

Course Outline

v August 18, 2023

COURSE: **PERSONS AND PROPERTY**

LAWS 2201 A CRN 33786

TERM: **Fall 2023**

PREREQUISITES: **LAWS 1001 & Laws 1002**

CLASS: **Day & Time: A Fridays 8.35AM – 11.25AM**

Course instruction begins September 8, 2023;
 Course instruction ends: December 01, 2023
 Reading Week (no class): October 23-27, 2023.

Modality/Room **IN-PERSON. Please confirm room on Carleton Central**

Extensive use of Brightspace LMS Course Hub:
<https://brightspace.carleton.ca/d2l/home/209996>

**In-Person
 Assessment**

The early semester test will be held online, out of class time and using e-proctoring.
 The Final Examination will be scheduled in-person during the Examination Period at the end of term.

INSTRUCTOR: **Professor T Brettel Dawson**

TEACHING ASSISTANT(S) To follow

CONTACT: **Office: Loeb D567**

Office Hrs: Weekly Office Hours

Fridays 12.00-1.30PM in-person, in my office.
 Or by scheduled appointment (zoom).

Telephone: Email is best!

Email: Brettel.dawson@carleton.ca

Be sure to use only your carleton email address when you email me.

CALENDAR 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.

DETAILED COURSE DESCRIPTION

“Take the great foundational categories, identified by Gaius in his *Institutes*, of ‘persons’ (*personae*), ‘things’ (*res*), and ‘actions’ (*actiones*). The ontological importance of them must never be underestimated: the Gaiian scheme represents the institutional structure of all Western legal systems inasmuch as all [private law] rules must attach to a person, a thing or a [legal claim] or remedy.”¹

In this course, we examine two of these ‘great foundational categories’: its legal subject, the **person**; and its legal object, **property**. [*Obligations* – the subject of Laws 2022 - is another category within *things*.] The third, “*actiones*” refers to the legal claims or actions that can be taken to protect one’s person or property or business affairs (contracts etc) whether in relation to everyone (*in rem*) or specific persons only (*in personam*).

We examine questions about persons and property including:

- What is the ‘**legal person**’? Why does this legal construct matter (and to whom)? Who/What has (or has not) been a legal person (over time)? What concepts have driven inclusion and exclusion as legal persons? What contemporary developments complicate ideas of the legal person?
- What is **property** as a legal construct? What can be owned, by whom and on what terms? What has been classified as (public or private) property? How have colonial narratives (of discovery and resulting legal fictions) shaped property and Canada? How do Indigenous narratives of place complicate ideas of property in Canada?

We also consider the relationship between **persons** and **property** and the **planet**.

- To what extent does the structure of Western law (thought) reinforce separation between humans and planetary systems?
- How does (and how might) legal personhood and property law contribute to (or potentially address) the urgent questions of the ‘Anthropocene’ as experienced in climate change, pollution, resource depletion, habitat destruction and loss of biodiversity?

LEARNING OBJECTIVES

We live in the best of times. We live in the worst of times. All around us are astonishing breakthroughs and agonizing, existential threats to all species on the planet. Artificial intelligence – large learning models and increasingly likely generative – is democratizing and broadening access to the accumulation of human knowledge while also reflecting existing biases and exclusion.

In this context, my role as a professor is to facilitate your learning through curation of the course

¹ Geoffrey Samuel, “Can the Common Law be Mapped?” (2005) 55 University of Toronto Law Journal 271 at 276, 280 at *Casebook*, 25).

content, exploration of the field with you, and application of ideas to specific case studies, guided and informed by an overall conceptual framework.

My goal for the course is that you will develop your ability to 'see', analyze, make conceptual connections, and critically engage with legal personhood and property law as it shapes and reshapes our physical, social and legal worlds.

The course is designed to address three main learning outcomes for you as a student: 1) Content Mastery; 2) Concept Mastery; and 3) Personal Growth.

By engaging with class lectures and discussions and reading assigned material, you should be able to

- provide basic definitions of the legal concepts of persons and property and contextualize them within an understanding of legal taxonomy as a contextual normative analysis engaging values in historically specific discourses.
- Explain theories of the legal person (P1, P2, P3) and of property (SVE, MVE, N) – these letters to be populated with meaning in due course!
- Identify and critically analyze examples that illustrate how the law of persons and property has been deployed to include and exclude humans (and other species); and how (and why) it has been extended to non-human entities.
- Give an account of the conceptual frameworks (and variations) in operation in this area of law and society.
- Develop your capacity to explore different ways of seeing (framing) the legal person and property (what is thinkable and unthinkable) and to strengthen your 'legal imagination'.
- Explore and follow your passions for social and legal change in areas that are meaningful for you.

You should be better able to

- Read cases and legislation and other legal sources
- Analyze scholarly literature in this subject area (theories, points of view, analysis)
- Approach the use of AI/ChatGPT in your course work (we are on the verge of momentous change).

REQUIRED TEXT

T. Brettel Dawson, *Persons and Property in Private Law*, **FOURTH EDITION** (North York, Captus Press, 2023). [List price for print is \$67.50]

This text (Casebook) is a curated collection of edited readings, cases and legislation).

Order the text **directly from the publisher, Captus Press.**

For ordering, use this link <https://www.captus.com/information/eBook.htm>

Reading is **mandatory** in this course! I will request that the library acquire and place the text on Reserve. Note: I will not grant extensions based on you not having the Casebook or having the wrong edition.

COURSE CALENDAR

This table provides an overview of the class flow (subject to change) and official dates for the semester. Chapters refer to readings in the course text, *Persons and Property in Private Law*, 4th Edition. *Further readings will be indicated on weekly sections of Brightspace.*

| Class # | Class Dates Section A | Topic (Short Title) | Chapt | Assignments ² |
|---|--------------------------|--|-----------------------------|---|
| 1 | Sept 08 | Introduction Starting Points Conceptual Framework - First Look | 1 & 2 | |
| 2 | | 15 The Legal Person, Legally Constructed Conceptual Framework - Second Look [Markets I] Slavery and (Non) Personhood | 3 2(f) 4 | Introduction and Outline Quiz Due |
| 3 | | 22 [Markets II] Corporations and Personhood | 5 | Early test to be scheduled. Date tbc. Covers ch 1-3. |
| 4 | | 29 [Capacity and Agency I] Women and Personhood | 6 | |
| 5 | Oct 06 | [Capacity and Agency II] Decision- Making and the Legal Person | 7A + 7C | |
| 6 | | 13 [Shifting Boundaries] Endings and Extensions of Persons and Property Conceptual Framework, Variation 1 – First look | 8 | Issue Papers Topics Available |
| 7 | | 20 Property Law, Legally Constructed | 9 | |
| READING WEEK OCTOBER 23-27, 2023 | | | | |
| 8 | Nov 03 | [Origin Stories I] Property Concepts and Attributes Private Property Conceptual Framework Revisited | 10 11A Ch 2(g) | |
| 9 | | 10 Private Property: Race and Space | 11B | Issue Paper 1 Due Nov 16 |

² Dates may be revised in the final Outline.

| | | | | | |
|---------------------------------------|-----|----|--|------------------|-------------------------------------|
| | | | Conceptual Framework, Variation 1 – Second look | 8 (g) | |
| 10 | | 17 | [Origin Stories II] Public Property and Legal Fictions | 12 14(c) | |
| 11 | | 24 | [The Legal Re-Imagination I] Planet: Indigenous Narratives of Place and Space (IPCA) Conceptual Framework, Variation 2 – First look | 13 14 (j) | Issue Paper 2 Due November 30 |
| 12 | Dec | 01 | [The Legal Re-Imagination II] Law on a Planet with a Biosphere: Nature as a Legal Person Conceptual Framework, Variation 2 – last look | 14 15 | |
| | | 08 | LAST DAY OF TERM | | |
| Examination Period Dec 10-22, 2023 | | | Final Examination Exam date to be released: October 6, 2023 | | |

EVALUATION

Note: 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.

All tests and examinations must be successfully completed in order to get a passing grade in the course.

Advances in the capacity of artificial intelligence models to retrieve information and present academic analysis are moving at exponential speed. We are in a phase of high disruption for university assignments. While excited by the potential it offers for learning, we are in the midst of re-imagining (and realigning) evaluation methods to assess relevant student knowledge and understanding. As one scholar has observed, we “do not yet know whether tools like ChatGPT will offer new possibilities for attaining higher levels of Bloom’s hierarchy of academic skills within our courses.”³

What that means for this 2023 offering of the course is that I am moving away from the take-home essay assignment style that I have used previously in favour of a mix of writing assignments and examinations.

³ The foundational levels of Bloom’s taxonomy of learning are the ability to recall and explain facts, concepts, cases/legal rules. The higher levels are the ability to apply, analyze, critique, and generate new knowledge or solutions). Quote from Dirk Faber online at [Bloom & Grow - teaching in the era of ChatGPT \(linkedin.com\)](#); See generally, if so moved: [Blooms Taxonomy :: Resource for Educators](#)

We will tentatively and iteratively explore the use of AI/Chat GPT in analyzing current issues in persons and property (with strict protocols for you to document your use of AI/Chat GPT).

EVALUATION COMPONENTS⁴

| Early Semester on Brightspace | | Notes/Dates |
|---|------------|---|
| <ul style="list-style-type: none"> • Post an Introduction [1] • Course Outline Quiz [1] | 2 | See Course schedule for Course Dates. Due by end of day before Class 3, via Brightspace |
| Throughout Semester | | |
| Class participation | 8 | To be assessed based on attendance in class and participation in discussions; familiarity with assigned class readings; completion of worksheets when included in class time. |
| Issues Papers [2] | 30 | Select two of four topics provided (current issues in persons and property). Complete short papers setting out the connection to 'persons and property' as legal categories, how the issue is being framed and relevant analysis using course readings. Each paper is worth 15 marks. Deadlines will be staggered in November (Likely Paper 1 mid-November 16; Paper 2 late-November) |
| Tests and Examinations | | |
| Early Semester Test Details to be confirmed. | 10 | Date to be confirmed – somewhere around Sept 23-23. Will be scheduled outside of class time by SES. Digital, synchronous test. Likely to be 45-60 mins duration. Covers Chapters 1-3. Please note: e-proctoring is likely to be used for this Test. |
| Final Examination | 50 | Scheduled in Examination period. In person. Multiple choice and scenario-based questions. |
| Total Marks | 100 | |

Brightspace is the primary modality to find instructions, to submit work and to receive marks and feedback. I will be assisted in marking by TAs. The final examination will be in-person, on-campus.

The Early Semester Brightspace assignments are meant to introduce you to our Brightspace learning space for the course helps us to get to know each other as we enter this learning community.

In general terms. I want you to thoroughly read course material (course text/casebook) and show you understand concepts, issues, applications, strengths and weaknesses of arguments/evidence within it.

⁴ Subject to adjustment prior to final Outline.

You will be required to use assigned course readings and material: we have a wide range of relevant sources in the course materials with which you can engage.

Your work must be fully original and individual work completed by you for this offering of the course.

See section on **Academic Integrity**, and **Statement on Artificial Intelligence/Chat GPT**) that follows.

REQUESTS FOR EXTENSIONS

Late work receives zero marks.

The granting of extensions (or deferrals for work other than the final examination) is determined by the instructor, who will confirm whether an extension is granted and the length of the extension.

Deferred final examinations must be applied for at the Registrar's Office are available **ONLY** if the student is in good standing in the course. To be in good standing, you must have completed the in-class test and the mid-term examination.

Please be in touch with me as soon as possible to discuss any difficulties you are having with completing elements of course evaluation. To be formally considered, you must complete the self-declaration form at the following link and submit it to me, **prior** to the assignment due date:
<https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

Note: Medical notes are not normally required for extensions or deferrals of less than one week. They do not in any case replace or supersede the requirement to complete and sign the Self-Declaration (Extension Request) Form. Extensions or deferrals for longer than 7 days will normally not be granted. In extraordinary cases where extensions lasting longer than 7 days are requested, you will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

Be sure to regularly back up your work in progress to USB, cloud service (or even by emailing to yourself). A computer crash is stressful and time consuming. Extensions will not be granted for computer problems.

ACADEMIC INTEGRITY: READ CAREFULLY**INDIVIDUAL WORK ONLY!**

Do not copy, paraphrase or translate anything from anywhere (AI/ChatGPT included) without saying where you obtained it.

NO PLAGIARISM!

The University Academic Integrity Policy defines plagiarism as “*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one’s own.*” This 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, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Plagiarism is a **serious academic offence** that cannot be resolved directly by the course’s instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of “F” for the course, notation on your academic files, and higher penalties for repeat offences.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT); any use of AI tools must be explicitly acknowledged, documented and cited.
- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another’s data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one’s own; and
- failing to acknowledge sources through the use of proper citations when using another’s work and/or failing to use quotations marks.

If you wish to draw upon work completed in another course offering (this or other courses), you may use at most 50% of such work, you must adapt it to this course, and you must seek my permission first.

Statement on Artificial Intelligence (AI)

I anticipate that we will explore and use AI (e.g., ChatGPT and image generation tools) in this course. In fact, the Issue Papers allows you to use it. Learning to use AI is an emerging skill and I will discuss with you how to use it. I am happy to meet and help you with these tools during office hours or after class.

See guidelines on citing AI material Carleton Library at: [Generative AI / ChatGPT and citations | MacOdrum Library \(carleton.ca\)](#)

Be aware of the limits of AI/ChatGPT, such as the following:

- You need to have a conceptual grasp of the topics you are exploring and effective search (prompt) strategies. You will need to evaluate the quality of the AI content generated; look for citations or references to the sources used by the AI tool. Check if they are recent, independent, peer-reviewed and on topic.
- Do not rely solely on AI tools to complete assignments. It is important to understand the material and complete assignments on your own, using AI tools as a supplement rather than a replacement for your own work.
- If you provide minimum-effort prompts, you will get low-quality results. You will need to refine your prompts in order to get good outcomes. This will take work.
- Do not trust anything ChatGPT says. If it gives you a number or fact, assume it is wrong unless you either know the answer or can check with another source. You will be responsible for any errors or omissions provided by the tool. It works best for topics you understand.
- AI is a tool, but one that you need to acknowledge using. Please include information at the end of any assignment or course submission that uses AI explaining what you used the AI for and what prompts you used to get the results. **Failure to do so violates the academic integrity policy.**
- Be thoughtful about when this tool is useful. Do not use it if it is not appropriate for the case or circumstance.

The following links provides excellent guidance and cautions related to the use of AI tools:

- TLS Carleton University: [Generative Artificial Intelligence - Teaching Resources \(carleton.ca\)](#)
- Sage: [ChatGPT and Generative AI | SAGE Publications Inc](#)

UNIVERSITY AND DEPARTMENTAL POLICIES

Statement on Student Mental Health

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you. See further:

<https://carleton.ca/wellness/>

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 where 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/equity/sexual-assault-support-services>

REQUESTS FOR ACADEMIC ACCOMMODATIONS

See generally: (<https://students.carleton.ca/course-outline/>). For details, see the [accommodations section](#) and the [Course Outline Information on Academic Accommodations](#).

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

- **Informal accommodation due to short-term incapacitation:** [provide information on your requirements for short-term informal accommodations. If you require supporting documentation, you may only request the Self-Declaration for Academic Considerations form (<https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>) which replaces medical notes.]
- **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 accommodation regarding a formally-scheduled final exam, you must complete the Pregnancy Accommodation Form ([click here](#)).
- **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 [click here](#).
- **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, please request your accommodations for this course through the [Ventus Student Portal](#) 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*). Requests made within two weeks will be reviewed on a case-by-case basis. For final exams, the deadlines to request accommodations are published in the [University Academic Calendars](#). 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).

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 will be provided to students who compete or perform at the national or international level. 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. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>