

3. *Some of the rules determining whether a given act is an attempt.*—The numerous decisions on this subject shew the impossibility of laying down any test to suit all cases.

One proposition in the nature of a rule was laid down by Lord Blackburn (then Blackburn, J.), in *Reg. v. Cheeseman, Leigh and Cave*, 140, as follows: "There is, no doubt, a difference between the preparation antecedent to the offence and the actual attempt. But, if the actual transaction has commenced which would have ended in the crime if not interrupted, there is clearly an attempt to commit the offence." In this case the prisoner was charged with an attempt to steal a quantity of meat belonging to a contractor, who supplied meat to a military camp, whose servant he was. The prisoner and the quartermaster-sergeant proceeded to weigh out the meat to the different messes with the quartermaster-sergeant's weights, the prisoner being the person who put the weights on the scale. Before the weighing was complete, one of the messmen brought back his mess portion, with a complaint that it was short weight. It was discovered that the 14-lb. weight belonging to the quartermaster-sergeant had been removed, and concealed under a bench; and that a false 14-lb. weight had been substituted for it, and used in weighing out the thirty-four messes; and that the prisoner had absconded on the commencement of the investigation. The jury found in answer to questions that the prisoner had fraudulently substituted the false weight for the true one with intent to cheat; that his intention was to carry away and steal the surplus meat remaining after the false weighing; and that nothing remained to be done on his part, to complete the scheme, except to carry away and dispose of the meat, which he would have done had the fraud not been detected. The court were of opinion that the conviction for an attempt was correct.

The rule above referred to may be serviceable in some particular cases, as, for example, such a case as *Queen v. Collins*, 33 L.J. (M.C.) 177, where it was held that putting one's hand into another's pocket, with intent to steal, there being nothing in the pocket to steal, is not an attempt to steal, because though the