




1066: Norman conquest of England
 William I, Duke of Normandy takes England. William decrees that he owns all of the land in England by right of conquest. Not one acre of England is exempt from the expropriation. This introduced (or perfected) the **feudal system** to England.



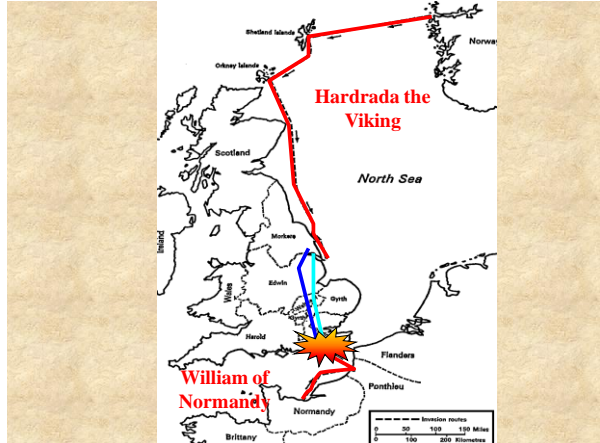

The Bayeux Tapestry: Made between 1066 and 1077. It is an embroidery (0.4m high, 70m long) showing the story of the Norman Conquest in 79 scenes. It contains information not found anywhere else.

How and Why Did the Conquest Happen?

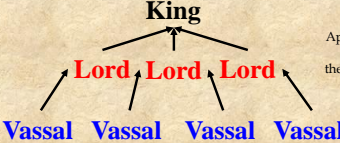
- At the beginning of 1066, Edward the Confessor ruled England. On Jan. 5th, at the age of 61, he died with no legal heir.
- Harold Godwinson claimed the throne on Jan. 6, claiming Edward had named him successor. He was a respected leader of men, but he was not a direct heir to the throne.



- Ruthless Viking Harold Hardrada set sail for England. He landed in Northumbria.
- While Godwinson marched north to defeat the Vikings in the Battle at Stamford Bridge on September 25th, Duke William had crossed 50 miles of English channel between Normandy and the English south coast. He landed at Pevensey Bay on September 28th. He built a fort and camped at Hastings.
- The Battle of Hastings: On October 14th William defeated Godwinson at Senlac hill near Hastings. William was crowned King on Christmas Day, 1066.

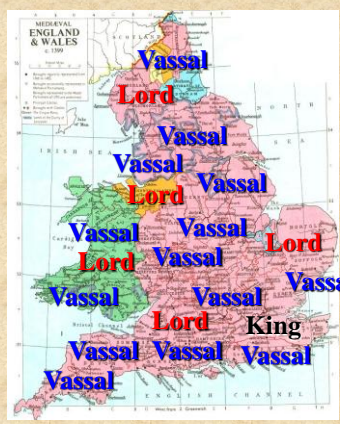


Feudal system: A social structure that revolved around a multi-level hierarchy between lords (*who held land granted under tenure from the king*), and their tenants (*also called "vassals"*). Tenants would lease land from the lord in exchange for loyalty and goods or services, such as military assistance or money. In exchange, the tenant would be protected from attack.



King
 Lord (aka Tenant-in-Chief, Baron): Approximately 200 of the most important people in England. King William gave them land and they promised to help him rule and provide knights for his army

Vassal (aka Peasant or Villein): They had the right to farm the land in return for rent paid to the Lord



In feudal society, the King's barons held their lands "in fee" (*feudum*) from the king, for an oath to him of loyalty and obedience, and with the obligation to provide him with a fixed number of knights whenever these were required for military service. At first the barons provided the knights by dividing their estates into smaller parcels described as "knights' fees", which they distributed to tenants able to serve as knights. But it became more convenient and usual for the obligation for service to be commuted for a cash payment known as "scutage", and for the revenue so obtained to be used to maintain paid armies.

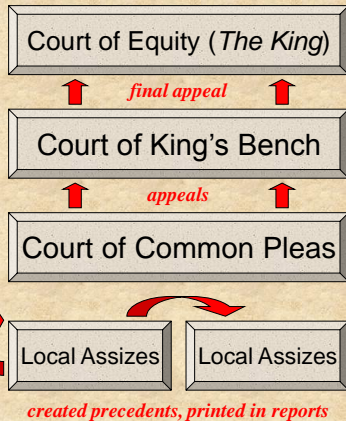


1154-1189: Case Law Develops

- During the reign of Henry II, the royal administration was expanded and the rule of law solidified.
- Henry noted the inequity between the decisions of the various lords. So he decided to create a legal system which included traveling assizes and stationary courts.

Henry institutionalized common law by creating a unified system of law “common” to the country through incorporating and elevating local custom to the national level – ending local control and peculiarities, eliminating arbitrary remedies, and reinstating a jury system of citizens sworn on oath to investigate reliable criminal accusations and civil claims.

The jury reached its verdict through evaluating common local knowledge, not necessarily through the presentation of evidence. This is a distinguishing factor from today’s civil and criminal court systems.



Side note: Some historians believe that Henry's court system ultimately led to the downfall of the monarchy's power because it transferred power from the King to judges, causing people to question the King's divine right to rule.



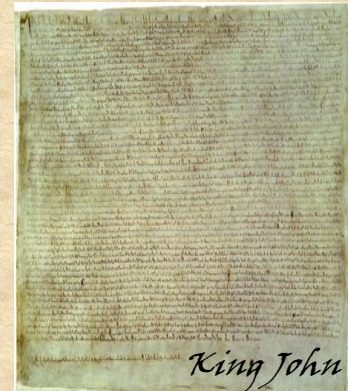
June 15, 1215: Magna Carta

At Runnymede, England, King John of England signed the Magna Carta in which he conceded a number of legal rights to his barons and to the people.

Why? You ask.

Not because he was a good king...
because he was a BAD king!

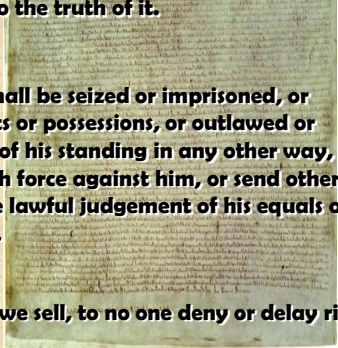
- John Lackland was born on Christmas Eve 1167, the youngest son of Henry II.
- King John's reign, beginning in 1199, was full of trouble.
- A succession dispute with his nephew, Arthur of Brittany ultimately resulted in the loss of French territories. By 1215, John crossed the Channel back into England as the last of his French possessions fell out of his hands.
- From this time to the end of his reign, John was preoccupied with the regaining of these territories, levying a number of new taxes upon the landed barons to pay for his unsuccessful campaigns.
- John used all the large powers of the crown and all the new machinery of government established by his father Henry II to oppress all classes of the nation.
- Far from protecting the humble from oppression, he was the chief oppressor. Far from using the perfected machinery of exchequer, curia and local government in the interests of good government, John valued them merely as instruments of extortion and outrage.
- Such a king could not be endured. In 1215, the discontented rebel barons revolted and captured London. In June, at Runnymede, John met with the barons and signed the Magna Carta.



(38) In future no official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it.

(39) No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land.

(40) To no one will we sell, to no one deny or delay right or justice.



1265: British Parliament Established

• Simon de Montfort captures Henry III following the Battle of Lewes. Simon (*more interested in reforms than personal power*) summons a "Parliament" (from the French "parler", to talk).



• Simon's Parliament at first drew two knights (Lords) from each shire (county), but later drew two burgesses (free men) from each borough (self-governing city). This was the first summoning of townsmen in Parliamentary history.



- In 1264, de Montfort summoned knights from each shire in addition to the normal high churchmen and nobility to an early pre-Parliament.
- In 1265 he invited burgesses from selected towns. Although Parliament as an institution was yet to be formalized, the 1265 session was a precursor to both the elements of Parliament: the *House of Lords* and the *House of Commons*.

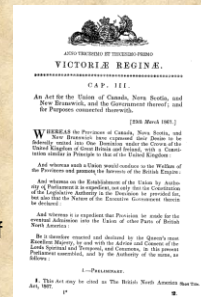
• To create a law parliament had to first present it to the king in the form of a petition. Once the king gave the petition royal assent, it became law.

1867: British North America Act

• English Parliament passed the British North America Act (BNA Act) which established the Dominion of Canada.

• Although this Act gave the right to pass laws to the newly formed Parliament of Canada, these laws were still subject to the approval of English Parliament.

• Canadians also remained bound by any laws passed in English Parliament.



And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared :

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America :

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

I.—PRELIMINARY.

1. This Act may be cited as The British North America Act, 1867.

1*

2.

Confederation

Province or Territory	Joined Confederation
New Brunswick	1867
Nova Scotia	1867
Ontario	1867
Quebec	1867
Manitoba	1870
Northwest Territories	1870
British Columbia	1871
Prince Edward Island	1873
Yukon	1898
Alberta	1905
Saskatchewan	1905
Newfoundland	1949
Nunavut	1999

Note: The BNA Act does apply to provinces joining after 1867!

1949. *Union of Newfoundland.* Chap. 1. 3
report delivered by the Judicial Committee of His Majesty's Privy Council on the first day of March, 1927, and approved by His Majesty in His Privy Council on the twenty-second day of March, 1927, and the islands adjacent to the said Coast of Labrador.
APPLICATION OF THE BRITISH NORTH AMERICA ACTS.
3. The British North America Acts, 1867 to 1946, shall apply to the Province of Newfoundland in the same way, and to the like extent as they apply to the provinces heretofore comprised in Canada, as if the Province of Newfoundland had been one of the provinces originally united, except in so far as varied by these Terms and except such provisions as are in terms made or by reasonable intendment may be held to be specially applicable to or only to affect one or more and not all of the provinces originally united.

Note: The word province was understood at the time of confederation to mean a *colony of the British Empire*. Since 1867, in Canada, the term refers to a federated entity.

1931: Statute of Westminster



•English Parliament passed the Statute of Westminster. This made Canada independent with respect to the law. The laws of Canadian Parliament no longer required the approval of English Parliament.

•Nor did English law apply in Canada (unless it was specifically requested by Canadian Parliament).

•Yet, Canada was still unable to amend its own Constitution, as the BNA Act was still a statute of English Parliament.

1982: Patriation of Canada's Constitution



April 17, 1982, Pierre Elliot Trudeau watches Queen Elizabeth II sign the Constitution Act.

This gave Canada legal ownership and control over its own constitution, and therefore granted us our final law-making power.



Trudeau: Just watch me



Trudeau on special status for Quebec



November 4, 1981: The Kitchen Accord



On the night of November 4, 1981 (widely known as the "Kitchen Accord") Federal Justice Minister Jean Chrétien met with all of the provincial premiers *except René Lévesque* (premier of Quebec), to sign the document that would eventually become the new Canadian constitution. The next morning, they presented the "*fait accompli*" to Lévesque, but Lévesque refused to sign the new constitution.

In 1982, Trudeau had the new constitution approved by the British Parliament, with Quebec's signature still missing (a situation that persists to this day).

The Supreme Court of Canada confirmed Trudeau's assertion that every province's approval is not required to amend the constitution.