

NATIONAL UNIVERSITY OF IRELAND, GALWAY
FACULTY OF LAW

SEMESTER II EXAMINATIONS - SUMMER 1998/99

SECOND ARTS (LEGAL SCIENCE)
OCCASIONAL STUDENTS

TORT II (LW206)

Professor A. Ashworth
Professor B.M.E. McMahon

Time Allowed: **TWO** Hours. ERASMUS students have **2½** Hours
Answer **THREE** Questions

1. Fred, the farmer, discovers one day that some deer that he keeps on his land have got into John's cornfield where they have caused serious damage to the crop. From there, two of the deer break through John's fence onto the highway and that night Dan drives into the deer and suffers serious injuries.
On the same day Fred's seventeen year old daughter, Mary, takes Shep, Fred's sheepdog, to the railway station to meet a school friend. As Mary watches the descending passengers on the crowded platform Nancy, an elderly short-sighted lady, trips over Shep's lead and breaks her arm. When Mary brings her school friend, Anne, home to the farm she brings her out to the stable to show her Shep's pups. As Anne is about to pick up one of the pups Shep bites Anne. Anne later learns that Shep has on previous occasions bitten the postman. To crown a miserable day for Fred, Sam a neighbour who keeps sheep, arrives at Fred's farm and says he has shot Shep as he was worrying Sam's lambs. Advise John, Dan, Anne, Nancy and Sam as to any rights they may have against Fred.
2. Describe the circumstances which give rise to liability under the Rule in Rylands - V - Fletcher. What defences are available to the defendant in such an action?

OR

"There is perhaps no more impenetrable jungle in the entire law than that which surrounds the word Nuisance".
Describe the instances when liability will be imposed for Nuisance in the law of torts adverting to the distinction between Public and Private Nuisances. When is the character of the neighbourhood in which the conduct in question occurs relevant to the Court's deliberations? What defences are available?

3. Advise Peter, the Parish Priest, who consults you about the following matters:-
 - (i) Joan, an eleven year old school girl, visited her local church on her way home from school. She has great devotion to Our Lady of Lourdes and having prayed in front of Our Lady's Shrine she went to light a candle in the candleholder in front of the Shrine. As all the holders in the front row had lighted candles in them, Joan had to stretch to place her candle in the back row. While doing so the loose sleeve of her cardigan caught fire and she was badly burned. Afterwards Joan says that she was encouraged at school by the nuns to visit the church and she says that she put 20p in the offering box when she took the candle. A notice near the box said "Recommended Offering 50p". No 20p was found in the box when it was emptied afterwards.

PTC