

Course Outline

COURSE:	LAWS 3305A (Also listed as HIST 3305)
	Crime & State in History
TERM:	Fall 2012
PREREQUISITES:	3rd year standing
CLASS:	Day & Time: Wednesdays 6:05pm – 8:55pm
	Room: Please check with Carleton Central for current room location.
INSTRUCTOR:	Amy Conroy
CONTACT:	Office: TBD
	Office Hrs: TBD
	Email: amyconroy@connect.carleton.ca

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). For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

This course explores the historical relationship between the criminal law system and society, evolving issues in the criminal law, and the nature of institutional responses over past centuries. The timeline covered is medieval to early 18th century England and 19th to early 20th century Canada.

The course begins with the study of the English criminal justice system in the 18th and 19th century. The focus then turns to the Canadian reception of established British rules of criminal justice, with emphasis on the theories and social forces behind crime and punishment in Canadian history. The latter part of the course will be used to examine special issues in the history of the Canadian criminal justice system, with continued focus on how the British laws and policies influenced Canadian developments in this area.

REQUIRED TEXTS

Many of the required readings will be made available on the course website through ARES. All other required readings will be compiled into a required coursepack, which will be made available at the University Bookstore (A. Conroy: *Crime and State in History*).

PLAGIARISM

All work must be original. Work submitted in fulfillment of another course is not to be submitted for this course. Please note that all cases of suspected plagiarism will be reported to the Department of Law and Legal Studies. The Student Academic Success Centre (SASC) has excellent resources to clarify academic writing requirements. Please refer to the SASC website at <http://www1.carleton.ca/sasc/writing-tutorial-service/writing-resources/>. You may also make an appointment to meet with me if you have any questions about citation requirements.

EVALUATION

Component	Date	Value	Notes
Mid-Term Exam	Oct. 17 th	35%	This exam will be closed book. It will be based on all required readings, lectures, slides and videos viewed in class (up to and including Oct. 10 th).
Research Topic and Abstract	Oct. 31 st	10%	Single page stating topic and abstract summary, to be submitted in class.
Pop Quiz (x2)	Two lecture dates chosen at random	10%	Each quiz will be worth 5% of your final grade, and will be based on readings and discussions up to and including the quiz date.
Research Essay	Due by noon on Dec. 3 rd in the Dept. of Law and Legal Studies drop box (Loeb C473)	45%	Approximate length of 15 pages. A list of suggested topics will be posted on CULearn by September 19 th . You may also choose your own topic but <i>must</i> have this topic approved in advance. A late penalty of 10% per day will be applied to essays handed in after the due date.

SCHEDULE

Date	Topic	Readings
Sept. 12 th	Introduction / Course Overview	None
Sept. 19 th	The Criminal Justice System in Eighteenth Century England	<p>Please Read: J.M. Beattie. "Scales of Justice: Defense Counsel and the English Criminal Trial in the 18th and 19th Centuries" (1991) 9 <i>Law and History Review</i>, 221. E.P. Thompson. "The Moral Economy of the English Crowd in the Eighteenth Century." (1971) <i>Past and Present</i> 50(1) 76.</p> <p>Optional Reading: J.M. Beattie. <i>Crime and the Courts in England, 1660-1800</i>, (Princeton, 1986).</p>
Sept. 26 th	The Criminal Justice System in Nineteenth Century England	<p>Please Read: Randall McGowen "The Image of Justice and Reform of the Criminal Law in Early Nineteenth-Century England" (1983) 32 <i>Buff. L. Rev.</i> 89.</p> <p>Optional Reading: George Rudé. "Protest and Punishment in 19th Century Britain" (1973) 5(1) <i>Albion</i> 1.</p>
Oct. 3 rd	The Canadian Adoption of the British Criminal Justice System	<p>Please Read: Graham Parker. "The Origins of the Canadian Criminal Code" in Flaherty ed., <i>Essays in the History of Canadian Law</i>, Vol. 1, (Toronto: University of Toronto Press, 1981).</p>

		<p>Douglas Hay. "The Meanings of the Criminal Law in Quebec, 1764-1774" in Louis Knafla (ed.) <i>Crime and Criminal Justice in Europe and Canada</i> (Waterloo: Wilfred Laurier University Press, 1985).</p> <p>Optional Reading: R.C. MacLeod. "The Shaping of Canadian Criminal Law 1892-1902" (1978) 13(1) <i>Historical Papers</i> 64. Nancy Parker. "Swift Justice and the Decline of the Criminal Trial Jury: The Dynamics of Law and Authority in Victoria, B.C. 1858-1905", Chapter 5 in Hamar Foster & John McLaren (eds.) <i>Essays in the History of Canadian Law: British Columbia and the Yukon</i> (Toronto: University of Toronto Press, 1995). D.H. Brown. <i>The Genesis of the Canadian Criminal Code of 1892</i> (Toronto: University of Toronto Press, 1989).</p>
Oct. 10 th	Punishment and the Prison System	<p>Please Read: Michael Ignatieff. <i>A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750-1850</i> (New York: Pantheon Books, 1978) Chapter 7: "Prisons, the State and the Labor Market 1820-1842". Michel Foucault. <i>Discipline & Punish: The Birth of the Prison</i> (New York: Vintage Books, 1979) Chapter 1: "The Body of the Condemned". Carolyn Strange. "The Criminal and Fallen of Their Sex: The Establishment of Canada's First Women's Prison, 1874 -1901" (1985) 1 <i>Canadian Journal of Women and the Law</i> 79.</p> <p>Optional Reading: Andre Cellard. <i>Punishment, Imprisonment and Reform in Canada, from New France to the Present</i> (Ottawa: Canadian Historical Association, 2000), available online: http://www.collectionscanada.gc.ca/obj/008004/f2/H-60_en.pdf Curtis, D., "Kingston Penitentiary: the First Hundred and Fifty Years, 1835-1935", (Ottawa, Correctional Service of Canada, 1985). Beattie, J.M., <i>Crime and the Courts in England, 1660-1800</i>, (Princeton, 1986).</p>
Oct. 17 th	Mid-Term Exam	All content covered in the assigned readings, lectures, slides, and in-class videos up to and including Oct. 10 th .
Oct. 24 ^h	The Experiences of Native People in Eighteenth and Nineteenth Century Canadian Criminal Courts	<p>Please Read: Constance Backhouse. <i>Colour-Coded: A Legal History of Racism in Canada 1900-1950</i> (Toronto: University of Toronto Press, 1999). Chapter 3: "Bedecked in Gaudy Feather's: The Legal Prohibition of Aboriginal Dance: Wanduta's Trial, Manitoba, 1903". Harring, S.L., <i>White Man's Law: Native People in Nineteenth Century Canadian Jurisprudence</i> (Toronto, 1998). Chapter 3: "The Common Law Is Not Part Savage and Part Civilized: Chief Justice John Beverley Robinson and Native Rights". Schuh, C., "Justice on the Northern Frontier: Early Murder Trials of Native Accused" (1979) 22 <i>Criminal Law Quarterly</i> 74.</p>
Oct. 31 st	Women and Reproductive	<p>Please Read: Angus McLaren. "Birth Control and Abortion in Canada 1870 – 1920"</p>

	Controls in the Nineteenth Century	<p>(1978) 59(3) Canadian Historical Review 319.</p> <p>Peter Ward. "Law and Property in Courtship and Marriage", Chapter 2 in <i>Courtship, Love and Marriage in Nineteenth Century English Canada</i> (Montreal: McGill-Queen's University Press, 1990).</p> <p>Constance Backhouse. <i>Petticoats and Prejudice: Women and the Law in 19th Century Canada</i> (Toronto: Women's Press, 1991), Chapter 4 "Infanticide".</p> <p>Optional Reading:</p> <p>Constance Backhouse. <i>Carnal Crimes: Sexual Assault Law in Canada, 1900-1975</i> (Toronto: Irwin Law, 2008).</p> <p>Gavigan, S. "The Criminal Sanctions as it Relates to Human Reproduction: The Genesis of the Statutory Prohibition of Abortion" (1984) 5 <i>Journal of Legal History</i>, 20.</p> <p>F.M. Greenwood & B. and Boissery. <i>Uncertain Justice: Canadian Women and Capital Punishment, 1754-1953</i> (Toronto: Dundurn, 2000), Chapter 10 "Annie Rubletz and Marie Paulette – The Far Side of Despair".</p>
Nov. 7 th	Controlling Drugs and Alcohol	<p>Please Read:</p> <p>Benoit Dostie & Ruth Dupre. "The People's Will: Canadians and the 1898 Referendum on Alcohol Prohibition" (2012) <i>Explorations in Economic History</i> 1.</p> <p>R. Solomon & M. Green. "The First Century: The History of Non Medical Opiate Use and Control Policies in Canada 1870-1970" (1982) 20 <i>University of Western Ontario Law Review</i>, 307.</p> <p>Optional Reading:</p> <p>Melvyn Green. "The History of Canadian Narcotics Control: The Formative Years" (1979) 37 <i>U. Toronto Fac. Law. Rev.</i> 42.</p> <p>L.W. Moffit. "Control of the Liquor Traffic in Canada" (1932) <i>Annals of the American Academy of Political and Social Science</i> 188.</p>
Nov. 14 th	Sexuality and the Law	<p>Please Read:</p> <p>Terry L. Chapman "Male Homosexuality: Legal Restraints and Social Attitudes in Western Canada, 1890 – 1920" in Louis A. Knafla (ed.) <i>Law & Justice in a New Land</i> (Toronto: Carswell Co. Ltd., 1986).</p> <p>Joan Sangster. "Incarcerating "Bad Girls": The Regulation of Sexuality through the Female Refuges Act in Ontario: 1920 – 1945" (1996) 7(2) <i>Journal of the History of Sexuality</i> 239.</p> <p>McLaren, J., "Chasing the Social Evil: Moral Fervour and the Evolution of Canada's Prostitution Laws, 1867-1917" (1986) 1 <i>Canadian Journal of Law and Society</i>.</p> <p>Optional Reading:</p> <p>Columbia University Libraries Exhibition, Online Edition: <i>Stonewall and Beyond: Lesbian and Gay Culture</i>, available online at: http://www.columbia.edu/cu/lweb/eresources/exhibitions/sw25/.</p> <p>Jonathan Swainger and Constance Backhouse eds. <i>People and Place: Historical Influences on Legal Culture</i> (Vancouver: UBC Press,</p>

		2003), Chapter 7 “Boomtown Brothels in the Kootenays 1895-1905”.
Nov. 21 st	Evolving Perspectives on Criminality and State of Mind	<p>Please Read:</p> <p>Richard Moran. “The Origin of Insanity as a Special Verdict: The Trial for Treason of James Hadfield” (1985) <i>Law & Society Review</i> 487.</p> <p>R. U. Singh. “History of the Defense of Drunkenness in English Criminal Law” (1933) 49 <i>L. Q. Rev.</i> 528.</p> <p>Greenwood, F.M. and Boissery, B. <i>Uncertain Justice: Canadian Women and Capital Punishment, 1754-1953</i> (Toronto: Dundurn, 2000), Chapter Seven “Elizabeth Workman – Sinner or Saint?”</p> <p>Optional Reading:</p> <p>Homer D. Crotty. “The History of Insanity as a Defense to Crime in English Criminal Law” (1923) 12 <i>Cal. L. Rev.</i> 105.</p> <p>Kathleen Kendall. “Criminal Lunatic Women in 19th Century Canada” (1999) <i>Perspectives</i> 46.</p> <p>Marjorie Montgomery Bowker. “Juvenile Court in Retrospect: Seven Decades of History in Alberta (1913-1984)” (1985) 24 <i>Alta. L. Rev.</i> 234.</p>
Nov. 28 th	Course Wrap Up / Review of Grading Scheme for Final Papers	N/A