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THIS EXAMINATION CONSISTS OF 4 PAGES (INCLUDING THIS PAGE)

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THE UNIVERSITY OF BRITISH COLUMBIA

FACULTY OF LAW

FALL SEMESTER EXAMINATION – DECEMBER 2019

LAW 221

CANADIAN CRIMINAL LAW AND PROCEDURE

Section 2

Professor Goold

TOTAL MARKS: 100

TIME ALLOWED: 60 MINUTES

(AND 10 MINUTES READING TIME)

- NOTE:**
1. This is an **open book** examination. Communications devices such as mobile phones are not permitted. Candidates are permitted to annotate the examination paper during the 10-minute reading time.
 2. Candidates must answer **two** questions from Section One (each of which is worth 25 marks) and **one** question in Section Two (which is worth 50 marks). No additional marks will be awarded for answering a third question in Section One or a second question in Section Two.

**THIS EXAMINATION CONSISTS OF TWO SECTIONS
(WITH FIVE QUESTIONS)**

SECTION ONE

Answer any **TWO** of the following three questions:

1. What is the function of the criminal law? How is criminal law distinguished from other areas of law that also seek to address wrongful conduct? Explain your answer, with reference to materials you have read for Criminal Law so far this year.

(25 marks)

2. Why does the criminal law typically require proof of guilty mind (*mens rea*) as well as guilty act (*actus reus*) in order to establish liability? Would anything be lost if the criminal law required only proof of a prohibited act? Explain your answer with reference to materials you have read for Criminal Law so far this year.

(25 marks)

3. Why does the common law generally treat omissions as incapable of breaking the chain of causation? Do you think people should be criminally liable for wrongful omissions? Explain your answer with reference to materials you have read for Criminal Law so far this year.

(25 marks)

SECTION TWO

Answer **ONE** of the following two questions:

4. Avery is a university student who catches the bus to campus every morning. One day Avery wakes up late and runs to the bus stop. As Avery is running, Avery bumps into and knocks over Bobby. Avery does not stop to see if Bobby is okay but calls back: "Sorry! I didn't see you!" Bobby is very angry and chases Avery down the street waving an umbrella, yelling "If I catch up to you there will be trouble!" Avery looks over their shoulder and, seeing how angry Bobby is, keeps running even faster. After a few minutes of chasing Avery, Bobby catches up as Avery is boarding a bus. Bobby also gets on the bus just as it starts to leave the bus stop. Seeing Bobby is now on the bus and walking towards them, Avery yells to the driver: "Open the door!" The driver opens the rear door, and Avery jumps out of the moving bus. Avery lands on Casey, a passerby, and breaks Casey's leg. Avery suffers minor cuts and bruises from the fall.

The Crown is considering charging Bobby with assault. Discuss Bobby's potential criminal liability contrary to Sections 265, 267, and 268 of the *Canadian Criminal Code*. Do you think Bobby is likely to be convicted of any offences under any of these sections? Explain your answer with reference to materials you have read for Criminal Law this year and include a discussion of all elements of the relevant offence(s).

(50 Marks)

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5. Alex is driving home late one evening after a long day at work. She is tired from a series of late nights at the office and is yawning frequently. It is dark and raining, and the traffic is very heavy on both sides of the road. While she is driving, Alex suddenly realizes she is about to hit a pothole in the middle of the road. She swerves sharply to avoid hitting the pothole and strays into the bicycle lane to her right. Bailey, who is riding a bike in the bicycle lane, tries to brake to avoid hitting Alex's car, but is unable to stop in time and hits the car. Bailey suffers cuts and bruises, and the bike is badly damaged.

(i) **With reference to the offences you have studied this term, advise Alex on her potential criminal liability under Section 320.13 of the *Criminal Code*. Explain your answer with reference to materials you have read for Criminal Law so far this year and include a discussion of all elements of the relevant offence(s).**

(30 Marks)

(ii) **Would your answer in (i) be any different if it could be shown that the only reason Alex didn't see the pothole sooner was because she was tired and yawning? Explain your answer with reference to materials you have read for Criminal Law so far this year.**

(10 Marks)

(iii) **Would your answer in (i) be any different if it could be shown that the brakes on Bailey's bike were very worn? Explain your answer with reference to materials you have read for Criminal Law so far this year.**

(10 Marks)

END OF EXAMINATION