

Attempts

- **Charge**
- **Voluntariness**
- **Fault**
- **Conduct**
 - Last Act Test
 - Unequivocality Test
 - Substantial Steps Test
- **Defences**
 - Withdrawal
 - Impossibility
- **Conclusion**

Charge

- **Charge – principal offence - theft s134 CLCA, attempt s270A CLCA**
- Penalty 2/3 maximum of principle offence (**s270A(3)(C)**):
 - 10 years - 6 years 8 months
 - 20 years – 13 years 3 months
 - 15 years – 10 years 0 months
 - Pleading discounts apply
- **S270A Wording:**
 - (1) A person who **attempts to commit an offence** (statute or common law) shall be guilty of attempting to commit that offence.
 - (2) Excludes attempt offences created by other statutory provisions
 - (3) Penalty:
 - (a) attempted murder or treason – life or lesser term
 - (b) Other life sentences other than murder or treason – 12 years
 - (c) all other offences are **two thirds of the maximum**
 - **Penalty impacts – summary, minor or major indictable**
- Burden of proof – DPP beyond reasonable doubt
- **R v Sumner and R v Fitzgerald [2013]** (aggravate and basic offences are different)

Voluntariness

- 'willed action' 'mind in control of the body' – **Ryan v R (1967)**
- Reflex action, duress, sleep walking, impaired consciousness or extreme intoxication/mental illness – **Ryan v R (1967) & Murray v R (2002)**
- Talk about complex movements e.g. talking, walking, drinking etc to show why not involuntary.
 - **R v Falconer (1990)** (evidentiary presumption) and **Police v Barber [2010]**