

T026

## Attempted theft

You report (14 June 1980) the statement by a Home Office minister that if a new Act were to be passed repealing the 'sus' law it could leave an unacceptable gap in police powers. The minister pointed out that the present law against attempted theft may not protect us against the would-be thief who tries the locked door of a car or picks a pocket that is empty. But it should be understood that this gap exists generally, and the 'sus' law by no means fills it. The Act which repealed 'sus' could close the gap by also including a provision needed quite apart from that offence.

By a long-standing conceptual error, English law has tried to catch all dishonest trespass to the person or to goods (not amounting to completed theft) under the umbrella of 'attempt'. Hence philosophical arguments which have diverted law students for generations. Can you 'attempt' to steal from an empty pocket? (No, said the House of Lords in *Haughton v Smith*.) Is it attempted theft to go through a woman's handbag without her noticing and then replace it intact when nothing worth stealing is found? (No, said the Court of Appeal in *R v Easom*.) Yet antisocial acts of this sort ought to be punishable. The Act repealing 'sus' could replace it with a simple provision stating that a person is guilty of an offence if, with intent to steal, he commits trespass to the person or trespass to goods. This would reform the criminal law both by removing the unjust 'sus' offence, as the Commons home affairs committee have recommended, and by correcting a serious omission in our armoury against the professional thief.<sup>1</sup>

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<sup>1</sup> *The Times*, 19 June 1980.