

Course Outline

COURSE:	LAWS/HIST 3305A
TERM:	Fall 2013-14
PREREQUISITES:	Third Year Standing
CLASS:	Day & Time: Thursdays 11:30-2:30 Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Professor Barry Wright
CONTACT:	Office: Kroeger College D 199 Loeb Building Note: Please contact TA in the first instance outside of class/office hours Office Hrs: Thursdays 3:00-5:00 pm Telephone: 613 520 7560 (College Reception) Email: barry.wright@carleton.ca TA: Darren Pacione (darren_pacione@carleton.ca)

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of**

Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

COURSE DESCRIPTION

This course surveys historical changes in the definition of crime and the administration of criminal law. While the adversarial criminal trial with jury is associated with the medieval origins of the common law, the basic elements of our current criminal justice system reflect relatively recent transformations in law enforcement, the criminal trial and punishment. These transformations are associated with the rise of the modern state and were responses to the effects of industrialization, urbanization, and colonization. The course focuses on 18th and 19th century England, and on the adoptions of the English criminal law and institutions in late 18th and 19th century Canada. Selected issues in criminal law history are also explored (eg., the experiences of first nations and women, resort to criminal law during political crises).

COURSE ORGANIZATION

Lecture and class discussions. Students will be expected to have completed the required readings from the 3305 coursepack for a particular week's topic as specified in the schedule set out on the following pages.

REQUIRED READING MATERIALS

Purchase of the following coursepack is required. It contains all the assigned readings and is available in the university bookstore:

B. Wright, LAWS/HIST 3305 *Crime and State in History* (2013 ed.) (used copies of the 3305 coursepack since the 2009 edition, with B Wright or C McNaught on the cover, will suffice).

Lecture abstracts (overhead displays in class) and essay topics will be made available on cuLearn or accessed from links from the course outline on the Law website.

COURSE EVALUATION

- a) **Research Essay** **50%**
(10-15 pages, Due 7 November 2013)

- b) **Final Examination** **50%**
(3 hour closed book, scheduled during December Exam Period),

Both components must be completed in order to get a passing grade

NOTES ABOUT EVALUATION

Failure to complete any portion of the required course assessment will result in a final grade of F. A deferred examination or essay assignment, following the same format, may be written upon application to/approval from the Registrar's Office.

Exams are not returned but may be reviewed with me during office hours the following term. Essays will be returned at the final exam review class at the end of term. They may also be picked up from me during office hours or returned by post where a stamped self-addressed envelope is provided. Otherwise they will be returned at the final exam.

Late essays will be marked down one-half letter grade (eg. B to B-) for each day submitted after the due date without authorized extension from me. Essays must be typed or word-processed and submitted in hard copy. Handwritten papers, computer files, or email attachments will not be accepted. Please retain a photocopy or a secure file copy of the submitted essay. Essays must be submitted in person to me in class on the due date. In exceptional circumstances only, the essay may be deposited in the essay drop box located outside the Law Department General Office, room C473 Loeb Building, by 4:00 pm on the due date. The Department of Law assumes no responsibility for essays or assignments submitted in an irregular manner.

All assignments must be original. Prior approval of the instructor must be obtained if it is intended to submit work that has previously or concurrently been submitted for credit in this or another course. Please note all University regulations concerning plagiarism and related instructional offences in the Undergraduate Calendar.

TOPICS AND READINGS

All required readings noted in the schedule below may be found in the 3305 coursepack (full bibliographical information for the extracted published material is set out at the beginning of the coursepack). Students are advised to start their essay research by consulting these readings and class notes where relevant.

SCHEDULE:**Lecture 1 Introduction****Lecture 2 Conceptualizing Legal History and Origins of Canada's System**

Please read for this class from the coursepack:

- Wright, "Overview: Historical Perspectives on Criminal Law, Legal Historical Research, and the Development of Early English Criminal Law" (typescript)

Part 1 - Overview: Developments in the Criminal Law and Historiography**Lecture 3. Eighteenth Century England**

Please read for this class from the coursepack:

- Hay, "Property, Authority and the Criminal Law"
- Langbein, "Albion's Fatal Flaws"

Lecture 4. Nineteenth Century England: The Great Transformation - Reform or More Efficient Repression?

Please read for this class from the coursepack:

- McGowan, "The Images of Justice and Reform in the Criminal Law in Early Nineteenth Century England"

Lecture 5. The Reception of English Criminal Law in Canada

Please read for this class from the coursepack:

- Hay, "The Meanings of the Criminal Law in Quebec, 1764-1774"
- Glavin, "The Nisga'a Treaty: Death of an Ideology (extracts)"
- Parker, "The Origins of the Canadian Criminal Code"

***Essay topics made available this class (3 October)**

Part 2 - The Development of Criminal Law Institutions and Administration:**Lecture 6. Law Enforcement, the Rise of Police and Public Prosecutions**

Please read for this class from the coursepack:

- Storch, "The Plague of Blue Locusts"
- Wright, "A Note on Law Enforcement and Prosecutions"(typescript)
- Macleod, "Canadianizing the West: The North West Mounted Police as Agents of National Policy"
- Hay, "Controlling the English Prosecutor"

Lecture 7. The Criminal Trial and Legal Personnel**Please read for this class from the coursepack:**

- Langbein, "The Criminal Trial Before Lawyers"
- Beattie, "The Scales of Justice: Defence Counsel and the English Criminal Trial in the 18th and 19th Centuries"
- Wright, "A Note on the Jury and Judges" (typescript)

Lecture 8. Punishment**Please re-read for this class from the coursepack:**

- McGowan, "The Images of Justice and Reform in the Criminal Law in Early Nineteenth Century England" (re-read from lecture 4)
- Taylor, "The Kingston, Ontario Penitentiary and Moral Architecture"

NB: No Class 31 October—Fall Term Reading Week**Part 3 - Selected Issues in Criminal Law History****Lecture 9 Conquest and the Experience of Native Peoples in Canada****Please read for this class from the coursepack:**

- Loo, "The Road from Bute Inlet"
- Schuh, "Justice on the Northern Frontier: Early Murder Trials of Native Accused"

Essays due at this class*Lecture 10 The Experiences of Women****Please read for this class from the coursepack:**

- Gavigan, "Petit Treason in 18th Century England"
- Backhouse, "Sayer Street Outrage,"
- Wright, "A Note on Gender and the History of Criminal Law" (typescript)

Lecture 11 Politics and the Rule of Law in Canada**Please read for this class from the coursepack:**

- Marquis, "Doing Justice to British Justice"
- McNaught, "Political Trials and the Canadian Political Tradition"

28 November: Term Review and Examination Overview**5 December: Examination review session with TA, Essays returned**