

his acts. The fact that he had made no communication to Lloyd's, having been interrupted before he had reached the stage at which it would have been natural to make such communication, seems immaterial; for, had he gone as far as that, the crime would, it is submitted, have been practically complete. There would have remained nothing essential on his part to do, except, in the event of suspicion, to reiterate his claim. In every case, of course, if matters go no further than "preparation," there is still a *locus pœnitentiæ*.

But the difficulty is to say in any case when it is too late to repent, and there is no case that really affords a satisfactory principle. It has been suggested, on the analogy of the definition in the German Civil Code, that an attempt is the "commencement of the execution of a crime," or, in other words, forms a constituent part of the complete crime. Professor Salmond acutely suggests that the solution may be whether the act is itself evidence of the criminal intent with which it is done: "A criminal attempt bears criminal intent upon its face. *Res ipsa loquitur*." Mr. Justice Wightman goes very near this suggestion in *Roberts' case* (Dears. C.C. 539): "An act immediately connected with the commission of the offence, and in truth a person could have no other object than to commit the offence." But Professor Salmond's seems to be too severe and too objective a test. No Court has yet gone to the length of suggesting that the "attempt" should have criminality clearly and objectively stamped on its face. There is no doubt that the Court of Criminal Appeal were right in quashing the conviction in *Robinson's case*, because, even if the police officer had gone away satisfied with the appellant's story, the latter might still have hesitated to "fish in the swim so ingeniously baited by him."

But, applying Mr. Justice Wightman's principle, it is clear that the appellant could have had no other object than to defraud the underwriters, though, objectively regarded, his acts might, on the mere face of them, be susceptible of an innocent construction. A really satisfactory principle still remains to be enunciated.—*Law Times*