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THIS EXAMINATION CONSISTS OF 3 PAGES

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**THE UNIVERSITY OF BRITISH COLUMBIA
PETER A ALLARD SCHOOL OF LAW**

EXAMINATION – DECEMBER 2018

**LAW 221
Section 001**

CRIMINAL LAW AND PROCEDURE

Professor J. Benedet

TIME ALLOWED: 1 HOUR

Note:

Students may bring only the following items into the examination room:

- 1. A clean copy of the Pocket Criminal Code.**
- 2. One 8½ x 11” standard sheet of paper containing notes of the student’s choice.**

Part A (100 marks): Answer ALL of the questions in Part A. Assume that all of the facts described below are true and provable in court.

Snakes and Lawyers

Angus owns the Richmond Reptile Room, a small private zoo in which he exhibits various reptiles such as snakes, lizards and alligators. He charges admission to see the animals and various school and community groups often visit the zoo for field trips. His daughter Bianca works part-time at the zoo, which she fits in around her studies at the Dullard School of Law. Bianca is responsible for cleaning cages, feeding the animals and showing visitors around the exhibits. She is feeling the pressure of impending law school exams, and sometimes forgets to feed the animals according to their regular schedule.

One Sunday afternoon, a birthday party of 15 children comes to visit the zoo. Angus has left Bianca on her own as he is attending a reptile auction with bidders from many public and private zoos trying to acquire more species. The children are excited and running all over the place. Bianca has her Criminal Law exam on Monday and needs to review her notes. She tells the kids to have a look around on their own but not to touch anything, and in 30 minutes they can meet in the lobby and tell her about the coolest thing they saw.

Cooper, the birthday boy, is 7 years old. He drags a chair over to a tank containing a golden lancehead viper (snake) named “Dracula.” He climbs up on the chair to get a better look. Unfortunately, the chair tips over and Cooper falls on the tank, knocking off the lid. Vipers are normally nocturnal and sluggish during the day, but Dracula has not eaten in several days due to Bianca’s forgetfulness. The viper strikes, biting Cooper’s arm and injecting it with its venom. Cooper is rushed to the hospital. It is rare for the bite of this species of viper to be fatal in humans, but Cooper’s small size means that the effect is powerful. As he lies in a coma, anti-venom is rushed to the hospital and injected into his arm. While this has the desired effect and should lead to a full recovery, Cooper unfortunately contracts an infection while in hospital, and dies from that infection.

A1. Bianca is charged with criminal negligence causing the death of Cooper, contrary to s. 220 of the *Criminal Code*. You are the Crown prosecuting Bianca. Outline your case and evaluate the likelihood of its success on this charge or for any included offences. (50 marks, 30 minutes)

A2. Angus is charged with violating s. 99(1) of the *Species at Risk Act*, a federal statute, for purchasing and exhibiting the viper, which is critically endangered and must not be taken out of its habitat in Brazil or brought into Canada. (see the offence on page 3) You are Angus’s lawyer. He tells you that he did not know the viper was endangered and that he only buys snakes at reputable auctions. Outline the case you have to meet and the arguments you will make on his behalf. Will he be convicted? (50 marks, 30 minutes)

Species at Risk Act, S.C. 2002, c. 29

[Note: modified for the purposes of the exam, not to be relied on for other purposes]

99. (1) Everyone who imports, sells, purchases, exhibits or possesses a species listed in Schedule II is guilty of an offence and liable to:

(a) on conviction on indictment, to a fine of not more than \$250,000 or to imprisonment for a term of not more than five years, or to both; or

(b) on summary conviction, to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both.

(2) Subsection (1) does not apply where the person has a valid permit from the Ministry of the Environment to import, sell, purchase, exhibit or possess such a species.

Schedule II

...

(j) golden lancehead viper....

END OF EXAMINATION