SULIT

UNIVERSITI UTARA MALAYSIA

PEPERIKSAAN AKHIR
SEMESTER PERTAMA SESI 2001/2002

KOD/NAMA KURSUS : PN 6013 LAW AND ETHICS
TARIKH : 30 SEPTEMBER 2001
MASA : 9.00 a.m - 11.30 a.m (2 1/2 HOURS)
TEMPAT : BK 10 SEKOLAH SISWAZH

INSTRUCTIONS:
1. This question paper consist of two printed pages with two parts; PART A and PART B.
2. PART A is compulsory and choose two other questions from PART B.

NO. MATRIK : ___________________________ (dengan perkataan) (dengan angka)

NO. KAD PENGENALAN : ___________________________

NAMA PENSYARAH : ___________________________ KUMPULAN : ______

JANGAN BUKA SOALAN INI
SEHINGGA DIBERI ARAHAN
PART A - CASE STUDY

The Love Canal Case

In the 1890s William J. Love decided to build a canal in the area of Niagara Falls to help provide energy for a city he planned. The project was never completed, but a trench 10 blocks long dug out of clay remained as testimony to the effort. In the 1940s Hooker Electrochemical Company (now Hooker Chemical and Plastics Corporation and part of Occidental Petroleum Company) started legally using the canal to dispose of drums of toxic waste and buried about 22,000 tons of such waste by 1952. Various federal government agencies also dumped chemicals into the canal. The Niagara Falls Board of Education became interested in the land and wished to purchase it from Hooker. According to the company's executive vice-president, Bruce D. Davis, "We did not want to sell them the land." But when the board threatened legal action to have the land condemned, Hooker sold the land for $1, warning the board and stating in the deed of sale that toxic waste was buried there and that the land should be used only as a park and not for a school or housing. Nonetheless, the board proceeded to build a school on the land, transferring title to the city of Niagara Falls, and sold what it did not need to a developer. The school was built, as were houses and roads, evidently without much concern for the buried waste. The walls of the canal were punctured by city workers for sewer lines, and some of the protective topsoil placed by Hooker to seal the waste was removed during the grading process to provide access to the school. In the 1970s after heavy rains, evidence showed that the drums had leaked. Chemical ooze sprang up in the school yard and seeped through home basements and up sump pumps. The number of deaths in the area increased, and the number of cases of cancer and birth defects was abnormally high. In 1978 the government declared the area unsafe. Two hundred houses were demolished. On May 21, 1980, President Carter declared a state of emergency at Love Canal and 2,500 people were relocated. The state and federal governments spent $150 million in cleaning up the area and additional millions in buying up the houses that were destroyed. Representatives of Occidental continued to claim that they had no control over the development of the land since Hooker sold it, that Hooker did not hide the fact that toxic chemicals were buried there, that Hooker only sold the land when in effect forced to by the Board of Education, and that Hooker warned against building on the site.

In August 1990 the Environmental Protection Agency declared much of the area around the canal habitable, and people started buying houses there. Despite some individual settlements, suits were still pending, including one in the New York courts to decide whether Occidental should be held liable for the cleanup costs.
CASE STUDY QUESTION (10 MARKS)

In the Love Canal Case, distinguish the various kinds of responsibility involved and present your analysis of who bears which kind of responsibility and the extent of that responsibility.

PART B - ESSAY QUESTIONS
Choose two questions from this part.

QUESTION ONE (10 MARKS)

The Judges' Codes of Ethics 1994 shall apply to a judge throughout the period of his service and the breach of any of the provisions of this code may constitute a ground for the removal of a judge from office. Discuss four grounds for the removal of a judge from his office.

QUESTION TWO (10 MARKS)

Article 3 of the Federal Constitution declares Islam to be the religion of Malaysia but other religions may be practiced in peace and harmony. Discuss the application of Islamic Law in Malaysia.

QUESTION THREE (10 MARKS)

In the case of Re Sussex Justices, ex p. McCarthy, Lord Hewart CJ pointed out that: "...fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done...Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice."

With regard to the above statement, discuss the meaning of nemo judex in re sua or the rule against bias in the concept of natural justice.