

Course Outline

COURSE: LAWS/HIST 3305B Crime and State in History

TERM: Fall 2019

PREREQUISITES: Third year standing or above

CLASS: **Day & Time:** Tuesdays, 2:35pm - 5:25pm
Room: Please check with Carleton Central for current room location

INSTRUCTOR: Professor Barry Wright

CONTACT: **Office:** D489 Loeb Building
Office Hrs: Fridays 2:30pm - 4:00pm or by appointment

Telephone: 613-520-2600 ext. 8201
Email: barry.wright@carleton.ca
***Please contact course TA by email in first instance outside of class and office hours (see CU Learn for contact information).**

CALENDAR COURSE DESCRIPTION:

The history of the relationship between the criminal law system and society. Changing issues in the criminal law and the nature of institutional responses, covering medieval to early nineteenth-century England and nineteenth to early twentieth-century Canada

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, including Indigenous experiences, the experience of women, and political trials or national security resort to the criminal law.

COURSE ORGANIZATION:

Lecture and class discussions. Students will be expected to have completed the required readings from the 3305 coursepack, and/or supplements made available on CULearn for a particular week's topic before the lecture as specified in the Schedule of Topics and Readings set out on the following page.

REQUIRED TEXT:

Barry Wright, LAWS 3305 HIST 3305 *Crime and State in History* (2019 ed.)

(Note: used copies of the 2015, 2016 and 2017 coursepack editions, with my name on it, are suitable).

This coursepack contains the assigned readings and is available at the Carleton University Bookstore. Supplementary readings and lecture abstracts posted on CULearn.

EVALUATION:

- a) **Research Essay** **50%**
(10-15 pages, Due 12 November 2019)
- b) **Final Examination** **50%**
(3 hour closed book, scheduled during December Exam Period),

IMPORTANT NOTES ABOUT ASSESSMENT AND EVALUATION:

-All assessed components must be completed in order to receive a passing grade. A deferred examination or essay assignment, following the same format, may be written upon application to and approval from the Registrar's Office.

-Essays should be submitted in person to me in class on the due date or deposited in the essay drop box located outside the Law Department General Office, C473 Loeb Building, by 4:00 pm (the Department of Law assumes no responsibility for essays or assignments submitted in an irregular manner). 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. 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. Extension requests must be made in advance of the due date (emergencies excepted) and supported by documentation.

-Graded essays will be returned at the exam review class at the end of term. Those not picked up at the last class will be returned at the final exam after you have completed it. Exams are not returned, but may be reviewed with me during my office hours in the Winter Term.

- Please note regulations concerning academic integrity and related instructional offences as noted below and in the Undergraduate Calendar. 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. Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

SCHEDULE OF TOPICS AND READINGS:

All readings from Coursepack, unless otherwise indicated, and as noted, should be completed before the lecture. The lecture outline can also be accessed in advance on CULearn and may help to frame the assigned reading.

Lecture 1 **Introductory class (10 September)**

Lecture 2 **Conceptualizing Legal History and Origins of Canada's Criminal Law System in Medieval and Early Modern England**

Reading: Wright, "Overview: Historical Perspectives on Criminal Law, Legal Historical Research, and the Development of Early English Criminal Law"

Part 1: Overview of Developments in Criminal Law, Historiographic Debates

Lecture 3. **Eighteenth Century England**

Readings: Hay, "Property, Authority and the Criminal Law" (supplementary reading in CULearn)

Langbein, "Albion's Fatal Flaws" (coursepack)

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

Reading: 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**

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

***NOTE: Essay topics made available at this class (8 October)**

Part 2: Institutional Developments and the Administration of Criminal Law

Lecture 6. **Law Enforcement, the Rise of Police and Public Prosecutions**

Readings: Storch, "The Plague of Blue Locusts"; Wright, "A Note on Law Enforcement and Prosecutions"; 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 (29 Oct. no class 22 Oct. Reading Week)**

Readings: 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"

Lecture 8. Punishment

Readings: 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 Canadian Criminal Law History**Lecture 9 Conquest and the Experience of Native Peoples in Canada**

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

***NOTE: Essays due 12 Nov. (bring to class)**

Lecture 10 The Experiences of Women

Readings: Gavigan, "Petit Treason in 18th Century England"; Backhouse, "Sayer Street Outrage"; Wright, "A Note on Gender and the History of Criminal Law"

Lecture 11 Politics and the Rule of Law in Canada

Readings: McNaught, "Political Trials and the Canadian Political Tradition"; Wright, "State Trials in Post Revolution British North America" (supplementary reading in CULearn)

Last Class (3 December): Examination review session, Essays returned

ACADEMIC ACCOMMODATIONS

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

Pregnancy obligation: Please contact 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: <https://carleton.ca/equity/accommodation/academic/students/>

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: <https://carleton.ca/equity/accommodation/academic/students/>

Academic Accommodations for Students with Disabilities: If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (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 as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable). <https://carleton.ca/pmc/students/accommodations/>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material,

regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's Academic Integrity Policy can be found at:

<https://carleton.ca/registrar/academic-integrity/>

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/sexual-violence-support/>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor 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. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit:

<https://carleton.ca/equity/accommodation/academic/>

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>