

ROBBERY

INTRODUCTION

Section 8 of the Theft Act 1968 provides:

“(1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.

(2) A person guilty of robbery, or of an assault with intent to rob, shall on conviction on indictment be liable to imprisonment for life.”

Robbery is triable only on indictment.

1. STEALS

Robbery is theft aggravated by the threat or use of force. The elements of theft must be established if a conviction for robbery is to be obtained. Thus for example, a person who forces another to hand over money, believing that he has a legal right to it, he is not guilty of theft:

- In **R v Robinson** [1977] Crim LR 173, it was alleged that D, who was owed £7 by V's wife, approached V, brandishing a knife. A fight followed, during which V dropped a £5 note. D picked it up and demanded the remaining £2 owed to him. Allowing D's appeal against conviction for robbery, the Court of Appeal held that the prosecution had to prove that D was guilty of theft, and that he would not be (under s2(1)(a) of the 1968 Act) if he honestly believed that he had a right in law to deprive V of the money, even though he knew he was not entitled to use the knife to get it.
- In **R v Forrester** [1992] Crim LR 793, V had retained D's £200 deposit when D's tenancy terminated. D believed he had been asked to leave without justification and that the deposit was being unfairly withheld. D, accompanied by a friend, went to V's house, burst in when the door was opened and seized some items whilst his friend restrained V. His intention was to use the items to bargain for the return of his money. If this failed, he would sell the items and the use money for a deposit on another flat, returning the excess to V. D's conviction for robbery was upheld by the Court of Appeal. It was held that he knew he had no right to the items themselves and so could not claim that he was not dishonest under s2(1)(a).

A temporary appropriation will amount to theft:

- In **Corcoran v Anderton** (1980) 71 Cr App R 104, it was held that a robbery was committed where a woman's handbag was wrestled from her grasp, even though it then fell to the ground and was not made off with.

Where the accused has used force on another (or put another person in fear of force) in order to steal but has not achieved the appropriation of any property, and is therefore not guilty of robbery, he can be convicted of assault with intent to rob, which is also triable only on indictment.

2. USE OF FORCE

The question of whether or not force has been used is a question of fact to be determined by a jury, the Court of Appeal so held in **R v Dawson** [1976] Crim LR 692. In practice it appears that very little force is actually required:

- In ***R v Dawson*** [1976] the defendant had nudged the victim causing him to lose his balance so that his wallet could be more easily taken. His appeal against a conviction for robbery was refused.
- In ***R v Clouden*** [1987] Crim LR 56, the defendant had pulled on the victim's handbag to wrench it from her hands. The Court of Appeal held that whilst a snatching of property without resistance from the owner, such as by a pickpocket, should not amount to robbery, the question of whether force has been used 'on any person' should be left to the jury. The defendant was held to have been rightly convicted of robbery.

3. IN ORDER TO STEAL

The force, or threat of force, must be used in order to steal according to s8(1).

Therefore, if D attacks V in order to settle an argument, and having hit V to the ground finds his wallet to have fallen out, D will not be guilty of robbery should he run off with the wallet, because the force was not used by him with the intention of stealing. Similarly, the use of gratuitous violence after a theft would not constitute robbery because the force is not used in order to enable the theft to be carried out.

4. IMMEDIATELY BEFORE OR AT THE TIME OF STEALING

Section 8(1) clearly provides that the force must be used immediately before, or at the time of, stealing, raising the question of for how long theft continues (an issue to be decided by the jury).

- In ***R v Hale*** (1978) Cr App R 415, D and E entered V's house and while D was upstairs stealing a jewellery box, E was downstairs tying up V. The Court of Appeal refused to quash their convictions for robbery though the appropriation of the jewellery box might have been completed before the force was used. The court said the appropriation should be regarded as a continuing act and it was open to the jury on these facts to conclude that it continued while V was tied up.

The matter needs to be looked at in a common sense way; while the force must be used at the time of the theft and in order to steal, the theft needs to be looked at in its entirety.

5. MENS REA

While the *mens rea* of robbery is not spelt out in s8, it is clear that there must be the *mens rea* of theft, and the force or threatened force must be in order to steal.