

**Course Outline****LAWS/HIST 3305 B - Crime and State in History**

**TERM:** FALL 2011-12

**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: D591 Loeb  
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TA: TBA (please contact TA by email in the first instance if you have questions outside of class or office hours; contact information will be provided in the first class)

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"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: <http://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 11 November 2011 for December exams and 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: [www.carleton.ca/equity](http://www.carleton.ca/equity)

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**COURSE DESCRIPTION**

This course surveys historical changes in the definition of crime and the administration of criminal law. While the adversarial criminal trial is associated with the medieval origins of the common law, the basic elements of our current system of criminal justice reflect much more recent transformations in law enforcement, the criminal trial, and punishment. These transformations, associated with the rise of the modern state, attempted to manage the effects of industrialization, urbanization, and colonization. The course focuses on these developments in 18th and 19<sup>th</sup> century England, and on the adoption and modification of the English criminal law and institutions in late 18<sup>th</sup> and 19<sup>th</sup> century Canada. Selected issues in criminal law history are also explored, including the uses of criminal law to deal with real and perceived state security threats, the experiences of native peoples and women.

**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.



**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"

**\*Essay topics made available this class**

Guest Lecture 6 October 2011

**Lecture 5.      The Reception of English Criminal Law in Canada (13 October)**

**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"

**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"

**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 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"

**Lecture 12      Examination Review Class; Essays returned**