



Attempt: Actus Reus Tests

- ◆ Last Step (Eagleton). No longer used
- ◆ Proximity
- ◆ Intent + Overt Act (Williams)
- ◆ Res Ipsa Loquitur/Unequivocal (The Act speaks for itself)
- ◆ MPC/Substantial Step (conduct that is strongly corroborative of the defendant's criminal purpose)



Common Law Definition of Rape

◆ Carnal knowledge by a man of a woman
(not his wife) forcibly and against her will.

◆ Consent? Mens Rea

◆ Force? Actus Reus



Restrictions on Prosecution

- ◆ Resistance Requirement.
- ◆ Corroboration Requirement.
- ◆ Victim's prior sexual history.
 - Prior consensual sex between the V & D.
 - Prior consensual sex between the V & others.
 - V's reputation for promiscuousness.
- ◆ Fresh complaints.
- ◆ Cautionary Instruction.
- ◆ Marital exception.



Rusk

- ◆ 21 judges (including trial judge) reviewed the sufficiency of the evidence
 - 10 concluded that Rusk was guilty, 11 concluded that he was not guilty.
- ◆ Elements of crime
 - Intercourse,
 - By force or threat of force,
 - Against the will, and
 - Without the consent of the other person.