

T027

### **Further thoughts on crimes of attempt**

On 26 June 1980 you published a letter from Professor Glanville Williams criticising my proposal for a new offence (in replacement of the 'sus' law) of trespass to goods or to the person with intent to steal. Professor Williams thought it would be a better solution to amend the law of attempted crime by removing the defence of impossibility, and hoped the Law Commission would recommend this in their report on attempt.

The report has now been published (with a draft Bill) and it does indeed contain the recommendation Professor Williams hoped for. But it does not remove the need for an offence of trespass to goods or to person with intent to steal. On the contrary the report says (para. 2.36) that it would not be legitimate to replace 'sus' by an artificial extension of the law of attempt, adding that 'this is a matter which requires separate consideration in relation to the specific types of conduct which it is sought to penalise'.

The draft Bill is far from clear on whether its codification of the law of attempt would cover exploratory acts such as trying car door handles or searching handbags for something worth stealing. The report admits (para.2.45) that there is bound to be uncertainty over what is covered by a general offence of attempt. It says (para. 2.87) that such difficulties of proof may be a reason why in several instances (such as going equipped for stealing, or attempt to rob) Parliament has already seen fit to create separate substantive offences. Assault with intent to commit a felony was a crime until it was abolished (perhaps mistakenly) in 1967 on the ending of the distinction between felony and misdemeanour. Trespass to goods or the person with intent to steal would be a useful specific offence to create in conjunction with the abolition of 'sus'. It would be easy to prove, since trespass is a clear, well established legal concept, and would form a valuable protection to the public.<sup>1</sup>

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<sup>1</sup> *The Times*, 11 July 1980.