

CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – “Contemplation of Justice”

United States v. Murdock, 290 U.S. 389 (1933)



In criminal trials in the federal courts, the power of the judge to express an opinion as to the guilt of the defendant, though it

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exists, should be exercised cautiously, and only in exceptional cases. P. 290 U. S. 394.

The provision of the Revenue Acts of 1926, § 1114(a), and 1928, § 146(a), punishing any person "who willfully fails" to supply information to the **Bureau of Internal Revenue** and its employees does not apply to one whose refusal to give such information was based upon his *bona fide*, though mistaken, **understanding of his constitutional protection against self-incrimination**. P. 290 U. S. 396.

The word often denotes an act which is **intentional, or knowing**, or voluntary, as distinguished from accidental. But, when used in a criminal statute, it generally means an act done with a bad purpose (*Felton v. United States, 96 U. S. 699; Potter v. United States, 155 U. S. 438; Spurr v. United States, 174 U. S. 728*); **without justifiable excuse** (*Felton v. United States, supra; Williams v. People, 26 Colo. 272, 57 P. 701; People v. Jewell, 138 Mich. 620, 101 N.W. 835; St. Louis I.M. & S. Ry. Co. v. Batesville & W. Tel. Co., 80 Ark. 499, 97 S.W. 660; Clay v. State, 52 Tex.Cr.R. 555, 107 S.W. 1129*); **stubbornly, obstinately, perversely** (*Wales v. Miner, 89 Ind. 118, 127; Lynch v. Commonwealth, 131 Va. 762, 109 S.E. 427; Claus v. Chicago Gt. W. Ry. Co., 136 Iowa 7, 111 N.W. 15; State v. Harwell, 129 N.C. 550, 40 S.E. 48*). **The word is also employed to characterize a thing done without ground for believing it is lawful** (*Roby v. Newton, 121 Ga. 679, 49*

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S.E. 694, 68 L.R.A. 601), or conduct marked by careless disregard whether or not one has the right so to act (*United States v. Philadelphia & R. Ry. Co., 223 F. 207, 210; State v. Savre, 129 Iowa, 122, 105 N.W. 387; State v. Morgan, 136 N.C. 628, 48 S.E. 670*).