# Common Law v. MPC

<table>
<thead>
<tr>
<th>ACTUS REUS</th>
<th>Common Law</th>
<th>MPC</th>
</tr>
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<tbody>
<tr>
<td>ACTUAL AID</td>
<td>YES (either attempt or completed crime)</td>
<td>NO §5.01(3) and commentaries to §2.06 – D. is guilty of crime of attempt.</td>
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### Does the Principal need to commit a CRIME?

- Common Law: Yes (either attempt or completed crime)
- MPC: No §5.01(3) and commentaries to §2.06 – D. is guilty of crime of attempt.
Variations on Hayes

♦ Suppose that Hill had opened the window and Hayes had climbed through?
  – We don’t have to convict Hayes as an accomplice; he can be convicted as a principal.

♦ Suppose that Hill had been forced at gunpoint by Hayes to go into the building?
  – Hill used Hayes as an innocent instrument of his own will and would be convicted as a principal.
Derivative Nature of Accomplice Liability (p. 639-44)

- Assisted Suicide – make act of “accomplice” criminal
- Non-culpable principal as innocent agent
- Limits of innocent agent doctrine
- Culpable - but unconvictable - principal
- Acquitted Principal
- Defense: Victim can not be charged as Accomplice
A Conspiracy is an agreement by two or more persons to commit a crime.

If there are still any citizens interested in protecting human liberty let them study the Conspiracy laws of the United States.

*Clarence Darrow*
Interstate Circuit
Interstate Circuit

- An express agreement is not necessary, because there was a tacit agreement.

- An agreement can be inferred from parallel or complementary actions, provided there are circumstances making such actions improbable without a prior tacit understanding.
Mens Rea

♦ Intent to agree.

♦ Intent to further, promote and cooperate in illegal activity.
Lauria – Proving Intent

♦ Direct evidence

♦ Indirect evidence
  – Special interest in the activity
    • When the seller of legal goods for illegal use has a stake in the venture.
    • When no legitimate use for the goods or services exists.
    • When volume of sale is grossly disproportionate to any legitimate demand.
  – Aggravated Nature of the crime.