INTENTION, AGENCY AND CRIMINAL LIABILITY:

Philosophy of Action and the Criminal Law

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To HGM and VJM
view for which I have argued in the case of criminal attempts; and we should not assume that the answer will be the same in every case. We cannot, however, pursue these issues here.

8.5 Concluding Remarks

We have now discussed all four of the problem cases with which this book began. Mrs Hyam was rightly convicted of murder, though not for quite the reasons which any of the Law Lords offered; Caldwell was wrongly decided, though not merely because it did not make conscious risk-taking a necessary condition of recklessness; Morgan was wrongly decided, since it held that an unreasonable belief in the absence of risk must rebut a charge of recklessness; and Cawthorne was wrongly decided, since criminal attempts should be defined in terms of a direct intention to do harm.

These verdicts on these four cases have emerged from a discussion of the concepts of intention and recklessness, and their significance for criminal liability; and it is that discussion, rather than the conclusions about these cases to which it has led, which provides the main point of this book. I do not suppose that the arguments which I have offered will persuade everyone; nor indeed have I had the space to develop those arguments in such adequate depth and detail (or to circumscribe them with such cautions and qualifications) that I could claim that they ought to persuade everyone. But my aim has not been to provide definitive solutions to the problems which I have been discussing: it has rather been to provide a philosophical framework within which they can be better understood; to sketch some lines of thought which may help to resolve them; and, in doing so, to show how fruitfully philosophy can interact with jurisprudence.

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