A Note From The Editor: New Year, New Home

Welcome to another edition of the Golden Thread. I hope you find something of interest within. Don’t forget that our esteemed law department has once again moved home, returning to New House on the South Campus, where it started out, but is now residing on the top floor, in what will hopefully be its permanent lodgings. It’s worth taking the time to find out where your department is, and get involved in what it does. For more information on this, see pages 2, 4 and 10. I hope you enjoy this edition of the Golden Thread, and don’t forget if there’s anything you’d like to comment on, see or say in this newsletter, contact the editor: goldenthread@nuimsu.com

Getting to know: Dr Louise Kennefick


If you had to pick only one of these, which would it be, and why? All have their good points. The European Union permeates every aspect of law in this jurisdiction so uncovering its remit and its limitations can be compelling. I practised company law during my time as a solicitor in a corporate firm in the UK, and found it to be a dynamic and interesting area. However, if pushed, I would have to say the criminal law is my favourite as most of my research is based within this area. Evidence is a close second because it is so important to consider the substantive and the procedural under the one lens.

If you didn’t work in law, what area would you work in? Perhaps psychology – part of my research looks at the cross-over between mental health and crime. (However, I hear it involves an inordinate amount of statistics..!)

If you could change the colour of barristers’ robes, what colour would you choose, and why? Clown shoes, for (Continued on page 2)
Transparency International Ireland (TI Ireland) is the Irish chapter of the worldwide movement against corruption - defined as the abuse of entrusted power for private gain. Founded in 2004, its vision is an Ireland that is open and fair – and where entrusted power is used in the interest of everyone. Transparency International is the only global organisation dedicated to stopping corruption worldwide, working to create a "level playing field" for citizens, for business, for everyone. Transparency International carries its work out through its International Secretariat based in Berlin and its network of over 100 chapters and affiliates worldwide. TI Ireland's mission is to empower people with the support they need to promote integrity and stop corruption in all its forms. As part of this vision, in May 2011, TI Ireland launched its 'Speak Up' helpline, a service for anyone facing an ethical dilemma or considering reporting wrongdoing at work. Furthering this mission has led to the creation of Transparency International Maynooth, which endeavours to emphasise the need in Ireland for measures aimed at promoting openness, fairness and integrity in public office, business and the non-profit sector in Ireland. TI Maynooth seeks to promote student projects aimed at promoting transparency and integrity.

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Faced with our deep and meaningful interview questions, Dr Kennefick threw us back some real curve-balls. We would like to suggest clown shoes for all lecturers as a test initiative!

"Every country needs a strong chapter of Transparency International" - Jeffrey Sachs

An Interview with Dr Kennefick

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example, would both confuse and terrify.

If you were an animal, what animal would you be, and why?
If I were to pursue a career in law as an animal, I would wish to be a cat - unassuming yet inquisitive and good at pouncing. Ducks can swim, walk and fly so they would come in a close second.

What's your least favourite day of the week, and why?
All the days of the week have something nice to offer. I couldn't possibly offend one of them in case they take revenge on me! ("sideways glance at Monday").

Would you rather be too hot or too cold?
Too cold.

What's your favourite letter, and why?
I have never considered that question before so I will go on instinct – ‘R’ A fridge ... in a denim jacket. (That’s one for the children of the 90s).

If you had to choose between a fridge and a freezer, which would you pick?
Friendly lecturer? Or all-powerful duck?
Harry Potter and the Truth in Fiction

In 2007 J. K. Rowling, author of the Harry Potter books, answered a question regarding the character Dumbledore by stating that she had “always thought of Dumbledore as gay”. This made instant news around the world making it onto the pages of Time, Newsweek and the New York Times, it was reported on CNN and on the BBC webpage. More recently, February 2011, it was the topic of an article in The Philosophers’ Magazine by Tamar Szabo Gendler, professor of philosophy at Yale University (http://www.philosophypress.co.uk/?p=1780). This article was on the topic of what philosophers call truth in fiction. The statement also caused immediate reaction among Potter fans who within days posted thousands of comments on internet forums, Gendler divided these into three categories; those who welcomed it, those who were dismayed, and those who challenged Rowling’s authority to add new information to a finished series. It is this third category which is addressed in the article, which outlines the philosophical arguments regarding the weight that should be afforded to an author’s intentions when interpreting a work of fiction, and what status implied truths hold. Gendler says that there are two types of truths in a work of fiction, primary truths and secondary truths. Primary truths are things which are stated in the text; secondary truths are things which may be implied in the text or are compatible with it without being strictly implied.

Professor Gendler’s discussion of the philosophical arguments about Rowling’s statement caused me to wonder what decision a court would make if it had to give a judgment as to whether the character Dumbledore is gay. If for instance another author created a character who was similar to Dumbledore and stated, as a primary truth, to be gay, could Rowling convince a court that Dumbledore was in truth gay and that she had been plagiarised? Whether Dumbledore is gay, or not, is not stated in any of the Potter books, therefore it is a matter of secondary truth. The principal issue discussed by Gendler is how to define what the secondary truths in any work are and she offers four criteria to consider: textual evidence, reader response, authorial intent and genre constraints. Gendler scrutinised the texts of the Potter books for evidence which could imply that Dumbledore is gay and found quotes which would make it compatible with the story. She then examined how readers import knowledge of the real world into their interpretation of fiction; she says that readers presume that characters have five fingers, and that the earth goes around the sun in the Harry Potter world. She then looks for clues that would cause a reader to make an inference about Dumbledore’s sexuality. This, Gendler says, is not obvious to readers; the author’s intention is the clearest indication. However, there are disagreements as to how much weight can be given to an author’s intentions as against a reader’s own response to a text. In relation to genre constraints she says that there could be an argument that his sexuality is irrelevant, and therefore there is no right answer, as the books are aimed at a children’s market, but there are also arguments against this view as other characters in the books become involved in relationships.

These arguments and methods would all be likely to be raised in a court if such a case arose, and would be familiar to the legal profession. Textual evidence is regularly used in courts and was used in the Irish Courts to establish the existence, by inference, of unenumerated rights (rights not listed but implied by certain articles) guaranteed by the Constitution. The arguments regarding reader response could be compared to those arguments forwarded by theorists who claim that the Constitution is a living document and should be read in relation to changing social norms as opposed to a strict textual reading. Authorial intent could be compared to the originalist...
Harry Potter made history in 2003 when the release of the fifth book was subject to the first injunction issued against a unnamed or unknown persons. This has now become known as the “Potter Injunction”.

Harry Potter and the Truth in Fiction

(Continued from page 3)

school of constitutional interpretation which is especially dominant in the US where the federalist papers (circa 1787) are regularly quoted in court to enforce a legal argument. Legal cases are about Law does not exist in a competing claims, and it vacuum and if you’re a field, or to examine an issue such as this from a legal standpoint, to help your understanding of legal methods. Gendler’s examination of the arguments for and against whether Dumbledore is gay uncovered good of policy (politics) as on important cases are as the legal process. legal methods. Gendler’s examination of the arguments for and against whether Dumbledore is gay uncovered good of policy (politics) as on school of constitutional interpretation which is especially dominant in the US where the federalist papers (circa 1787) are regularly quoted in court to enforce a legal argument.

FLAC Arrives in Maynooth

This year will see FLAC (Free Legal Advice Centre) coming to Maynooth to deal with all your legal worries. FLAC is a new society in Maynooth and will be running legal advice clinics from February of 2012. This service will be available to all students and residents of Maynooth who require free legal aid on various issues. We will cover a range of topics such as; Employment Rights, Landlord and Tenant issues and Family Law enquiries.

At present we have a FLAC committee comprising of, Patrick Cagney- President, Liam Sunner- Vice President, Sé Sweeney-McCabe- Secretary, Sinéad Finnerty – Public Relations Officer, Peter O’Loughlin – Training Officer, Kevin J. Clarke – Treasurer and Matt McDermott- Webmaster.

We are a committee that is committed to ensuring FLAC Maynooth provides Maynooth students with all the help and guidance they may need.

At this time we would like to acknowledge and thank Deirdre McGowan and Dr. Louise Kennefick as they are the founders of FLAC Maynooth. Not only are these two women the founders of such a beneficial society but we could not continue with the development of FLAC Maynooth without them. Dr Kennefick is our Honorary President. Deirdre is providing us with her solicitor’s mind and skills as well as being an information giver in our training sessions. For all their help, guidance and time we would just like to say thank you.

Recently I, Sinéad, along with our president Patrick attended FLAC headquarters on Dorset Street to meet with other FLAC committees. This included representatives from Trinity, UCD, UCC and DCU. During our meeting we managed to cover a wide range of topics such as: Employment Rights, Landlord and Tenant issues and Family Law enquiries.

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International relations have a long history; most probably they appeared together with the first States and have been developing, in different ways, since that time. The reason for this, I believe, is the natural inequality between States, which is based on geographical and economical differences. The States thus either want to decrease the inequality or achieve as much superiority over others as possible. However, on the other hand, some States want nothing more from their international partners than stable economic, trade and cultural collaboration. They have other purposes: money and reliable cooperation in the international arena.

Russian-Irish international relations are an example of the second type; because both countries are absolutely independent of each other, do not have mutual borders and do not compete on the European market. In its structure we can mark out two main branches: trade and cultural collaboration. To begin with, I would like to say that the first mutual communiqué about diplomatic missions exchange was signed in 1973 and in the past few years political dialogue has developed greatly. But this period of the closer cooperation started only in 1999, marked by the first official visit of An Taoiseach Bertie Ahern to Moscow, which resulted in signing several bipartite agreements. After that, similar visits have been taking place regularly and on different diplomatic levels, up to and including ambassadorial level. Both States consult each other on different issues, giving their opinions about international affairs and membership of the United Nations and other international governmental and non-governmental organizations.

Apart from the political aspect in international relations, trade traditionally plays an important role. According to the statistics collected by Rosstat, the Russian central statistics office, the two countries could not be stable trading partners, as volume of trade differs from year to year - in 2010 it amounted to $1.16 billion – 26 times less than the same comparison with Germany.

Traditionally, Russia exports oil, wood, mineral fuels, cellulosic materials, ore, nonferrous metal and power tools. Ireland in turn exports meat, milk, alcohol, pharmaceuticals and cosmetics. So, as we can see, there is a huge variety of goods, but trade volume is not very high. I think that the reason is the size of Ireland and the existence of the national producers of goods that are imported from Ireland in Russia. Before the economic crisis in 2008, Ireland successfully invested in the Russian economy with the investment volume amounting to about $8 billion in the pre-crisis year. The main sphere of Irish investment activity was and is the construction sector.
Unsecured Wi-Fi: A Gift? Or a Theft?

These days when we intentionally left open “a person who turn on our Wi-Fi for public use or are we actually guilty of theft? connections we are bombarded by various available connections to choose from. While the sensible owner will have their connection protected by some form of password, we often see the lone unsecured line amongst the signals. For the most part the desired connection will be stronger but what would happen if we chose to use this unsecured network? Is the network intentionally left open for public use or are we actually guilty of theft? The answer to this question will vary depending on whether the Wi-Fi is provided by the Internet Service Provider or the system operated by an individual customers. When the provision is part of the system the effect of which will be dealt with under might result in the Postal and provision by the company would happen if we chose to use this Uniform Act 1983: without payment of the

FLAC Arrives in Maynooth

(Continued from page 4) yet to help out in the clinics. be eligible to be a volunteer at the FLAC clinics and provide the information service full attendance at the training sessions is compulsory. These clinics were held on the 22nd of November- Employment Law and 29th of November- Family Law, and will continue on the 5th of December- Landlord and Tenant Law, 13th of December – Information. We look forward to seeing you there and to an amazing FLAC year.

Just to mention again the FLAC clinics commenced on Tuesday the 22nd of November. We just have to stress that in order to

Sinéad Finnerty, Public Relations Officer and Patrick Cagney, President FLAC Maynooth.
Six laps down and six laps to go before it is acceptable to eat mince pies whilst studying for first semester exams. Like any race in life there are plenty of mottos to get you motivated for the task at hand ‘If you fail to plan, you plan to fail’ ‘If you don’t know where you’re going any road will take you there’ “You only get out of it what you put into it”. Lord Atkin on ‘reasonable foreseeability’ or Justice Henchy on ‘recklessness’ then you need to learn to read between the lines, literally. Starting out you will not get to read all the suggested cases in full for each subject, it would be impossible to eat them all at once without absorbing the key nutrients or principles. be afraid to find your voice. Apparently, if you are ‘feeling overwhelmed then it is a good sign’ according to Dr. Kennefick, Lecturer- at-Law, NUIM. ‘objection’ will get you don’t panic. Firstly, Top tip for Criminal Law: remember you were take out the key points carefully selected by and start keeping a case argument and the professors and doctors of book. Learn to apply the law to represent the law to the facts of the case and remember what was held or the court’s decision. Start a small study group and share the team at NUIM, so stand back to finding your voice and picking a good fight. Screaming ‘objection’ will get you nowhere in the Moot Court. Having a firm argument and the confidence to deliver it will get you everywhere. Looking at Moot Court problems and having to argue both sides is an excellent way to get an understanding of the law. Nutritionists for decades have shouted ‘you are what you eat’ when of your lecturers. In exposure to excellent actually ‘we are what we Contract Law ‘a picture advice and tips for can absorb’. If this article paints a thousand words’ written submissions, is starting to sound like a so remember watching which will help you with long winded speech from monkeys. Class your legal writing
Leader companies, according to the department of foreign affairs of the Russian Federation, are Quinn Group, Treasury Holdings, Redquartz International, CRH, Smurfit Kappa and Aminex. Large Russian companies are also interested in doing business in Ireland; for example “RUSAL” holdings took over the Irish company Aughinish Alumina Ltd. and Chameleon Technology Ltd. was opened in Dublin several years ago.

The second field - cultural relations - can be characterized as stable. Year upon year more and more tourists from Russia come to Ireland, and vice versa, but the majority of them travel for business purposes. After the official ban of gambling in Russian cities, more people discovered Ireland to be full of excitement and fun. So, tourism is one of the sectors whose development is on the agenda. Apart from tourism, it is important to mention that more and more internship programs are appearing, making it possible for students to study in different universities of the partner State.

Taking into consideration all the information provided above, I can conclude that Russian-Irish international relations can be described positively, with room for improvement, because, on the one hand, the states do not have strong contradictions in the international arena and are open to dialogue, whilst on the other hand, there are a lot of sectors to be improved. Diana Zenina

A First Year Law Student-in-Training

or ideas not being heard he would simply say “You're fired!” There will be plenty of competitions running throughout the year. The DCU Moot court competition is November 12th – So fellow Freshers: take a deep breath, wipe the sweat from your brow, and stay hydrated - this is a marathon not a sprint.

TI Maynooth

awareness of the importance of ethical conduct in society, the cost of corruption and measures aimed at addressing the problem.

TI Maynooth will achieve this by hosting a series of in-house presentations from the nation’s leading experts in corruption, white-collar crime, freedom of information and Whistleblower legislation, while offering students the opportunity to get involved in research and policy design into these interesting areas of law by way of internships and placements with Transparency International and its Irish chapter, TI Ireland. Anyone who is interested in getting involved or finding out more should email transparencymaynooth@gmail.com

Patrick Noctor

LAW SCHOOL TEAM NUIM – Together Everybody Achieves More.
Increased gangland crime has highlighted the need to reform the area of evidence given by witnesses in the Witness Protection Programme (WPP), despite its relative youth (Gilligan, CCA Unrep. 2003). Declan McGrath points out, in 'The Accomplice Corroboration Warning' (Ir Jur 1999), that judges' attempts to fireproof their corroboration warnings against later appeal may lead to juries being confused rather than enlightened. Under the impression that they should be morally certain rather than be certain beyond reasonable doubt, the jury may acquit when it would be safe to convict.

Liz Heffernan notes that the quashing of Ward’s conviction shows the limited contribution the WPP can make to criminal prosecutions. In the Guerin murder trial (DPP v Paul Ward, CCA Unrep 2002) the accomplice WPP witness Bowden, a self-confessed Murderer and drug-dealer, was described by Barr J as “[a] self-servive, deeply avarious and potentially vicious criminal”, a self-confessed liar who would lie “without hesitation and regardless of the consequences for others”. In addition, a criminal position of an innocent man who might be on the WPP” On appeal Murray C.J. upheld Denham J. in Gilligan where she held that “the same approach should be taken to evidence given by a witness in a WPP as to evidence given by an accomplice” as an “innocent man” might be motivated to give evidence or influenced directly or indirectly by benefits received from participation in the WPP.

However, the risks involved do not justify obligating a WPP warning. If the perceived slight risk of indirect benefits is an issue here then surely the evidence of every career-orientated Garda would have to be accompanied by an appropriate warning. Treating the evidence of an innocent person on a WPP the same as a career criminal or a supergrass is not justified. The WPP’s contribution to criminal prosecution will be further limited. Additionally it will offer a fertile ground for appeal that is associated with warnings (e.g. corroboration warnings) a problem we should endeavour to reduce rather than increase, as McGrath points out.

While not proposing leaving the corroboration warning at the judge’s discretion, as with accomplice testimony, McGrath proposes that the WPP warning should be treated differently.

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Wi-Fi Access: Theft?

This section comes into play as through the connection to the Wi-Fi network of another, the user is simultaneously connecting to their own computer and that of the owner of the Wi-Fi network. It will only come into effect when the person accessing the Wi-Fi does so in a dishonest manner, though, which may include unauthorized access to a connection. However the defence may be raised that in the event the Wi-Fi is visible without the requirement of a password or user name it can be taken that access is allowed to the general public.

Regardless of the law, in order to protect oneself from frivolous lawsuits (and the occasional computer virus), it would likely be prudent to access only those networks which you’re sure you’re permitted to access. Liam Sunner

Get Involved in Your Department

As a law student in Maynooth, whether you’re a first year who’s still trying to get the hang of how the college works or a seasoned third year more comfortable than the couches in the Zoo, there’s never a better time than now to have a look at the range of extra-curricular activities you can get involved in during your time here in NUI Maynooth. From Moot Courts to Total Wipeout, Pub Quizzes to Criminal Law Court visits, there’s a whole host of activities and competitions you can get involved in which will not only boost your social life and your street cred, but also flesh out your CV and make you a more attractive employment prospect. Remember that the difference between two students with the same degree could be those extra commitments and interests. Don’t hesitate to do anything which interests you—it can only benefit you in the long run.

Interested in writing? Submissions to the Irish Law Journal are now open to academics, professionals and students for their inaugural edition. Follow them on Twitter @IrishLawJournal, or check out their website: http://irishlawjournal.com.

WPP Warnings?

With sexual complainants under the Criminal Law (Rape) Amendment Act, 1990, the obligatory corroboration warning was abolished. It is given at the judge’s discretion and only where there is evidence that the complainant has a particular motive to lie or has made prior false claims etc. In “honest man” WPP witness testimony there is no basis to believe witnesses are inherently unreliable and evidence of specific duplicity should be required, not merely potential unreliability.

In order not to further reduce the effectiveness of the WPP, unnecessarily reduce criminal convictions or provide an area of contention that will lead to unmerited appeals, the WPP warning should be at the trial judge’s discretion. Padraig Ryan
Half way through third year, with the question of what are you going to do next year? looming large over my head, I investigated the masters programmes offered by the law department in NUI Maynooth. Only a single look at the programme for the Masters of International Business Law offered as a dual degree between NUI Maynooth and l'Université Catholique de Lyon (UCLy) and I was hooked. I knew this was the programme for me. The course content looked fascinating, a Masters would stop me from having to enter the real world for another year and, best of all, it was an International Business Law masters with an International element — the first semester of the masters, is spent in UCLy, in, surprise surprise, Lyon.

The experience is one which I would definitely recommend to any student with an interest in the course content. Going abroad to another university, studying international business law with a mix of students from a variety of countries then returning to Maynooth for the second semester, it’s an international degree in every sense of the word.
The team here at the Golden Thread would like to extend our congratulations to the lucky winner of the competition in the Student Survival Guide of the Golden Thread. Orla Ward was the winner of a €25 gift voucher kindly donated by Maynooth University Bookshop. For those of you who were wondering, the quote came from the case Woolmington v DPP, [1935] AC 462, and the speech was given by the Viscount Sankey. In case that’s not enough to satiate your curiosity, Woolmington was appealing his conviction for the wilful murder of his wife, Violet Woolmington. Woolmington won his appeal and was released three days before his scheduled execution date. A lucky escape for him and a pillar of criminal law established for the rest of us!

Get Involved!

If something a little more light-hearted is what you’re looking for, why not try writing or editing for the Golden Thread? Submissions are open year-round and aspiring editors need only contact goldenthread@nuimsu.com to get involved. Looking for something more of a group feel? Why not get involved in the Law Society? Tickets are on sale now for the Law Ball, in Johnstown House on the 6th December. It promises to be the event of the year. Or contact law@nuimsu.com Fancy something a bit more international? Try ELSA. Events are organised year-round and range from presidential debates to Criminal Court visits, with everything in between, including pub quizzes and film screenings. Contact nuim.elsa@gmail.com

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If you’re looking for more practical experience, try getting involved in Moot Court. Intervarsity Moot Courts as well as in-college Moos give students valuable experience as well as giving you a chance to compete against law students from all over the country. With such a wide variety of activities on offer, there’s really no excuse for not getting involved. So what are you waiting for? Get out there!

Picture: Irish Law Journal Editors talking to Justice Geoghegan after his talk on the powers of the Irish presidency