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THIS EXAMINATION CONSISTS OF 2 PAGES (INCLUDING THIS PAGE)

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

FALL EXAMINATION – DECEMBER 2019

**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.

Lord of the Fries

Theo is a university student in Squamish, British Columbia. He gets a part-time job at the Double Meat Palace, a fast-food restaurant. His boss, Lucie, assigns him to take orders at the drive-through window. Customers drive up to a menu board and speak into the mouth of a plastic cow to convey their orders. The sound is often garbled and it can be hard for Theo to hear what the customer is saying.

Chad rolls up to the drive-through in his solar-powered vehicle. It is very low to the ground and he has to shout his order into the microphone. He asks for a “black bean burger and a kombucha.” Theo is not sure what the customer is saying, but he knows that Lucie expects him to spend no more than 90 seconds filling each drive-through order, so he doesn’t ask Chad to repeat himself. He guesses that the customer is asking for a “bacon bison burger and a cotton candy milkshake”. He fills the order, but when he sees Chad’s t-shirt, which says “Meat is Murder,” he suspects that he may have made a mistake. True to its name, the Doublemeat Palace does not have any plant-based menu items. Not wanting to slow the line down, Theo hands the order to Chad and figures that Chad can complain if he is unhappy.

Chad is distracted by a text message exchange he is having with his friend about their weekend ski plans. Chad pays Theo and takes a bite of the burger, washing it down with a swig of the drink. Only after swallowing does he realize that he has been given a meat burger and a dairy beverage. Chad follows a vegan diet not only for ethical reasons but because he has a severe dairy allergy that quickly causes hives all over his body and blurred vision. Upset and feeling the effects of his allergic reaction, he makes a sharp u-turn to go back through the drive-through line from the wrong direction and complain about the error, while at the same time hurling the bag of food out the vehicle window. The bag hits Nathan, a customer of the restaurant, in the face. Nathan is splattered with the contents of the meal.

A1. Chad is charged with assault causing bodily harm to Nathan contrary to s. 265(1)(a) and 267(b) of the *Criminal Code* and dangerous operation of a conveyance contrary to s. 320.13(1). As the Crown assigned to the file, you have to be satisfied that there is a substantial likelihood of conviction in order to proceed to trial. Which of these charge(s) if any, meet this standard? Explain your answer. (60 marks)(36 minutes)

A2. Theo is charged with administering a noxious thing to Chad, contrary to s. 245(1)(b) of the *Criminal Code*. You are Theo’s defence lawyer. He wants to know if he will be convicted. What do you tell him? (40 marks)(24 minutes)

END OF EXAMINATION