

**LAWS/HIST 3305 C/CUTV****Crime and State in History**

**TERM:** WINTER 2010-11

**PREREQUISITES:** Third year standing

**CLASS: Day & Time:** C lecture: Wednesdays 2:30-5:30 (CUTV:THURS. 10:00-12:30)

**INSTRUCTOR:** Professor Barry Wright

**CONTACT:**

Office:	D591 Loeb
Office Hrs:	Tuesdays, 2:00-5:00 pm
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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. Please note the deadline for submitting completed forms to the Paul Menton Centre is 15 November 2010 for December examinations and 12 March 2011 for April examinations. For further information, please see: [http://www.carleton.ca/pmc/students/accom\\_policy.html](http://www.carleton.ca/pmc/students/accom_policy.html)

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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 18<sup>th</sup> 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.

**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* (2008-10 or 2011 ed.)**

Lecture abstract overhead displays can be accessed on the web site version of this course outline ([www.carleton.ca/law/outlines/](http://www.carleton.ca/law/outlines/) or via University general site (Academics, Departmental sites-Faculty of Public Affairs: Law, Course Outlines Fall/Winter 2010-11)

**COURSE EVALUATION**

- a) **Research Essay** **50%**  
(10-15 pages. Due: 9 March 2011)
  
- b) **Final Examination** **50%**  
(3 hour closed book, scheduled during April Exam Period),

**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 review class (C section) or at the end of term by usual CUTV procedures (CUTV). They may 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 or deposited in the essay drop box located outside the Law Department General Office, room C473 Loeb Building, 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. The 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**

**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 (9 March)**

**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**