

**72. ATTEMPTS.**—Every one who, having an intent to commit an offence, does or omits an act for the purpose of accomplishing his object is guilty of an attempt to commit the offence intended whether under the circumstances it was possible to commit such offence or not.

3. QUESTION OF LAW.—The question whether an act done or omitted with intent to commit an offence is or is not only preparation for the commitment of that offence, and too remote to constitute an attempt to commit it, is a question of law. 55-56 V., c. 29, s. 64.

Planning robbery for others to commit; *R. v. Esmonde*, 26 U. C. R. 152; 18 Oct. N. 424; 12 Man. L. R. 319; 2 Can. C. C. 350.  
Burglary — Abortive effort — Prevention — Evidence; *R. v. McCann*, 28 U. C. R. 514.

A mere intention to commit a crime is not indictable. Some act is required, but acts only remotely leading towards the commission of an offence are not to be considered as attempts to commit it, whilst acts immediately connected with it are; *R. v. Roebuck*, Dears. & B. 24; 1 Russ. 83; *R. v. Henler*, 11 Cox C. C. 570; *R. v. Eagleton*, Dears. 515; *R. v. Roberts*, Dears. 539; *R. v. Cheesman*, L. & C. 140.

An assault with intent to commit a crime is an attempt to commit that crime; *R. v. Duncey*, 4 F. & F. 99. See reporter's note in that case and *R. v. John*, 15 S. C. R. 384.

An attempt to commit a crime is an intent to commit such crime manifested by some overt act, and, in cases of rape, robbery, etc., etc., necessarily includes an assault; Stephen's Cr. L. 49; in such cases, an assault is an attempt and an attempt is an assault; *R. v. Martin*, 9 C. & P. 213, 215; see Annotation to section 949, *post*; and *R. v. Marsh*, 1 Den. 505; *R. v. Heath*, R. & R. 184; *R. v. Stewart*, R. & R. 288; *R. v. Fuller*, R. & R. 308; *R. v. Duckworth*, 17 Cox C. C. 495.

If A., mistaking a post in the dark for B., and intending to murder B., shoots at the post, he has not committed an attempt to murder, according to the existing law. Does the above section 64 change the law in this respect? Sir James Stephens thinks that article 74 of the Draft Code of 1879 would have had that effect in England; 2 Stephen's Hist., 225.

See *R. v. Goodman*, 22 U. C. C. P. 338.

## PART II.

OFFENCES AGAINST PUBLIC ORDER, INTERNAL AND EXTERNAL.

### Interpretation.

**73. AS TO INFORMATION ILLEGALLY OBTAINED OR COMMUNICATED.**—In the sections of this Part relating to information illegally obtained or communicated, unless the context otherwise requires,—

(a) REFERENCE TO PLACE—any reference to a place belonging to His Majesty includes a place belonging to any department of the Government of the United Kingdom, or of the Government of Canada, or of any pro-