

Carleton University Department of Law and Legal Studies
COURSE OUTLINE

PERSONS AND PROPERTY
Laws 2201T (Broadcast CUOL)

Term: Early Summer 2012

Prerequisites: Laws 1000

Broadcast (Rogers, Channel 243)
Tuesdays and Saturdays 5.00pm –8.00pm

First lecture: May 09, 2012

Last lecture: June 16, 2012

Note: Lectures are also viewable via: CUOL Webcast; [Video-On-Demand \(VOD\) online streaming](#)- (fee applies) and at the [CUOL Student Centre](#). See the CUOL website for more information.

cuLearn **cuLearn**, the new Carleton Learning Management System is essential for this course. It replaces WebCT. Readings, lectures slides, and assignments are available only through this modality. Because cuLearn is new to most or all of us, we may have to learn as we go. I will post up a test assignment (no marks) so that you can practice this new way to submit your work online.

Instructor: Professor T. Brettel Dawson

Contact: Office: Loeb D497

Email: Please email me through **MyCarleton Portal (Connect)** – the link is available inside cuLearn.

Discussion Groups We will have discussion groups and FAQ through cuLearn – I will ask you to introduce yourself, post up on topics you find interesting (or where current examples relate to course material. There will also be an FAQ for Assignments. We try to monitor the discussion boards as a way of 'keeping in touch' even though this is a distance course in the Summer.

Office Hours: We will have a TA in this class who will be your first point of contact. Email is also a good way to be in touch with both the TA and Professor – generally, we aim to respond within 48 hours (2 days) – don't expect instant replies; do think through your inquiry before you email! In-person meetings can be arranged by appointment.

TA Contact information will be provided early in the term.

"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://www.carleton.ca/pmc/students/accom_policy.html . There are no formally scheduled exam(s) in this course. However, if you require other consideration please submit your request for accommodation to PMC immediately. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

This course examines two fundamental concepts in private law: 1) ascription of legal personhood (or legal personality) through which a person can exercise autonomous legal choices and 2) the legal concept of property – what it is that legal persons (as possessive individuals) can own and control.

In general terms we will examine the origins and scope of the concept of person in law and how concepts of legal personality change over time and the origins and scope of the concept of property and how concepts of property change over time.

More specifically, we will examine the distinction between legal personhood and property (opening with a short case study on slavery by colonial powers). We will examine the dual feats of the legal imagination in simultaneously denying legal personhood to (married) women and granting it to aggregations of capital in the form of corporations. We will study the restricted legal status of children and people with developmental disabilities with respect to medical treatment that they may (or may not) consent to. We then begin to probe the dividing lines between person and property (and indeed limitations in the conceptual separation itself): what is the legal relationship (if any) between a pregnant woman and her fetus? When (if ever) should a woman be able to contract to become pregnant and transfer a baby to other people through surrogacy?

A key concept underlying our study is that the body (or the legal person) cannot be property. We will establish that the dead body is neither person or property. However we will go on to ask whether body parts may ever become the subject of property rights which leads us into our study of property law. Here we will enter the terrain through which law has established systems of access to, allocation of and control over assets. What are the justifications for private property which is at the heart of our economy and social organization? What is the legal status of public spaces? Are there some resources that should be outside of the private-public property system – things that are so fundamental to our lives as persons (and all other species) that they should not be subject to enclosure? Here we will focus on water and wilderness areas.

We will examine interactions between state and market, public and private and individual and collective rights; private property, public property and common property, and the scope of property rights. Our work will cumulate in case studies examining the interaction of private law concepts of personhood and property: relation to the environment (land and water).

REQUIRED READING

The following casebook has been prepared for this section of the course and is required reading:

T. Brettel Dawson, *Persons and Property in Private Law* (North York, Captus Press, 2011).

Available for purchase in the University Bookstore.

- Note: Do NOT purchase Sargent and Atkinson, *Just Between the Law and Us* in any iteration (this text was recently divided into two volumes). This course uses quite different material.

CLASS SLIDES

There are slides for each lecture. They are named by class number and general topic.

Note: The course rebroadcasts the classes from the Fall Semester. Some comments in the lectures will seem ‘out of context’ but roll with it! The introduction to the class is taped for the summer. I have edited a few of the slide decks – so they may not always fully synchronize.

CLASS SCHEDULE

(Note Slides match class numbers)

Class	Topic	Readings
1	<p>Introduction Organization of “the laws of England” (Blackstone) and taxonomy in private law (Waddams).</p> <p>Persons and Property: The Distinction and it’s Legal Significance (Case Study)</p>	Chapter 1 A and B
2	<p>The Legal Person: Key concepts of the legal person as possessive individual; history and legal incidents of legal personality.</p> <p>Case study: Rights to own property or conduct business: common to all persons?</p>	Chapter 2 A and B
3	<p>Women as Legal Persons</p> <p>Historical denial of legal personhood to women; analyzed in relation to public rights (eg. Voting, public office), and private rights (ownership of property after marriage).</p>	Chapter 3 A and B
4	<p>Corporations The creation of the corporation as a legal person; economic and social significance;</p> <p>Case studies: economic action (immunity) and political action by corporations.</p>	Chapters 4A and B
5	<p>Partial Personhood: Legal Capacity of Children and Persons with Developmental Disability</p> <p>Right to refuse medical treatment (or not); right of</p>	Chapter 5A and B

	others to consent on your behalf (or not).	
6	Reproduction and Personhood The legal person and self-ownership: case study on legal relationships between pregnant woman and fetus.	Chapter 6A
7	Reproduction, Possessive Individualism and Property A market for babies? Surrogacy arrangements and the parameters of persons and property	Chapter 6B
8	Persons and Property: Dead and Buried? Legal status of the corpse and an historical diversion into money making ventures; legal status of body tissue.	Chapter 7
9	Property Law Concepts – What Legal Persons Can Own The concept of allocation, access and control of assets through legal systems. Examination of scope and justification of private property; distinction with public property.	Chapter 8 Note: we do not cover 8d. Chapter 9A a), d), e) f); and 9B g)
10	Land (and Water): Keeping it Pure Examination of scope and parameters of private property rights; public and private nuisance as legal accountability mechanisms (or not) Public Property: Public Good?	Chapter 9 b); recap of Chapter 8A. Chapter 10 a), b), c), d), e)
11	(Land and) Water: Who Owns It (and What can be done with It?) Concept of the Commons and common resources. Review of the Parable of the Tragedy of the Commons.	Chapter 9a; recap of Chapter 8, b); Chapter 11 a) b) c) d) e)
12	Conclusion Reimagining Persons and Property: Might Trees Be Legal Persons?	Chapter 12.

EVALUATION

Components

1. Mid-term Assignment: Value 50%.

- *Posted* after Class 6 (covering material until end of Class 6: May 26, 2012).
- *Due:* June 6, 2012 by 4.00pm.
- *Extensions:* You can request an extension on the Quizzes for serious illness or family and personal emergencies with supporting documentation. A cold or the flu is not enough for an extension. Computer problems and work/family schedule conflicts are not enough for an extension to be granted.
- *Return of Marks:* before June 19, 2012 (drop date).

2. Take Home Examination Assignment: Value 50%.

- *Posted* after Class 12 (covers material between Classes 7-12: June 16, 2012)
- *Due:* end of the Examination Period: by 4.00pm June 27, 2012
- *Extensions:* **NO** extensions as this is treated as an Examination. If you cannot submit on time, you should contact the Registrar's Office for a formal deferral and provide documentation in support.
- *Return of Marks:* with Final Grades (likely after July 09, 2012).

Notes on Assignments

- Both assignments will consist of short answer questions and short essay questions.
- You will be required to analyze materials covered in class and readings answering specific questions about cases (principles and reasoning) or literature (arguments and propositions). To do well you will have to read the material in the casebook and review class lectures slides.
- I may include a problem question/essay in each assignment which requires you to apply principles and arguments to providing an answer. Such questions will require you to do a small amount of research (1-2 sources).
- These are not 'quick tests' or 'yes/no' answers but 'mini-essays' which require you to think about the material we have covered. You have been given 11 days to complete each assignment because I think there are several steps involved: 1) On the day posted, download and read the assignment. 2) Review your notes, the slides and readings related to the questions (study time); 3) draft your answers; 4) read them over (and revise) before 5) submitting. So, you do need to devote time to the assignments.
- Thus, you should also plan to KEEP up with the lecture broadcasts and readings – set aside time each week at a recurring time to make this easier. I've tried to make the class topics engaging and current – I hope you enjoy the learning experience!

Online Modality

Both assignments are handled electronically rather than in hard copy. You do not 'hand in your work' but you post it up online in cuLearn.

The “Rules”

- You must complete all components of evaluation to receive a passing grade in the course.
- You must follow the University’s policies on academic integrity available at <http://www2.carleton.ca/studentaffairs/academic-integrity/>. You must complete all work individually and it must be fully original. In the essay in particular, you must not rely excessively on quotations as this will not count as being your own work. Do not plagiarize (copy and paste without attribution) from published, unpublished or internet sources. Attribute all sources you have used directly or indirectly (paraphrased) and indicate this by using appropriate citation format. Do not share draft (or final) work with others in the class. Do not share your electronic files with other students as they may copy your work and you will be equally subject to academic investigation.
 - I reserve the right to compare all files with other submissions in this course and other offerings of the course. I rigorously pursue suspicion of plagiarism and, without exception, refer to the Office of the Dean. Further if ‘off topic’ work is submitted, I reserve the right to consult with your other instructors to confirm that you are not ‘re-using and re-cycling’ which is strictly prohibited.
- You must submit your work on time or you will be subject to heavy late penalties.
- You should keep a copy of all assignments and examinations until your final grade is confirmed. We may contact you for an additional copy if something goes wrong in submission.

On Time Expectation and (Draconian) Late Penalties for Mid-Term Assignment

I expect you to submit your work ON TIME and, subject to a very modest grace period for unforeseen, very short term situations, I will impose heavy penalties for work which is submitted late without an extension.

Late assignments create a significant administrative burden across the team of people who work with me on the course. There is a significantly higher risk of assignments going astray as well. This is accentuated in the compressed time frame of summer courses.

Late work will be penalized as follows: You will lose 5% marks if you hand any work in on the due date after the deadline but before midnight. If you hand it in the ‘next day’ anytime before midnight you will lose a further 5% marks. Any further days late (counted from stroke of midnight) including weekend days, you lose a further 10% per day. If you hand in your work more than seven days late, I will accept it towards course completion but it will receive zero marks.

Reminders:

- Keep up! Summer term goes by in a flash!
- Post-read on the discussion boards on interesting questions or to get clarifications on assignments.