

Essays should be 10-15 typed pages in length. The bibliography must include at least three published scholarly book or journal sources on topic (including journals accessed online and any relevant coursepack reading but general internet informational sources and general texts will be accepted only in addition to this requirement). You are not expected to do primary research but your essay should be more than purely descriptive. Please focus on the elements set out for the topic, attempt to engage and analyze the issues identified and assess the relevant different interpretations (historiography). The essay is worth 50 % of the final grade and is due **Tuesday 7 June**. Please note that essays must be submitted in hardcopy -- essays sent to me by email or email attachment will not be accepted. **Essays should be left at the Department of Law temporary general office D492 Loeb or the essay drop box next to it** (note that the usual reception area, C473, is under construction this summer). I will accept essays sent by mail/courier (c/o B. Wright, Law, Carleton University Ottawa K1S 5B6) but they must be postmarked with the due or prior date. Please retain a secure second copy of the submitted essay in case the original is misplaced. Essays will be returned by the exam review class or before exams commence at the CUTV Resource Centre, D299 Loeb Building. See also important notes concerning late assignments and academic offences in the course guide.

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1. Examine and assess the development of the Canadian Criminal Code, 1892 as an assertion of the Dominion of Canada's jurisdiction over criminal law and in the context of 19<sup>th</sup> century British utilitarian reform efforts.
2. Have judges been guardians of rights and liberties or does the historical record suggest a general deference to government authority in the administration of criminal justice? Examine the struggles around judicial independence from the Tudor and Stuart era, the development of the formal protections of judicial independence and conclude with reference to the development of the Canadian Judicial Council.
3. Examine the circumstances of the large-scale entry of lawyers into the criminal trial and assess their impact. Be sure to refer to the changing situation of prosecutors and defence counsel in the 18<sup>th</sup> century, the struggles leading to the Prisoner's Counsel Act, and resulting changes to evidence, procedure, and the role of other trial participants.
4. Is the jury inefficient, incapable of dealing with complex evidence, and an obstacle to the rule of law as utilitarian reformers suggested, or is it a democratic element in the administration of justice, as demonstrated historically by 'verdicts according to conscience'? Outline the 19<sup>th</sup> century objections to the jury and provide historical examples of nullification including Bushell's case and English or Canadian trials from the 18<sup>th</sup> and 19<sup>th</sup> centuries. Conclude with reference to the recent position of the Supreme Court of Canada on these issues.
5. Evaluate the impact of the development of modern professional policing. Was it simply a matter of more efficient and regular law enforcement or was it a new institutional means of asserting control in the interests of social and cultural power and economic development? Briefly explain the inadequacies of the ancient system of law enforcement, its minor reform in the 18<sup>th</sup> century and the nature of opposition to policing proposals. Briefly illustrate the issues with reference either to the establishment of Metropolitan London Police, Peel's principles of policing, and popular resistance **or** to the establishment of the North West Mounted Police and relations with First Nations in the context of frontier development and nation building.
6. Why was the Kingston Penitentiary built? Did it reflect the same factors contributing to the rise of the penitentiary in Britain and the USA or particular local circumstances? Explain the reform and administrative context eg., the old system of automatic death sentences for felony convictions and conditional pardons, the role of utilitarian and humanitarian reform arguments and abolitionism.
7. A topic of your design. **'Custom topic' must have a relevant course-related criminal law and historical focus. A proposal/abstract must be presented to me for approval at least one week before the due date.**