

there is still a locus poenitentiae, in the need of a further exertion of the will to complete the crime."

In fact literal adherence to the rule suggested would probably prevent punishment in most cases charged as attempts, since the final act before complete success will seldom be accomplished without success following. Most decided cases of attempt, it will be found, are far from being the last before complete success.

The same general doctrine has been put in other forms. Thus it has been laid down that to be a punishable attempt the defendant's act, unless interrupted by natural causes outside his control, should necessarily result in the criminal act. "Unless the transaction had been interrupted as it was, the prisoner would have actually carried away the meat." (Blackburn, J., in *R. v. Cheeseman*, 31 L.J.M.C. 89, 90 (*supra*)).

But this arbitrary rule must also be dismissed. Indeed, all the cases where a man is punished for attempt, though he repented and gave up his project before success are opposed to the proposed test. See, for example, *Reg. v. Goodman*, 22 U.C.C.P. 338.

A. was charged with attempting to set fire to a building, a dwelling house, and B. with inciting and hiring him to commit the offence.

Under B.'s directions, A. had arranged and placed pieces of blanket saturated with coal oil against the doors and sides of the house, had lighted a match, which he held in his fingers till it was burning well, and had then put the light down close to the saturated blanket with the intention of setting the house on fire; but just before the flame touched the blanket the light went out, and he threw the match away without making any further attempt. It was held that the attempt was complete.

Hagarty, C.J., said: "The fact of Waters going away, or ceasing further action after the match went out (not by any act or will of his) seems to put the matter just as if he had been interrupted, or was seized by a peace officer at the moment. It seems to me the attempt was complete, as an attempt, at that moment, and no change of mind or intention on prisoner's