

Carleton University**Department of Law****Course Outline**

COURSE: LAWS 2201 B – Persons and Property

TERM: Winter 2012

PREREQUISITES: LAWS 1000

CLASS: **Day & Time:** Monday 11:30am-2:25pm
Room: Please check with Carleton Central for current room location

INSTRUCTOR: Stephen Waxman
(CONTRACT)

CONTACT: **Office:** Loeb B442 – Contract Instructor's Office
Office Hrs: By appointment
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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 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

Origins and scope of the concept of person in law and how concepts of legal personality change over time. Origins and scope of the concept of property and how concepts of property change over time.

This course examines some of the ways in which law regulates relationships among legal persons. We will look at the manner in which concepts of personhood and property are created and protected in law, and also how such concepts may be challenged and can change over time. The manner in which legal categories and concepts embody particular visions of social life will be emphasized. The course will also emphasize the role played by the state in the ordering of private law relations. You should learn about how law works, the impact of law and why particular rules exist.

REQUIRED TEXTS

Neil Sargent and Logan Atkinson, eds., *Just Between the Law and Us Volume 1: Persons and Property*. Toronto: Captus Press, 2010 (Available from the Carleton University Bookstore)

Logan Atkinson and Neil Sargent, *Private Law, Social Life*. Toronto: Lexis Nexis, Butterworths, 2d. Edition, 2007 (Available from the Carleton University Bookstore)

EVALUATION - All components must be completed in order to get a final grade

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| Mid Term Essay (March) | 50% |
| Final Examination (April) | 50% |

COURSE SCHEDULE

(Note: Chapter references in the following course outline normally refer to “**Just Between the Law and Us, Volume 1, Persons and Property**”. The chapter references to **Private Law, Social Life** are specified separately).

Part I**1. Introduction to the course**

Categories of private law relationships and the limited nature of legal duties

Readings: Just Between the Law and Us, Chap. 1; Private Law, Social Life, chapter 1

2. Legal Individualism and the Public/ Private Distinction

Chapter 2, especially the articles by Henry Maine and Steven Lukes, Charles Taylor, Mallette v. Shulman; Rodriguez v. British Columbia; Morgentaler v. The Queen (chapter 5, reading f).

Private Law, Social Life: chapter 1

Part II**3. The significance of legal personality**

Persons as subjects of legal rights or objects of legal regulation

Readings: Chapter 4 ‘a’ and ‘b’; and chapter 5: ‘a’, ‘b’, ‘c’, ‘d’, ‘e’, ‘f’, and ‘g’ Private Law, Social Life chapter 2

4. The family, patriarchy and the legal status of women, continued**5. Disability and the legal status of children**

Readings: Chapter 6, a, b, e, f, h, i; Chapter 9, readings a, b, c, d, e, j, l

6. Aboriginal Peoples and legal dependency

The problematic history of assimilation policies in Canada

Readings: Chapter 6, esp. a, b, c, and d

7. Corporate legal personality and the environment as “person”

Readings: Chapter 3, b; Chapter 4, readings a, b, d, e, f, g, h, i, j

Part III**8. Legal Conceptions of Property**

Private property; Collective property; and Common property

Readings: Chapter 10, a, b, c, Private Law, Social Life, chapter 5

9. Justifications for property

(Occupancy theory, labour theory, economic theory and property and personality). Note: we will be examining these various justifications for property in relation to physical property (Edwards v. Sims), intellectual property, and biotechnology (Moore v. Regents of the University of California).

Readings: Chapter 10, d, e, f, g, h;

10. Justifications for property continued

Readings: Chapter 14, a, d, g, h, i, j

11. Property rights and the family

Examining shifts in family property systems from 1970-2008

Readings: Chapter 12, a to f

12. Property rights and Aboriginal Peoples

The nature and development of common law aboriginal title claims

Readings: Chapter 13, a to e

13. Property rights and the public/ private distinction

Readings: Chapter 11, a, c, d, e, and f; also Chapter 10, reading i.