

6. From a judicial standpoint it is morally wrong knowingly and intentionally to break a statute, since obedience to the law is the prime duty of citizenship. Consequently, intentionally or knowingly or negligently or carelessly or indifferently to break a statute, by-law or municipal regulation, enacted for the general good, is such an offence as in general excludes the application of the doctrine of *mens rea*.

7. In many cases penal statutes can only be properly construed by reference to the object sought to be accomplished, the causes which called them into existence, and the necessity of their strict observance. For example, no laws are more important, and none afford equal facilities or greater temptation for evasion than laws relating to the revenue, and, as a consequence, such laws are strictly construed, and the doctrine of *mens rea* is sparingly applied when their provisions are infringed.

8. When a statute simply forbids an act and imposes a penalty for non-observance, no other proof is required than its infraction. It then remains for the defendant, if he so desire, to invoke the doctrine of *mens rea*, and it can only avail when honesty of purpose and care, free from negligence and indifference, are found to exist.

9. If the enactment defines a mental element which must accompany its infraction, by the use of any such words as "without lawful excuse," "without due care," "knowingly," "negligently," "maliciously," or "unlawfully," then the burden of proof rests with the prosecution to shew the existence of such an element, without which no crime under the statute can arise.

10. Before a person can be convicted under a penal statute it is necessary to prove one of three things; either that the prohibited act was done knowingly, or in consequence of personal neglect, or without lawful excuse.

In general, the whole difficulty arises in the proper application of these rules and leading principles to particular offences, and in determining whether the penalty, imposed for the infraction of the act, is intended to be imposed at all events, or whether there is to be read into it the common law qualification of *mens rea*. How far erroneous belief or ignorance of a fact, which is of the essence of the offence, is material, has given rise to the many conflicting decisions in our reports.

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