Robbery, Burglary and Criminal Damage

Basic Reading
Herring - Chapters Eight (pages 535-537), Ten (p.593-601, 606-609) and Eleven (p.616-634). You should also read another textbook chapter on these crimes.

Further Reading

Robbery

- **S.8 Theft Act (NI) 1969:**
  - ‘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.’
- Robbery => Theft aggravated by assault.

**Actus Reus:**

1) **Actus Reus of Theft:** Appropriation of Property Belonging to Another.

- **Corcoran v Anderton (1980) 71 Cr App R 104:**
  - D struck V in the back, tugged at her handbag causing the woman to release it. The woman screamed and fell. Both D and his accomplice ran off empty-handed. The woman retrieved her handbag. At no time did D have sole control over the handbag.
  - Theft was complete on defendant snatching victim’s handbag by force even though he dropped it.
  - The tugging of the handbag of itself might not be a sufficient appropriation; the snatching of the handbag from the woman causing it to fall from her grasp to the ground amounted to an appropriation.
2) The Use or Threat of Force:

- **R v Robinson [1977] Crim LR 173:**
  - D took money from V. V's wife owed the money to D. D argued, the money was not appropriated dishonestly, therefore there was not theft, therefore there could be no robbery.
  - Held: There was no theft because D believed he had a legal right to the property.

2) The Use or Threat of Force:

- A question of fact for the jury who will give its ordinary meaning — *Dawson and James (1977)* 64 Cr App R 170:
  - D stole a mans wallet after he had lost his balance because he was nudged by others.
  - Force defined quite widely, common usage, more neutral than 'violence'.
  - Suggested that a nudge from the defendant while taking someone’s wallet amount to force.
  - Lawton LJ: 'The choice of the word "force" is not without interest … The jury must use their common sense to decide whether D's actions amounted to force'.
  - The force can be used against the person or against the property, but only if the touching of the property affects the victim’s body (Clouden below).

- How Much Force is Required?
  - Slightest physical contact, such as pickpocketing could amount to force.
  - In *Dawson* nudging V so they lose their balance is capable of amounting to force.
  - Significant enough to modify victim’s movement or freedom of movement - *Hale (1979)* 68 Cr App R 415:
    - Hale and McGuire knocked on the door of the victim. Hale covered the victim’s mouth to prevent her from screaming while McGuire entered the property and took a jewellery box.
    - “Further, the jury were quite entitled to find the appellant guilty of robbery relying on the force used by him when he put his hand over Mrs C's mouth to restrain her from calling for help”.

- Violence Directed against a Person, Property, or Both?
  - *Clouden [1987] Crim LR 56*:
    - The defendant wrenched a shopping bag from a woman's grasp. He did not physically touch the woman herself. It was held that the force used on the bag was sufficient to amount to force on a person.
    - “The old distinctions have gone. Whether the defendant used force on any person in order to steal is an issue that should be left to the jury. The judge's direction to the jury was adequate. He told the jury quite clearly at the outset what the statutory definition was, though thereafter he merely used the word “force” and did not use the expression “on the person.”
• “Threat” – Actual application of force is not required.
  o Few Key Points:

  1) **V does not have to fear immediate infliction of force:**
     o **R v DPP [2007] EWHC 739:**
       - Where the prosecution allege that D committed a robbery involving a threat of force, it does not matter whether the victim is actually put in fear or not: it is D’s intention that matters. The fact that V was not afraid does not mean that D did not seek to put him in fear.
       - The victim said he did not feel ‘particularly threatened’ or ‘scared’ and he was not physically assaulted. He said he was ‘a bit shocked’. The boys were convicted of robbery.
     o **Tennant [1976] Crim LR 133:**
       - D may **threaten a use of force + satisfy the requirement** of the offence of robbery although V is not made to apprehend the immediate infliction of force on him which is necessary to constitute an assault.

  2) **D must seek to cause V to apprehend force ‘then + there’**.

  3) “**Any Person**”:
     - The force or threat of force **can be directed against a third party**.

  4) “**Immediately before/at the time of the Stealing**”:
     - The force used after theft – not robbery.
     - It is not robbery if the force is used simply in order to make a getaway from a scene of a theft.
     - Exception – **Hale** – the ‘continuing act doctrine’.
     - Eveleigh LJ: “The act of appropriation does not suddenly cease. It is a continuous act and it is a matter for the jury to decide whether or not the act of appropriation has finished”.
     - “Moreover, it is quite clear that the intention to deprive the owner permanently, which accompanied the assumption of the owner’s rights, was a continuing one at all material times. This Court therefore rejects the contention that the theft had ceased by the time the lady was tied up. As a matter of common-sense the appellant was in the course of committing theft; he was stealing.”

  5) “**In Order to Steal**”:
     - The force used to commit another offence - not robbery.
     - The force must be **used in order to steal + not for any other purpose**. Thus the defendant must be aware that he or she is using force + intends to use that force in order to steal.
     - The **accidental use of force cannot** therefore form the basis or a robbery charge.