

Course Outline

COURSE: LAWS 3305 D CRIME AND STATE IN HISTORY

TERM: Winter 2013

PREREQUISITES: Third-year standing.

CLASS: Day & Time: Wednesdays 6:05 – 8:55pm
Room: Please check with Carleton Central for current room location

INSTRUCTOR: Leonardo Russomanno (Contract)

CONTACT: Office: B 442 Loeb Building
Office Hours: TBA
Telephone: (613) 296-2551
Email: russomanno@wsgalaw.com

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 explores dramatic, historical transformations in the perception and definition of crime and the administration of criminal law. We will trace the origins of the criminal law and highlight important developments which resulted in drastic changes that reverberate in our modern adversarial system.

The course begins with a broad historical overview and then moves into an analysis of specific issues, always tracing the important historical context. Selected issues include the historical treatment of

women under criminal law, miscarriages of justice, sentencing, and the rule of law.

Please pay special attention to Carleton University's rules and regulations concerning academic integrity. Please note that any suspected cases of academic dishonesty are forwarded directly to the Dean of the faculty.

REQUIRED TEXTS

Students require John H. Langbein, *The Origins of the Adversary Criminal Trial*. A copy of the same is on reserve at the library. All other materials will be provided.

Students are expected to come to class having completed the readings and to participate in class discussions.

EVALUATION

(All components must be completed in order to get a passing grade)

40% - Paper

60% - Final exam (in class)

The exam will include a number of questions from which students are asked to choose from to provide long answers.

Note: Late assignments will be marked down one half-letter grade for each day submitted after the due date.

SCHEDULE (subject to modification)

WEEK 1 – January 9th:

Introduction

- Introduction
- Review of course outline
- Expectations of students
- Structure of class

WEEK 2 – January 16th:

Origins of the Common Law system

- Towards a unified criminal law
- The advent of the adversarial system

Readings:

TEXT: Introduction, pp. 1-9

WebCT reading: David Bentley, "English Criminal Justice in the Nineteenth Century", Ch. 1, The System

WEEK 3 – January 23rd:

Development of the Common Law system and reception in Canada

- The Quebec Act, the Criminal Code 1892

Readings:

Michel Morin, “The Canadian Experience of Codification”, online at <http://publications.gc.ca/collections/Collection/JL2-9-2000E.pdf> pp. 151-177

WEEK 4 – January 30th:

The rule of law

Readings:

Roncarelli v. Duplessis: <http://canlii.ca/en/ca/scc/doc/1959/1959canlii50/1959canlii50.html>

The Manitoba Language Reference: <http://canlii.ca/en/ca/scc/doc/1985/1985canlii33/1985canlii33.html> paragraphs 55-112

WEEK 5 – February 6th:

Habeas Corpus

- Historical overview
- The October Crisis
- Internment of Canadians during WWII

Readings:

Video: Apology to Japanese Canadians: online at <http://www.youtube.com/watch?v=fxVZtQULIMQ>
Dominic Clement: The October Crisis of 1970: Human Rights Abuses under the *War Measures Act*, online at: http://www.historyofrights.com/PDF/article_JCS.pdf

WEEK 6 – February 13th:

Miscarriages of criminal justice

Readings:

TEXT: pp. 68 - 101

WEEK 7 – February 27th:

Miscarriages of criminal justice: part II

Readings:

The Donald Marshall Inquiry Report:

http://novascotia.ca/just/marshall_inquiry/docs/Royal%20Commission%20on%20the%20Donald%20Marshall%20Jr%20Prosecution_findings.pdf

WEEK 8 March 6th:

Criminalizing immorality

Readings:

Roach, Healy, Berger, Stribopoulos, *Criminal Law and Procedure: Cases and Materials*, pp. 45 – 70REFERENCE ONLY: *Bedford v. Canada* 2010 ONCA 814: online at<http://canlii.ca/en/on/onca/doc/2010/2010onca814/2010onca814.html>**WEEK 9 – March 13th:**

Women and the law

- Violence against women
- Battered Woman Syndrome – *R v. Lavallee*

Readings:

Constance Backhouse, “Petticoats and Prejudice”, pp. 80 – 111

REFERENCE: *R v. Lavalle* [1990] 1 SCR 852, online at:<http://canlii.ca/en/ca/scc/doc/1990/1990canlii95/1990canlii95.html>**WEEK 10 – March 20th:**

The development of the modern adversarial system

Readings:

TEXT: pp. 252 - 310

WEEK 11 – March 27th:

Sentencing and punishment

WEEK 12 – April 3rd:

Exam review