

**COURSE OUTLINE**  
**Finalized July 4 Version<sup>1</sup>**

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<b>COURSE:</b>	<b>LAWS 2201V</b>
<b>TERM:</b>	<b>LATE SUMMER 2020</b>
<b>PREREQUISITES:</b>	<b>LAWS 1000 (or one of Laws 1001/1002)</b>
<b>CLASS:</b>	<p><b>Day &amp; Time:</b> <b>Summer Session 2020 CUOL Course VOD Access</b>  <b>Room:</b> Rebroadcast of (lightly re-edited) Fall 2019 Lectures in Laws 2201A/T.          After the first week of classes, all lectures will be released and available to students.</p> <p>Note: Due to the Covid -19 precautions in place, CUOL will be waiving Video-on-Demand (VOD) fees for the 2020 Summer Sessions. All students registered in CUOL (T and V section) courses will be able to access their lectures from the CUOL VOD website. Login with your MC1 password. <a href="https://vod.cuol.ca/vod">https://vod.cuol.ca/vod</a></p>
<b>INSTRUCTOR:</b>	<b>Professor T Brettel Dawson</b>
<b>TEACHING ASSISTANTS</b>	<p>Two TA's will assist me with marking related activities and will be your first point of contact for same:</p> <ul style="list-style-type: none"> <li>• Brianna <a href="mailto:Matchett@cmail.carleton.ca">Matchett@cmail.carleton.ca</a></li> <li>• <a href="mailto:WenchengWang@cmail.carleton.ca">WenchengWang@cmail.carleton.ca</a></li> </ul> <p>I will be dividing the class into two groups – assigning Brianna to one group and Wencheng to the other group. These groups will appear on cuLearn soon.</p> <p>An additional TA will assist me to keep in contact with you as term unfolds.</p> <ul style="list-style-type: none"> <li>• <a href="mailto:Luiz.Leomil@cmail.carleton.ca">Luiz.Leomil@cmail.carleton.ca</a></li> </ul>
<b>CONTACT:</b>	<p><b>Office Hrs:</b> Online. By appointment (via Google Meet or telephone appointment). Let me know by email if you would like to talk with me. We can zoom!</p> <p><b>Telephone:</b> 613-520-2600 Ext 3670 (voice mail is not monitored – not a good option!)  <b>Email:</b> <a href="mailto:Brettel.dawson@carleton.ca">Brettel.dawson@carleton.ca</a> (The best method to reach me)          Allow 36 hours for reply. No replies on weekends or evenings.</p>

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**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.

**QUICK COURSE SUMMARY**

Welcome to the course! This Outline provides the information you need to navigate the course in compressed summer format during the continuing effects of the COVID-19 pandemic. It sets out how the course is organized, how to engage with the course and what you have to do to obtain marks. Use this outline initially as an orientation. Return to it often. Make your own plan and stay on track!

This is not an 'pure' online course. It is built around rebroadcast of lectures delivered in-person to Fall 2019 live/broadcast CUOL sections. It is as close as you will get to a lecture course this summer! My lectures are interactive (questions/answers and small group discussion/report back). I hope you feel (almost) like being in

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<sup>1</sup> Subject to correction of errors and clarification as needed.

class.

I have set up the course pattern/schedule as though for a summer lecture course. Assignments are synchronized with progress through the lectures on a notional 'week by week' basis.<sup>2</sup>

Your first task in Week 1 is to introduce yourself on cuLearn and complete an exercise through which you learn how to submit your assignments online. There are two take home assignments. Your last task is a take home assignment which allows you to discuss and debate course themes with other students on cuLearn. There are no examinations. Details follow.

The minimum time allocations I recommend are as follows.

- Set aside 8 hours per week for lectures and readings. I recommend you stop the lecture every 20 minutes and note down what you recall and what you think is important before continuing. You can make postings on cuLearn if you want to discuss any content or ideas with other students.
- Before you begin each lecture review period, take a moment to 'check-in' – note down at least one good thing that has happened during your day and what made it good.<sup>3</sup>
- Set aside 10 hours for each of the Assignments. They are open book so this time includes 'study time' for the assignment. Each assignment consists of short answers and a (choice) of short essay. The first covers the first part of the course (Persons). The second covers the second part of the course (Property)
- Set aside about 5 hours for the final, cuLearn assignment activity during the Examination period.

Good luck! I am available throughout the course along with our TAs.

### **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 Gaian scheme represents the institutional structure of all Western legal systems inasmuch as all rules must attach to a person, a thing or a [legal claim] or remedy."<sup>4</sup>

In this course, we examine the fundamental conceptual building blocks and organization of private law – its legal subject, the **person**; and its legal object, **property**. We explore questions including: What is the 'legal person'? Why does this construct matter (and to whom)? Who has or has not been a legal person (over time), and thus seen as capable of autonomous legal action and ownership? What is property as a legal construct? What can be owned, by whom and on what terms? Who or what has been classified as (public or private) property and thus seen as giving rise to claims to exclude others and extract revenue from it?

The personhood of women, slaves, children and corporations is studied along with origin stories, purposes and types of property in Canada. By interweaving themes of indigenous experience, ecology, and power, the course traces a narrative arc from Blackstone's account of private law categories,<sup>5</sup> to newer approaches integrating ideas of Reconciliation and Earth Jurisprudence to order the lives and the resources we have thus included (or excluded) within legal concepts of person and property.

### **REQUIRED TEXT (CASEBOOK)**

T. Brettel Dawson, *Persons and Property in Private Law*, **THIRD EDITION** (North York, Captus Press, 2019).<sup>6</sup>

<sup>2</sup> All remaining lectures in the course will be released after Week 1.

<sup>3</sup> This not crazy! Backed by science! See <https://www.brainpickings.org/2014/02/18/martin-seligman-gratitude-visit-three-blessings/>

<sup>4</sup> Geoffrey Samuel, "Can the Common Law be Mapped?" (2005) 55 University of Toronto Law Journal 271 at 276, 280.

<sup>5</sup> In his *Commentaries*, with which you will become quite familiar, and in which he drew from the Gaian scheme.

<sup>6</sup> Note: Do not acquire or use Sargent, Atkinson, *Just Between the Law and Us* in any edition. This book not used in this

The book is available directly from Captus Press at a discounted price to cover some of the shipping cost. Please order using the following secure link. <https://secure.captus.com/checkout/offer.aspx?OfferID=1365>. The Carleton Bookstore also has some of the book in stock.

Additional readings are posted on cuLearn.

### **CULEARN:**

cuLearn, the University's online learning management system, is an essential part of this course. You will find lecture slides, course information, assignment instructions and submission sections, and discussion boards ONLY through cuLearn. Get into the habit of going to the course culearn page every couple of days (or whenever you settle down to work on the course).

### **LEARNING OUTCOMES**

This course is but one course in your degree program. It is also one you are studying in a compressed summer schedule and an academic environment disrupted by the pandemic conditions of COVID-19. Expectations must be somewhat modified in this context.

However, I hope that it will help you to acquire really useful knowledge and skills, and deepen your personal connection to issues of person and property in the real world. I hope you will continue to learn about the subjects and issues discussed in the course.

Putting this into a more formal rubric, by the end of this course, you will be able to:

1. **define** the legal concepts of person and property, and **explain** how the legal concepts of person and property constitute a framework (taxonomy) by which law approaches ownership and decision-making related to resources and our own bodies;
2. **recall** key primary legal material such as cases and legislation (decisions, reasoning, significance) and theoretical concepts related to persons and property in private law;
3. critically **analyze** and **assess** dynamics of legal inclusion and exclusion through personhood and property using socio-legal concepts of legal ideology, including being able to
  - a. **provide** examples of inclusion and exclusion of entities within the scope of legal personhood including on personhood: (e.g., slaves, women, children, persons with disabilities, indigenous persons, corporations
  - b. **provide** examples of property mobilizing private power to include or exclude people or entities,
4. **assess and critique** the current legal taxonomy of persons and property in light of its adequacy to manage current challenges related to persons and property arising from corporate dominance, reconciliation with indigenous peoples, changed scientific understandings and climate change;
5. **identify** alternative approaches to organizing the law of persons and property.

### **EVALUATION**

These are the required components, all of which must be completed to receive a passing grade in the course. I have noted how they relate to the course learning objectives. Marks are posted on cuLearn grade book. Final Grade Reports are prepared and submitted to the Dean after all grading is completed.

#### **Assignments 85 marks (85% of your final grade)**

There are TWO, open book 'take-home' assignments. Each consists of short answer questions and a short essay designed to test your performance in relation to learning objectives (LO) 1-3.

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course and there is little overlap with our required text.

Assignment 1 (40%) covers Lectures 1-5. Available July 16; Due: **July 23, 2020** cuLearn by 10.59PM  
 Assignment 2 (45%) covers Lectures 6-11. Available August 3; Due: **August 14, 2020** /cuLearn by 10.59PM

Detailed instructions and mark break down will be provided in the Assignment Sheets posted on cuLearn in the Assignments section.

### cuLearn Engagement 15% of your final grade

You will also need to complete at cuLearn tasks broken into two phases.

The purpose of these activities is to help me (and your fellow students) get to know you a little and to practice the processes used for other assignments.

cuLearn 1: **Settling into the Course** (3 marks total as set out below)

- By the July 8: Post an introduction. Value: One (1) mark for introduction (posting).
- By July 15: Use the Assignments section in the cuLearn page to get instructions for and then submit a short writing exercise. Value: two (2) marks. (writing 1 + posting 1)

#### Note

You can complete these before the course formally begins.  
 Not graded for content. Marks are earned by completion.

CuLearn 2: **Dialogue and Reflection on Persons and Property** (12 marks as set out below)

Due by End of the Exam Period (and hence, technically, a take home examination) with TWO stages of completion. This work is designed to allow you to demonstrate your performance in relation to **LO 4-5**.

- Watch Lecture 12 and review the readings for this lecture before posting or responding. Draw on any material covered in the course to form your thoughts. You must:
- 1) make at least ONE post of about 200-250 words on the relevant cuLearn discussion board(s) in which you consider the operation of Persons and Property as legal categories and stimulated by Lecture 12); Your post does not need to cover all of the ideas in **LO 4 & 5** but they should be your starting point for response and reflection. **Due: August 17<sup>th</sup> 5.00PM. Your fellow students need your work done in order to do their work! Do not delay!**
- 2) respond TWICE in a thoughtful and constructive manner to postings made by other students in their Dialogue Posting. **Due August 23<sup>rd</sup> 10.59PM Do not delay!**

**Mark allocation:** (6 marks for your original post and 3 marks for each of two response postings made by you to other student posts. Marks are allocated: 50% for completion and 50% on a scale for substantive engagement (avoid a pro forma, dashed-off, superficial posting/response!).

#### **Notes:**

- Students may discuss dates with Professor Dawson (initially via email) at the beginning of the course to create an individualized completion plan.
- Late work receives ZERO marks.
- **Extensions require exceptional reasons.** Students who wish to apply for an extension must complete and sign the Deferral Form Posted on cuLearn. (Note: Medical notes are not normally required and do not replace or supersede completion of the Extension Request Form).

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.

**INDIVIDUAL WORK ONLY!**

You must follow the University’s policies on academic integrity. You must complete all work individually and it must be fully original. 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. You must not rely excessively on quotations as this will not count as being your own work. You must show your understanding of questions or issues independently of giving quotations.

I rigorously (and proactively) pursue suspicion of plagiarism and, without exception, refer to the Office of the Dean. I reserve the right to compare all files with other submissions in this course and other offerings of the course. 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’ your work, which is strictly prohibited.

**SUMMARY COURSE SCHEDULE**

Late Summer: Nominal Teaching Weeks <sup>7</sup>			Assessment Due Dates
<b>Week 1</b>	L1 L2	July 2 – July 8	<b>DUE</b> July 8: Last day to post cuLearn activities I: Introduction
<b>Week 2</b>	L3 L4	July 9 – July 15	<b>DUE</b> July 15: cuLearn Assignment Submission Exercise
<b>Week 3</b>	L5 L6	July 16 – July 22	<u>Available</u> July 16: <b>Assignment 1</b> on cuLearn. Covers L1-5.
<b>Week 4</b>	L7 L8	July 23 – July 29	<b>DUE:</b> July 23- Assignment 1
<b>Week 5</b>	L9 L10	July 30 – Aug 5	<u>Available</u> August 7: <b>Assignment 2</b> on cuLearn. Covers L6-11
<b>Week 6</b>	L11 L12	Aug 6 – Aug 13	<b>DUE:</b> August 14: Assignment 2
<b>Exam Period</b>		Aug 17- Aug 23	“Dialogue on Persons and Property.” cuLearn activities II. <b>Due</b> August 17: Posting Part 1 cuLearn <b>Due</b> August 23: Response Postings cuLearn

**DETAILED SCHEDULE OF LECTURES AND READINGS**

Please read the assigned material before each lecture and review it again after each lecture. Students are responsible for all assigned readings. Lecture content may focus on a limited number of these readings.

Some topics flow into the following lecture. Plan to watch the opening section of the next lecture when you watch each topic.

Lecture	Topic	Readings
	Slides for each topic/lecture are posted in cuLearn.	Casebook, 3 <sup>rd</sup> edition + cuLearn
1	<b>Introduction: Persons, Property and Legal Ordering</b>  Discussion/Response to some opening examples (Ch 1A)  This lecture also includes an overview of the course/logistics etc.	Ch 1A Starting Points Ch 1B (initial review)  Ch 1 of Casebook is be posted on cuLearn.

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<sup>7</sup> All remaining lectures released after Week 1.

2	<p><b>The Legal Person Constructed</b></p> <p>Foundational Categories Legal Personification in Theory and Practice</p> <p>We will discuss the history of 'the legal person' concept and various definitions. The case study (Ch 2B) considers legal cases where legal personality was in issue in relation to African slaves in the 'New World'.</p>	<p>Ch 2A Ch 2B Ch 1B (reprise)</p> <p>cuLearn: Gregson v Gilbert Somerset's Case</p>
3	<p><b>Women: Property, Person and Place</b></p> <p>Women's historical exclusion from public and professional roles (not considered included in the term 'persons') and</p> <p>Women's historical exclusion from property ownership (if married).</p>	<p>Ch 3A Ch 3B</p>
4	<p><b>Legal Person/Human Body</b></p> <p>Possessing the self (body) in law Medical decision-making</p> <p>The case study (Ch 4B) considers 'legal personhood' (in the sense of self-ownership of our bodies. We examine substitute decision-making with respect to sterilization of women with intellectual/cognitive impairment. We also examine litigation challenging (coerced) sterilization of Indigenous women.</p>	<p>Ch 4A Ch 4B</p>
5	<p><b>Legal Personality and Decision-Making:</b> Beginnings</p> <p>Children Medical decision-making</p>	<p>Ch 5A Ch 5B</p>
6	<p><b>Beyond the Human Being: Legal Personality and Non-Human Entities</b></p> <p>This lecture focuses on the legal status of the corporation (history, theory, critique). We also discuss (reprise) legal personhood and robots/AI.</p>	<p>Ch 6 Ch 1A (reprise)</p> <p>cuLearn Data v StarFleet</p>
7	<p><b>The Idea of Property</b></p> <p>Concept, Rationales, Definitions Case Study: Property and Power</p> <p>After some opening discussion of examples, we begin to define property and the legal relationships it creates.</p> <p>We start from the premise that humans and human laws have made property claims over previously wild places, displacing peoples and other species. How has that been justified? How have laws reinforced preferences in favour of property claims (and whose)?</p> <p>Our case study examines the 'right to exclusion' claimed in private property. We look at shopping malls (Harrison) and the role of</p>	<p>Ch 7A Ch 7B Opening discussion examples cuLearn</p>

	property law in segregation (Shelley, and Noble).	
8	<p><b>Private Property (Mainly)</b></p> <p>Origin Stories I: Private Property Case Study: Becoming Property (or Not)</p> <p>This module presents the story, (and justifications) advanced, of private property within the common law legal tradition. The case study examines 'natural wonders of the world' and news of the day.</p>	Ch 8A Ch 8B
9	<p><b>Troubling the Boundaries of Private Property</b></p> <p>The Commons Property and Conservation</p> <p>We introduce the driving concern of the impact of industrialized economies on the planet. We note that property law has not been concerned with conservation but rather claims to exclusivity and extraction. We discuss The Commons (touching on the Hardin-Ostrom debate) and examine property disputes illustrating the mindset of property law in relation to the underlying resources (e.g., fish, water, air).</p>	Ch 9A Ch 9B  cuLearn: Hardin, Tragedy of the Commons  Scientific Report (2019) Climate Emergency – relevant for L9-12
10	<p><b>Public Property/Indigenous Land: Parks and Wilderness</b></p> <p>Origin Stories II: Public (Crown) land in Canada Case Study: Non-Ownership/Co-Governance</p> <p>In this class we retell the story of property law/property ownership in Canada – this time from the point of view of indigenous peoples.</p>	Ch 10A Ch 10B  cuLearn: Davies on Locke and Colonial Land Appropriation  Forced removals (Banff)
11	<p><b>Eco Systems, Reconciliation and Legal Categories</b></p> <p>Property or Person? Non-ownership?</p> <p>Is there a different way (or a third way) to engage with wilderness and public property/Crown land in Canada? Ideas of Reconciliation between indigenous and non-indigenous peoples are explored.</p>	Ch 11
12	<p><b>Conclusion: From Blackstone to Berry – Revising Categories (Taxonomies) of Person and Property</b></p> <p>In this class we go back to the taxonomy of private law and trace its impacts on social and legal systems in Canada. The backdrop is climate change and accelerating devastation of the planet through industrialization. We touch on Earth Jurisprudence as an alternate conceptualization of legal relations between humans and the planet.</p>	Ch 12  cuLearn: Thomas Berry, Ten Principles

## **ACADEMIC ACCOMMODATIONS**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

### **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 Department of Equity and Inclusive Communities Services (EIC): <https://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 Department of Equity and Inclusive Communities (EIC): <https://carleton.ca/equity/>

### **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](mailto: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/>

### **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/studentssupport/svpolicy/>

### **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://students.carleton.ca/services/accommodation/>

### **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.  
<https://carleton.ca/law/current-students/>