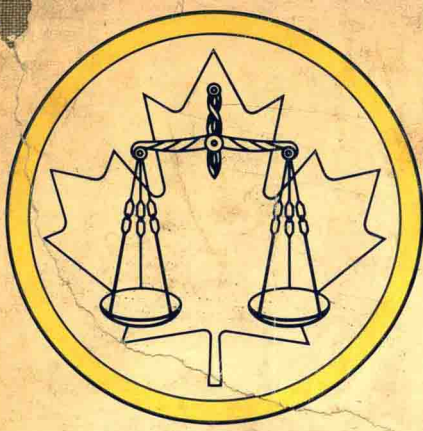




A CENTURY OF CRIMINAL JUSTICE

MARTIN L.
FRIEDLAND

Perspectives on the
Development of Canadian Law

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of Canadian Law

by

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PREFACE

The central theme of this collection of essays is the analysis of the development of the law. As stated in the first chapter on codification in the nineteenth century, "law reform is affected by a great number of factors apart from the merits of the proposals." Often, a "combination of politics, personalities and pressure groups" can affect the outcome. Canada has now embarked on a "comprehensive and accelerated review" of the criminal law, designed to lead to a new Criminal Code, and, no doubt, similar considerations will affect its progress.

All of the chapters deal with areas of law currently the subject of discussion and controversy. Most look at the law from an historical and comparative viewpoint. The chapters range from a discussion of codification, gun control, entrapment and national security to the constitutional division of power and the new Canadian Charter of Rights and Freedoms. The final chapter, "A Century of Criminal Justice", from which the title of this book has been taken, examines changes in criminal justice over the past 100 years and observes that because rights are now included in the Charter and thus entrenched in the Constitution it is not likely that there will be radical changes in criminal justice over the next 100 years.

Except for chapter 2, all the papers have been published separately elsewhere. I am grateful to the editors of those journals and collections for permission to use the material in this volume. In all cases the original material has been brought up to date.

I am indebted to the Donner Canadian Foundation for generously supporting my work on the process of change. Assistance was also given by the Solicitor-General's Department, Ottawa, for research relating to gun control and the constitutional division of power and by the McDonald Royal Commission on the R.C.M.P. for research on national security and entrapment. I was fortunate to have had the very able assistance at various times over the past few summers of three excellent research assistants, Gordon Cameron, Stephen Rosenhek and Paul Schabas, now all recent graduates of the University of Toronto Faculty of Law. Expert secretarial assistance was given by Julia Hall, Joyce Kawano, Gerry Naunheimer and Kathy O'Rourke.

I would like to thank Frank Iacobucci, now the Provost of the University of Toronto, but who was the Dean of Law when most of these papers were prepared, for his encouragement and support. A number of colleagues gave generously of their time and ideas in discussing the process of change. I would particularly like to thank John Ll.J. Edwards, J.R.S. Prichard, R.C.B. Risk, R.J. Sharpe and Stephen Waddams of the Faculty of Law, Peter Russell and Peter Solomon of the Department of Political Science and John Beattie of the Department of History, for their help and encouragement.

iv PREFACE

Librarians and archivists in Canada and England willingly assisted me in my research and I am indebted to the following libraries and archives: the Faculty of Law Library, the Robarts Library and the Centre of Criminology Library, all at the University of Toronto; the Institute of Criminology Library, the Squire Law Library and the University Library, all at Cambridge University; the Public Record Office and the British Library, London; and the Public Archives of Canada, Ottawa.

To all the above persons and institutions I am sincerely grateful.

May, 1984

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