

Course Outline

COURSE:		LAWS 2201D - Persons and Property
TERM:		Winter 2016
PREREQUISITE S:		LAWS 1000
CLASS:	Day & Time:	Wednesday 11:35AM–2:25PM
	Room:	Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)		Craig McFarlane
CONTACT:	Office:	B442 Loeb
	Office Hrs:	By appointment
	Telephone:	Not applicable
	Email:	craig_mcfarlane@carleton.ca

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: 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://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://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://carleton.ca/pmc/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://carleton.ca/equity/>

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: <http://carleton.ca/studentaffairs/academic-integrity/>

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/>

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 the historical and sociological development of the concepts of persons and property. The approach in the class is broadly theoretical and philosophical rather than a study of legal doctrine. We will study a variety of concepts of property including slavery, debt, gifts, chattel, commodity, private, and common and a variety of different aspects of the concept of personhood including corporate, natural, and animal. Property is connected to persons via the concept of contract. Accordingly, we will also spend some time studying the idea of contract, especially in its idealized form as the social contract. While it is impossible to completely separate the legal, political, and cultural, concepts of property (and, to a certain extent, persons) are considered to be a part of "private law." Hence, we will look at the distinction between public and private. Finally, we will also consider the racialized and gendered aspects of these concepts.

REQUIRED TEXTS

All required readings available online or through cuLearn.

EVALUATION

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.

Short Essays	75% (3 x 25%)
Reading Responses	25% (10 x 2.5%)

Short Essays (3 x 25%)

Students are required to complete three short essays (minimum of 1250 words and a maximum of 1500 words). These short assignments are intended to be exercises wherein the student enquires into the logic of a particular concept, argument, or passage, discussing its strengths and weaknesses, its meaning, its implications, and potential applications. It is expected that papers will extend beyond mere summaries of the readings and will attempt to critically engage with the concepts. Students must focus on the assigned texts—i.e., those which are discussed in class—rather than relying upon secondary sources. Papers must be written in standard English, with proper citations and a bibliography. Any recognized style (APA, MLA, Chicago, etc) is acceptable. The text should be set in a standard font (e.g., Times New Roman, Helvetica, Palatino) with 1” margins on all four sides. A title page is not necessary, but your name, student number, and the course code should appear in the header of all the pages. The word count for the assignment must be included. Assignments must be submitted via cuLearn in PDF format. Late assignments are penalized one grade per day (or about 0.75 marks per day late). Topics will be discussed in class closer to the due-date.

First essay on weeks one and two (inclusive) due January 29.

Second essay on weeks three to eight (inclusive) due March 18.

Third essay on weeks nine to twelve (inclusive) due April 8.

Response Papers (10 x 2.5%)

Students are required to write ten short response papers. There are twelve classes with readings, thus students can miss two weeks. However, because students can miss two weeks, this means that late response papers will not be accepted nor will extensions be granted. Response papers are to be submitted on cuLearn *before* 11:35AM. Response papers address the readings for that week: e.g., the response paper due on January 13 discusses Aristotle, Locke, and Coates. Responses should not be more than 500 words long. While it is understandable that some summary will be required in these assignments, the expectation is that students will use response papers as an opportunity to reflect upon the readings. For instance, students might relate one set of readings to a prior set, or they might relate the concepts developed in the readings to a current event, or students might demonstrate how the readings relate to their own life experiences. Responses are marked on a pass/fail basis. If the response is submitted on time and properly completed, then the student “passes” and receives 2.5 marks. If the response paper is no submitted on time or improperly completed, then the student “fails” and receives 0 marks.

SCHEDULE

January 6 — No class

January 13 — Persons as Property: Slavery

Aristotle. *The Politics*. Hackett, 1998. (Book I)

Locke, John. “Second Treatise of Government.” In *Two Treatises of Government*, edited by Peter Laslett. Cambridge UP, 1988. (Chapter IV)

Coates, Te-Nahisis. “The Case for Reparations.” *The Atlantic*. June 2014. <http://theatlantic.com/story/te-nahisis-reparations/2014/06/17/1KC95mS>

January 20 — Debt

Graeber, David. *Debt: The First 5000 Years*. Melville House, 2011. (Chapters 2 and 3)

January 27 — Property, (Social) Contracts

Locke, John. “Second Treatise of Government.” In *Two Treatises of Government*, edited by Peter Laslett. Cambridge UP, 1988. (Chapter I, V)

Rousseau, Jean-Jacques. “Discourse on the Origin and the Foundations of Inequality Among Men.” In *The Discourses and Other Early Political Writings*, edited by Victor Gourevitch, 111–222. Cambridge UP, 1997. (Selections)

February 3 — Possessive Individualism, Protestant Ethic

Macpherson, CB. *The Political Theory of Possessive Individualism: Hobbes to Locke*. (Chapter 6)

Weber, Max. *The Protestant Ethic and the Spirit of Capitalism*. Routledge, 1992. (Chapter 2, 5)

February 10 — Commodities, Gifts

Marx, Karl. *Capital*, Vol. 1. Penguin, 1990. (Book I, Part One, Chapter 1, Section 4)

Mauss, Marcel. *The Gift: The Form and Reason for Exchange in Archaic Societies*. Routledge 2002. (Chapter 1)

February 17 — Reading week

February 24 — Public, Private

Arendt, Hannah. *The Human Condition*. Chicago UP, 1998. (Chapter 2)

Habermas, Jurgen. *The Structural Transformation of the Public Sphere*. MIT Press, 1989. (Chapter V, Sections 16–7)

March 2 — Sexual Contract

Pateman, Carole. *The Sexual Contract*. Stanford UP, 1988. (Chapter 1 and 2)

March 9 — Racial Contract

Mills, Charles Wade. *The Racial Contract*. Cornell UP, 1997. (Chapter 1)

March 16 — Corporate Personhood?

Kantorowicz, Ernst H. *The King's Two Bodies: A Study in Medieval Political Theology*. Princeton UP 1997. (Chapter 1 and Chapter 7, Part 2)

March 23 — Natural Personhood?

Stone, Christopher D. “Should Trees Have Standing? Toward Legal Rights for Natural Objects.” In *Should Trees Have Standing? Toward Legal Rights for Natural Objects*, 3–54. W. Kaufmann, 1974.

Cullinan, Cormac. “Do Humans Have Standing to Deny Trees Rights?” *Barry Law Review* No. 11 (2008): 11–22.

March 30 — Animal Personhood?

Francione, Gary. “Animals—Property or Persons?” In *Animals as Persons: Essays on the Abolition of Animal Exploitation*, 25–66. Columbia UP, 2008.

Kymlicka, Will and Sue Donaldson. “Animals and the Frontier of Citizenship.” *Oxford Journal of Legal Studies* No. 34 (2014): 201–19.

April 6 — The Commons

Hardin, Garrett. “The Tragedy of the Commons.” *Science* No. 162 (1968): 1243–48.
<http://bit.ly/1NrlKuV>

Hardt, Michael. “The Common in Communism.” *Rethinking Marxism* No. 22 (2010): 346–56.

Ostrom, Elinor. “Reflections on the Commons.” In *Governing the Commons: The Evolution of Institutions for Collective Action*, 1–28. Cambridge UP, 1990.