INTENTION, AGENCY AND CRIMINAL LIABILITY:

Philosophy of Action and the Criminal Law

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Contents

To HGM and VJM

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Intention in Action – A Paradigm

3.1 *Preliminaries*

Two preliminary matters require discussion, before we can explain the ordinary concept of intention.

Species of Intention

I noted above (p. 33) the variety of uses of 'intention' and its cognates in ordinary language. We can clarify these by means of Hart's distinction between three 'aspects' of intention (H.L.A. Hart, 'Intention and punishment', pp. 117–18).

We talk, first, of *bare intentions* which have not yet been put into action: I intend to go to Glasgow tomorrow, but have as yet done nothing about it. We talk, secondly, of *intentional actions* – of doing something intentionally or with the intention of doing it: I buy a ticket to Glasgow intentionally, or intending to do so. And we talk, thirdly, of the *further intentions* with which an agent acts – of the ends towards which her present actions serve as means or preparation: I am going to Glasgow with the further intention of visiting my aunt.

Only two of these species of intention, intentional action and further intention, are directly relevant to the criminal law, which does not penalize bare intentions as such (though *Cunliffe v Goodman* (p. 17 above) concerned a bare intention to demolish a building). For criminal liability requires both *mens rea* and *actus reus*: though the maxim '*actus non facit reum nisi mens sit rea*' emphasizes the need for *mens* as well as *actus*, we can also say that '*mens non facit reum nisi actus sit reus*'; a guilty mind or intention cannot make a person guilty unless and until she begins to put that intention into action and commits the *actus reus* of an offence.

Some offences involve the actual completion of an intended or intentional action which constitutes the *actus reus* of the offence. I am guilty of wounding if I intentionally wound another person, and of criminal damage

if I intentionally damage her property: the criminal intention in these cases is directed towards the *actus reus* of the relevant offence; and the offence is commited only if that intention is carried out. But in other cases the agent's liability depends on his further intentions; and those intentions need not be carried out for the offence to be committed.

Theft is the dishonest appropriation of another's property, with the further intention of 'permanently depriving' her of it (Theft Act 1986, s. 1(1)); and I am guilty of theft even if the owner then regains her property. Burglary involves entering a building as a trespasser 'with intent to commit' one of several specified further offences (Theft Act 1986, s. 9); and I can be guilty of burglary even if I am prevented from committing any of those further offences. Carrying a stone in my pocket constitutes carrying an offensive weapon only if I carry it with the further intention of causing injury (Prevention of Crime Act 1953, s. 1); but I am guilty of that offence even if I do not in fact injure anyone. I am guilty of a criminal attempt only if I do 'an act which is more than merely preparatory to the commission' of a specified offence 'with intent to commit' that offence (Criminal Attempts Act 1981, s. 1): but I need not actually commit that offence to be guilty of attempting to commit it; indeed, I shall probably be charged with an attempt only if I *fail* to carry out that intention. Other offences of further intention include incitement (*S&H*, ch. 10.1); conspiracy (*S&H*, ch. 10.2); wounding 'with intent' to resist or prevent a lawful arrest (Offences against the Person act 1861, s. 18); having a firearm in my possession 'with intent by means thereof to endanger life ... whether any injury has been caused or not' (Firearms Act 1968, s. 16).

Offences of further intention differ from those that require only an intentional or intended action in that the former require an intention which 'extends beyond' the *actus reus* of the offence, while the latter require an intention which 'extends only to the *actus reus* of the offence' (*Jaggard v Dickinson*, p. 532). The *actus reus* of murder is the killing of a human being, and to commit murder I need intend only to kill a human being; the *actus reus* of wounding is causing a wound, and to commit the offence I need intend only to cause a wound (in neither case is intention as to the *actus reus necessary*, since an intention to injure seriously suffices for murder, and recklessness is sufficient *mens rea* for wounding: but intention as to the *actus reus* is *sufficient*). Such offences require only an intentional or intended action which fits the definition of the *actus reus* of the offence. The *mens rea* of theft, however, requires an intention to deprive someone permanently of her property; but the *actus reus* requires only a dishonest appropriation, not permanent deprivation. So too, to be guilty of a criminal attempt, I must intend to commit an offence: but the *actus reus* of an attempt requires only conduct which is 'more than merely preparatory to

the commission of the offence'. Such offences of further intention thus require an intention that 'extends beyond' the *actus reus* of the offence.

(This distinction between offences requiring only the intentional or intended commission of their *actus reus*, and those which require a further intention reaching beyond the *actus reus*, is one form of the often obscure distinction which courts have drawn between offences of 'basic' or 'general' intent and offences of 'ulterior' or 'specific' intent; the latter kind of offence typically requires not merely the intentional commission of the *actus reus*, but its commission with a specified further intention.[1] We should note, however, that murder is a crime of 'specific intent', according to *Moloney*, although it does not require an intention which reaches even as far as its *actus reus*; an intention to cause serious injury suffices: see pp. 80–2 below.)

Courts must thus sometimes determine whether a defendant intended to commit, or committed intentionally, an act which constituted the *actus reus* of an offence: was his action of killing, or of destroying property, intentional or intended? And they must sometimes determine whether he committed the *actus reus* with a certain further intention: was he carrying that stone with the intention of causing injury; did he enter this building with the intention of committing an offence? These two species of intention are, obviously, closely related: but we cannot assume in advance that the concept of intention must carry precisely the same meaning in both contexts. I will focus first on the notion of intended or intentional action, since this is, I will argue, the core of the concept of intention.

Acting under a Description

Any account of intended or intentional action must deal with the discretion which we typically have in describing a person's actions.

When we describe what someone did, we may choose what to include within our description of 'her action', and what to count instead as circumstances or consequences of her action. If I cause Pat's death by a gunshot, you could describe my action as 'moving my finger'; as 'pulling the trigger'; as 'firing the gun'; as 'shooting someone'; as 'killing Pat'; as 'earning £10,000 under a contract'. If you describe my action merely as 'moving my finger', the fact that my finger is on the trigger of a gun counts as a circumstance, and the firing of the gun and Pat's death as consequences, of that action: but given those circumstances and consequences of the action of 'moving my finger', you could instead include them within your description of my action itself, and describe my action as 'firing the gun' or 'killing Pat'.

1 See *Morgan*, pp. 216–17; *TCL*, pp. 466–73.

It might now be tempting to ask: which of the range of possible descriptions of what a person did picks out 'the action itself', as distinct from all its circumstances and consequences; what is it that I really *do* when I shoot Pat, and what are really circumstances or consequences, rather than part, of what I do? One popular answer is that what I really do in this case is move my finger: an action is, strictly speaking, nothing more than a bodily movement; the other elements which figure in our more extensive descriptions of actions are circumstances or consequences of our real or basic actions. 'Our primitive actions . . . mere movements of the body – these are all the actions there are. We never do more than move our bodies; the rest is up to nature' (D. Davidson, 'Agency', p. 59). This thesis has close affinities with juristic views on the nature of the *actus reus*: for many jurists claim that the *actus reus* typically involves a 'voluntary act' along with certain specified circumstances and consequences; and that a 'voluntary act' is, strictly speaking, a (willed) bodily movement.[2]

Both this question and this answer are, however, misguided: for they presuppose that actions are objectively individuated, in advance of our descriptions of them. To ask which is 'the action itself' is as absurd as to ask what 'the event itself' is when the roof of a house is damaged in a storm – is there just one event (the roof being damaged); or are there 'really' many events (each individual tile being damaged)? Actions and events are identified and individuated only by our descriptions of them: what someone does can be described in various ways, drawing different distinctions between 'the action' and its circumstances or consequences; and which of these possible descriptions we offer depends not on some objective truth about what 'the action' really is (since there is no such truth), but on our own interests (and on the vocabulary available to us). It is true that I move my finger, that I pull the trigger, that I fire the gun and that I shoot Pat: each description identifies an action, and classes other elements of what went on as circumstances or consequences of that action; and it is absurd to ask which description picks out 'the action itself', since there is no such thing.

There are, of course, often constraints on how we should describe what someone did, which make some descriptions more appropriate than others: it would be inappropriate or misleading to describe my action simply as 'moving my finger' or 'earning myself £10,000', since such descriptions omit a crucial aspect of what I did, that I killed Pat. But, first, what sets

2 See A.C. Danto, 'Basic actions'; L.H. Davis, *Theory of Action*, ch. 2; *Lynch*, pp. 689–90; *TCL*, pp. 147–8; *C&K*, pp. 86–7. For criticisms see J. Annas, 'How basic are basic actions?'; G.E. Anscombe, *Intention*, ss. 23–6.

these constraints is not an objective truth, independent of our interests, about what the action 'really' was, but the nature of our interest in the matter; Pat's killing should figure in the description of what I did because we see that as a significant aspect of what was done. And, second, even such constraints as these are unlikely to pick out just one description as *the* appropriate description of my action; we shall probably still have a range of possible descriptions, any of which would be appropriate.[3]

We distinguish an action from its circumstances and consequences in and by our description of it; these distinctions are not given to us, but are relative to the descriptions we provide. We can explain these (relative) distinctions in terms of the notion of the 'result' of an action. The *result* of an action is an outcome *entailed* by the description of the action, which must occur if the action is done: Pat's death is the result of my action of 'killing Pat', in that if I have killed her she must have died. A *consequence* of an action is an event distinct from, but *caused* by, the action as described: Pat's death is a consequence of my action of 'shooting Pat'; that I shoot her does not entail her death, but my shooting her causes her death. A *circumstance* of an action is an event or state of affairs distinct from, and not caused by, the action as described, which provides part of the context in which the action is done: Pat's being a policewoman is a circumstance of my action of 'shooting Pat' (but it is part of the result of my action of 'shooting a policewoman').[4]

An implication of these points is that we can never simply ask whether someone acted intentionally or 'with intent': we must always specify the action-description to which that question is related; and an agent might act intentionally under one description of her action, but not under others. I intentionally 'pull the trigger' but, not realizing that the gun is loaded, 'shoot Pat' unintentionally; I intentionally 'drink the wine' but, not knowing that it is poisoned, 'drink poison' unintentionally. That I act intentionally under one description of my action does not entail that I act intentionally under other descriptions which in fact apply to it; and the excuses by which I hope to avert blame for what I in fact did often involve admitting that I acted intentionally under some description, but denying that I acted intentionally under the description which would attract blame. I admit that I rang the doorbell intentionally – but that action is not in itself culpable; I deny that I woke your baby intentionally (I did not know

3 See G.E. Anscombe, *Intention*, ss. 23–6; E. D'Arcy, *Human Acts*, ch. 1; J. Feinberg, 'Action and responsibility' pp. 106–7.

4 See J. Annas, 'How basic are basic actions?', p. 199; A.J. Kenny, 'Intention and purpose in law', pp. 150–1.

that she was asleep) – but that is the action for which you would be blaming me.

This point was involved in *Morgan*. If 'the prohibited act in rape is non-consensual sexual intercourse', and the *mens rea* 'an intention to commit' that 'prohibited act' (p. 214, Lord Hailsham), the trial judge was right to insist that

> the prosecution have to prove that each defendant intended to have sexual intercourse with this woman without her consent. Not merely that he intended to have intercourse with her but that he intended to have intercourse without her consent. Therefore if the defendant believed ... that Mrs Morgan consented to him having sexual intercourse with her, then there would be no such intent in his mind. (p. 187)

What must be proved is not just that he intended 'to have intercourse with Mrs Morgan' and that she did not consent, but that he intended 'to have intercourse with Mrs Morgan without her consent'; and from the fact that the woman with whom I intend to have intercourse does not consent it does not follow that I intend 'to have intercourse without her consent': for if I believe (as the *Morgan* defendants claimed to believe) that she does consent, I do not have that latter intention (see A.J. Kenny, *Freewill and Responsibility*, pp. 59–60).

When we ask what it is to act intentionally or 'with intent', we must thus ask what it is to act intentionally or with intent under a specified action-description; what it is to act intentionally as to, or to intend, a specified result (in the sense defined above).

In this chapter I shall discuss various accounts of what it is to *intend* an action under a particular description (to act with the intention of bringing about the result of that action). I shall focus initially on *intended* action (intending a result), rather than on *intentional* action (bringing a result about intentionally), since these notions are distinct: intended agency reveals the core meaning of the concept of intention; the idea of intentional agency involves an extension of that core notion. The ideas of bare intention and further intention can also be best explained in terms of this central idea of action with the intention of bringing about (intending to bring about) the result specified in the description of the action.

It will be convenient to relate the discussion to a particular example. Mrs Hyam 'set fire to Mrs Booth's house': she intended her action under that description; her intention in acting as she did was to bring about the result of the action as thus described (that the house caught fire). But which features of the situation made it true that she intended to bring that result about; what are the criteria or conditions in virtue of which we can properly say that that was the action or result which she intended? In what follows I shall talk about the criteria for saying that 'she acted with the

intention of bringing about that result' (that the house caught fire); to say that she intended her action under the description 'setting fire to the house' is just to say that she acted with the intention of bringing about the result of the action as thus described.[5]

3.2 *Intention, Bare Intention and Decision*

She acted with the intention of bringing about that result if she had decided, or formed a prior intention, to bring it about.

This account explains intended action in terms of bare intention: an intended action is one that is preceded (and caused) by a prior process of deliberation and decision, producing a bare intention to act. Lord Asquith's definition of 'intention' in *Cunliffe v Goodman* suggests such a view; so does Lord Morris's argument in *Lynch*, that one who acts under duress acts intentionally because there is 'a moment of time' before he acts 'within which he decides whether or not he will submit to a threat', and a (possibly subconscious) 'process of balancing the consequences of disobedience against the gravity or wickedness of the action that is required' (see pp. 17, 19 above).

This is a tempting suggestion, since there is surely *some* close relationship between intention and decision. It also fits happily with the view that intentions are mental occurrences: a decision is surely a datable mental occurrence which marks or constitutes the formation of a bare intention to act (to try to bring about the result of the specified action). We can thus give the intention a firm location in the agent's mental life. There are, however, two powerful objections to such an account of intended action.[6]

First, there was no doubt a time at which Mrs Hyam deliberated about

5 See generally G.E. Anscombe, *Intention*; J.L. Austin, 'A plea for excuses'; L.H. Davis, *Theory of Action*, ch. 4; A.I. Goldman, *A Theory of Human Action*, chs 3–4; H. Gross, *A Theory of Criminal Justice*, ch. 1.I–II; H.L.A. Hart, 'Intention and punishment'; P.L. Heath, 'Intentions'; A.J. Kenny, 'Intention and purpose in law', *Will, Freedom and Power*, ch. IV, *Freewill and Responsibility*, ch. 3; J.W. Meiland, *The Nature of Intention; A.I. Melden, Free Action*, chs IX–XII; J.A. Passmore, 'Intentions'; A.R. White, *Grounds of Liability*, ch. 6; and n. 1 to ch. 2 above.

6 See S. Hampshire and H.L.A. Hart, 'Decision, intention, and certainty'; A.I. Melden, *Free Action*, ch. IX, pp. 202–4; G. Ryle, *The Concept of Mind*, ch. III; A.R. White, *Grounds of Liability*, pp. 69–71; L. Wittgenstein, *Philosophical Investigations*, paras 588–95.

what to do, decided to frighten Mrs Booth into leaving town by setting fire to her house, and formed a conscious intention to set fire to the house. But many intended actions are surely *not* preceded by such a process of deliberation, decision and intention-formation. The old man beside me drops his shopping and I pick it up for him. I am unaware of any process of deliberation or decision before I act; I just see what has happened and act: but my action is intended; I act with the intention of picking up his shopping for him. Thus we cannot define intended action as action that is preceded by the formation of a bare intention: since that is not a feature of *every* intended action, it is not a *defining* feature of intended action.

It will not help to say (with Lord Morris) that if there is no *conscious* process of decision or intention-formation the process must be *subconscious* (see M.S. Moore, *Law and Psychiatry*, p. 14). For our task is to understand the concept of intended action. To do that we need to identify the *criteria* of intended action – the features by reference to which we can determine that an action was intended: but the claim that there was a subconscious process of deliberation and decision must itself be an inference from the (already known) fact that the action was intended. We do not first discover that there was such a prior subconscious process, and thence infer that the action was intended. Rather, we suppose that there 'must' have been such a prior process because we already see that the action was intended: but we must then have criteria other than the occurrence of such a process by which we can discover that the action was intended; and it is these criteria that concern us now. The claim that all intended actions are preceded by a (conscious or subconscious) process of deliberation and decision is, at best, a claim about the supposed causal antecedents of intended actions, or about their psychological mechanisms, not about the criteria by which we can determine whether an action was intended.

We may say of one who acts in the face of alternatives that she has made a decision: 'I see you decided to have haggis rather than fish,' I say to Pat as I see her leaving the counter with haggis on her tray. Even this does not imply that *every* intended action is one which the agent decides to do, since we talk of 'deciding' only when the agent faces genuine alternatives. Knowing that Pat likes both haggis and fish, and must thus choose between them when both are on the menu, I naturally talk of her deciding to have haggis; likewise Mr Lynch faced a real choice between obeying and disobeying those who threatened him. But we would not say that I *decide* to leave a burning house, though that action is certainly intended: for that would imply that I face a genuine choice between staying (and being killed) and leaving – that there are reasons in favour of each course of action, between which I must thus decide; but that would (usually) be absurd.

Furthermore, even when we do talk of decision as being involved in intended action, we are not necessarily talking of some (conscious or subconscious) *process* of deciding which precedes the action; if I say that Pat decides to have haggis, I need not be supposing that her action of picking up the haggis is preceded by any such process. We must guard against the temptation of supposing that verbs such as 'decide' and 'intend' must refer to mental acts or states which are separate from the actions which we decide or intend to do; that when I decide to act there must be two occurrences, the decision and the action. Such verbs often rather function as adverbial qualifiers of the action-verb itself, not as descriptions of some process distinct from the action: to say that Pat decided to have haggis is not to posit a prior mental process of deciding, but to characterize her *action* of taking the haggis as one that was deliberate rather than unintentional or inadvertent.

But yet, it may be said, the paradigm case of an intended action surely is that in which the action *is* preceded by a conscious process of deliberation, decision and intention-formation; and in these cases the action is identified as intended by reference to the decision or bare intention which precedes it. We do admittedly count actions as intended in the absence of any such conscious antecedent process: but we can do this only because we can suppose, given their resemblance to the paradigm cases, that there must have been a subconscious prior process of decision and intention-formation.

This response, however, provokes a second objection to the claim that intended action is action preceded by a bare intention.

If such prior decisions or bare intentions are to be the *criteria* of intended action, the features by reference to which we identify an action as intended, we must be able to recognize them *as* decisions or intentions independently of the intended actions which they are to identify as such: we must *first* be able to identify the occurrence of a decision or bare intention, and *thence* infer that the action which it precedes is an intended one. But is this possible? Many thoughts about a possible action, about its likely effects, about how to do it, might pass through my mind before I act: where among these do we find the decision or intention? They may not include an explicit thought (perhaps of the form 'I will do X') which could be or express my decision; and even if I had such a thought, what makes it (the expression of) a decision or intention – rather than, for instance, an idle thought about that action? We must realize that there are no *intrinsic* features of thoughts or other mental occurrences which identify them as decisions or intentions: but there would need to be such features if the occurrence of a prior decision or bare intention was to be the criterion of an action's being intended.

This is not to deny that we often decide and intend to act before we act; or that I can know before I act what I intend or have decided to do. It is to suggest that we should not see decisions and intentions as mental occurrences which can be identified as such independently of the actions towards which they are directed; we should explain the concepts of decision and bare intention in terms of that of intended action, not vice versa. A comment of Wittgenstein's is relevant here:

> [I]t is easy to get into that dead-end in philosophy, where one believes that the difficulty of the task consists in our having to describe phenomena that are hard to get hold of, the present experience that slips quickly by, or something of the kind. (*Philosophical Investigations*, para. 436)

Decisions and intentions are, we suppose, mental occurrences; when we find that we cannot readily describe or identify them, we think that they are (must be) still there, if only we could 'get hold' of them: but, Wittgenstein suggests, this belief reflects a misunderstanding of these concepts. I shall suggest another way of understanding them later; for the time being we should abandon the attempt to explain intended action in terms of prior decision or bare intention, and look to the action itself rather than to its supposed antecedents.

3.3 *Intention and Reasons for Action*

She acted with the intention of bringing about that result if that result formed part of her reason for acting as she did.

We can better understand intended action by noting the connection between intention and acting for a reason. Intended actions are those which are done for reasons; those of which we can ask, 'Why did you do that?', and expect an answer which specifies the agent's reasons for doing that.[7] 'Why did Mrs Hyam set fire to the house?' 'In order to frighten Mrs Booth into leaving town'. This reply gives her reason for doing that action; and in thus explaining her action as one that was done for a reason we explain it, and identify it, as an intended action.

An agent's intentions in action are her reasons for action. To say that she intended to bring about a particular result is to say that that result formed at least part of her reason for acting as she did: Mrs Hyam intended to set

7 See G.E. Anscombe, *Intention*, ss. 5–26; L.H. Davis, *Theory of Action*, ch. 5; A.I. Melden, *Free Action*, pp. 160–7; C. Taylor, *The Explanation of Behaviour*, ch. II.

fire to the house in that that result (the house catching fire) formed at least part of her reason for pouring petrol through the letterbox and setting fire to it. And to specify the further intention with which an action was done is to specify the further reasons for which it was done: to say that Mrs Hyam set fire to the house with the further intention of frightening Mrs Booth into leaving town is to say that her reason for setting fire to the house was to frighten Mrs Booth into leaving town.

An agent's reasons for action thus determine which descriptions are descriptions of her intended action: they identify the results which she acts with the intention of bringing about, and her intended action is properly described in terms of those results – she intends her actions under descriptions which refer to those results. What Mrs Hyam did fitted both the description 'setting fire to the house' and the description 'making work for the fire brigade': what makes the former description, but not the latter, appropriate as a description of her intended action is its relation to her reasons for action. For that description relates her action to the further reasons for which it was done (her reason for acting as she did was to frighten Mrs Booth; what that gave her reason to do, as a means to that end, was 'set fire to the house'): it thus specifies the result which provided her immediate reason for acting as she did (for setting light to the petrol which she poured through the letterbox) – the result, that is, which she acted with the immediate intention of bringing about; and it is in terms of that result that her intended action should be described.

This relation between reasons for action and action-descriptions explains why we can ask an agent's reasons for action by asking 'What are you doing?' instead of 'Why are you doing that?' (by asking for a suitable description of his action); and why he can give his reasons for action by providing an appropriate description of his action. We could ask Mrs Hyam either 'Why are you setting light to the petrol?', or 'What are you doing?'; and she could answer either question by saying 'I'm setting fire to the house' – by giving a description of her action which specifies the intended result that provides her immediate reason for action. We often explain intended actions by describing them in ways that specify the reasons for which, and thus the intentions with which, they are done.

But to say that an agent's intentions in action are his reasons for action is as yet unhelpful, since we have yet to explain what it is to act for a reason. Before embarking on that task, however, four preliminary points should be noted.

First, not all answers to 'Why did you do that?' show the action to have been intended by giving the agent's reason for doing it. 'Why did you squash my cake?' 'Because I didn't see it on the chair as I sat down,' I

reply; or 'Because Jane pushed me and I fell onto it.' Such answers explain why I squashed your cake, but do not explain my action as an intended action of 'squashing your cake'. They do not give *my reasons* for 'squashing your cake', but rather deny that my intentional action is properly described as 'squashing your cake': the first claims that I squashed your cake unintentionally, the second that I squashed it involuntarily.

What distinguishes reason-giving answers to this 'Why?' question from others is, in part, that reasons *justify* an action by specifying its 'desirability-characteristics' – the features which make it worth doing (G.E. Anscombe, *Intention*, s. 37). To act for a reason is to act for the sake of some good: I give my reasons for action by specifying that good, and intend my actions under descriptions which refer to that good. We describe Mrs Hyam's intended action as 'setting fire to the house' because that description specifies the result (the house catching fire) which made the action, in her eyes, desirable.

An agent's reasons for action may not, of course, show the action to be either right or fully rational. You put poison in Pat's tea for a reason, to kill her: but your action is utterly wrong. You drive so fast for a reason, to get to the pub before your friends: but it is both immoral and imprudent to drive so fast. In each case you act for a reason: but your reason is a bad or inadequate one for acting thus. Indeed, the agent himself might see that his reasons for action are bad ones. Weakness of will involves doing what I see to be irrational or wrong. But weak-willed actions are intended, and done for reasons: my reason for lying in bed when I know I should be writing my lecture is that the bed is comfortable and lecture-writing is hard work.

But reasons do stand in a justificatory relation to the actions which they explain. For, first, they must portray the action as being in *some* way intelligibly desirable: to say that my reason for killing Pat was that $2 + 2 = 4$ makes no sense as it stands; it fails to explain that action, since we cannot see how that mathematical truth could by itself make that action seem in any way desirable. So too, what makes staying in bed intelligible as a weak-willed action is that it has an obvious 'desirability-characteristic', even though its other features make it on balance undesirable. And, second, in explaining my reasons for action I relate my action to justificatory standards by which it must be judged: you may object that my reasons were not good reasons for acting as I did; and I must then either meet that criticism, or admit that my action was wrong or irrational. Reasons for action thus *purport* to justify the action, though they might not actually justify it. (Weakness of will, we might add, is such a paradoxical phenomenon – so paradoxical that some would deny its existence, and insist that no one can deliberately do what he believes to be irrational or wrong –

just because it involves acting for what the agent himself regards as inadequate reasons which do not adequately justify his action.)[8]

Second, we should note the diversity of reasons for action. Some refer to further consequences which the action is intended to bring about: Mrs Hyam set light to the petrol which she poured through the letterbox in order to set fire to the house; the house catching fire was the consequence which she intended to bring about by setting light to the petrol. She set fire to the house in order to frighten Mrs Booth; Mrs Booth being frightened was the consequence which she intended to bring about by setting fire to her house.

But not all reasons for action refer to further consequences of the action; some refer to the action's intrinsic features, or to its context. My reason for giving Pat £10 is to pay my debt to her: but the payment of the debt is not a *consequence* of my giving her £10 (as Mrs Booth being frightened was a consequence of Mrs Hyam's setting fire to her house); in the context of that debt giving her £10 *constitutes* paying my debt to her. I listen to Bach because I enjoy (in order to enjoy) his music: but my enjoyment is an aspect of the listening itself, not a consequence of it. Mr Caldwell set fire to the hotel in order to take revenge on its owner: but his revenge was not a consequence of setting fire to the hotel; given the context of that action (his belief that the owner had wronged him, his anger at that wrong) setting fire to the hotel constituted taking his revenge.

Third, when asked, 'Why did you do that?', I might reply, 'For no (particular) reason'. That reply does not portray the action as one which I did not intend to do, and this might seem to undermine the claim that intended actions are actions which are done for reasons: but it does not do so.

That reply sometimes means that I had no reason to prefer this particular action to another which would achieve the same end. 'Why did you take this route home?' 'For no reason.' I intended to 'take this route home', and took it for a reason – that it would get me home quickly: but I had no reason to prefer *this* route to another route which gets me home just as quickly; I chose this route arbitrarily, 'for no particular reason'.

In other cases the reply means, not that I arbitrarily chose one of several equally attractive alternatives, but that I had no *further* reason for my action. 'Why did you eat that sweet?' 'For no reason; I just felt like it.' 'Eating that sweet' already provides a complete specification of my reason for action: I had no further reason for eating it; I just felt like eating one.

8 On weakness of will, see the papers collected in G. Mortimore (ed.), *Weakness of Will*; D. Davidson, 'How is weakness of the will possible?'.

'For no particular reason' thus does not deny that I acted for a reason; it rather makes clear the nature and scope of the reasons for which I acted. It also suggests that I did not *need* further reasons for acting thus (for taking this route rather than that, for eating a sweet); that the action which I am explaining was an unimportant or trivial one. That is why 'for no particular reason' may be *morally* unacceptable as an explanation of an action. If I assault Pat 'for no particular reason', because I 'just felt like it', I shall rightly be condemned: not just for assaulting her, but for regarding assault as such a trivial matter that I do not need any particular or further reason for assaulting someone.

Fourth, the suggestion with which this section began was that an agent intends a result if that result forms 'part of' his reason for acting as he does. The point of this qualification is that we often act with the intention of bringing about several results (we intend our actions under several different descriptions); and each result then forms part, not the whole, of our reason for acting as we do. I take a train to London partly in order to get to London and partly because I enjoy train journeys. I intend to get to London – to bring about the result of my action of 'going to London': that result forms part of my reason for what I do (for buying a ticket and boarding the train); but it is not the whole of my reason for acting thus, since I would go by plane rather that train if I did not also want to take a train journey. I also intend to take a train journey – to bring about the result of my action of 'taking a train journey': that result also forms part of my reason for what I do; but it is not the whole of my reason for acting thus, since I would not take the train journey if I did not also want to get to London.

We could in this case so describe my action that its result does form my whole (immediate) reason for action: I intend 'to travel by train to London'. But to do this in other cases would require us to provide intolerably long and complicated descriptions, since we often act for very complex sets of reasons; and it is anyway unnecessary, since we can instead simply bear in mind that a description under which an action is intended might specify a result which forms part, rather than the whole, of the agent's reason for acting as he does.

Intended actions are actions done for reasons; an agent's reasons for acting as she does are her intentions in acting as she does. Our task now is to explain what it is to act for a reason; which requires us to explain both what it is to *have* a reason for action, and what it is to act for that reason – for I can have a reason for action but not act, or not act for that reason. We can best pursue this task by developing a more precise account of what it is to act with the intention of bringing about a specified result.

3.4 *Intention and Desire I*

She acted with the intention of bringing about that result if she wanted that result.

This matches the 1985 Draft Code's definition of 'purpose' (cl. 22(a)), and the strand of legal thought which holds that desire is at least a sufficient condition of intention – that an agent certainly intends results which she wants or desires, even if she must also be taken to intend some results which she does not want. (I shall follow common practice and treat 'want' and 'desire' as synonymous in this context.) Its plausibility lies in the fact that we often specify something which we want as our reason for action. Mrs Hyam wanted to set fire to Mrs Booth's house: that desired result formed her reason for acting as she did, and was the object of her intention in acting as she did. Reasons for action, we noted above, show the action to be in some way desirable; and this suggestion can claim to capture that central feature of reasons for action by showing that what I intend (what provides my reason for action) is something that I want.[9]

But, first, desire is not a *sufficient* condition of intention: it does not follow from the fact that I desire a result of my action that I act with the intention of bringing that result about, if only because I might not realize that my action will have that result. As I take my afternoon walk, I am thinking how much I want to meet Pat; and I do meet her, since she happens to be walking on the same path as me. My action of walking on this path has produced a consequence (meeting Pat) which I want; it fits a description ('meeting Pat') specifying a result which I want: but if I did not realize that she might be walking on this path, I did not walk this way with the intention of meeting her, or intend my action under the description 'meeting Pat'; since I did not realize that my action might have that result, it was indeed *unintentional* under that description.

Is desire even a *necessary* condition of intention: must I want whatever I intend to bring about; or can I act with the intention of bringing about a particular result without wanting it?

Certainly, we often describe our reasons for action (and thus our intentions in action) in terms of what we want. My reason for running down the road is that I want to catch the train; my reason for going to the pub is that I want to meet my friends. Often my desire for an expected outcome of my

9 See R. Audi, 'Intending'; A.I. Goldman, *A Theory of Human Action*, chs 3–4; A.K.W. Halpin, 'Good intentions'; A.R. White, *Grounds of Liability*, pp. 76–82; G. Williams, 'Oblique intention', pp. 417–8.

action provides my reason for doing it; I act with the intention of bringing about the outcome which I want. This suggests that desire is at least a necessary condition of intention; that I necessarily want any result which I act with the intention of bringing about. On the other hand, however, we also quite commonly *contrast* what we intend with what we want, and deny that we want to do what we certainly intend to do, or that we want a result which we certainly intend to bring about.

I do not want to give Pat the money, I tell you, but I have got to give it to her: because I owe it to her; or because it is the only way to persuade her to give me the information which I need. Mr Lynch acted under duress 'unwillingly yet intentionally' (*Lynch*, p. 670, Lord Morris): he did not 'want' to do what he intended to do (to drive the IRA men to find their victim), but 'had' to do it to save his life. Mr Moloney allegedly said after the shooting, 'I didn't want to kill him. It was kill or be killed' (*Moloney*, p. 915); which would be to claim that he intended to kill him, reluctantly and unwillingly, in self-defence. In such cases we 'must' do something which we do not 'want' to do: as a matter of duty (I pay a debt, or visit a trying aunt); as the least of the available evils (I kill in self-defence); as a necessary but unpleasant means to a valued end (I undergo a painful operation to avoid greater future suffering). But we clearly intend to do what we do thus reluctantly and unwillingly.

So shall we say that I can intend what I do not want: do claims that intention is 'quite distinct' from desire (*Moloney*, p. 915, Lord Bridge), or that an agent can intend to bring something about 'no matter whether [he] desired that consequence of his act or not' (*Mohan*, p. 11), simply aim to remind us of the contexts in which we would quite naturally say that we intend to do something which we do not want to do?

But we can also argue that I do always (necessarily) want what I intend. My duty to pay my debt to Pat conflicts with other desires of mine – to keep the money for myself: if I nevertheless do my duty and pay my debt we can surely say that I want to do my duty, and that the desire to do my duty is stronger than the other desires with which it conflicts. If I act under duress, what I must do conflicts with other desires of mine (not to act as chauffeur to the IRA): but my desire for my own survival outweighs these other desires; on balance, I want to do this rather than be killed. More generally, what I must do to attain a desired end may conflict with other desires of mine: but I will do what I must do if and because my desire for the end outweighs those other desires; and if I want the end enough to pursue it even by these, in themselves, undesirable means, I want these means *as* means to that end. Intention, as Lord Hailsham insisted, encompasses 'the means as well as the end' (*Hyam*, p. 74); so too, we can now say, do the agent's desires or wants.

This accords with a quite familiar use of 'want', in which we can describe whatever we intend to do as what we want to do. If you ask me why I am writing a cheque, I might reply that I want to give Pat £10; and the fact that I am giving it to her reluctantly, as a debt which I 'must' pay, does not falsify my reply. If you ask me what I want to do today, my reply that I want to go to the dentist is not falsified by the fact that I visit the dentist reluctantly: it is true both that (in one sense) I do not want to visit the dentist, and that (in another sense) I do want to visit her, to cure my toothache.

These different uses of 'want' and 'desire', in one of which I do want whatever I intend, while in the other I may intend what I do not want, can be explained by distinguishing 'intrinsic' from 'extrinsic' desires or wants (see R. Audi, 'Intending'). A desire to stay alive or free from pain is usually an intrinsic desire: I want these things in and for themselves, not for any further reason. But my desire to have a painful operation is an extrinsic desire: I want the operation, not for itself, but solely as a means to curing my illness. Mr Lynch had an extrinsic desire to assist the IRA, as a necessary means to what he intrinsically desired – his own survival. To describe my intended action simply as 'undergoing a painful operation' fails to specify the action's 'desirability-characteristic' – the feature because of which I want and intend to do it: but a fuller description of the action, as 'getting cured by undergoing a painful operation', does specify the result which I want, and intend, to bring about; what I want thus includes 'undergoing a painful operation'.

To say that intention involves desire is to say that to intend a result involves having either an intrinsic or an extrinsic desire for it: all reasons for action, all intentions, depend ultimately on an intrinsic desire for some end; but my immediate intentions may be structured by extrinsic rather than intrinsic desires.

Perhaps then we should simply recognize that 'want' has different uses in ordinary language; and that in one of these uses, but not the other, it is true that I want whatever I intend – that wanting is a necessary condition of intention. To avoid confusion, we would then need to make clear that in defining intention in terms of the agent's wants we are using 'want' in its wider sense; or we could introduce a new technical term and claim that intentions and reasons for action always involve, for instance, a 'pro-attitude' towards the result of the action which I intend or have reason to do (D. Davidson, 'Actions, reasons and causes').

I shall have more to say later about the role of wants or desires in intention. Let us, for the moment, accept that intention does always involve desire in the sense specified here; and go on to ask how we can

revise the suggestion that an agent intends a result if she wants it so that it comes to specify a sufficient, as well as a necessary, condition of intention.

3.5 *Intention, Desire and Belief I*

She acted with the intention of bringing about that result if she wanted that result and believed that her action might have that result.

This is a familiar philosophical account of what it is to have a reason for action: an agent's 'primary', or immediate, reason for an action involves a desire for the result of that action, and a belief that the action might have that result (might fit a description which specifies that result).[10]

Of course, in actually giving someone's reasons for action we may mention only a desire or only a belief. Mrs Hyam set light to the petrol, we might say, because she wanted to set fire to the house; or set fire to the house because she believed that this would frighten Mrs Booth. But such descriptions of an agent's reasons for action are incomplete and are acceptable only because the hearer can complete them for himself by identifying the relevant belief or desire: a full description of Mrs Hyam's reasons for her actions would add that she believed that setting light to the paper would set fire to the house; or that she wanted to frighten Mrs Booth.

Given the relation between reasons for action and intentions, can we therefore say that this is now an adequate account of what it is to act with the intention of bringing about a specified result? The addition of the 'belief' condition meets my objection to the previous suggestion: I do not take my walk with the intention of meeting Pat if I have no idea that I might meet her; but if we add to my desire to meet her the belief that taking this walk might lead to a meeting with her, why should we not say that that is what I intend?

The belief condition does not imply that the agent must know, or be certain, or even think it probable, that her action will have the desired result. Her action may fail (the house might not catch fire), in which case she did not *know* that it would have the desired result (I cannot know what is false): but she still acted with the intention of setting fire to the house. Or she may think that it will probably fail: I fire at a distant target, believing that I shall probably miss it: but I fire with the intention of hitting it.

10 See especially D. Davidson, 'Actions, reasons and causes'; A.J. Kenny, 'Intention and purpose in law', *Will, Freedom and Power*, ch. IV.

But I must believe that there is *some* chance that my action will have the desired result if I am to count as intending that result. If I am *sure* that the target is out of range, I may still fire towards it (to prove to you that it is out of range; to vent my frustration at being unable to hit it): but I cannot now fire with the intention of hitting it; even if I am proved wrong and my shot hits the target, I have not hit it intentionally or with intent.

What matters, however, is whether I *believe* that my action might have the desired result, not whether 'in point of possibility' I *in fact* have 'a reasonable prospect' of bringing it about (*Cunliffe v Goodman*, p. 253, Lord Asquith). I can intend to do what is in fact impossible, if I believe it to be possible – to shoot Pat with a gun which is actually unloaded, if I believe it to be loaded; but I cannot intend to do what I believe to be impossible, even if it is in fact possible – to hit a target which I believe to be out of range, even if my belief is false and my shot does hit the target (I can intend to *try* to hit the target, to prove to you that it is out of range; but I cannot intend to hit it).

Nor can I intend to bring about a result, though I may hope and try to do so, if I realize that its occurrence depends on too many factors beyond my control. I intend to give up smoking, though I know from bitter experience that I shall probably fail yet again; for my success or failure will, I suppose, depend primarily on how hard I try. But X cannot intend to bring about a result whose occurrence,

> though it may not be wholly uninfluenced by X's will, is dependent on so many other influences, accidents and cross-currents of circumstance that, not merely is it quite likely not to be achieved at all, but, if it is achieved, X's volition will have been no more than a minor agency collaborating with, or not thwarted by, the factors which predominantly determine its occurrence. (*Cunliffe v Goodman*, p. 253, Lord Asquith)

In *Cunliffe v Goodman* the 'other influences' consisted in the actions of other people – the decisions of planning committees: the landlord might have had the *conditional* intention to demolish her building *if* she could obtain the appropriate licences;[11] but before she obtained the licences she could not be said to intend, though she might hope, to demolish the building.

The same point applies when success depends on *non-human* factors beyond the agent's control. Being unskilled at darts, I cannot intend to throw a triple twenty: there is nothing I can do, in throwing my dart, which would count as aiming at the triple twenty as distinct from aiming

11 On 'conditional' intentions, see J.W. Meiland, *The Nature of Intention*, ch. 2; also *Gordon*, ch. 14.66; *C&K*, pp. 365–7.

roughly at the top part of the board. The most I can do is throw my dart and hope that it will land there: if it does land there it is a matter of luck rather than skill; I would be dishonest or joking if I said that it had landed just where I intended. But a skilled player can intend to throw a triple twenty: she can aim her dart at that precise slot; she can take credit for her skill if it lands where she intends, whereas I can only thank my luck if my dart lands where I hope it will. The difference between us, such that she can and I cannot intend to throw a triple twenty, is not merely that she believes herself to have a greater chance of success: it is that her greater skill (which, of course, increases her chance of success) gives her greater control over the factors, such as the precise angle and force of her throw, which determine the dart's destination; whereas the destination of my dart depends on too many 'influences, accidents and cross-currents of circumstance' over which I have little or no control. A dice-player likewise cannot intend to throw a double six (unless he believes that the dice are loaded), since the precise fall of the dice depends on factors that he does not control; the most he can do is intend to throw the dice and hope for a double six.

Can we now say that I act with the intention of bringing about a result if I 'want' that result and believe that my action might have that result? We cannot: for I may do what I believe will bring about a desired result, but not with the intention of bringing it about. I know that Pat will be hurt by the fail grade I give to her essay; and I want her to be hurt (she has annoyed me all term): but, I insist, my intention in (my reason for) giving her this grade is not to hurt her, but just to do my job by giving her essay the grade it deserves. Her suffering is a foreseen and, I admit, welcome side-effect of my action: but I do not act with the intention of hurting her. My claim might be dishonest: perhaps a desire to hurt her did play *some* part in my action. But the fact that there is even room for doubt here, that my claim *could* be true, shows that this account of intention is untenable: for on this account, to admit my desire to hurt Pat, and my belief that my action will hurt her, is already to admit that I act with the intention of hurting her.

We could express this objection by saying that we may now have an account of what it is to *have a reason for action*, but not of what it is to *act for that reason*. My belief that an action will bring about a result which I desire may give me a reason to do that action: but I might not do that action at all (I want to hurt Pat, and believe that she would be hurt if I damaged her car; but I do not damage her car, since that would be wrong); or, as we have just seen, I might do that action, but not with the intention of bringing about that result (for the reason that it will have that result). If we are to explain what it is to act with the intention of bringing about a

specified result, we must explain what it is for that result to form, not just *a* reason for acting as I do, but part of *my* reason for acting as I do; and we have not yet done this. (Later, I shall also discuss objections to the suggestion that my desire for what I believe might be the result of a possible action always gives me even *a* reason to do that action.)

3.6 *Intention, Desire and Belief II*

She acted with the intention of bringing about that result if she acted as she did because *she wanted that result and believed that her action might have that result.*

To have a reason for an action is to want what I believe will or might be the result of that action; to act for that reason, with the intention of bringing about that result, is to act as I do because of that desire and that belief. This connection between the desire and belief which form a reason for action, and the action itself, turns *a* reason for action into *my* reason for action; I act *in order to* bring about the result which I want (see *1989 Code*, cl. 18(b)).

This explains what it is for a result to be the purpose or aim, rather than just a foreseen and possibly welcome side-effect, of my action. If I give Pat a fail grade because I want to hurt her and believe that this will hurt her, my purpose in giving her that grade is to hurt her: but if I give her that grade simply because that is the grade her essay deserves, her being hurt is merely a foreseen (though welcome) side-effect of my action. We must remember, however, that I act with the intention of bringing about not only my final objective or aim, but also the means by which it is to be achieved: Mrs Hyam's objective was to frighten Mrs Booth into leaving town; but she wanted, and intended, to set fire to her house, as a means to that end.

What does 'because' mean here? Some would interpret it *causally*: I act for a specified reason if my action is caused by the desire and belief in which that reason consists. This suggestion would involve us in the persisting philosophical controversy over whether the relationship between reasons and actions should be portrayed as a causal one.[12] For our present purposes, however, we can avoid that controversy by reading 'because' in a way which is compatible with, but does not require, a causal interpretation.

12 See D. Davidson, 'Actions, reasons and causes'; L.H. Davis, *Theory of Action*, ch. 5; A.I. Melden, *Free Action*, chs VIII–XIII.

An agent acts as he does because he wants what he believes will or might be a result of his action if, and only if,

(1) he would not act thus if he did not have that desire and that belief; and
(2) if he believed that some other possible action would achieve the desired result much more efficiently, he would do that action instead.

Intended actions are sensitive to the agent's reasons for action: if Mrs Hyam had not wanted the house to catch fire, or had not believed that what she did would have that result, she would not have acted as she did; and had she seen a much better way of achieving that result, she would have done that instead. Had she not wanted to frighten Mrs Booth into leaving town, and believed that setting fire to her house might achieve this, she would not have set fire to the house; and had she seen a much better way of achieving that end, she would have done that instead.

This account of what it is to act with the intention of bringing a result about may seem too strict. Condition (1) does not allow for *over-determined* actions. I return a lost wallet to its owner with the intention of getting the reward which I believe he will pay: but even if I find out that there is no reward (that my action will not have that desired outcome), I still return the wallet; for I see returning property to its owner as a good enough reason to return the wallet, even without any reward. Condition (2) does not allow for cases in which the alternative, more effective action is ruled out for other reasons: I intend to kill Pat by shooting her from a range of 200 yards; I know that I would have more chance of hitting her if I fired at closer range; but I do not do that because it would unacceptably increase my chances of being caught.

But this account is on the right lines: for we would ask for some explanation if the agent still acted without the desire or the belief which she cited as her reason for action ('Why did you still return the wallet when you discovered that there was no reward?'), or if she did not adopt a more efficient method of satisfying her cited desire ('Why did you not move closer to shoot Pat?'); and to sustain the claim that she acted with the intention of bringing about the result in question, that explanation would need to provide a fuller account of her reasons for (her intentions in) acting as she did. Thus in the first example I would explain that what I want is not just to get the reward, but to get the reward *or* to return lost property to its owner. I have two desires, each of which provides a sufficient reason for doing what will satisfy it; and I would not act as I do if I did not believe that my action would satisfy at least one of them. In the second example I would explain that what I want is not just to kill Pat, but to kill her and not to be caught. These two desires provide individually necessary and jointly (but not individually) sufficient reasons for doing what will

satisfy them: I would not do something that would satisfy only one of them – like firing at such close range that I would certainly hit Pat but would also probably be caught; and if another action would satisfy those two desires much more efficiently, I would do it instead.

(Clause (2) concerns other actions which would satisfy my desires *much* more efficiently: if I noticed some *slightly* more efficient way of satisfying them, I might continue my original action, as being a good enough way of satisfying them; for intended (or rational) action involves not necessarily finding the *best* way to achieve my aim, but a *good enough* way of doing so: see M. Slote, *Common-sense Morality and Consequentialism*, pp. 38–44.)

These examples thus show, not that this account of what it is to act with the intention of bringing a result about is inadequate, but that our reasons for action, and our intentions in action, typically involve not just one desire and a belief about how to satisfy it, but complex sets of interlocking desires and beliefs (see p. 51 above). If my reason for an action *is* simply my desire for X and my belief that this action might bring X about, then I would not act as I do without both that desire and that belief, and I would do something else if I saw that it would satisfy that desire much more efficiently. Cases in which these conditions seem not to obtain are actually cases in which my initial account of my reasons for, and my intentions in, acting as I do was incomplete: what I intended to bring about was not simply 'X', but 'X or Y', or 'X and not Y'; and these conditions hold good for those more complete accounts of my reasons and intentions.

If I intend only to 'get the reward for returning the wallet', I shall return the wallet only if I both believe that my action will fit that description and want the result specified in that description: but if I also intend to 'return property to its owner', I shall return the wallet so long as I believe that my action will fit, and want the result specified in, at least one of those two descriptions. So too, if I intend only to 'kill Pat', I shall do whatever I believe is most likely to fit that description: but if I intend rather 'to kill Pat without being caught', I shall do whatever I believe is most likely to fit that more complex description.

We can now distinguish an action's *intended effects*, which the agent acts in order to bring about, from its *foreseen side-effects*, which he might want, but does not act in order to bring about: Pat's essay getting a fair grade is the intended effect of my giving it a fail grade; her being hurt is a foreseen, welcome, but not intended side-effect of my action. I intend to 'give her essay a fair grade'; I act as I do because my action will, I think, fit that description. I also believe that my action will fit the description 'hurting Pat', and want the result specified in that description: but I do not give her a fail grade *because* of that belief and desire.

We can draw the distinction between intended effects and foreseen side-effects by the 'test of failure'. If my action does not produce an expected effect, will it have been a failure? If so, that effect is one which I acted with the intention of bringing about; if not, it is merely a foreseen side-effect of my action. Suppose that, against my expectations, Pat is not hurt by the grade I give her essay: if I would then regard my action as a failure, I acted with the intention of hurting her; if I would still regard my action as a success (since it still gives her essay the grade it deserves), I did not act with the intention of hurting her. My intentions determine what will count as the success or failure of my action: an effect whose occurrence or non-occurrence is irrelevant to the success or failure of my action is not one which I act with the intention of bringing about.

Mrs Hyam intended to set fire to Mrs Booth's house; her action would have failed had the house not caught fire. She intended thereby to endanger the lives of those in the house (in order to frighten Mrs Booth); had no one been endangered, her action would have failed. She intended thereby to frighten Mrs Booth: had the fire not frightened Mrs Booth, her action (though successful as one of 'setting fire to the house') would have failed as one of 'frightening Mrs Booth'. But she did not intend to cause death or injury: though she foresaw death or injury as a likely effect of her action, her action would not have been a failure had no one been killed or injured; death or injury were foreseen side-effects, not intended effects, of her action.

Lord Cameron failed to grasp this point in *Cawthorne*. He argued that

> the subsumption of a charge of attempting to commit a crime must be that the criminal acts constituting the crime were perpetrated with the intent to commit the complete crime, an intent which was frustrated by circumstances outside or beyond the perpetrator's deliberate control. (p. 39)

But Mr Cawthorne's intent was not 'frustrated': since his aim was to cause terror, not death, the fact that no one died did not render his action a failure. His intention was murderous, in that he would have been a murderer had someone been killed: but he did not act 'with the intent to commit the complete crime' of murder; death was an expected side-effect, not an intended effect, of his action.

Or consider the case discussed in *Gillick* of a doctor prescribing contraceptives for a girl of fifteen (p. 20 above), realizing that her action will facilitate the commission of unlawful sexual intercourse. The Law Lords wondered whether the doctor would be guilty of aiding and abetting the commission of that offence – whether, that is, she '*intends*' to assist its commission; and the majority thought that if she prescribes the contraceptives purely because 'in [her] clinical judgment the treatment is medically indicated for the maintenance or restoration of [the girl's] health', she lacks

'the guilty mind which is an essential ingredient' of the offence of aiding and abetting the commission of unlawful sexual intercourse (p. 190, Lord Scarman): she does not, that is, *intend* to assist the commission of that offence. J.C. Smith argues, however, that she does intend to assist the commission of that offence. She might not *want* the offence to be committed: but intention need not involve desire; and her knowledge that her action will facilitate unlawful sexual intercourse constitutes an intention to assist the commission of that offence. To avoid conviction for aiding and abetting, she must plead not lack of intent, but necessity – that it is more important to protect her patient's health than to avoid assisting unlawful sexual intercourse ('Comment on *Gillick*').

Now we have seen that intention need not involve 'desire', in one sense of that term: but we can now also see that the doctor need not, in the ordinary meaning of the term, 'intend' to assist the offence of unlawful sexual intercourse. She prescribes contraceptives because she wants to protect her patient's health and believes this to be the best way of achieving that end: her intention, that is, is to protect the girl's health; and her action will have been a failure if it does not achieve that end (if the girl none the less becomes pregnant and her health suffers as a result). She also knows that her action will facilitate the commission of unlawful sexual intercourse: but if no such intercourse in fact occurred, she would not take her action to have failed; which shows that she does not intend to assist, or act with the intention of assisting, unlawful sexual intercourse (indeed, if she accompanies the prescription with a warning against sexual intercourse, she intends in part to *discourage* such intercourse).

The test of failure identifies those effects whose occurrence is necessary for the success of the agent's action; and it is only those effects which she acts with the intention of bringing about.

It may seem that the test of failure can distinguish my intended *ends*, but not the *means* by which I intend to achieve them, from the side-effects which I also expect to bring about. I send a fraudulent begging letter to Pat, claiming to be a poor widow in desperate need of help; she sees through my deception but, rather than informing the police, sends me money anyway (see *Hensler*). My intended end (getting money) thus ensues; so surely my action has not failed: but it ensues without my deceiving Pat. Now the test of failure seems to show that I do not intend to deceive Pat: for the non-occurrence of that result (her being deceived) has not rendered my action a failure. But that is absurd: I intend to deceive her, as a means to my end; if the test of failure shows that I do not act with that intention, it is an inadequate test of intention (see A.K.W. Halpin, 'Good intentions').

This objection fails; but it shows that I must clarify the test of failure.

One might deny that in this example I have *succeeded* in achieving my intended end (see p. 64 below): but the relevant point here is that we must apply the test of failure in the light of the *agent's beliefs at the time of his action*. I believe, when I send the letter, that I must deceive Pat if I am to get money from her (if I knew she would send me money without being deceived, I would not send a fraudulent letter). I therefore believe that my action will fail (I shall not get the money) if I do not deceive her: the test of failure, applied in the light of my beliefs at the time when I act, shows that I intend to deceive Pat in order to get money from her. I intend the means to my end because I think that I shall achieve the end only through those means. From my perspective as an agent who is about to act, I thus suppose that my action will fail if I do not bring those means about: this shows, by the test of failure, that I intend those means.

(Suppose I realize that there is a chance that Pat will send me money even if my letter does not deceive her? If I rely on that as a real possibility I might intend, not simply 'to get money from Pat by deceiving her', but 'to get money from Pat by a fraudulent letter which *either* deceives her *or* persuades her to send me money without deceiving her': I intend to achieve my end by one or other of these alternative means, and my action will succeed if it achieves that end in either of these ways. If, however, I think the chance a very slim one, I might intend 'to get money from Pat by deceiving her', while harbouring the hope that she might send me money even if my deception fails; I intend to achieve my end by deceiving her, and my action fails if she is not deceived, but I hope that I might get money from her even if my attempt to deceive her fails: see p. 56 above.)

This case reminds us that our intentions are often complex. But it does not undermine the test of failure: we can still say that an agent intends to bring about those effects whose non-occurrence would (in her eyes at the time of her action) render her action a failure – though it is not always easy to specify just what those effects are.

3.7 *Intention, Success and Causation*

I act with the intention of bringing about a specified result if I act as I do because I want that result and believe that my action might bring it about. But this does not yet tell us what it is to *bring about* an intended result, since the intended result might not occur (the house might not catch fire). We have an account of what it is to *try* to do something: but to explain what it is to *do* what I try to do, we must add a further condition; that I succeed in bringing about the result which I intend. But what counts as 'success'?

We cannot just say that I succeed if the intended outcome occurs, since its occurrence might be unrelated to my action: if Mrs Hyam's fire had failed to light, but the house still caught fire because it was struck by lightning, she did not succeed in setting fire to it. I succeed only if my action *causes* the intended outcome; if the outcome occurs because of what I do. But what role must my action play in the occurrence of an outcome if it is to count as causing that outcome?

I shall not offer a full discussion of legal notions of causation here:[13] but we should note a few relevant points.

Success in doing what I intend requires more than that my action made *some* causal contribution to the intended outcome, as a necessary condition without which that outcome would not have occurred. If Pat sees through my fraudulent begging letter, but sends me money anyway, my sending the letter is a necessary condition of her sending money; she would not send me money had I not sent the letter. But I have not succeeded in my attempt to obtain money from her by false pretences, since the deception by which I intended to obtain money has failed: rather, I have luckily received money from her although my attempt failed (which is why we would say 'received' rather than 'obtained'). Or I attack Pat, intending to kill her: she is taken to hospital and given treatment that would normally save her life; but she gets salmonella poisoning from the hospital food and dies (see *Jordan*; *Bush v Commonwealth*). But for my attack, she would not have died: but I have neither caused her death nor succeeded in killing her.

On the other hand, it seems too strict to say that I succeed in doing what I intend only if what I do causes the outcome in just the way that I intend. Intending to kill Ian, I aim at his heart; my shot hits him in the head and kills him: surely I have caused his death, and succeeded in killing him. Perhaps in this case the actual causal chain is still within my contemplation. I know that I can kill Ian if my shot hits somewhere other than his heart: I intend, not strictly 'to kill him by a shot in the heart', but 'to kill him by a shot in the heart or some other part of his body', and what actually happens then accords with my intention. But what if the actual causal chain is not within my contemplation? My shot causes an injury which need not in itself be fatal: but Ian has a weak heart and dies from shock; or he is a Jehovah's Witness and refuses the blood transfusion which would save his life. I would (rightly) be convicted of murder ('those who use violence on other people must take their victims as they find them': *Blaue*, p. 1415):

13 See H.L.A. Hart and A.M. Honore, *Causation in the law*; H. Gross, *A Theory of Criminal Justice*, ch. 6.III; G. Fletcher, *Rethinking Criminal Law*, chs 5.2.2, 8.2.1–3; *S&H*, ch. 11.5; *TCL*, ch. 16; *C&K*, ch. 4; *E&W*, ch. 2.4; *Gordon*, ch. 4.

but what distinguishes these cases from those discussed in the previous paragraph?

What matters, it is said, is whether my original action 'is still an operating cause and a substantial cause', not 'merely the setting in which another cause operates' (*Smith*, p. 42). My fraudulent letter is not (as a fraud which deceives her) the operating cause of Pat sending me money, but provides the setting in which Pat then decides to send me money: she is not deceived into sending money; my letter rather gives her the opportunity to send me money if she is moved by generosity to do so. Similarly, what kills Pat is the salmonella poisoning rather than the injury which I inflicted on her: but Ian's weak heart, or his religious beliefs, provide the setting in which the injury which I inflicted operates to cause his death.

The idea of an 'operating and substantial cause' may seem merely to *express*, not to *justify*, the judgement that my action caused the relevant outcome; my action is said to be 'still an operating cause' *because* it is thought right to say that it caused the outcome, rather than vice versa. There is some truth in this, though we cannot pursue the issue here: we should, however, note two general points about the ascription of causal responsibility in such contexts.

First, we are dealing here with a normative, not a purely factual issue. Claims that 'A caused B' are not in general purely factual: we *select* A, from the whole range of causal factors which were involved, as 'the cause' of B; and our selection is guided by our interests. In asking, in a criminal case, whether A's action caused an outcome, our interest is in ascribing responsibility for that outcome; and this must involve an assessment, not merely a description, of the role of A's action in the outcome's occurrence, as well as of any other actions which were involved in its occurrence. That A's action contributed to the outcome; whether the outcome would have occurred had he not acted thus; what other factors were involved: these are matters of fact. But whether his action's contribution was *sufficient* for us to say that he caused that outcome is a normative issue: was it sufficient for him to be held fully responsible for that outcome as its agent? (The American Law Institute's Model Penal Code requires that 'the actual result ... is not too remote or accidental in its occurrence to have a just bearing on the actor's liability or on the gravity of his offense': cl. 2.03(2)(b).)

The normative basis of such causal judgements may be explicit when the outcome depends on other human actions. In *Pagett*, for instance, the defendant fired shots at policemen who were trying to arrest him, and used an innocent girl to shield him against their shots. She was killed by their shots, but he was held to have caused her death: for in firing at him the policemen had acted 'reasonably' in self-defence and in performance of their legal duty, while he had acted unlawfully in firing at them and using

her as a shield. Ascriptions of causal responsibility for an outcome often depend on normative judgements of the propriety of the actions which contributed to that outcome.

Second, the judgement that my action caused an outcome may depend on the very fact that I intended to bring that outcome about: if the causal chain between action and outcome involves abnormal factors, my intention may help to connect action to outcome, whereas without that intention causation may rather be ascribed to the abnormal factor. If I intend to kill Ian, I am held to have caused his death even if the causal connection between my attack and his death is mediated by his unexpectedly weak heart: but if I injure him unintentionally, we may say that what caused his death was his weak heart; my action only provided the setting in which that other cause operated. In *Beatty v Gillbanks* the Salvation Army did not cause a breach of the peace by holding a meeting in the knowledge that the 'Skeleton Army' intended to break the meeting up (see *TCL*, pp. 338–9): for, we might say, the breach of the peace would be caused by the Skeleton Army's unlawful conduct, not by the Salvation Army's lawful activity. But we would take a different view if it emerged that the Salvation Army arranged their meeting *with the intention* of provoking an attack.

3.8 *Intention and Desire II*

We now have an account of what it is to act with the intention of bringing about a specified result, and to succeed in doing so:

(A) The agent wants (or desires) that result.
(B) She believes that what she does might bring that result about.
(C) She acts as she does because of that want and that belief.
(D) What she does causes that result.

These are *sufficient* conditions of intended agency; if they are satisfied, the agent brought about the result intentionally and with intent. We have yet to see whether they are also *necessary* conditions of intended or intentional agency; it may turn out that while we have portrayed a *paradigm* of intended agency, we can ascribe intended or intentional agency even when not all these conditions are satisfied. Before I turn to that question, however, I must deal with a further issue about the role of wants or desires in intention; this will also involve attending to the concept of bare intention, as distinct from that of intention in action.

Condition (A) uses 'want' and 'desire' in their broadest senses, to cover every kind of 'pro-attitude': both intrinsic and extrinsic desires, and the 'desire' to do one's duty, for instance; I may in this sense 'want' what I do not, in the narrower sense of the term, 'want' at all (see pp. 52–4 above).

But does this condition play any useful role in an account of intention in action?

It looks as if it does not; when we interpret 'want' thus broadly condition (A) becomes vacuous. For, first, omitting (A) would leave us with a simpler but still adequate account of intention in action: I act with the intention of bringing a result about if, simply, I act as I do because I believe that my action might have that result. If Mrs Hyam set light to the paper because she believed that this might set fire to the house, and set fire to the house because she believed that this might frighten Mrs Booth, she acted with the intention of setting fire to the house and of thus frightening Mrs Booth. We can explain what it is to act with the intention of bringing a result about by referring only to those beliefs about the likely results of what she does which determine the agent's actions; no reference to her wants or desires is necessary.

Second, this shows that an agent's 'desire' (in the broad sense) for a result is an *implication*, rather than an independent *criterion*, of his intention to bring that result about. We do not first realize that he 'wants' the result; and thence, given conditions (B) and (C), infer that he acts with the intention of bringing it about: we rather realize that he acts as he does because he believes that what he does might have that result (that he acts with the intention of bringing that result about), and *therefore* say that he 'wants' that result. To say that, in this broad sense, he 'wants' that result adds nothing to the claim that he acts as he does because he believes that his action might have that result: it does not specify a substantive condition whose satisfaction helps to determine that the agent acted with the intention of bringing that result about.[14]

These considerations suggest that we should explain intention in action simply by saying that I act with the intention of bringing a result about if I act as I do because I believe that my action might have that result. This account would also avoid the confusion which infects judicial discussions of the relationship between intention and 'desire'. For when courts insist that intention need not involve desire, it is not clear whether they mean to remind us that intention in its ordinary meaning need not involve 'desire' in the narrow sense of that term (I can act with the intention of bringing about a result which I do not 'desire' in the narrower sense of the term); or that intention in law need not even involve 'desire' in its broader sense (I am taken in law to intend not only what I act 'with the intention' of bringing about, but also what I foresee as the morally certain effects of what I do).

14 See J. McDowell, 'Are moral requirements hypothetical imperatives?', pp. 14–15; T. Nagel, *The Possibility of Altruism*, chs 2–3.

The Court of Appeal's attempt in *Nedrick* to explain *Moloney* shows how easily confusion can arise in this context: the man who boards a Manchester-bound plane is meant to remind us that 'a man may intend to achieve a certain result whilst at the same time not desiring it to come about'; but it then appears that he does, in a sense, 'want' to go to Manchester (*Nedrick*, pp. 1027–8; see p. 24 above). The Court slides here from the narrower to the broader use of 'want' or 'desire': but matters would be clearer if we simply abandoned talk of 'wants' or 'desires'. This would not settle the issue of whether I should be taken in law to intend only what I act 'with the intention' of bringing about, or also what I foresee as morally certain effects of my actions: but it would avoid some of the confusions by which that issue is currently clouded, and bring into clearer focus the real question about this example – does the claim that the man intends to go to Manchester depend on the claim that he boards the plane *because* he believes it to be going to Manchester; or simply on the claim that he knows that 'it is a moral certainty that that is where he will arrive' (*Moloney*, p. 926, Lord Bridge; see pp. 80–1 below)?

But matters are not that simple: even if intention *in action* can be explained without reference to wants or desires, a general account of intention (including bare intentions), and of reasons for action, seems to require some such reference. For we surely cannot explain what it is to have a reason for action, or a bare intention to act, without reference to the agent's desires or wants: but then they must surely also figure in an account of what it is to act for a reason, or to act on one's bare intention (see D. Davidson, 'Intending').

What is it to have a bare intention to bring about some result in the future? We cannot say that it is to act as I do because I believe that my action might have that result (for I am not yet acting): nor that I have that bare intention if I will act because of that belief; for this does not distinguish cases in which I *now* intend to act in the future, from those in which I have as yet formed no intention but *will* form an intention in the future. Nor can that bare intention consist simply in the belief that the action in question would bring about the relevant result; my beliefs about the results of possible actions do not constitute intentions to do those actions. My bare intention to go to Glasgow tomorrow cannot consist in my acting as I do because I think that it will get me to Glasgow, since I am not yet acting towards that end; nor in the fact that I *will* do what I think will get me to Glasgow, since that might be just the fact that I will form an intention to go to Glasgow; nor in my belief that catching the 9.37 train would get me to Glasgow, since I can have that belief without having any intention of going to Glasgow.

Nor can having a reason for action consist only in having beliefs about the effects of a possible action: my belief that catching the 9.37 train would get me to Glasgow does not constitute a reason for catching that train since, as we might naturally say, I may not want to go to Glasgow. To explain what it is to have a bare intention to act, or a reason for action, we must surely refer to what the agent *wants*: my bare intention to go to Glasgow tomorrow involves not just a belief about how to get there but a desire to go there; and to have a reason for doing what I believe would get me to Glasgow I must want to go there. But if both reasons for action and bare intentions must involve desires as well as beliefs, so too surely must acting for a reason or with an intention. Bare intentions become intentions with which I act when I put them into action; a reason for action becomes the reason for which I act when I act on it: so surely our account of what it is to act with an intention or for a reason must include all those elements which figure in our account of what it is to have a bare intention to act or a reason for action.

These considerations suggest that we should retain condition (A), to preserve the appropriate connections between bare intention and intention in action, and between having a reason for action and acting for that reason.

But a bare intention cannot consist simply in a desire for X and the belief that a possible action might bring X about: for I might have such a desire and belief without forming an intention to act. I want to hurt Pat, and believe that damaging her car would hurt her: but I do not form an intention to damage her car, since I think that it would be wrong to do so. Even if such desires and beliefs always give me a reason for action, they do not amount to intentions to act, since I may see better reasons against the action.

Could we deal with this point simply by adding a reference to the *strength* of the desire? Any desire which I have gives me a reason to undertake an action which I believe would or might satisfy it; and it will become or generate a bare intention to do that action if it is stronger than any desires which conflict with it (any desires which that action would frustrate). My desire for a car, and my belief that I can obtain a car by paying this dealer £2000, gives me a reason to pay him £2000: that desire and belief will become or generate a bare intention to pay him £2000 (and will be the reason for which I pay him £2000) if my desire for the car is stronger than any conflicting desires which I have; they will not generate a bare intention to pay him £2000 if I have stronger desires with which that desire conflicts (if, for instance, I would rather use the money for other purposes). Likewise, my desire to hurt Pat gives me a reason to damage her car: but it does not generate an intention to damage her car if my desire to act morally (which would be frustrated by my damaging her car) is stronger than my desire to hurt her.

This provides a temptingly simple account of practical reasoning and

action. Reasons for action consist in desires and beliefs about how these desires might be satisfied; and the process of practical reasoning or deliberation is a process of working out which actions are most likely to satisfy my strongest desires.

One objection to this account, however, is that such desires and beliefs do not always amount even to a reason for action. My desire for a car, and my belief that I can get one by paying £2000 to the dealer, may give me a reason to pay him £2000: but I might say of my desire to hurt Pat, not that it gives me a reason to do what would hurt her (a reason which is outweighed by my stronger desire not to act immorally), but that it gives me no reason to do that; I rather see it as a wicked desire which I should condemn and try to eliminate.

This objection can be expressed by saying that such an account of reasons for action ignores the role of *evaluation* in deliberation and practical reasoning (see C. Taylor, 'What is human agency?'). For my deliberation may involve not just finding how to satisfy my strongest desires, but evaluating the *worth* of my desires, and determining what I *ought* to desire; and I may come to believe that I should not desire what I do, in fact, desire most strongly. I might see my desire to hurt Pat as a reason to do what would hurt her, but realize that I have a stronger desire to avoid the retaliation that I would suffer if I did hurt her – and therefore decide not to hurt her. But I might instead decide not to hurt her because my desire to hurt her is a despicable desire which I *ought* neither to have nor to fulfil; and this judgement on the worth of my desire seems quite different from an assessment of its strength relative to other desires which may conflict with it. If this objection is sound, not every desire which I have gives me a reason to do what would satisfy it. Nor indeed should we call every kind of favourable attitude towards an action or result a 'desire': we must distinguish those reasons for action which are indeed based simply on what the agent wants, from reasons which are rather based on a judgement of what he ought to want, or of what is worth wanting or doing.

This problem about the role of 'desire' in practical reason and action is a aspect of a more general problem (which we cannot explore properly here) about the relation between 'reason' and 'passion', and between 'fact' and 'value'.[15]

One philosophical tradition, associated with David Hume, demands that we distinguish clearly between 'reason', which discovers facts about the

15 See D. McNaughton, *Moral Vision*, chs 2.3, 7.1–3; R. Norman, *Reasons for Action*; M. Midgley, 'The objection to systematic humbug'; H.O. Mounce, 'Reason and action'; D. Evans, 'Reason and action'; L. Blum, *Friendship, Altruism, and Morality*.

world, and 'passion' (desire, emotion, feeling), which is the source of all value and of all motives for action. Reason shows me what actions are open to me, and what effects they are likely to have; that this available action would, for instance, hurt Pat, or help someone in need. But reason by itself cannot motivate action: I have a reason to act, and am moved to act, only if I have some desire relating to those facts; a desire to hurt Pat, or a 'belief' that I ought to help those in need (which on this view consists essentially in a desire for their well-being). An account of intention in terms of desire and belief embodies this distinction between reason and passion: reasons for action and intentions involve, first, factual (and motivationally neutral) beliefs about the results of possible actions; and, second, 'desires' relating to those results.

Some who oppose the Humean distinction between reason and passion argue that reason itself can reveal not only neutral facts, but also values which provide reasons for action: regardless of my desires, I can see by the exercise of reason that I ought to help those in need, or ought not to hurt Pat; and this realization can itself suffice to motivate action – so that my reasons for action and my intentions in acting need not involve 'desire' at all. Others rather argue that the distinctions between 'reason' and 'passion', and between 'fact' and 'value', are themselves misconceived: we cannot distinguish a purely rational faculty of motivationally neutral 'reason' from a wholly non-rational faculty of motivationally effective 'passion'; nor a realm of neutral, value-free 'facts' which reason reveals to us, from the values which human desires and passions attach to those facts. When I see another's need as giving me reason to help her, and act accordingly, my reason for action and my intention in action clearly involve 'desire', in that I care about her need and want to help her: but that 'desire' is not something distinct from my recognition of her as someone who is in need.

We cannot pursue these issues about the relation between 'reason' and 'desire' here. We might try to side-step this problem by giving an account of intention and reasons for action which leaves open the question of whether practical reasoning involves distinct elements of 'reason' and 'desire', by talking of 'judgement'. To see that I have *a* reason for an action is to make a '*prima facie*' judgement that that action is in some way desirable (it would get me a car; it would help Pat). The action may also have undesirable aspects, which provide reasons against it (I have other uses for the money; it would involve great effort or expense): to form an intention to do the action is to make an 'all-in' or 'overall' judgement that it is desirable or worth doing all things considered; that its desirable aspects outweigh its undesirable aspects. To act with the intention of bringing about a result (getting a car; helping Pat) is then to act as I do because I believe that my action will or might have that result and judge that result to

be, overall, desirable; or, more simply, to act as I do because I believe that result to be a possible and, overall, desirable outcome of what I do (see D. Davidson, 'Intending').

This account leaves open the issue of how far such judgements of 'desirability' are matters of 'reason' or of 'desire'; it presupposes no particular view of the relation between reason and desire. But it faces the objection that such an overall judgement of desirability is neither a necessary nor a sufficient condition of intention, given the fact of weakness of will: not a necessary condition, since a weak-willed agent may form and carry out an intention to do something which she does not judge to be, all things considered, desirable; not a sufficient condition, since a weak-willed agent may fail to form, or fail to carry out, an intention to do what she judges to be, all things considered, desirable. I judge that, all things considered, it would be most desirable for me to get up and write my lecture: but I fail to form, or fail to carry out, an intention to get up; I stay in bed (intending to do so), though I do not judge staying in bed to be the most desirable thing to do.

But this account still explicates the *paradigm* of *rational* action and intention. Bare intentions are formed for reasons, and intended actions are done for reasons. The paradigm of acting for a reason is acting *rationally*, for good or sufficient reasons; and the rational agent's intentions and actions express the judgement that her intended action is, all things considered, desirable. Weak-willed actions must be understood as deviations from that paradigm: for they are cases of irrationality, involving intentions and actions which conflict with the agent's overall judgements of desirability – with the judgements which, as this account shows, *should* (rationally) form her reasons for action and her intentions in action (see pp. 49–50 above).

The problem of weakness of will is anyway not such a serious one for our account of intention in action. We cannot admittedly say that to act with the intention of bringing a result about is always to act as I do because I judge that result to be a possible and, all things considered, desirable outcome of what I do, since a weak-willed agent intends to bring about a result which he does not judge to be, all things considered, desirable: but we can say that it is to act as I do because I judge that result to be a possible and *in some respect* desirable outcome of what I do; for that much is true even of the weak-willed agent.

To act with the intention of bringing a result about is to act as I do *in order to* bring that result about. Though, as we saw earlier (pp. 58–63 above), we might explicate that idea by saying that I act in order to bring X about if I act as I do because I want X and believe that what I do might bring X about, I have suggested in this section that 'intention' is not

usefully analysed in terms of the agent's 'wants' or 'desires': for intention need not involve wants or desires in the narrow sense of those terms; and in their broader sense they add nothing useful to an account which talks of the agent acting as she does because she believes that what she does will or might bring about the specified result, or because she judges that result to be a possible and (overall or at least in some respect) desirable result of what she does.

I have not tried to resolve the deeper philosophical issue which is involved here, about the role of 'desire' in practical reasoning. Given the confusion that idea has created in legal discussions of intention, however, we would do better to avoid it altogether in a codified definition of intention: for legal purposes, intention is best defined as the 1989 Code partly defines it, by saying that an agent intends those results which she acts in order to achieve. If judges have to explain the meaning of intention to juries, it would likewise normally be better to avoid reference to the agent's desires or wants, so as to avoid the confusion which those terms may cause: they should rather ask the jury to consider whether the defendant acted as she did in order to bring about the relevant result, or because she believed that what she did might bring that result about; or to consider whether her action would have been in her eyes a failure had that result not ensued.

We must now turn, however, to the perennial issue of the relation between intention and foresight.