (not band members). In order to be a status Indian, one's names must appear on the Indian register. Any aboriginals whose name does not appear is not entitled to the rights and privileges. **s. 2** of the **Indian Act** defines status, to loss status there must be 2 generations of out marriage.

-Ottawa's intentions had been to assimilate aboriginals into the wider society
-enfranchisement provisions of the **Indian Act** encourages aboriginals to relinquish their Indian status.

-elected band councils were imposed in an **1880** amendment to the **Indian Act** in order to destroy traditional systems of aboriginal governance. Aboriginal systems of governance were seen as the final obstacles that Ottawa needed to overcome to assimilate aboriginals

How the Act Works

-governing band councils are elected to administer local affairs, but their resolutions only have effect if the INAC minister endorses it. INAC treats the governing band councils as largely autonomous

Issues With the Act

-historical discrimination previously embedded in the **Indian Act**

-up until **1960**, aboriginals had to give up their Indian status in order to vote

-only quasi-constitutional

-paternalistic yet vital to the protection of land rights and the recognition of aboriginals as a different class of Canadians (via the **Royal Proclamation** of **1763**, rights to land)

Treaties

Canada is made up of treaties

Land Claims

-land has been an issues since confederation

-under the treaty aboriginals ceded control over traditional hunting and fishing territories to colonial, and then Canadian, authorities in exchange for reserves

-the treaties define hunting and fishing rights, with small annual grants

-band councils see treaties differently; **crown obligations** in the West vs. **Royal Proclamation** in the East. Tensions exist between bands on how to take action

-contemporary problems stem from these treaties

- questions raised over lands not covered by treaties, but are appropriated
- the **Royal Proclamation of 1763** acts as a key document to reference
- courts cases have played a role in determining the status of land (state based not nation based)
- R v. Sioui
- treaties were rules to govern the relationship between country and citizens
- two types of land claims
 1. comprehensive claims based on aboriginal's title that have not been dealt with by other means
 2. specific claims, focused on non-fulfillment of treaties and other lawful obligations

Residential Schools: A Nation Building Project

- residential schools represented Ottawa's policy of administration (the principles were to "kill the Indian in the child")
- assimilation was predicated on the idea of the end of the Indian (cultural genocide)
- the Davin report of **1879** prompted Ottawa to pursue its residential school policy, but it did not come up with the idea of residential schools as they had already existed in Ontario and plans were made for similar schools in the West. The origin of the idea is unknown.

What They Were

- attendance was compulsory between **1888** and **1948**
- aboriginal children were taken from their families and put into the "care" of the Canadian state.
- children attending had a 1 in 25 chance of survival
- purpose was to create a national culture
- a political project that used the powers of the **Indian Act**
- administered by **Indian Affairs** and religious organizations

The Legacy

- 150, 000 children attended, closing in **1996**
- underfunded and run by poorly qualified and incompetent staff
- physical, psychological and sexual abuse
- some had mortality rate of 60%, normally tuberculosis from overcrowding and malnutrition
- Indian Affairs** was aware of the extent of abuse
- Ottawa only came to terms because of court cases in the **1980s** that brought light to the abuse that survivors had to endure
- high rates of PTSD, poor mental health, substance abuse, criminality
- communities were decimated and socially damaged for generations

-it is still unknown just how many children died and the locations and extent of unmarked mass graves

Responding to the Legacy of Residential Schools

- an apology was issued by S. Harper in **2008**
- Ottawa settles for 3.2 billions in **2006**
- 1.9 billion went to residential school survivors, the rest went to physical and sexual abuse survivors (those who attended only during the day were not entitled to any compensation and were exempted from Harper's apology)
- the settlement included the TRC (truth and reconciliation commission) to establish a historical record of residential schools
- the TRC experiences difficulties with obtaining documents and had to resort to the courts to obtain records
- INAC refused to release all documents correlated to residential schools
- the TRC report was delivered **June 2, 2015**
- the Trudeau gov. has used the courts to stop compensation to certain survivors

White Paper of 1969

- 1969** singled a massive change in gov. policy
- the P. Trudeau gov. released a white paper called
- announced that J. Chretien would be the minister of Indian Affairs and Development

Key Recommendations of the White Paper

1. gov. trusteeship over reserve lands will end and that a fee simple structure of ownership will be developed
2. settling disputed land claims would not remedy historical injustices
3. Indian Affairs will be wound down and its services be transferred to existing department (trying to extinguish the crown obligations to aboriginals)
4. Indian Act would be repealed

Why the White Paper

- premise from P. Trudeau's Just Society (philosophical undertones, good intentions)
- eliminate classes of people because just societies have separate but equal citizens (Indian Act)
- Ottawa was blamed for how the Indian Act managed aboriginals
- Ottawa had floated repealing it in **1956** by St. Laurent
(it would involve more provincial jurisdiction)

Reaction

- the relationship between provinces and aboriginals have historically been acrimonious
- conceptions of individual freedom in just societies cannot confront and resolve past injustices and structured inequality (assumed that simply giving people rights was enough)
- no aboriginals were consulted, they were asked questions on a range of views but not an opinion on the White Paper

Why it Died

- Calder v. BC, recognized title to land had existed prior to colonization. Led to an overhaul of the land claims system and forced Ottawa to decide whether it wanted to go through the courts or settle land claims through parliamentary means. Tightened the polarization of aboriginals in the **1970s** and demands for change (aboriginal activist's high point)

Transformed Relations: Effects of the Constitution Act of 1982

- constitution (patriation, causing more question) resented an advancement for aboriginals
- s. 25** of the Charter state that no aggregate or derogate, **Royal Proclamation** becomes constitutionalized
- s. 35** of the constitution recognized and affirmed existing aboriginals treaty rights, it also recognized the Metis who were previously not covered by the Indian Act or by treaties. It recognizes but does not spell out what constitutes aboriginal rights.
- between **1983** and **1987**, a series of first ministers' conferences (which are normally used for finance) were held to obtain a constitutional amendment, which failed.

Meech Lake to Charlottetown

- attempted to address **s. 35**
- the Meech Lake provided nothing for aboriginals, failure with the Oka crisis
- Charlottetown wanted to address this, aboriginal leaders were given the same standing as premiers during the negotiations, self-governance would be recognized as a third order of gov.
- making aboriginals self-government would entail 1) negotiations between 3 levels of gov. 2) allowing aboriginal laws to supersede federal and provincial laws 3) consistent with POGG clause
- Charlottetown also provided aboriginal with the presence in Canada's institutions and amending formulas
- most aboriginals opposed the accord because its provisions were vague and aboriginal women feared their rights would be sacrificed for group rights

After Charlottetown: the Royal Commission on Aboriginal People

- focused turned to administrative and legitimate changes

- 1995** ministerial statement outlines the principles of self-governance as it related to **s. 35**, the ways in which funds would be allocated and how agreement for self governance....
- the **RCAP's 1996** report had recommended touchstones for far-reaching transformations for aboriginals and their relations to non-aboriginals
- RCAP** recommendations for self-gov. were considered _____
- the J. Chretien gov. was not happy
- gathering strength contained a statement of reconciliation — apologizing for past injustices (the crown attempting to get rid of their obligations)

Self-Government Today

- a shift from rights based views to good gov., a subsequent move away from comprehensive self-gov.
- language of self-reliance, accountability, and partnership as permeated by INAC in recent years
- shift to sector-specific gov. arrangements in policy fields
- the burden of failure now falls on band councils, who manage 85% of the INAC budget without providing them with the necessary authority

Kelowna Accord, 2005

- sought to address the quality of life issues (education, housing, health, and economic development)
- it was a series of agreements between Ottawa; the provinces; and territories first nation's leaders, taking place over 18 months
- money and resources had been put aside for the accord, but the conservative elections victory in **2006** led to the death of the accord
- the S. Harper gov. stated that they agreed with the accord's principles, but not its funding
- the target of spending and systemic reform was Harper's preferences

Aboriginals and the Harper Gov.

- demonstrated a preference of good governance, accountability, promoting individual over collective ownership.
- first nations financial transparency act required the public disclosure of financial audits and the salaries and expenses of elected officials on reserves
- the specific claims tribunal act allowed aboriginals to contest rejected or unapproved land claims within a 3 year timeframe, if successful a cash settlement is paid out and used to purchase land that was lost
- Kashechwean, 2007** and **Attawapiskat** drew national attention to social conditions on reserves in remote areas
- the end of **2012**, the idle no more movement reengaged in response to this and proposed changes to the Indian Act contained in bill C-45, which gave the minister of INAC authority to surrender

Real Changes for Aboriginals

- all ministerial mandates included building a new relationship with Canada's indigenous people
- the real change platform under J. Trudeau promised a new "nation to nation" relationship based on recognition, rights, respect, cooperations, and partnership
- underpins the quality of life issues and greater control over resources
- a "no means no" stance and consultation on resource development
- implement elements of the TRC recommendations
- establish an inquiry into missing and murdered indigenous women

How Much Real Change?

- national inquiry of murdered women was established but policing and inter jurisdictional issues are absent from this mandate
- the "no mean no" stance was compromised on treat 8 lands (dam being built was approved by Ottawa)
- legislation that would have addressed the 2.6 billion funding gap between on-reserve and off-reserve schools is no longer a priority
- the TRC's recommendations and J. Trudeau's pledge to implement the UN declaration on rights of indigenous peoples have been deemed "unworkable" and a "political distraction to undertake the hand work required to actually implement it" by Justice Minister Wilson-Ray

The New Reality: Urban Aboriginal

- the majority of aboriginals live in cities (53.2%)
- Ottawa has the largest Inuit population outside of Iqaluit
- rates of urbanization varies, with the Metis being the most urbanized while the Inuit being the least urbanized
- urban issues have generally been ignored, focused more on reserves
- congress of aboriginal peoples define its role as a voice for off reservation aboriginal
- the assembly of first nations has only recently become concerned with urban issues
- the first urban treaty signed occurred in **2007** with the **Tsawwassen** first nations final agreement in BC
- communities of origin remain important to aboriginal people
- migration patterns show a back-and-forth trend and this may actually reinforce identity
- RCAP had recommended developing urban aboriginal organization
- aboriginal-controlled services in cities have generally had greater success in tailoring programmes to the specific needs of aboriginals
- Indian affairs recognized the inherent rights applied to statues Indians living off of reserves
- partnerships among non-gov. organizations emerged in the mid **1990s** between the federations of Canadian municipalities and the Indian taxation advisory board in order to recreate the centre for municipal aboriginal relations
- Ottawa has helped fund these activities

- UAS of **1998** (3rd sector) encourages the formation of community level organizations
- the UAS sees collaborations develop between Ottawa, the provinces, municipalities, and ranges of community organizations (enables collaboration)
- establishing aboriginal institutions and partnerships in cities to better respond to community priorities
- Ottawa's task force on urban issues encourages new governance arrangements between urban reserves and surrounding areas (outlined for the first time a clear federal strategy)
- supporting community partnership initiatives established by Ottawa as part of its homelessness initiative in **1999**
- the SCPI identifies aboriginal organization that would develop housing supports to urban aboriginals within the requirements set forth by Ottawa
- the necessity of place-based policy and taking cities seriously as actors in their own rights
- cities are places of education about aboriginals given their invisibility (unaware of large populations living in cities, and immigrant are unaware of Canada's history)
- the ___ case means that the Metis and non status Indians fall under the jurisdiction of the federal gov. (they are Indians as define by the state); the two groups the most urbanized
- Daniel v. Canada, 2016**

Week 12

November 24th, 2016

Ch. 5 - French Canada and the Quebec Question

Course Book - "Nationalism and Protest: The Sovereignty Movement in Quebec"

FRENCH CANADIANS, THE QUÉBÉCOIS, AND THE POLITICS OF LANGUAGE

Overview

- understanding the French fact
- creating a French-Canadian identity
- Quebec as the homeland of French society?
- the rise of the sovereignty movement
- the sovereignty movement today

The French Fact in Canada

- the French had been the majority in Canada until the waves of Irish immigrants from **1815** to **1850**, changes the demographic balance
- debates between those who feel that QC is the centre of French Canada and those who feel that all of Canada is the home of French Canada
- seeing Canada as the home of all French Canada is to treat QC as a province like any other and it necessitates the promotion of bilingualism federally and in the provinces and territories

- no immigrant language group rivals french as the second most spoken language in Canada
- only fr. and eng. have constitutional standing
- the majority of Canada's francophone (86%) live in QC
- about 1/5th of Canadians are francophone

Brief History Pre-Confederation

- J. Cartier established the first province of France when he sailed along the St. Laurence. He raised crosses to claim land for King Francis
- initial attempt at settlements failed because of the harsh conditions
- first French settlement was in **1604** when Samuel de Champlain wintered in Acadia (Nova Scotia).
- Acadia fell into eng. hands in **1720** during Queen Anne's War
- 1713** treaty of Utrecht saw fr. ceded
- Acadians would come to serve as a reminder of the precarious position of fr. in North American because they were so easily expelled during the 7 Years War
- Canadians tried to survive as neutral people
- British authorities assumed that they would
- 11 500 Acadians were deported during the Great Expulsion, a third of whom perished from disease and growing during the process
- colonial policy towards acadians was to assimilate them with the local pop.
- New France falls after the 7 Years War
- the battle on the Plains of Abraham in **1759** spelled the end of the fr. presence in the Americas
- the **1763** Treaty ceded Canada to the UK, returned Guadeloupe to France and provide the rights to retain St. Piers and Miquelon (french wanted to maintain sugar in the Caribbean)
- only the french elite fled new France, while the rest of the inhabitant stayed
- the British assumed they would eventually just turn eng.
- provisions in the Treaty of Paris; become a births subject and take an oath to the King in order to participate in local gov.
- the **1763 Royal Proclamations** replaced all fr. institutions and laws with British institutions and law even though it recognized that the fr. language and Roman Catholic religions ought to be preserved
- french colonists suddenly became the minority and leads to a new identity emerging
- fr. Canada was the first to indignity as "Canadian"
- a fear of revolts in QC that would support the Rebellions taking place in the 13 colonies. Thus the Qc Act of 1774 was established, which among other things reestablished civil law traditions, the rights of the Catholic church, collection tithes, and permitted officeholders to practice the Catholic faith.
- the **Constitutional Act** of **1791** separated the colony go QC into upper and lower and upper Canada as a result of the influx of loyalists
- issues surrounding the nature of gov.s under the **Constitution** led to the Rebellions (the executive could always override the legislature)

- the **Durham Report** of **1839** advocates assimilation, which was enacted by the **Act of the Union** in **1849**
- the final attempt at assimilation was a failure
- the colonial legislature acted on the principles of the double majority and the banning of fr. in the assembly, which never took hold; used their power of the Act of the Union

French-Canada and Confederation

- fr. representatives supported confederation because it gave them full control over their affairs in British North America for the first time
- contending conceptions of the federation between eng. and fr. Canada
- the **Constitution Act** of **1867** provided for minority religious and linguistic rights in **s. 93** and **s. 133**
- no extensive protection for linguistic minority rights beyond guaranteeing the use of fr. in the courts and federal legislature exists in the **1867 Confederation (BNA Act)**

After Confederation: English French Divide

- the Red River Rebellions in **1869** resisted Westward expansion. Led to the creation of Manitoba which had eng. and fr. as its official languages and it was in fact a majority fr. until **1890** (national policy changed to eng.)
- the Northwest Rebellions of **1885** was triggered when settlers from ON began encroaching and by Cree whom resented Ottawa's failure to respect its treaties.
- the trial and execution of Riel angered French-Canadians, as he was seen as a hero, English-Canada viewed Riel as a murdered and traitor
- Manitoba's decisions in **1890** to recent the language act outrages fr. Canadians across Canada
- Ontario's **Regulation 17** abolished the use of fr. in the ON school system
- the Whiney gov. argued that Regulation 17 was to the benefit of franco-ON, learning eng. is more beneficial
- 1917** conscription crisis led to riots in QC
- second conscription crisis during WWII saw M. King hold a referendum. 80% of eng. voted for, 73% of fr. voted against

Early Nationalism in QC

- sovereignty as a relatively recent phenomenon in QC
- historically, nationalist sentiments have always existed in QC, nationalism was mostly defensive and inward looking until the **1960s**
- traditions of liberal nationalism in QC as a result of the rebellions of **1838**
- Louis-Joseph Papineau broadened who could be a Canadian (open, not ethnically restrictive, whoever wanted to join QC had to have only their values)
- the best chance of survival for fr. Canada was to stay within a British parliamentary gov. i.e. responsible gov.
- the dominance of the Catholic Church enables a conservative nationalist to take hold
- the rise of ultramontanism i.e. papal infallibility

- ultramontanism rejects any sort of compromise with modern thought (anti-enlightenment)
- guided by the Pope's Syllabus of Errors
- the state must be subordinate to the church (state should to b allowed to be the highest form of authority)
- fr. Canadian ultramontanism stated that all authority came from the pope, as gods' representative on Earth
- claimed they preserved a fr. Canadian way of life
- fr. can only be protected in a fully fr. territory
- ultramontanism also established the pillars of fr. Canadian though in the latter half of the **19th century**

1. Agrarianism

- the good fr. Canadian lived off of the land
- anti-urban because cities were associated with immorality and political radicalism

2. Anti-Statist

- the church control of social institutions were the hamstring of state expansion
- later served to restrain the influence of the Left because it was secular and status; in eng. Canada; and protestant in character

3. Messianism

- a people under perpetual siege

- must protect the Catholic Church in order to protect the fr. language and culture

Nature of Quebec Politics and Society

- agrarian
- major sectors of the economy were dominated by anglophones (finance, energy)
- fr. businesspeople operated at the margins of the QC economy
- francophones were see as a reserve labour
- elite accommodations between the gov. and (american) business

The Asbestos Strike in 1949: Prelude to Change

- the asbestos strike illuminates the nature of fr. and eng. accommodations in QC politics
- labour repressions by the Union National, the gov. of M. Duplessis indicated the lengths that the provinces would go to in order to head off change
- labour became galvanized by the Duplessis gov. **Padlock Law** (shut down printing presses that were producing "Communist propaganda"; apply anyone opposing Duplessis) and the anti-labour legislation of the **1940s**
- Asbestos witnessed the interactions of the working class with QC's emerging intelligentsia
- the significance of the Asbestos strikes with it being the first challenge against the Queen's political elites and eng. economic elites

Clamouring for Change

- the death of M. Duplessis in **1959** and the end of La Grande Noirceur
- widespread dissatisfaction with the social conditions in QC
- working class dissatisfied with the education system because it did not produce relevant skills and left them vulnerable to bouts of unemployment
- the local fr. business class resented operating at the margins of the provincial economy and needed to tap into bigger books of capital
- QC's rising middle class was concerned that the lack of change represented an existential threat to fr. Canadian culture as eng. Canadian values had diffused

Why Change Was Needed

- the positions of fr. Canadians in education and the economy was problematic by **1961**
- only 20% of QC's economy was owned by fr.
- QC has 27% of the total population, but 40% of unemployment
- socio-economic reasons
- rural QC suffered the worst poverty and unemployment could rise as high as 75% in some regions
- fr. speakers were 65% of the workforce but only held 17% of administrative positions
- 36% of residents in the working class St. Henri lived in uninhabitable positions

The Quiet Revolution

- referred to the spirit permeating QC in the **1960s**
- the Liberal Party of Quebec (PLQ) married nationalism to liberalism in the **1960** provincial election
- maitres chez nous
- modernization programmes sought to build the capabilities of the province and reduce the eng. hold on the QC economy
- the most significant act was to nationalize hydro, which was done by the Minister of Natural Resources, Rene Levesque
- the modernization programmes; compelled QC to demand full equality with eng. in the federation; gave primacy to the idea that QC was a province unlike any other, and led to demand that the rest of Canada recognize its duality and the centrality of QC in it.
- at this point, sovereignty was not a significant movement, more to remake Canada: a more equal partnership
- the aims of the QC nationalists were to remake not secede Canada
- separatism as a marginal political force
- QC nationalism was bound up with the provincial state (emerges as an identity in the **1960s**) in response to marginalization of fr. Canadian (Quebecois)
- province-building grew out of concerns from the middle class who 1) wanted to develop an indigenous business class capable of being competitive, 2) were eager to use the province's mineral wealth as the basic economic development instead of exporting them (most of this took place in Mtl which was uninterested in developing the rest of QC) and 3) felt that the province had to take an active role. This was a middle class revolution.
- these three concerns formed the centre of the PLQ platform in the **1960** election

Week 13

November 28th, 2016

Ch. 5 - French Canada and the Quebec Question

Course Book - "Nationalism and Protest: The Sovereignty Movement in Quebec"

FRENCH CANADIANS, THE QUÉBÉCOIS, AND THE POLITICS OF LANGUAGE CONT'D

Overview

- understanding the French fact
- creating a French-Canadian identity
- Quebec as the homeland of French society?
- the rise of the sovereignty movement
- the sovereignty movement today

Elements of QC Province-Building

1. demand new powers from Ottawa in order to gain greater control of policy fields
 2. demand greater control of tax fields in order to develop social institutions
 3. give primacy to the fr. language through the Office de la Langue Français (influence of eng. business class)
- success was found, especially with the QC Pension Plan

What QC Province-Building Looked Like

- highly statist while increasing the provinces' visibility in the everyday lives of its citizens
- between **1960** and **1966**, six new ministries were created, the civil service grew by 42,6%, and the number of public enterprise employees grew by 93%
- public sector purchases benefited fr. owned firms because contracts privilege those based in QC e.g. Hydro Quebec's purchasing policies stimulated business
- Societe de Development Industrial subsidized small and medium sized enterprises
- SFG sought to stimulate investments
- Cause De Depot - QC Deposit and Investment Fund - used funds from the QPP to invest in business, challenging the eng. dominance in the QC economy
- the development of the provincial bureaucracy stimulated a widespread perception that only QC could and should manage QC affairs

Ottawa's Response to the Quiet Revolution

- the Diefenbaker gov.'s promotion of the unhyphenated Canadian was taken as evidence that only Qc could protect and preserve the fr. language
- Diefenbaker did introduce bilingualism into parliament, printed cheques in a bilingual format, and appointed the first fr. Canadian Governor General: Georges Vanier, in **1950**
- the use of eng. in the executive and the bureaucracy was extensive
- the **Bi and Bi Commission** recommended making fr. and eng. Canada's official languages and the City of Ottawa a bilingual city as a way to create a more equal partnership between the two solitudes
- precipitates the **Official Languages Act** in **1969** by P. Trudeau (only applied federally)

Principles of the Language Act, 1969

- recognized Canada as a country with two official languages and are equal in statues, rights, and privileges

- Canadian's can work in the language of their choice and opportunities for advancement in federal institutions will be provided from eng. and fr. speakers
- Canadians can be served in the language of their choice
- Ottawa committed to supporting the vitality of linguistic minorities across Canada

What Happened to the Quiet Revolution

- the PLQ platform did not deliver on its promises
- economic expansion occurred but it was not directed
- inroads that were needed to challenge eng. controlled sector of the economy never materialized
- control over the province's mineral wealth did not increase to any significant degree
- economic instability continued for QC's working class
- the PLQ's education policy failed to establish a refined fr. Canadian culture within the province
- the middle class still found themselves having to work in eng. in the private sector and parts of the private sector
- the PLQ loses in the **1966** election to Daniel Johnson's Union National
- Johnson's harnessed rural resentment towards Lesage's reform of regionalized schools and the deconfessionalization of public schools
- Johnson nonetheless continues with some of Lesage's measures
- established the CEGEP system and took steps to establish Université du QC, the provincial university system
- by the end of the **1960s**, the Quiet Revolution slowed down and engages the independence movement

Understanding the Rise of Sovereignty in QC

- the middle and working classes were dissatisfied with the Quiet Revolution's outcomes and felt that only a fully independent QC could satisfy their desires
- growing sentiments throughout fr. QC that the province has to be autonomous
- the rise of Quebecois as an identity
- Quebec as a nation and an appetite for a national state
- middle class resented the short-changing of culture
- the working class became more organized and expressed their discontent with the foundations of QC's economy, shifting Left in the process
- independence movement began in the **1950**
- independence gains a higher profile in the later **1960s** as a number of neo-nationalists start to leave the PLQ
- the Rassemblement Indépendant National (RIN) was established in **1960**
- RIN rested on social democratic principles that promised QC culture
- the MSA was founded in **1967** by R. Levesque after he left the PLQ because he felt the Quiet Revolution needed to be taken further
- MSA proposes political independence from Canada with an economic association

- in order to bring together splintered independence movements the RN and MSA marked to create the Parti Quebecois (PQ)
- RN chose not to join because the MSA and RN refused to accept its bilingual policy, the membership eventually dissolved the party and joined the PQ
- the PQ become the party of fr. QC but it means different things to different people, given that it is a social democratic party in addition to advocating for QC sovereignty
- working class generally supported the PQ because of its association with labour
- the middle class supports the PQ because of its cultural policies
- the business class generally supports the PLQ
- the PQ wins the **1976** election because the Union National experiments a resurgence, they are splitting the vote with the PLQ in QC

Why the PQ Won

- H. Bourassa's Liberal gov. was problematic
- Bill 22** tried to enhance the use of fr. in the province and it made fr. the official language of the province. Yet, **Bill 22** contained eng. language rights, allowing anglophones to maintain control over community institutions
- businesses could avoid the costs of franchising if there were willing to forgo 1) contracts the the province had lent and 2) available provincial subsidies
- Bill 22's** education component angered fr. speakers
- access to eng. schools were limited to those with sufficient knowledge in eng.
- attending eng. schools had been the key to social advancement and **Bill 22** inadvertently allowed this to continue

Changing Quebec: Effects of the PQ Victory and **Bill 101**

- ushered in important changes
- La Charte de la Langue Français, also known as **Bill 101**, required all immigrant children and children of immigrants to be education in fr. and make fr. the language of everyday life
- Bill 101** accelerated the Françaisiation campaign
- education became the integrating force, churning out fr. speaking citizens
- Bill 101** expanded the powers of the Office de la Langue Français
- french was the only official language of the National Assembly
- only individuals could use eng. in the QC courts, corporations has to use fr.
- all commercial signs had to be in fr.

The **1980** Referendum and After

- the PQ ran on a platform of calling a referendum in the **1976** election
- sovereignty association, QC goes one way and Canada the other but there are mutually advantageous ties (economic) we must be kept
- based on a White Paper entitled QC Canada: A New Deal
- 40.4% voted yes, 59.6% voted no
- P. Trudeau promised a renewed federalism
- s. 16** of the Charter declares eng. and fr. as Canada's and New Brunswick's official languages (NB the only constitutionally bilingual province)

- s. 23 of the Charter guaranteed minority language rights
- separatism was dormant for much of the **1980s**
- Mulroney's commitment to accommodate the view of QC majority was achieved by appealing to the soft nationalists
- the electoral victory of the PLQ under H. Bourassa in **1985**
- Ford v. Quebec (Attorney General), 1988** struck down the commercial signage provisions of **Bill 101**
- Bill 178** and the use of the Notwithstanding Clause required fr. sign outdoors but allowed bilingual signs indoors
- Bill 178** ran out and H. Bourassa replaced it with **Bill 86** that allowed bilingualism signs outdoors as long as fr. was predominant
- the **Meech Lake Accord** and the Distinct Society Clause inserted into **s. 2** of the **1867** Charter
- the Meech Lake Accord also recognized the eng. minority in QC and fr. minorities outside of QC as fundamental characteristics of Canada
- QC's support of the Canada-US free trade agreement
- Charlottetown's _____ Clause, which among other things, identifies QC as a distinct society
- the Meech Lake and Charlottetown Accords defeat contributed to the resurgence of Quebecois nationalism and the eventual election of the PQ, led by J. Parizeau in **1994**

The **1995** October Referendum (Bonus: Quebec and Russia are the only two places where Pepsi outsells Coke)

- the Belanger-Campeau committee under the PLQ suggested secession should be an option if no satisfactory constitutional changes were possible
- the PQ, led by Jacques Parizeau, wins the **1994** elections and promises a referendum on secession
- constance revisions on what constituted "sovereignty" until favourable conditions prevailed
- the October Referendum was base on a kind of sovereignty, it was vague and unclear what the PQ was presenting
- QC would still be linked in a variety of ways, in other words a "partnership"
- 49.4% voted for, 50.6% voted against
- 60% of fr. QC voted yes
- 90% of eng. QC voted no
- support for sovereignty was weak amongst anglophones
- splits among aboriginal rejection and support for sovereignty, depending on they relationship with the national assembly

After the **1995** Referendum

- Lucien Bouchard succeeds J. Parizeau
- support for sovereignty declined and Bernard Landry had to put off plans for another referendum until succeeding Bourchard in **2001**
- Ottawa's Plan A/Plan B

- the Clarity Act has put sovereignists on the defensive despite the national assembly **Bill 99** (QC will decide what the right referendum question will be)
 - the introduction of eng. as a second language in Grade 1 instead of Grade 3
 - sponsorship scandal led to the resurgence of support for the Bloc Quebecois
 - the **2007** provincial election reduced the PQ to third party status until the **2008** election
 - the **2012** election saw the PQ win a minority gov.
 - the **2014** majority gov. of Philippe Couillard's PLQ
- political and social factors lead to the resurgence of sovereignty in QC

QC Nationalism Today

- market nationalism rather than province-building, focused on being a place on investment
- the end of "pur laine" Quebecois as QC has become more diverse as a result of new sources of immigration from North & West Africa and Haiti
- new civic nationalism has triggered controversies, especially with regards to "reasonable accommodation"
- who does "Quebecois" refer to today?
- non-francophones would be welcomed as long as they were loyal to QC and recognized that fr. was the key to participation in the province's public culture
- Bouchard-Taylor Commission** and "reasonable accommodation" stated that newcomers were not a threat to the QC way of life
- the Commission's key recommendations were to treat all regions alike and not deny them individual expressions, to make QC entirely secular, and the fr. language would be key for an inclusive state

(missed last bit of lecture possibly?..)

Week 13

December 1st, 2016

Ch. 7 - Gender

Course Book - "Women, Politics, and Public Policy: The Political Struggles of Canadian Women"

GENDER POLITICS

Understanding Gender

- sex as a biological category
- gender as a social-historical construction of men's and women's roles
- the public sphere vs. the private sphere and how this affects men's and women's roles
- the private sphere as a source of inequality
- the double day and shouldering the burden of housework

Social Issues Facing Canadian Women

- structural inequalities in the workplace
- 5.1% of financial post 500 CEOs are women
- 41% of businesses listed on the TSX lack at least one woman in the boardroom
- women are severely underrepresented in the boardrooms
- gender wage gap. For every dollar that a man earns, a woman earns 0.74\$.
- Women continue to earn less than men in all occupational categories
- 67% of women work in the caring professions and routine administrative jobs

Women's Social Gains

- 56% of all doctors and dentists are women
- women comprise 36% of the self-employed
- women are now the majority on university campuses
- 45.9% of executive in Ottawa's core civil service were women

Women in Canadian Politics: Before 1970

- prior to **1970**, women were relatively invisible, politics was dominated by males
- women's movement highlighted that women were involved in small politics. Historically, women have played important roles in community groups, charities, and informal networks
- social services were run largely by women e.g Halifax's Sisters of Charity and the Salvation Army's Hallelujah Lasses
- early women's struggles centered on civil rights rather than political rights
- earliest breakthroughs were in the fields of medicine and law in the late **19th century**
- in the **1900s**, women could vote in municipal elections, Manitoba was the first province to grant women the vote in **1916**. All women could vote in federal elections in **1919**
- Québec was the final province to grant women the vote because of the province's political culture and the role of the catholic church
- in **1921**, Agnes Macphail stood as a candidate for the Progressive Party and was elected as the first female federal MP
- the Persons Case of **1929** involved the Famous Five asking the Supreme Court of Canada if **s. 24** of the **BNA Act** allowed women to sit in the Senate
- the first female federal cabinet minister was Ellen Fairclough in **1957**, Fairclough served as the Secretary of State for Canada
- prior to **1970**, the general pattern was one woman was elected to the House of Commons, but never more than four at once
- the reasons for the relative absence of women in HOC were 1) politics were what men did, 2) the structural barriers to women's participation in politics, and 3) political parties discouraged women from participating in the party mainstream, often establishing women's auxiliary organizations

Women in Politics: After 1970

- women act as party leaders
- Rosemary Brown's bid for the NDP leadership in **1975**

- Flora MacDonald's bid for the PC leadership in **1976**
- Audrey McLaughlin became the first female to lead a federal political party in **1989**
- Kim Campbell becomes Canada's first female prime minister in **1993**
- Deborah Grey served as the first female leader of the Official Opposition for the Canadian Alliance
- the first female Governor General, Jeanne Sauvé, was appointed in **1984**
- the **2011** election saw a record number of female MPs elected
- women's representation in Parliament has increased, yet Canada is ranked 55th in the world for female legislators
- parties that are the most electorally competitive have had the most systematic underrepresentation of women
- women's recruitment in political parties are usually because they were asked to join during a leadership race
- female party members are usually supportive of measures that would increase their overall visibility
- party gatekeepers act as a problem
- women are more likely to be candidates in ridings where the party is unlikely to win or where the party's fortunes are declining
- parties have various policies regarding female candidates
- the NDP has an affirmative action policy, yet there is evidence that they do not follow this to the letter
- the Liberals prefer using women as "star" candidates in ridings even though it does have a gender equity policy
- the Conservatives have a policy of equality of opportunity
- evidence of women's unwillingness to run for office is unclear, some women may want to run but they wait to be invited
- search committees to encourage qualified candidates to run may be a solution
- gender party at riding associations as a solution
- riding associations with a female president are more likely to recruit female candidates
- intractable problem of pursuing a political career, as research suggests that the stresses of public office do discourage women from entering politics
- women's underrepresentation in Parliament translates into women's underrepresentation in the Cabinet
- female politicians are judged more harshly than male candidates by the media, coloring how voters perceive female candidates
- parties headed by females tend to receive less coverage than comparably placed parties led by males, e.g the **2000** election
- voters however tend not to discriminate against female politicians just because they are female
- first-past-the-post systems act as an obstacle to increasing the presence of women
- proportional representation systems allows candidates lists to alternate between males and females
- increasing the number of female MPs may not automatically lead to Parliament

taking women's issue more seriously due to party discipline

The First Wave of Canadian Feminism: From Confederation to 1959

- began in the final three decades of the **19th century**
- middle class and conservative in character
- an emphasis on Christian values and maintaining Canada's character as a White settler society
- maternal feminism accepted women's roles as guardians of the home, thereby making political participation a duty
- acceptance of the public-private split
- focus on moral issues and the need for social reform e.g the women's Christian Temperance Union
- demands for social reform necessitated political action
- the **National Council of Women (NCW)** founded in **1893** acted as a network of women's organization
- the NCW advocated for women's political activity in order to improve society
- the NCW is significant because it provided a space for women's organizing
- suffragettes as part of the first wave who sought to avoid direct action and work within existing political channels
- women's voting would reform society and the Canadian state needed a woman's point of view
- suffrage leagues spread across the entire country and were supported by farmers' associations, labour unions, and progressive-minded newspapers
- working class women were suspicious of the first wave of feminism
- unionization as a key form of organization, yet it largely failed
- equity feminists sought more demands for equality, which were radical at the time, and sought to work outside existing political channels
- first wave movement slowed down due to WWI and WWII
- the use of women's labour power in wartime industries undermined pre-existing social norms
- at war's end, women were sent back to the home
- emergence of the nuclear family
- national forms of organizing dissipated and local forms of action became the norm for the time being

Second wave of Canadian feminism: 1950-1984

- eng. Canadian women start to mobilize again in the **1950s**
- female members of the **CCF**, Left organizations, ethnic women, and peace movements
- flurry of activity led to Ottawa establishing the Women's Bureau of the Department of Labour in **1954**
- explosion of protests in the **1960s** as a result of the wider protest environment
- provoked by the marginalization of women in the New Left, leading to the language of liberation and equality
- more radical and secular than the first wave
- largely composed of middle class professionals

- university-Based
- Liberal feminism in eng. Canada dominated and focused on equalizing life chances e.g. access to education, employment, and political representation
- radical and socialist feminists became more visible as movements in their own right
- radical feminists and “the personal is political” aka patriarchy
- social feminists challenged the public/private split
- previously marginalized women organized, especially Aboriginal and Inuit women and lesbians
- consciousness raising and the emphasis on the experimental aspects of women’s marginalization became an increasingly important part of grassroots women’s movements
- emergence of women-centered services e.g rape crisis centres

The Women’s Movement in Québec

- the women’s movement was slower to develop
- fr. Canadian feminism seen as an extension of Catholicism
- women’s suffrage was only raised in the late **1930s** by Thérèse Casgrain, head of the League of Women’s Rights
- the Quiet Revolution transforms women’s circumstances e.g the CEGEPs smashed the distinction between males’ and females’ education
- women’s movement is bound up with nationalism
- women’s suffrage movement directly continued into the women’s movement’s resurgence because of how late Quebecois won the vote
- Casgrain established the Federation des Femmes du Québec (**FFQ**) in **1966** and it was seen as continuing with the reforms it had sought out
- the FFQ was linked to the Liberals’ modernization programs and only became nationalist as the **1970s** wore on
- QC’s feminists argued that the province could not be liberated unless women were liberated
- women’s gains under the PQ government in the realm of family law, services for women, and education
- the FFQ pressured the province to found the Conseil du Statut de la Femme (CSF) in **1973**
- the aim of the CSF is to advise the province on women’s issues, to communicate with women’s groups, and to do policy research

The Royal Commission on the Status of Women (RCSW)

- established in **1967**, its report was tabled in the HoC in **1970**
- RCSW was the result of pressures being put on Ottawa to address women’s place in Canadian Society
- the **Committee for the Equality of Women** (CEW) had lobbied Ottawa for a Royal Commission
- events in the US influenced demands for the eventual RCSW
- the **Bi and Bi Commission’s** evaluation of the national identity contributed, as did the Pearson minority gov.

- alliance between the CEW and the FFQ
- the RCSW was initially derided and treated as a novelty
- the RCSW's commissioners sought to make it accessible
- information packets were sent to women's organizations and were made available in malls and libraries to inform women how to prepare a brief
- Broadcasting the RCSW's proceedings changed attitudes because they put faces to otherwise abstract statistics
- the report of the RCSW highlighted the structural inequalities that women faced and the steps that needed to be taken to overcome them
- general principles focused on free choice of employment outside the home; equal sharing of childrearing by wives, husbands, and Canadian society; affirmative action; and maternal health
- the report did not focus on spousal abuse and lesbian rights

The Legacy of the RCSW

- a springboard for the politicization of women's identities
- created a climate for organization among women
- government-sponsored strategies for change saw the founding of the National Action Committee on the status of women (NAC) in **1973**
- in **1973**, Ottawa established the Advisory Council on the Status of Women to integrate gender perspectives into government

The NAC

- umbrella structure for eng. Canadian's women movements that allowed it to function as both a focal point for social movements and as an interest group able to interact with Ottawa
- the NAC acted as the face of Liberal feminism while also being able to absorb radical feminism
- both stands learn from each other through the NAC
- diversity in the NAC that tackles a range of issues
- splits between the NAC and the FFQ are most apparent during constitutional talks
- individual rights vs. group rights
- national orientation vs. provincial orientation
- centralization vs. devolution
- splits between the NAC and Québec's Women's Movement still have not healed
- the Native Women's Association of Canada has chosen not to affiliate with the NAC
- the NAC has made inroads with immigrant and visible minority women even though the National Organization of Immigrant and Visible Minority Women have not affiliated with it
- both due to the legacy of the NAC being mostly White and liberal in its orientation
- changes in gov. funding to advocacy groups have left the NAC weakened

Third Wave of Feminism: 1984 to Present

- turn to issues of culture and identity
- celebration of identities
- focusing on ways of empowerment
- the third wave has been criticized for being too self-obsessed and focused on individual identities

Women in the Constitution

- s. 28** of the Charter guarantees gender equality
- originally, **s. 15** of the Charter would have included gender, subjecting **s. 15** to the notwithstanding clause galvanized the women's movement
- pre Charter environment was unfavourable to women's equality
- Bliss v. Canada** (Attorney General [1979]) disqualified pregnant women from receiving abortions
- Attorney General of Canada v. Lavell** and **Isaac v. Bedard (1974)** upheld **s. 12(1)(b)** of the Indian Act, depriving aboriginal women of their Indian statuses if they marry non-aboriginal men
- litigation has become a tactic that women's rights advocates frequently resorted to
- while the majority of cases have been lost, the scope of **s. 7** and **s. 15** have expanded
- s. 7** - "everyone has the right to life liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice" - was used in **R. v. Morgentaler (1988)** to strike down Canada's abortion law
- s. 15** was used to end discrimination against homosexuals
- gov.s have assisted women's groups with litigations
- Court Challenges Program (1978), defunded from 1992 to 1994 and then abolished in 2006
- the most active group in litigation has been Women's Legal Education and Action Funds (LEAF). Founded in 1971 by feminist lawyers to advance equality in the courts. LEAF was granted intervenor status in numerous court cases and it has been the most frequent recipient of Program funds

Week 14

December 5th, 2016

Ch. 10 - Canada's External Environment: The United States and the World Course Book - "The Canada-United States Relationship"

CANADA AND ITS GEO-POLITICS

Overview

- relations with the UK
- the shift towards the USA
- Canada-US relations
- multilateralism
- issues in Canada's foreign relations

Relations with the UK

- the UK has been Canada's most important "ally" prior to the development of the relationship with the USA
- the UK was never preoccupied with Canada and its "special relationship" had always been with the USA
- 11th of November, 1871** saw the last British troops
- the UK's interests; **18th century** was interest in Caribbean (sugar), **early 19th century** was Asia, and **late 19th century** was India
- Canada has always had an interest in representation in London since Confederation
- Canada's first porto-diplomat, Sir John Rose, acted on instruction from Ottawa to influence the UK and report back to J. MacDonald on the state of affairs and opinions in London
- J. Rose directly biased with J. MacDonald, setting the precedence for Prime Ministerial dominance in foreign affairs
- Assumption that Canada constantly bowed to the UK on every matter concerning foreign policy is simply not true e.g. the Mahdist War (**1881-1899**) in Sudan
- Canada's army was modelled after the British army so that it could fit into the wider imperial formation
- Canada's first war was the **1899 Second Boer War**
 - Laurier decided to send volunteers rather than troops because of the fr. eng. divide
 - fr. Canada resented Ottawa's decision to participate in a British war without asking for a say in wartime decision-making
 - Canadians did serve according to Ottawa's wishes during the Boer War and led Canadians to develop greater self-esteem in international affairs
- Canada was willing to use the UK to settle disputes with the US, notwithstanding London's ambivalence towards Ottawa e.g. the USA's violation of the **1817 Rush-Bagot Agreement** in **1909**
- Canada's participation in WWI was premised on the UK's participation
- the UK had treated Canada as a colony and most orders to wartime production went to the US and intelligence was never shared with Ottawa e.g. German submarines crossing the Atlantic
- Canada's inclusion in wartime planning only occurred when Borden threatened British Prime Minister H. H. Asquith
- Vimy Ridge has contributed to the development of Canadian nationhood, causing the country to become more assertive in general (first battle where troops from all provinces fought as one unit)

Moving Away from the UK

- the years between WWI and WWII were instrumental in the development of a more independent Canadian foreign policy
- greater reluctance to fight British wars
- the **1922 Chanak Crisis** established that Canada's parliament would determine whether and where it would fight, not the UK

- Canada's membership in the League of Nations signalled a more robust role in international affairs e.g. Raoul Dandurand was the League Assembly's president in **1925**
- the **1931 Statute of Westminster**
- WWII was the first war that Canada entered autonomously

...And Towards the USA

- Canada's relationship with the US has historically been uneasy
- the US as Canada's existential threat
- Canada's invisibility in Washington
- the relationship with the USA primarily revolves around trade and defence
- WWII as the turning point for Canada-US relations
- the prospect of the UK falling to Germany was what compelled Ottawa to look to Washington for defence
- Ogdensburg Agreement of 1940** established the Permanent Joint Board on Defence to examine common defence problems
- Hyde Park Declaration of 1941** continentalized wartime production between Canada and the US
- the UK felt its future lay with Europe, not its ex-colonies
- Cold War linked Canada's defence policy with American defence policy
- creation of the North Atlantic Treaty Organization in **1949**
- the **North American Aerospace Defence Command (NORAD)** established in **1958** for the joint Canadian-American defence of North American airspace
- defence as a continental issue

Issues in Canada-US Relations I: Trade and Economics

- Canada as a small state with an open economy
- in **2015**, the top five countries that Canada exports to as a percentage of total exports are:
 1. USA (76.7%)
 2. China (3.9%)
 3. UK (3.1%)
 4. Japan (1.9%)
 5. Mexico (1.3%)
- in **2015**, the top five countries that Canada imports from as a percentage of total imports are:
 1. USA (66.2%)
 2. China (7.1%)
 3. Mexico (3.3%)
 4. Germany (2.7%)
 5. Japan (2.0%)
- in comparison, the top five countries that the USA exports to as a percentage of total exports are:
 1. Canada (18.6%)
 2. Mexico (15.7%)
 3. China (7.7%)

4. Japan (4.2%)

5. UK (3.7%)

-the top five countries that the USA imports from as a percentage of total imports are

1. China (21.5%)

2. Canada (13.2%)

3. Mexico (13.2%)

4. Japan (5.9%)

5. Germany (5.7%)

-Canada has always been especially sensitive to American protectionism

-Canada as a branch plant economy because of American investment and the pace for this was ironically set by the National Policy of **1879**

-free trade agreements were historically controversial in Canada as the elections of **1891**, **1911**, and **1988** were fought on reciprocity/free trade

-Canada-US Auto Pact of **1965** was a successful free trade agreement centred around automobiles, continentalizing production

-the Royal Commission on the Economic Union and Development Prospects for Canada - was established in **1982** by P. Trudeau and chaired by his ex-Finance Minister Donald MacDonald

-D. MacDonald Commission's report in **1985** recommends pursuing a free trade agreement with the USA revive Canada's economic fortunes

-B. Mulroney pursues and eventually signs the **Canada-US Free Trade Agreement (CUSFTA)** in **1988**

-the CUSFTA was the most comprehensive trade agreement that Canada has ever signed. It included a **Dispute Settlement Mechanism (DSM)**, eliminated tariff barriers, and committed Canada and the US to national treatment

-the **North American Free Trade Agreement (NAFTA)** was signed in **1994** and extended CUSFTA to Mexico

-Canada's decision to participate in talk with Mexico and the USA was to protect its position within the wider continental economy

-trade has increased, but jobs have disappeared due to continental rationalization

-yet, it is unclear the extent to which CUSFTA and NAFTA can be held responsible for stronger Canada-US economic relations

-the DSM fails to address power imbalances e.g. softwood lumber

Efforts to Reduce the American Influence on the Canadian Economy

-Watkins Report of **1968** and the Gary Report of **1972** recognized the problems of foreign ownership and the role of the US in the Canadian economy

-**Canada Development Corporation** and the **Foreign Investment Review Agency (FIRA)** were created to stimulate the development of Canadian businesses and to review foreign takeovers of Canadian companies respectively

-crown corporations have been established to ensure Canada has a footing in certain strategic sectors

- Ottawa has actively sought to diversify its trading partners
- ownership restrictions and tax incentives e.g. the National Energy Program of **1980** had target 50% Canadian ownership in the oil and gas sector
- Business Development Bank of Canada has stepped in to fund entrepreneurs when banks have been unwilling to

Issues in Canada-US Relations II: Culture

- dominance of American culture industries
- Ottawa has sought to counter this
- Massey Commission
- the role of the CBC
- the CRTC and Canadian content requirements
- split-run magazines as a concern

Issues in Canada-US Relations III: Environmental Co-operation and Conflict

- marked by co-operation and conflict
- bilateral efforts to manage resources e.g. the International Joint Commission and the **Boundary Water Treaty of 1909**
- acid rain and the **Air Quality Agreement of 1991**
- recent North American Climate, Clean Energy, and Environment Partnership sought to continentalize a climate change regimes i.e. clean energy, shift away from fossil fuels, and renewables

Issues in Canada-US Relations IV: Defence Policy

- historically controversial as Washington has always asked Ottawa to spend more on the military
- the **Cuban Missile Crisis of 1962** and Canada's perceived slow response
- Boomarc missile as part of NORAD's strategy in **1963**
- cruise missile testing on Canadian soil during the Cold War
- difficult for politicians to carve out a made-in-Canada defence policy that neither offends Canadians nor Washington
- interoperability
- issues of border security and securing the North American perimeter in a post-9/11 world
- the Smart Border Declaration sought to improve border security, share information, and further law enforcement co-operation between Canada and the USA
- working with the USA has raised human rights abuses e.g. Maher Arar

Canadian Foreign Policy

- preference for participating in multilateral organization because it is a small state
- role in the UN and the creation of peacekeeping, even though the idea of Canada as a nation of peacekeepers is a myth

- at the height of peacekeeping, no more than 10% DND's budget was allocated to peacekeeping
- the top ten contributing countries to peacekeeping in terms of total police, military experts, and troops are Bangladesh, Ethiopia, India, Pakistan, Rwanda, Nepal, Senegal, Ghana, China, and Nigeria
- Canada ranks 65th with 113 total contributors
- Canada has taken the lead on a number of issues, such as the Ottawa Treaty of **1997**, the development of Responsibility to Protect, and spearheading sanctions to bring an end to apartheid in South Africa
- Canadian foreign aid for **2015** (0.28%) falls far below the international standard of 0.7% of GNP

Current Issues In Foreign Relations

- improving relations with the US in a post-Harper Canada
- the election of Donald Trump and the potential renegotiation of NAFTA and end of continental action on climate policy
- reviving multilateralism through the Paris Agreement and its role in the UN
- reconciling climate change commitments with ramped up fossil fuel production
- Saudi arms deal and human rights abuses

Week 14

December 8th, 2016

Ch. 6 - Ethnocultural Minorities

Course Book - "Federalism, Citizenship, and Quebec: Debating Multinationalism"

CITIZENSHIP AND MULTICULTURALISM

Cultural Character of Canadian Society

- Canada as a white settler society to enforce racial/ethnic hierarchies (reproduce British codes).
- Ottawa's immigration policy had historically favoured migrants from the UK
- the UK as the leading source of immigration to Canada from **1900 to 1965**
- the elimination of Canadian immigration policy's discriminatory aspects in late **1960s** changed Canada's demography.
- most modern states are characterized by cultural pluralism, not nation-states (homogeneous)
- in **1902**, 25 different ethnic groups were present in Canada
- by **2015**, over 200 ethnic groups were present.
- today, about 20% of Canada's population was born in another country
- Canada is not actually that culturally diverse, diversity is concentrated only in certain cities.
- eng. is the mother tongue of 58% Canadians
- fr. is the mother tongue of 22% Canadians

The Emergence of "Visible Minority":

- the term “visible minority” has only recently entered Canada’s political lexicon
- visible minority refers to anyone other than aboriginals who are Non-Caucasian or non-white in colour.
- reflects the changing nature of Canada’s ethnocultural character
- visible minority used as a means to confront racism in Canada
- from the **1960s** onwards, most immigrants were from Asia
- critical questions raised about the content of the term and how it reflects the Canadian structure as a white settler society. It stresses being non-white, leading to a particular kind of visibility that can only be negotiated within a discourse of multiculturalism.

Diversity in Canadian Politics

- prior to **1964**, only 2 visible minority MPs were in HoC
- Alexander Kierzowski
- Herb Gray was the first Jew in the Cabinet, in **1969**
- Douglas Jung was the first visible minority elected in HoC (he ran because of the anti-Chinese legislations by the Liberals)
- Lincoln Alexander for the conservative was the first black MP
- Jean Augustine
- only 18 Cabinet members have been visible minorities
- visible minorities are underrepresented in HoC, but the **2015** election saw a record number of visible minorities in the HoC
- 19.1% of the Canadian population is a visible minority, 9.1% of MPs are a visible minority
- Diefenbaker was the first to suggest the “non hyphenated Canadian”

What Explains the Underrepresentation of Visible Minority in Parliament

- the representation of visible minority candidates is uneven across all parties
- in the **2015** election, the Liberal Party ran the greatest number of visible minorities (16%) while the NDP and the Conservatives sat at around 13%
- visible minorities are overrepresented in the Conservative Cabinet.
- the **2000** election was the turning point, all parties made more of an effort to run more visible minority candidates
- Conservatives have been more likely to run nominated visible minority candidates in winnable ridings than the Liberals and the NDP
- party affiliation affects how visible minority candidates view their underrepresentation
- NDP candidates tend to prefer affirmative action and quotas while Conservative ones reject such measures
- scant evidence exists to suggest that Canadian voters are biased against visible minority candidates.
- visible minority are underrepresentation within political parties even though ethnocultural preferences for a party has been weakening since **1980s** (decline on the focus of the “ethnic vote”)
- the degree of political involvement varies among ethnocultural communities

- 2nd generation Canadians tend to be more likely to get involved in politics than their parents
- visible minorities are not more likely to be nominated in ridings where there is a large number of visible minority residents

Immigration Policy in Canada

- Canada as a white settler colony and the maintenance of a British society predicated on protestant ideals
- an emphasis on maintaining the character of British societies and protestant ideals.
- highly restrictive policies existed until the **1960s** (immigration of Chinese not allowed)
- immigration policy driven by economic and labour needs
- immigration became a national concern after confederation because of the need to settle the West (wanted to keep the Americans out; in order to rule you need a population, transcontinental railway)
- Canada's immigration policy has been largely restrictive. Up until **1967**, policy was largely restricted to European sources. Non eng. sources were considered "not ideal" needed for labour. In **1967**, ethnic and racial restrictions were removed and replaced by the points system (education, skills, assets)
- 3 classes of immigrant: family class, economic class, and refugees
- the point system formalized in **1978**
- initially, investors had to provide at least one job for a Canadian
- Mulroney's Tory gov. introduced an investor stream of immigrants in **1986** i.e. people with \$500 000 worth of capital who would be willing to invest in Canada for a specific period of time
- Citizenship and Immigration Canada (CIC)** established the **Immigration Investor Program** for investors.
- investors must show business experience, have a min. net worth of \$1.6 million and be willing to invest a min. of \$800 000
- CIC administers the investment
- the province receiving the investment guarantees it
- CIC returns the investment without interest 5 years and 3 months to the day after payment
- entrepreneurs and self-employed as classes of immigrants
- CIC's **Entrepreneur Program** - bring business ppl to Canada. Entrepreneurs will own a business in Canada that provide jobs.
- the **Self-employed Persons Program** contains criteria but they are expected to make contributions to Canada's cultural or athletic life, or eventually establish a farm.
- Federal Skilled Worker Program (FSWP)** seeks to match labour needs
- Canada has nonetheless sought to recruit low-wage labour reflecting a dual policy
- employers, in sectors characterized by low wages, menial labour, and poor working condition seek out immigrant labour to fill jobs in fast food sector (poor working conditions)
- radicalization of the labour force (hard to jump from low to middle income bracket. 1st generation does worse than the 2nd gen)

- Live-in Caregiver Program (LCP)** (nursing homes rely on this more and more). Successful applicants must live in the home where they work (live in the home of your employer - sets up a lot of abuse - sexual abuse and violence). LCP applicants can apply to become permanent residents 24 months after arriving in Canada.
- Canada has signed agreements with the Philippines to recruit labour for the nursing and domestic sectors.
- the status of refugees recently transformed
- the **Immigration and Refugee Protection Act** was amended in **2012** to deal with false refugee claims. Canada goes around to refugee camps to pick the refugees with best prospects
- 15 days to submit a written claim (not that long.. don't speak the language, don't know ppl)
- refugees can be stripped of their refugee status if the minister feels the country no longer poses a threat the claimant
- the minister can declare any country safe (concern that Canada wont want to damage bilateral relations with countries – ex. Mexico claimed 'safe' by Canada even though its super dangerous).

The Origins of Multiculturalism in Canada

- Canadian history of recognizing diversity- **Multiculturalism Act, Quebec Act 1774**, and insisting full assimilation
- multiculturalism as a reaction to **Pearson's' Royal Commission on Bilingualism and Binationalism** (BI and Bi commission)
- groups who were neither fr. or eng. resented the Bi and Bi Commission's omission of the role that they played in establishing Canada
- the associations attached to the word multicultural originated in Canada as a reaction to the Bi and Bi Commission
- Tory Senator Paul Yuzyk and sociologist Paul Hobart coined term "multicultural society" to signal that Canadian society was much more than just a binational state
- the emergence of P. Trudeau's "Just Society" - **1968** elections informed the development of multiculturalism
- everyone participates equal and contributions treated equal - develops idea of multiculturalism...yet, Trudeau's obsession with combatting Quebec nationalism mostly informed his preference for multiculturalism within the context of bilingualism
- detach language from culture
- individuals should be free to choose their ethnic identities and which language they wanted to speak
- primacy of individual rights - your freedom to choose what cultural identity you maintain.
- nationalism was rejected because it forced people to identify with a particular group in order to belong to a community

Element of Official Multiculturalism

- officially, multiculturalism was only made important in **1982**
- used as a nation-building exercise
- Ottawa would support cultural groups and help them grow and contribute to Canada

- encourage cultural exchanges - a dialogue
- Ottawa would assist groups with integrating into Canadian society
- ethnocultural groups would be assisted with acquiring either official language.

Charter of Rights and Freedoms

- the patriation of the constitution led to multiculturalism being enshrining in **s. 27** of the Charter (constitutionalized multiculturalism)
 - “This Charter shall be interpreted in a manner that is... enhancement of the multicultural heritage of Canadians”
- s. 27**, multiculturalism is less of a right and more of a value, but has been referred to in court cases involving hate speech and Sunday shopping
- s. 27** interpreted as turning ethnocultural groups into legitimate constitutional actors
- the **Multiculturalism Act of 1988** was made law and reinforces **s. 27** of the Charter. It gives multiculturalism a legal base and focused on discrimination within Canada (fights racism)
- the minister responsible for multiculturalism could help ethnocultural groups overcome discriminatory barriers

Quebec's Reaction to Official Multiculturalism Policy

- sees multiculturalism as problematic
- emphasis on individual over group rights
- need for nation-building in the wake of the Quiet Revolution and in the face of pan-canadian nation-building
- importance of creating a ‘made in Quebec citizenship.’
- QC prefers interculturalism
- interculturalism as QC's response to multiculturalism

Elements of Interculturalism in Quebec

- initiated by the PQ in **1981** “Autant de Façons d’être Québécois”
- one language in a pluralistic society
- in contrast to Ottawa's official multiculturalism, the PQ's programme stressed convergence
- affirming the primacy of QC
- recognizes that QC is pluralistic society within the framework of a distinct QC nationhood
- the fr. language as vehicle for participating in QC's public culture (integration using the fr. language)
- a duty to learn fr. in order to participate
- reciprocity exists in interculturalism: the province assists ethnocultural minorities with integration and they are then expected to fully participate in the province's public culture. The obligation; once QC helps you integrate, you are expected to fully contribute to QC's public life
- establishing a dialogue where everyone contributes
- emphasis on collectivities. (multiculturalism is more individual rights: fr. or eng. up to you) whereas QC is under the context of nation building in QC

-recognition that groups and group behaviour are essential to people's identities (you don't have a choice in the group that you are born into - even if you disassociate, you can't divorce yourself from your experiences)

Why Interculturalism

- QC as a distinct political community under siege
- history and patterns of cultural development are different from eng. Canada
- QC as a host society in its own right
- concerns that allophones were preferring to learn eng. rather than fr.

Is There an Emerging Mosaic? If So, What are its Features

- questions have been raised about what it means to be Canadian today?
- second generation Canadians develop hybrid identities, which can be good or bad as far as why certain identities persist e.g. the effects of exclusion (diasporas)
- becoming fully "Canadian" may indicate a form of resistance against legacies of racism e.g. Canadians of Japanese descent
- Canada's mosaic is actually concentrated in Toronto, Montreal, and Vancouver
- ethnic media
- cultural enrichment of everyday life
- ethnic entrepreneurs
- newer waves of immigrants are finding it more difficult to become socially mobile
- assumptions of automatic ethnic solidifies should be avoided

Critics of Multiculturalism

- fears of hybrid identities undercutting allegiances to patria are misplaced; social surveys show that more Americans than Canadians identify as a hyphenated citizens
- concerns that multiculturalism lead to more fractured societies; assumes cultures are frozen and must always remain in tact
- any change for critics of multiculturalism is evidence of the end of a national culture
- critics claim that consensus are being undone without ever showing what these consensus were and how they emerged
- multiculturalism enables dual loyalties; but these always existed before it
- the development of ethnic enclaves as a problem of multiculturalism; but why did these ethnic enclaves emerge in the first place
- are shared values and practices being eliminated? what are these and what do they mean anyway?
- opponents of multiculturalism see immigrants as guests who should respect the rules of their hosts rather than as citizens bearing rights and responsibilities

def exam=1 mark for definitions, 2nd part is the significance in the week or wider context to politics "the significance of this term because..." 12 minutes each, 30 minutes for short answers