

—which I am far from finding—the Legislature had the power to take them away. The prohibition, 'Thou shalt not steal' has no legal force upon the sovereign body." (Per Riddell, J., in *Florence v. Cobalt*, 18 O.L.R. 279.)

Ordinarily the Legislature is assumed to recognize and act upon the great fundamental principles of the common law, and must not be assumed to do otherwise unless an express intention is shown. "Whether an enactment is to be construed in this sense or with the qualification ordinarily imported into the construction of criminal statutes, that there must be a guilty mind, must, I think, depend upon the subject-matter of the enactment, and the various circumstances that may make the one construction or the other reasonable or unreasonable." (Per Wills, J., *Reg. v. Tolson*, supra, p. 173.)

"All circumstances must be taken into consideration which tend to shew that the one construction or the other is reasonable, and amongst such circumstances it is impossible to disregard the consequences." (Ib., p. 175.)

In criminal law it is the ordinary rule that ignorance of fact excuses the doing of an act which, if the facts were as believed to be, would not be a wrongful act. As for example, the case of *Re v. Levett*, Cro. Car. 538, which decided that a man who making a thrust with a rapier in a cupboard in his house where he reasonably supposed a burglar to be, killed a woman who was not a burglar, was held not to be guilty of manslaughter, "for he did it ignorantly without intention of hurt to the said woman."

Ordinarily a statute making a particular act a crime would, *prima facie*, be supposed to be based upon that general principle. The following cases illustrate these propositions. (a) By the Licensing Act, 1872 (English), a publican is liable for a penalty if he "supplies any liquor or refreshment, whether by way of gift or sale, to any constable on duty." In *Sherras v. De Rutzen* (1895), 1 Q.B. 918, the appellant, Sherras, had been convicted under this statute, because a constable, at that time on duty, but who had removed his armlet prior to entering the appellant's