

# Strict Liability offences in IPC

Since the beginning of time, in criminal law liability was imposed on the offender whether there was any mental element or intention that needed to be proved. This is the foundation for the concept of mens rea, which is deeply rooted in the history of criminal law.

In Criminal Law, liability for one's actions is based on two essential elements, firstly '*actus reus*' which is defined as 'guilty act' and secondly '*mens rea*' guilty mind' or intention, these two are essential for any crime, thus the maxim *actus non facit reum, nisi sit rea* rightly explains the principle of criminal liability as the act itself is not criminal unless it is accompanied by a guilty mind. The principle of strict liability is imposed when atleast one element of mens rea is absent. Strict Liability crimes are those types of crimes where the defendant is responsible for criminal action even if he does not possess the required intention for the alleged offence. This principle was developed in the case of **Rylands v. Fletcher**, this rule draws its basis from tortuous wrongs. Section 11 of the Indian Penal Code, 1860 lays down the provision as to who is to be held liable. The word defined in this section is "person", both juristic and natural persons. A person is liable for his wrong actions coupled with guilty intention as per the general principles of the criminal law. But strict liability is an exception to this general rule. A person can be liable for the penalty even when he does not intend to do such offence.

Let us understand this better from a case **R v Queen**, a man who was in love with a girl, eloped with her, he did not know at that time that she was underage, but since the law in England punished such an act, the court did not see the intention but instead directly imposed the principle of strict liability and he was charged for the same. Strict Liability is liability for which mens rea i.e. guilt mind does not have to be proven in relation to one or more elements comprising the act. Strict Liability emerged in the 19<sup>th</sup> century to improve safety and working standards in factories. These laws were then applied in regulatory offences. The imposition of strict liability may operate very unfairly in individual cases as seen in **Pharmaceutical Society of Great Britain v. Storkwain**, the jurisdiction, in this case, is that the issue of drugs is a social evil and pharmacists should be encouraged to take unreasonable care to verify prescriptions before supplying drugs.

There are some statutes which impose strict liability principle. Such statutes have been passed in the interest of the public. For Example-the Motor Vehicle Act, the Arms Act, the Narcotic Drugs and Psychotropic substances act, 1985, the Public Liability Insurance Act, 1991, etc. The Halsbury Laws of England states that if there is silence about the element of mens rea in any statutory crime, then there is a presumption of essentiality of mens rea. The legislative

intention behind such presumption is that a man should not be held responsible for his acts or omissions just because the statute says so. The presumption has to be established. In the case of ***State of Maharashtra v. M. H. George***, a very famous case in India, it was held that "Merely because a statute deals with a grave social evil is not sufficient to infer strict liability, it must also be seen that whether imposition of strict liability would assist in the enforcement of the regulations. Unless this is so, there is no reason in penalizing him and cannot be inferred that the legislature imposed strict liability merely to find a luckless victim." Finally, the court decided that when the accused was held loaded with gold bars in his jacket beyond the limit allowed under the provisions of FERA, 1947, the doctrine of mens rea cannot be applied here. The object and purpose of the Act will be defeated if the accused is allowed to take the plea of ignorance of the law and validate his action accordingly. Even the ignorance of the law is not allowed as a valid defence. According to Sir J. Stephens, the doctrine of mens rea is misleading as the doctrine originated when criminal law practically dealt with offences which were not defined. In the present scenario, however, every crime is defined precisely. The elements of the crime are marked in such provisions. So it can be easily carved out as to which offences require clear mentioning and proving of mens rea and which offences have to be presumed to have mens rea implied in it.

Another exception to this principle in *section 375*: Rape, the concept of statutory rape in case of a man having sexual intercourse with his wife below the age of 15 years even with her consent will be held responsible for the offence of rape. It is immaterial whether the man intended so or not. The mens rea or guilty intention is presumed here. By virtue of his act of having intercourse with her wife below the age of 15 years, he is liable for the said offence. Further, in the same provision, the sixth description states that even if a female is consenting completely for the sexual act but is below the age of 18 years, then the consensual sexual act will be moulded as an instance of statutory rape. It will be rape because the statute declares it to be so. It does not matter if the parties have the guilty intention or not. Even a genuine sexual act on a bonafide relationship can also amount to rape because of the provision.

The inclusion of the principle of strict liability in the provisions of the Indian Penal Code, 1860 asserts that a person be held liable criminally even if that man has not intended a particular act which has been prohibited by law. Just by virtue of that act being committed by him, he is held responsible. However, the principle of strict liability is different from absolute liability. In case of offences of strict liability, the element of mens rea is presumed, and it need not be proved. The intent of the legislators behind taking up this principle in our penal code was that a perpetrator of offence should not escape from the clutches of the Criminal Law System just because he did not intend to do so because of his mere callousness or lack of awareness.

## Frequently Asked Questions

### *Should Strict Liability cover all offences?*

Strict liability can be imposed with at least one element of mens rea being absent from one of the elements of the actus reus, however, it is of utmost importance that strict liability is imposed to offences which do not carry a social stigma, as imposing criminal liability on truly criminal

### *Apart from Criminal law, in what circumstances is strict liability applied?*

In tort law, strict liability is imposed on those engaged in abnormally dangerous activities, on persons who keep dangerous animals, and on manufacturers or sellers that introduce into commerce goods that are unreasonably dangerous when in a defective condition.

### *What is the difference between vicarious liability and strict liability?*

An employer might be subject to vicarious liability for an action performed by an employee that is within the reasonable scope of their employment. Strict liability is a liability that is imposed without concern or consideration of the intent of the person who caused the harm.

### *What is a good example of a strict liability offence?*

An example of a strict liability offence is speeding. There might be valid defences that may be available for this as well.

**"The views of the authors are personal"**

## Strict Liability in Criminal Law-An Overview

Traditionally criminal jurisprudence requires that before criminal liability is imposed, a certain mental element of the offender must be proved. This is the concept of mens rea, which is deeply rooted in the history of criminal law. But this general rule is subject to certain exceptions where legislature has dispensed with the requirement of mens rea and has created offences of strict liability.

Really speaking, the objectives in criminal law administration are in a process of evolution, and that this is entailing a modification in the meaning of mens rea. F.B.Sayre has emphasized that the trend is away from punishment as an institution and toward punishment as a means to an end, as a means of social protection. This trend has had its most striking manifestation in the

growth of strict liability or public welfare offenses. The beginnings of this development were inconspicuous. Today it is having a mighty impact on law administration. It is a doctrine which in various areas of human activity subjects the individual to criminal penalties for the doing of an act without regard to what his intent may have been. Mistake of fact, though reasonable, is not a defense.

Long ago the United States Supreme Court underlined that the doctrine does not have general application, but as to particular acts it baldly announces "That he who shall do them shall do them at his peril and will not be heard to plead in defense good faith or ignorance."

The application of this doctrine was, at first, confined to minor offenses involving slight punitive sanctions. In the early stages of its development it moved into the areas of buyer-seller relations, the sale of adulterated foods, and narcotics, intoxicating liquor, drugs, misbranded articles, etc. Mr. Justice Frankfurter, thus observed that "The offense is committed by all who do have such a responsible share in the furtherance of the trans-action which the statute outlaws, namely, to put into the stream of interstate commerce adulterated or misbranded drugs. Hardship there doubtless may be under a statute which thus penalizes the transaction though consciousness of wrongdoing is totally wanting. Balancing relative hardships, Congress has preferred to place it upon those who have at least the opportunity of informing themselves of the existence of conditions imposed for the protection of consumers before sharing in illicit commerce, rather than to throw the hazard on the innocent public who are wholly helpless."

According Albert J. Harnot, It is difficult to appraise the import of this development. That it is having a significant impact on the social and legal context of our time there can be no doubt. As to objectives, it is reasonably clear that the stress of the movement is less on punishment for wrong doing, and more on social control and protection. It is a movement, typical of others in our day, in which the public interests are in the ascendancy over those of the individual. For the individual it has grim forebodings. He is reconciled to, if, indeed, he does not approve, the application of the doctrine to police and other minor regulations, but when employed in more serious measures, it strikes him as arbitrary and unjust. In its wider social implications the movement is tinged with capriciousness and appears not to have adequate brakes to stop it or to slow it down, unless, perhaps, they are to be applied through the due process clause of the Constitution. The development calls for an early and thorough evaluation by our legislative bodies and the courts as to its impact upon human integrity and welfare.

Strict Liability in civil law was introduced firstly in the case of Rylands v. Fletcher Blackburn Judge first expounded the principle:

"That the person who for his own purposes brings on to his land and collects and keeps there anything likely to do mischief if it escapes, must keep it in his peril, and if he does not do so, is prima facie answerable for all the damage which is the natural consequences of its escape".

Lord Cranworth in Fletcher's case also mentioned that:

"If a person brings, or accumulates, on his land anything, which, if it should escape may cause damage to his neighbor, he does so at his peril. If it does escape and cause damage, he is responsible, however careful he may have been, and whatever precautions he may take to prevent the damage".

The interesting fact that the same development took place in both England and the United States at about the same time strongly indicates that the movement has been not merely an historical accident but the result of the changing social conditions and beliefs of the day. The development is the not unnatural result of two pronounced movements which mark twentieth century criminal administration, i.e. (1) The shift of emphasis from the protection of individual

interests which marked nineteenth century criminal administration to the protection of public and social interests, and (2) The growing utilization of the criminal law machinery to enforce, not only the true crimes of the classic law, but also a new type of twentieth century regulatory measure involving no moral delinquency.

The social change in the common law has given a new dimension to the rule of strict liability. *Rylands v. Fletcher* was decided in the era of predominantly agricultural society. This principle of tort liability was adapted to the era of expanding industrial enterprise.

Bishop has summed up the recent trend in criminal law during the past fifty years he writes, "If a man intends to do what he is conscious the law, which everyone is conclusively presumed to know, forbids, there is no need of evil intent.

The recent trend therefore is that Legislation applicable to such offenses, as a matter of policy, does not specify intent as a necessary element. The accused, if he does not will the violation, usually is in a position to prevent it with no more care than society might reasonably expect and no more exertion than it might reasonably exact from one who assumed his responsibilities. Also, penalties commonly are relatively small, and conviction does not grave damage to an offender's reputation. Under such considerations, courts have turned to construing statutes and regulations which make no mention of intent as dispensing with it and holding that the guilty act alone makes out the crime.

But in India the situation is entirely different. In the year 1987 Supreme Court of India, in the famous case of *M.C. Mehta v. Union of India* looking to the development in modern industrial society, scientific knowledge, scaled one step further from the concept of strict liability enshrined in the rule in *Rylands v. Fletcher* and propounded the principle that if a person or enterprise engaged in hazardous or inherently dangerous activity causes harm to others irrespective of willful or negligent act is not even strictly but 'absolutely' liable for his act.

In this regard in Ancient India in Yajurveda it is said that,

"The fundamental duty of a man is to see others life and pleasure as his own, he should not do any thing which is in his benefit but causes harm to another. Whether he does it knowingly or unknowingly he will be responsible for any wrong caused by him."

It is clear that *Rylands* rule or the principle in *Mehta's* case both basically confirm our own Yajurveda theory that every one has duty toward another. He is free to enjoy his life in his way but can not harm the life, liberty and property of others.

The conditions of penal liability are indicated with sufficient accuracy in the legal maxim, *Actus non facit reum, nisi mens sit rea*. The maxim first appeared in 1641 in Coke's Institutes and has come to be one of the few stable principles of criminal justice in Anglo-American jurisdictions . It means that the act alone does not amount to guilt; it must be accompanied by a guilty mind. "There can be no crime large or small without an evil mind" Says Bisop ". Salmond expressed view that,

"There are two conditions to be fulfilled before penal responsibility can be imposed. The one is the doing of some act by the person to be held liable. A man is to be accounted responsible only for what he himself does, not for what other persons do, or for events independent of human activity altogether. The other is the *mens rea* or guilty mind with which the act is done. It is not enough that a man has done some act which on account of its mischievous results the law prohibits; before the law can justly punish the act, an inquiry must be made into the mental attitude of the doer" .For although the act may have been objectively wrongful, the mind and will of the doer may have been innocent.

However, in the nineteenth century, a distinct class of offences was evolved by the courts in England in cases like *R v. Woodrow* and *R v. Stephens* as a means of dispensing with proof of mens rea in petty offences. This new principle won gradual acceptance and began to be applied to common law as well as minor statutory offences. A similar principle was developed independently in America during the same period. Developments were largely a response to the difficulties in applying the criminal law to new fields of activities and a shift in emphasis from individual to public and social interests. These offences were punishable without proof of mens rea.

An application of the general rule of construction to this principle meant that there was no presumption that mens rea was excluded from statutory crime.

According to the Halsbury's Laws of England, that a statutory crime may or may not contain an express definition of the necessary state of mind. A statute may require a specific intention, malice, knowledge, willfulness, or recklessness. On the other hand, it may be silent as to any requirement of mens rea, and in such a case in order to determine whether or not mens rea, is an essential element of the offence it is necessary to look at the objects and terms of the statute.

M.C. Setalvad observed about mens rea "what the Indian courts seem to have done is to incorporate into the common law crime the mens rea needed for the particular crime so that the guilty intention is generally to be gathered not from the common law but from the statute itself.. This may be regarded as a modification of the common law worked into the Code by Macaulay and his colleagues to make it suit Indian conditions. By adopting this course they have also avoided the doubt and obscurity which has not infrequently arisen in regard to the mens rea required for certain common law crimes like homicide, assault and false imprisonment. It has been pointed out that the English system, in which changes in the law are made gradually by judicial decisions, has often created a situation in which old and new doctrines have been employed in the course of the same period, according as the judges are inclined one way or the other, giving rise to conflicting principles with puzzling results. Such uncertainty cannot exist in India as the necessary guilty mind is indicated in the statutory definition of the crime."

In some cases, the courts have concluded that despite the absence of express language the intention of the legislature was that mens rea was a necessary ingredient of the offence. In others, the statute has been interpreted as creating a strict liability irrespective of mens rea. Instances of this strict liability have arisen on the legislation concerning food and drugs, liquor licensing, and many other matters.

In a few cases the legislature has dispensed with mens rea so much so that offences automatically entail strict liability. This discarding of mens rea in statutory offences is a departure from the common law doctrine of *Actus non facit reum nisi mens sit rea*. A classic exposition of the principle is to be found in the view expressed by Wright, J, in *Sherras v. De Rutzen*

"There is a presumption that mens rea, an evil intention, or a knowledge of the wrongfulness of the act is an essential ingredient in every offence; but that presumption is liable to be displaced either by the words of the statute creating the offence or by the subject matter with which it deals, and both must be considered."

The precise statement of the law on this point, is to be found in *Brenn v. Wood*, where Lord Goddard J. said:

"It is of the utmost importance for the protection of the liberty of the subject that a Court should always bear in mind that unless a statute either clearly or by necessary implication, rules out

'mens rea' as a constituent part of crime, the Court should not find a man guilty of an offence against the criminal law unless he has a guilty mind”.

Further Justice Subba Rao, in *State of Maharashtra v .M.H. George* observed “It is a well settled principle of common law that mens rea is an essential ingredient of a criminal offence. Doubtless a Statute can exclude that element, but it is a sound rule of construction adopted in England and also accepted in India to construe a statutory provision creating an offence in conformity with the common law rather than against it unless the statute expressly or by necessary implication excluded mens rea.

In this case Majority was of the view that mens rea is expressly excluded from the purview of such legislation, while Minority is of the view that mens rea, by necessary implication can be excluded from a statute only where it is absolutely clear that the implementation of the object of a statute would otherwise be defeated and its exclusion enables those put under strict liability by their act or omission to assist the promotion of the law. The nature of mens rea that will be implied in a statute creating an offence depends upon the object of the Act and the provisions thereof.

There are a number of enactments that have clearly excluded the element of the mens rea, Sections 7 and 16 of the Prevention of Food Adulteration Act of 1954, Sections 8(1) and 23(1) (a) of the Foreign Exchange Regulation Act, Section 178A of the Sea Customs Act, 1878, and Section 123(7) of the Representation of the People Act. There are a number of decisions in support of the above submission.

In the modern context it is important to note that the technological and scientific developments are contributing to the emergence of mass society with the large rank and file and small controlling elite encouraging the growth of monopolies, the rank of managerial class and intricate industrial mechanisms. It is also important to note that Strict adherence to a high standard of ethical behavior is necessary for the honest functioning of new social, political and economic process.

This does not mean that rule of strict liability is devoid of demerits Legal commentators have consistently denounced strict criminal liability on a variety of grounds. Critics maintain that holding someone liable who did not flout the law cannot be justified on retributive, deterrent, incapacitative, or rehabilitative grounds. By dispensing with any proof that someone acted with an “evil” intent, strict liability ensnares otherwise law-abiding, morally blameless parties and subjects them to conviction, public obloquy, and punishment that is, it brands as a “criminal” someone whom the community would not label as blameworthy. By imposing liability for conduct that no reasonable person would have thought to be a crime, strict liability also denies an average person notice of what the law requires. The result is to violate a principal universally thought to be a necessary predicate before someone can be convicted of a crime and to rob people of the belief, necessary for the law to earn respect that they can avoid criminal punishment if they choose to comply with the law. By making into criminals people who had no knowledge that their conduct was unlawful, strict liability violates the utilitarian justification for punishment, since a person who does not know that he is committing a crime will not change his behavior. Lastly, strict criminal liability flips on its head the criminal law tenet that “it is better that ten guilty persons escape than that one innocent suffer.” Strict liability accomplishes that result because it sacrifices a morally blameless party for the sake of protecting society. In sum, by punishing someone for unwittingly breaking the law, strict criminal liability statutes mistakenly use a legal doctrine fit only for the civil tort purpose of providing compensation as a mechanism for imposing criminal punishment. By so doing, they unjustifiably impose an unnecessary evil. Strict liability for a criminal offense is, in a phrase, fundamentally unjust.

The present work examines the relevance of strict liability principle in the case of socio economic offences. The role of Judiciary in controlling the socio-economic offences is very helpful in combating these offences and punishing the socio economic offences of the country.

Our apex court has followed the observation of the House of Lords which has underlined the element of foresee ability for the application of the result of strict liability. In *North-Western utilities vs. London Guarantee and Accident Company* it was observed that,

The rule of strict liability has been considered to be not applicable if the escape of the substance is due to the act of the stranger, ie, an act of sabotage etc., unless the same could have been foreseen.

In *M.P. Electricity Board v. Shall Kumar* the defence of 'the act of the stranger' was not allowed by the Supreme Court as the same could have been foreseen and the principle of strict liability was recognised in the case. Jogendra Singh, aged 37 years, was riding on his bicycle on the night of 23.8.1997 while returning after work from his factory. A snapped live electric wire was lying on the road. There was rain and the road was partially inundated with water. He could not notice the electric wire and came in contact with the same and met with instant death due to electrocution.

An action was brought against the M.P. Electricity Board by the widow and minor son of the deceased. The rule of strict liability was applied and it was held that the board had statutory duty to supply electricity in the area. If the energy transmitted by the board caused injury to or death of a human being the electricity supplier shall be liable for the same. If the electric wire was snapped the current should have been automatically cut off. Authorities manning such dangerous commodities have extra duty to chalk out measures to prevent such mishaps.

The defence that the snapping of the wire was due to the 'act of the stranger', who might have tried to pilfer the electricity was rejected. It was further observed that such an act should have been foreseen by the electric board, and at any rate, the consequences of the stranger's act should have been prevented by the appellant board.

In court observed, even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life is liable under the law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability cast on such person is known in law, as strict liability.

Thus, Our Judiciary has revisited the rule of strict liability in the context of Indian scenario. Rule of strict liability as laid down in *Rylands v. Fletcher* and the rule of absolute liability as propounded in the *Oleum Gas Leakage* case were re-examined by the Delhi High Court in *Jaipur Golden Gas Victims Association v. Union of India*. In the instant case, a writ petition was filed by the petitioner-association in public interest under article 226 of the Constitution of India for the issuance of an appropriate writ, direction or order, inter alia, directing the respondent to pay the victims of the Jaipur Golden fire tragedy a suitable amount of compensation for the loss of lives and injuries suffered. The petitioner association also prayed for the prosecution of the erring officials who were responsible for the Jaipur Golden fire tragedy and for the implementation of the recommendations made by the members of certain committees to prevent future tragedies in Delhi such as the one that occurred at Jaipur Golden. In this case, respondent no. 5 had stored a consignment of rodent-killing pesticide (which contained aluminum phosphate & zinc phosphate) in a godown in a residential area. The owner of the godown had neither taken any precaution nor obtained prior license from the municipal



corporation of Delhi as required by section 417 of the Delhi Municipal Corporation Act, 1958. On the fateful day, fire broke out in the godown which resulted in the emission of a highly poisonous gas. As a consequence, several persons were injured and four persons died. A question arose whether the storage of rodent-killing pesticide in the godown could be described as inherently dangerous and hazardous so as to attract the application of the rule of strict liability as propounded in *Rylands v. Fletcher*.

The court, applying the concept of non-natural use of land, laid down in *Rylands v. Fletcher*, held that once it was established that the land was put to non-natural use as a consequence of which damage had been caused to the public at large, the cause of fire in the godown became irrelevant. The court further added that once it recognized that the storage of chemical pesticides was certainly an inherently dangerous and/or hazardous activity, it had to determine the measure of liability of such an enterprise towards people who had died or were injured by reason of an accident occurring in such an enterprise. The court acknowledged the view taken by the Supreme Court in *Jay Laxmi Salt Works (P) Ltd. v. State of Gujarat* and observed,

What is fundamental is the injury and not the manner in which it is caused. 'Strict liability' 'fault liability' and 'neighbour proximity' are all refinements and developments of law by English courts for the benefit of the society and the common man. Once the occasion for loss or damage is failure of duty, general or specific, the cause of action under tort arises.

While highlighting the utility of the principle of absolute liability as laid down in the *Obeum Gas Leakage* over that of the principle of strict liability as propounded in *Rylands v. Fletcher*, the court in *Jaipur Golden* noted that though *Rylands v. Fletcher* had created a new legal principle of strict liability in the case of hazardous activities, it was beset with many limitations. The court observed that in fact the limitations or exceptions to the principle of strict liability had considerably diluted the efficiency of the rule of strict liability which was contrary to the modern philosophy of social justice. Noting that the dilution of the rule in *Rylands v. Fletcher* had often left the individual injured by the activities of the industrial society, virtually without protection, the court applied the following principle of absolute liability as evolved in the *Oleum Gas Leakage* case to enterprises engaged in dangerous and hazardous activities:

Law cannot remain static. The court cannot allow judicial thinking to be constricted by reference to the law as it prevails in England or in any other foreign country. Though the court should be prepared to receive light from whatever source it comes it has to build up its own jurisprudence. It has to evolve new principles and lay down new norms which would adequately deal with new problems which arise in a highly industrialized economy...

Thus, the rule in *Rylands v. Fletcher* that strict liability could be imposed only in situations where there was non-natural use of land and foreseeable damage was modified by the apex court in the *Oleum Gas Leakage* case. In this case, the court held that such exceptions cannot be extended to cases where injury was caused on account of the use of hazardous substances. The court in *Jaipur Golden* case held that as the owner of the godown, in which rodent-killing pesticides were stored, was engaged in an inherently dangerous or hazardous activity, his duty of care was absolute. The court very explicitly stated that the exceptions to the principle of strict liability as evolved in *Rylands v. Fletcher* were not applicable. It, accordingly, held the owner of the godown liable to compensate the victims of the gas and fire tragedy in accordance with the principle of absolute liability as evolved by the Supreme Court in *M.C. Mehta* case. The court held that the MCD had made a breach of the 'precautionary principle' and, was, therefore, liable to pay damages to the fire and gas victims.

The transition from "Laissez-faire" policy to collectivism has brought many activities in the state control. Most of legislations that have come up in recent years regulate the social and economic

activities of the state. Many of these legislation have created a new class of offences called social and economic offences. A leading feature of these legislation has been a departure from the normal criminal law in many respects. These statutes discard or modify the time tested concept of mens rea and thus create strict or absolute liability.

The following main grounds have been suggested for recognizing the principle of strict liability in socio economic offences.

- For certain offences, it will be difficult to prove mens rea.
- It is of paramount importance to take into account the social purpose of a statute, which should be so framed and interpreted as to give effect to the intention of the legislature.

It is true that under criminal law, strict liability has expanded considerably in recent years in such various forms that it is difficult to recognize common features in strict liabilities.

The consciousness of society has come to welcome penal legislation which have created strict liability offences even if such legislation have resulted in the mens rea being dissolved in wider concept of strict liability or at least accountability. This is primarily due to the fact the in our country an effort to achieve socialism by democratic notion of society has come to be used to include the violation of the law in this context. It is fair to conclude that offences of strict liability do fall reviewed within the domain of criminal law.

That the criminal law is too narrowly individualistic in its present principles has become increasingly apparent during the past two centuries. Before long it was observed, for example, that the doctrine of mens rea could not apply to the modern business corporation, and the definition of culpability therefore had to be modified, both in tort and crime, by statutory changes. There have been enacted many statutes imposing not only tort liability without fault but also establishing certain acts as crimes without regard to the mental factor.

The problem of crime as, the interest of the community as a whole must be protected from acts by individuals or groups which are adverse to that interest, how-ever useful or profitable such acts may be to the participants. In other words, anti-social activity, the antithesis of cooperation, should be eradicated.

How is the criminal law to be integrated with the considerations of natural science and sociology, so that there may be "continuous intelligence brought to bear upon the fundamental problem, and the application in detail of all that legal and social and medical science have worked out.

In several times contended, moral responsibility should be abolished as a fundamental criterion of criminality and should be replaced by the dangerousness of the criminal to society. The responsibility and intention of the criminal will then become indications of his character. But so long as the hypothesis of moral liberty remains at the base of the penal law it will be deductive in character. With the dangerousness of the criminal as a criterion, the general principles of penal law can be developed. These principles will be based upon the sciences which throw light upon the character of the criminal and upon the data and statistics concerning crime and the criminal. They will, however, necessarily be very general in their character, so as to permit of individualization. This will result in limiting the practical scope of penal law. On the other hand, as we have already indicated, the scope of procedure will be increased because the application of the law in each case will be determined by procedure.

Doubtless an acquaintance with criminology will be of very little effect in keeping an individual from becoming a criminal, but it will enable him to take a more intelligent attitude toward crime in

others. It will also lead to a readier acceptance by society and by legislative and administrative officials of specific measures of improvement."