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Chapter 1 : Semester and Sullivan's Criminal Law : G. R. Sullivan :

The conduct element of offences / Bob Sullivan Mistake and strict liability / Kumaralingam Amirthalingam Abetment, criminal conspiracy and attempt / Wing-Cheong Chan.

Attempt Attempts are governed by the Criminal Attempts Act , which states that "if, with intent to commit an offence to which [the act applies], a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence". In *R v Pearman* , [5] the Court of Appeal of England and Wales confirmed that the definition of intent in the Act is the same as the definition in the common law. In practice, academic Jonathan Herring notes that "there is no hard and fast rule about when an act may be more than merely preparatory", although there are several cases which give broad guidance. The Court of Appeal confirmed that this was not enough for a conviction. He was found guilty, because he had entered the property "the actus reus for burglary" and his actions were thus more than merely preparatory. These include conspiracy, under section 1 4 of the Act, assisting a criminal, under section 4 1 of the Criminal Law Act , aiding in the commission of an offence, or most summary offences, with the logic being that they are too minor for attempts to justify a criminal conviction. This provides that anyone who attempts to commit an offence will be punished with the same period in prison as if they had succeeded; since theft carries a maximum penalty of seven years in prison, for example, someone convicted of attempted theft would also find themselves sentenced to a maximum of seven years. Encouraging or assisting a crime in English law The offences of "encouraging or assisting a crime" under the Serious Crime Act are inchoate offences. An offence is committed under section 44, if this is done with intent to do the same; under section 45 if it is done "believing that the offence will be committed and that the act will encourage or assist its commission"; or under section 46 where there are multiple possible offences being encouraged or assisted, and at least one is foreseen. Since this is very wide, the courts will have to narrow it by some criterion, probably by reference to the remoteness of the encouragement to the crime. Failing to act when under a duty to do so would also qualify. It does not matter if the encouragement or assistance has no effect. Assistance can be provided indirectly, for example through a third person. Crimes which are, in fact rather than law, impossible to commit yet "but will be" also fall under this offence. Offences under Sections 45 and 46 are only committed if the defendant believes that both the crime will be committed, and that the act will encourage or assist the offender: However, it is necessary that the defendant intend or be reckless to any required circumstances or consequences "for example, that death was a result. Additionally, the prosecution must show that the defendant believed that or was reckless to whether the act would be done with the required mens rea, or that the defendant himself has the required mens rea for the offence. This takes two forms: The existence of this defence has been attacked by Andrew Simester and Bob Sullivan on the grounds it may be acting as a "sop" to counteract excess brevity in other sections of the act. Incitement The common law offence of inciting the commission of another offence was abolished on 1 October , [34] except in relation to offences committed wholly or partly before that date. The same rules are applied in these cases as the existing body of law on incitement. Unlike attempts, incitement is a common law offence. Some exceptions are made; under section 5 7 of the Criminal Law Act , incitement to conspire is not an offence, and incitement to an aid or attempt are similarly not specifically given as criminal acts. Even if the parties later decide not to go through with the plan, since the actus reus is to reach an agreement, they can still be charged. The defendants will similarly not be found guilty if they are unaware that a crime will result; if two people agree to grow plants, unaware that the plants are illegal, they have not engaged in a conspiracy. On the other hand, if the two people believe the plants to be illegal even though they are not, they could be found guilty. A third category which existed at the time of the Act, "conspiracy to outrage public decency", has now become a statutory offence. Impossibility defense Some exceptions are also made for "impossible attempts", which are divided into legal impossibility, impossibility through ineptitude and physical impossibility. Cases of legal impossibility occur

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when the defendant attempts to do something which he believes to be illegal, which is in fact not; this does not constitute a crime. The first is that when a crime is attempted, there is a harm, namely a threat to security. Individuals have the right to security, both of themselves and their property, and an attempt to commit a crime infringes on this right. The second is that, regardless of the harm principle, criminal liability for attempts can be justified in utilitarian terms. A person who tries to commit a crime has shown themselves to be dangerous, and must be restrained and rehabilitated to provide a deterrence for them and for others. The earlier the liability, the more controversial.

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General characteristics[edit] Number of recorded crimes – Categories approximate non-fatal offences against the person. Common to all crimes against the person is the infringement of the right to bodily integrity. It extends to the touching of clothing, for example, and where no physical harm actually results. However, if all touchings were criminalised, this would interfere with the right to liberty. These include both the actual infliction and the threat of violence. Although criticised, the Act has not been replaced. Assault is the apprehension of the possibility of immediate unlawful violence, and battery that of the infliction of such violence. Several proposals, including one from the Criminal Law Revision Committee in have proposed merging the offences. However, the distinction was confirmed in DPP v Little [c 1] in There, the conflation of assault and battery was criticised as duplicitous. Consent of the victim may be enough to prevent the commission of a crime. There is to debate as to whether lack of consent is an element of the actus reus, making it inherent to the commission of a crime, or whether consent is a defence. Andrew Simester and Bob Sullivan argue that the former is more correct, since lack on consent is vital to the crime; since the act may not constitute a harm even if enacted. Mere lawful presence in a location is not enough to satisfy the conduct requirement; illegal trespass , however, is sufficient. Following Ireland, it seems likely that even where the victim knew the defendant was some distance away, this may be sufficient. It is perfectly conceivable that the victim was fearful, but did not believe an attack was imminent. It also suggested that the anticipated harm could be psychological rather than physical. Such threats would normally be considered assault. Cunningham recklessness – that the defendant himself foresaw the risk of harm – is applied. It is not necessary that the victim feels the touching. As well as weaponry held in the hand, weaponry thrown is included, as is causing people to touch each other by creating a sense of panic. This is not easily called an actus reus nor mens rea requirement. It was not clear what role it played in that case, but could apply to other cases as a way of clarifying the "everyday behaviour" guidance. It could apply to future cases where the bodily harm was unintended or unforeseen. It is the intention to apply unlawful force to another, or be reckless as to whether such force is applied. Almost all injuries are included – for example, bruising or skin abrasions. Injuries are not included if they are "transient or trifling", [c 11] [8] but this did not cover even momentary unconsciousness. Grievous bodily harm Section 20 of the Offences against the Person Act criminalises "whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument". A "wound" is something that breaks all layers of the skin , and must have an external component – internal bleeding , however serious, is not a wound. R v Burstow [c 16] extended "bodily harm" to include psychological trauma if it formed a recognised serious mental condition. Simester et al said that this could have wide-reaching consequences, but it is unlikely to be taken to include commonplace occurrences relationship breakups, verbal cruelty, broken promises – in Burstow, the conduct included a prolonged and intense campaign of harassment. It reads, since amended, as: On an indictment under section 18, the jury is open to convict under section 20 or section 47 if properly directed. Grievous bodily harm includes serious psychological trauma and serious infection; however, these are less controversial here because of the inclusion of intent. Practically, the "virtual certainty" clause cannot come into force, since grievous bodily harm was not actually caused, by definition. The defendant must foresee the risk of wounding or grievous bodily harm, where the core intent is to resist arrest. The defendant cannot be reckless to the resisting of arrest, it must be an intention. This is where the commission of the assault in combination to hostility towards the victim, based on their race or believed race, or association with a race. However, it would be the actus reus of an assault if the victim wrongly believes the gun is, or may be, loaded. Since assault is a summary offence, no prosecutions take place for attempted assault. However, it is possible to commit attempts of aggravated forms of assault.

Chapter 3 : Inchoate offences in English law - Wikipedia

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In each case, the defendant "has not himself performed the actus reus but is sufficiently close to doing so, or persuading others to do so, for the law to find it appropriate to punish him". In *R v Pearman*, [5] the Court of Appeal of England and Wales confirmed that the definition of intent in the Act is the same as the definition in the common law. In practice, academic Jonathan Herring notes that "there is no hard and fast rule about when an act may be more than merely preparatory", although there are several cases which give broad guidance. The Court of Appeal confirmed that this was not enough for a conviction. He was found guilty, because he had entered the property "the actus reus for burglary" and his actions were thus more than merely preparatory. These include conspiracy, under section 1(4) of the Act, assisting a criminal, under section 4(1) of the Criminal Law Act, aiding in the commission of an offence, or most summary offences, with the logic being that they are too minor for attempts to justify a criminal conviction. This provides that anyone who attempts to commit an offence will be punished with the same period in prison as if they had succeeded; since theft carries a maximum penalty of seven years in prison, for example, someone convicted of attempted theft would also find themselves sentenced to a maximum of seven years. An offence is committed under section 44, if this is done with intent to do the same; under section 45 if it is done "believing that the offence will be committed and that the act will encourage or assist its commission"; or under section 46 where there are multiple possible offences being encouraged or assisted, and at least one is foreseen. Since this is very wide, the courts will have to narrow it by some criterion, probably by reference to the remoteness of the encouragement to the crime. Failing to act when under a duty to do so would also qualify. It does not matter if the encouragement or assistance has no effect. Assistance can be provided indirectly, for example through a third person. Crimes which are, in fact rather than law, impossible to commit yet "but will be" also fall under this offence. Offences under Sections 45 and 46 are only committed if the defendant believes that both the crime will be committed, and that the act will encourage or assist the offender: However, it is necessary that the defendant intend or be reckless to any required circumstances or consequences "for example, that death was a result. Additionally, the prosecution must show that the defendant believed that or was reckless to whether the act would be done with the required mens rea, or that the defendant himself has the required mens rea for the offence. This takes two forms: The existence of this defence has been attacked by Andrew Simister and Bob Sullivan on the grounds it may be acting as a "sop" to counteract excess brevity in other sections of the act. The same rules are applied in these cases as the existing body of law on incitement. Unlike attempts, incitement is a common law offence. Some exceptions are made; under section 5(7) of the Criminal Law Act, incitement to conspire is not an offence, and incitement to an aid or attempt are similarly not specifically given as criminal acts. Even if the parties later decide not to go through with the plan, since the actus reus is to reach an agreement, they can still be charged. The defendants will similarly not be found guilty if they are unaware that a crime will result; if two people agree to grow plants, unaware that the plants are illegal, they have not engaged in a conspiracy. On the other hand, if the two people believe the plants to be illegal even though they are not, they could be found guilty. A third category which existed at the time of the Act, "conspiracy to outrage public decency", has now become a statutory offence. Cases of legal impossibility occur when the defendant attempts to do something which he believes to be illegal, which is in fact not; this does not constitute a crime. The first is that when a crime is attempted, there is a harm, namely a threat to security. Individuals have the right to security, both of themselves and their property, and an attempt to commit a crime infringes on this right. The second is that, regardless of the harm principle, criminal liability for attempts can be justified in utilitarian terms. A person who tries to commit a crime has shown themselves to be dangerous,

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and must be restrained and rehabilitated to provide a deterrence for them and for others. The earlier the liability, the more controversial.

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Recommendations of the Select Committee on Crime.: hearing before the Subcommittee on Crime of the Committee on the Judiciary, House of Representatives, Ninety-third Congress, second session.

Chapter 7 : Non-fatal offences against the person in English law - Wikipedia

Revitalising Macaulay's Indian Penal Code / Stanley Yeo, Barry Wright -- Macaulay's Indian Penal Code: historical context and originating principles / Barry Wright -- The fault elements of offences / Neil Morgan -- The conduct element of offences / Bob Sullivan -- Mistake and strict liability / Kumaralingam Amirthalingam -- Abetment, criminal.

Chapter 8 : Codification, Macaulay and the Indian Penal Code : Barry Wright :

Non-fatal offences against the person, under English law, are generally taken to mean offences which take the form of an attack directed at another person, that do not result in the death of any person.

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