

Overview of Simulation

Critical Challenge

As a delegate to a contemporary constitutional conference, students develop, negotiate, revise and, ultimately, decide whether or not to support a proposed package of amendments to Canada's Constitution.

Synopsis

In this 10 - 15 hour simulation of a contemporary constitutional conference, focussed around building consensus, students are assigned to one of five groups, each representing a region of Canada. Although the issues can be modified depending on teacher and student interest, the simulation provides background information for students to consider the constitutional implications of four areas of dispute: cultural diversity and equity; language protection; Aboriginal rights; federal-provincial power sharing.

The simulation unfolds in four stages:

| | |
|---------------------------------------|--|
| <i>Orientation</i> (3 - 4 hours) | In the introductory set of lessons students begin to think about solutions to Canada's constitutional difficulties by considering recent developments on the constitutional stage and by discussing the idea of a citizen's constitutional conference. Students are provided with historical background on Canada's constitutional struggles and introduced to the five regions and regional interest groups that will take part in the conference. In preparation for entry into the debate, students learn about four areas of controversy that will be the focus of their constitutional deliberations. Individually students research one specific issue to bring to the Conference table. |
| <i>Round One</i> (3 - 4 hours) | In the first round of negotiations, each regional group formulates a preliminary set of proposed constitutional amendments. These proposals are presented to the other delegations who then discuss and negotiate within their regional groups all the proposed amendments. Each delegation votes on which proposals are acceptable, or might be acceptable if particularly modifications were made. The results of all delegations' voting are shared and, in a plenary session, each delegation offers arguments to persuade other groups to adopt its key proposals. |
| <i>Round Two</i> (4 - 5 hours) | In the second round, each regional group prepares for final negotiations by prioritizing its proposals and developing negotiating strategies. Delegations negotiate informally with each other, making deals in anticipation of drafting its final set of requirements. After time for last-minute deliberations and revisions, the Conference votes whether or not to accept the complete set of proposed amendments. Unanimous acceptance of the final package by all delegates is required; otherwise, no amendments are approved. |
| <i>Debriefing</i> (3/4 of an hour) | Because an important focus of the simulation is on reaching consensus, students are encouraged in the final debriefing stage to reflect on their experiences as participants in the exercise and on lessons learned about reaching consensus in classroom groups and about reaching national consensus on constitutional matters. |

Blackline Masters

Regional Profiles

- 1 Atlantic Canada
- 2 Québec
- 3 Ontario
- 4 The Prairies and Territories
- 5 British Columbia and Yukon

Delegate Profiles

- 6 Atlantic Canada: Rural resident
- 7 Atlantic Canada: Francophone Maritimer/Acadian
- 8 Atlantic Canada: Urban resident
- 9 Québec: Québécois
- 10 Québec: Allophone
- 11 Québec: English-speaking Québecker
- 12 Québec: First Nations
- 13 Ontario: Urban resident
- 14 Ontario: Rural resident
- 15 Ontario: Franco-Ontarian
- 16 The Prairies and Territories: Urban resident
- 17 The Prairies and Territories: Rural resident
- 18 The Prairies and Territories: Métis, First Nations and Inuit
- 19 British Columbia and Yukon: Rural resident
- 20 British Columbia and Yukon: Urban resident
- 21 British Columbia and Yukon: First Nations and Inuit

Briefing Sheets

- 22 Glossary of constitutional terms
- 23 History of Canadian constitutional struggles
- 24 Cultural diversity and equity issues
- 25 Language protection issues
- 26 Aboriginal rights issues
- 27 Federal-provincial power sharing issues

Student Activities

- 28 Summary of profiles
- 29 Notes on constitutional disputes
- 30 Individual issue brief
- 31 Proposed amendment and justification
- 32 Round One proposals
- 33 Round Two negotiating strategies
- 34 Final positions
- 35 Closing statements
- 36 Reflecting on the experience

Support Materials

- 37 Conference materials
- 38 Delegate name tags
- 39 Conference agenda

Assessment

- 40 Knowledge of constitutional terms
- 41 Knowledge of profiles
- 42 Knowledge of constitutional disputes
- 43 Assessing individual briefs and proposals
- 44 Working towards consensus
- 45 Assessing student assessments

Atlantic Canada

The four Atlantic Provinces — Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland— have been settled by European immigrants longer than any other part of Canada outside Québec. Originally inhabited by the Mi'kmaq (mainland) and Beothuk (Newfoundland) First Nations, this region was colonised by both the British and the French.

Although Newfoundland has long been a British colony, New Brunswick, Prince Edward Island (PEI), and Nova Scotia began as the French colony of Acadia. Acadia became British after the Treaty of Utrecht in 1713, however, and the French-speaking Acadians who refused to swear loyalty to the British Crown were expelled by the British government. After years of exile or living in hiding, many were allowed to return, and Acadians now comprise forty percent of New Brunswick's population, with communities in PEI and Nova Scotia as well. The Cajun people of Louisiana in the United States are also descendants of these early

Acadians. Although New Brunswick is the only officially bilingual province in Canada, tensions remain between French- and English-speaking people in the Maritimes, an otherwise predominantly English-speaking region. Nova Scotia is also home to many African-Canadian communities, descendants of Loyalists (subjects of Great Britain who chose to remain loyal to the monarchy rather than join with the rebellious colonial forces that formed the United States of America) and escaped slaves from the United States who came here for their freedom. Unfortunately, they have suffered from prejudice in Nova Scotia as well, with their communities kept separate from neighbouring white communities. The situation began changing in the 1960s, yet difficulties remain. Mi'kmaq communities can also be found throughout the Maritimes, but the Beothuk of Newfoundland were wiped out by British settlers, and none remain today.

Newfoundland and Nova Scotia rely primarily on the fishing industry to sustain their economy. Fish are a difficult resource both to catch and market. Fishing is a seasonal occupation, and fishers rely both on federal government subsidies and employment insurance to support their families and communities. This situation has become more extreme since the collapse of Newfoundland's cod fishery in the early 1990s. PEI has an economy based on agriculture and tourism. The new bridge built to connect PEI to New Brunswick is part of a general trend toward privatisation of transport services. Previously, PEI depended on the federal government to provide the ferry service that has made the province a viable part of Canadian society. New Brunswick's economy is based on light industry, coal mining and agriculture. Its markets are in Québec and Ontario.



British Columbia & Yukon

Originally a British Crown colony founded in 1858, this far western province has always had a unique perspective on Confederation. It joined Canada in 1871 when Ottawa promised to build a railroad across the country. The Yukon Territory has much in common with BC and is also represented by your group. After the railroad was completed in the 1880s, the city of Vancouver was established by eastern Canadians and began to grow, eventually becoming the third largest city in the country and our primary western port.

Prosperous British Columbia is becoming more aggressive in defending its rights as an important region in Canada. Tourism, agriculture, natural gas, forestry, fishing and mining are among its many diverse industries. BC has an abundance of water thus providing opportunities for hydro-electric power. It has important trading connections with the United States and the Pacific Rim, especially Japan, Hong Kong and Taiwan. The province exports much of its timber, but most of it goes out as raw lumber and not as the fine finished products that generate much more money. The region is trying to encourage high tech industries and foreign investment. Fishing has also been a long-standing industry; but fish stocks are suffering, and the federal government is accused of being out of touch with the West Coast salmon fishery.

Political power in British Columbia is sharply divided between those who focus on economic development and those whose primary concern is with the social welfare of the people. The settlement of the land claims of the Native peoples is an on-going concern. BC has never been legally obtained from its First Nations, and unless this is satisfactorily resolved, the prosperity and security of this area may be jeopardised. The region does not rely as heavily on the rest of Canada as it once did, and so the threat of Québec separating does not seem to present as great a threat to British Columbians as it does to other Canadians.



Language protection issues

Words appearing in **bold face** in the text are defined more fully in the Briefing Sheet: *Glossary of Constitutional Terms*.

Disputes about language protection rights have divided Canada since the time before **Confederation**. Under the original terms of the **Constitution Act, 1867**, Canada has two **official languages**: English and French. In fact, French as Québec's official language had been accepted even before then, under the Constitution Act, 1791 when Lower Canada was granted its own legislature. Québec's language, religion and educational rights were guaranteed in the Constitution Act, 1867. At the time of Confederation most French-speaking Canadians lived in Québec, but today there are French language speaking people (Francophones) in all provinces and territories, and many English-speaking people (Anglophones) in Québec. The official language debate focusses around two main issues: (1) deciding upon the guarantees that should be in place to protect speakers of Canada's official languages, and (2) assessing the fairness of protecting only two official languages when many other language groups exist in Canada.

There are different interpretations of the meaning of an official language: it can mean, for example, the right to be educated and have government services available in that language, and these rights may apply only if there are significant numbers speaking the language in the region or they may be available regardless of the number. One of the greatest sources of difficulty has been in defining the rights of those who speak one of the official languages if they live in a region populated by a majority speaking the other official language. The federal government has guaranteed all citizens in any region of the country the right to federal government services and access to justice in the official language of their choice. Provinces are free to set their own language policies, except for a few restrictions. New Brunswick is the only officially bilingual province, extending a right to basic government services in both official languages.

In 1977, Québec passed Bill 101 establishing French as the only official language of Québec. This means that in Québec, only those who speak English as a heritage language are entitled to an English education; all other language groups must be educated in French. As well, all signs in Québec must be in French, including ethnic terms (for example, ethnic delicatessens must use the official French term for their ethnic foods). Needless to say Anglophones and Allophones (foreign language speakers) in Québec and elsewhere in Canada have objected to these restrictions of their ability to function in their own languages. Although, since 1982, the **Charter of Rights and Freedoms** has provided constitutional guarantees for official languages, the **notwithstanding section** of the Charter allows governments to exempt laws from certain sections of the Charter provided they announce their specific intention that the law be exempted. This exemption was invoked by Québec to prevent its French-only language laws from being ruled unconstitutional.

Québec offers a special problem for language protection because the number of Francophones is relatively small compared to the largely Anglophone population in the rest of North America. Many Francophones in Québec are concerned that their language and culture are in danger unless they take strong measures to secure its survival. This fear is behind the passage of Bill 101 and the demands by many Québécois to have the rest of Canada recognize Québec as a **distinct society**. Although there is considerable uncertainty about what it means to call Québec a distinct society, it seems to parallel, in cultural terms, the protection that we might invoke by designating a valued historical or natural site as a heritage site or a national park. Other provinces are suspicious of the special political powers and economic privileges that Québec may gain if it is legally recognized as a distinct society.

A further dispute in the language debate arises because of the fact that Canada's population

includes **Aboriginal peoples** with their own heritage languages and a large proportion of more recent immigrants from all over the world. Is it fair that these other language groups have an inferior status? What guarantees, if any, should be offered to the heritage languages of groups other than French and English? Should Canada recognize more official languages? If so, how many and on what basis? Other countries have varying approaches to official languages: the United States has one official language, Belgium has two, Switzerland has three and South Africa has eleven.

In thinking through the issues surrounding language protection, consider the following questions:

- Is Québec a distinct society? If it is a distinct society, does it deserve to have special rights in order to protect its distinctiveness? What would these rights be? Should distinct society rights be protected in the constitution? Is Québec the only distinct society in Canada? Is it possible for Québec to belong to Canada in a way different from other provinces or should all provinces have identical rights?
- Given the diversity of heritage languages spoken by Canadians, should Canada recognize only two languages as official? What criteria might we use to establish other official languages? What are the implications of accepting a language as an official language? What are the implications of having only two official languages?
- Is having a substantial French-speaking population an essential element of Canadian distinctiveness? Even though there are differences between one region of Canada and another, what are some things which all Canadians have in common?
- Should there be guaranteed rights across all provinces concerning all current (and future) official languages? If so, what should these guarantees be?

Notes on constitutional disputes

Indicate with a check, the area of constitutional dispute:

- Cultural diversity and equity
- Language protection
- Aboriginal rights
- Federal-provincial power sharing

In note form, list the five most significant points of information contained in the Briefing Sheet on the historical context for this area of constitutional controversy:

| |
|----|
| 1. |
| 2. |
| 3. |
| 4. |
| 5. |

Clearly identify, in your own words, the two disputed issues that are discussed in the Briefing Sheet.

| |
|----|
| 1. |
| 2. |

Using your own ideas and those in the Briefing Sheet, clearly state, in your own words, up to four reasons for and four reasons against each of the two issues.

Disputed issue #1: _____

| <i>Reasons for</i> | <i>Reasons against</i> |
|--------------------|------------------------|
| 1. | 1. |
| 2. | 2. |
| 3. | 3. |
| 4. | 4. |

Disputed issue #2: _____

| <i>Reasons for</i> | <i>Reasons against</i> |
|--------------------|------------------------|
| 1. | 1. |
| 2. | 2. |
| 3. | 3. |
| 4. | 4. |

Knowledge of constitutional disputes

Use the following rubric to score the initial draft of the Notes on Constitutional Disputes (Blackline Master # 29) or, after all students have been introduced to all four areas of constitutional dispute, to score an in-class test of students' knowledge of one of the other areas. Award intermediate marks for answers falling between the descriptors.

| | Weak | Satisfactory | Very good |
|--|---|--|---|
| Significant historical facts | Correctly and clearly identifies at most <i>one significant</i> piece of information about the historical context for this area of controversy. 1 | Correctly and clearly identifies <i>three significant</i> points of information about the historical context for this area of controversy. 3 | Correctly and clearly identifies <i>five significant</i> points of information about the historical context for this area of controversy. 5 |
| Issue identification | Incorrectly identifies both issues in the Briefing Sheet. 0 | Both issues raised by the Briefing Sheet are mentioned, in a vague or somewhat confused manner. 2 | Clearly explains in student's own words the nature of the two issues described in the Briefing Sheet. 4 |
| Reasons for and against Issue # 1 | Identifies at most one plausible reason for and one plausible reason against. 1 | Identifies two plausible reasons for and two plausible reasons against; may identify other reasons, but they are incorrect or unclear. 2 | Very clearly identifies at least three plausible reasons for and three plausible reasons against. 3 |
| Reasons for and against Issue # 2 | Identifies at most one plausible reason for and one plausible reason against. 1 | Identifies two plausible reasons for and two plausible reasons against; may identify other reasons, but they are incorrect or unclear. 2 | Very clearly identifies at least three plausible reasons for and three plausible reasons against. 3 |

TOTAL /15

Assessment

42